



AGENDA

Regular Meeting of the Board of Directors of San Diego Community Power (SDCP)

February 23, 2023
5:00 p.m.

The meeting will proceed as a teleconference meeting in compliance with waivers to certain provisions of the Brown Act provided for under Government Code section 54953(e)(1)(A), in relation to the COVID-19 State of Emergency and recommended social distancing measures. There will be no location for in-person public attendance. In compliance with the Brown Act, SDCP is providing alternatives to in-person public attendance for viewing and participating in the meeting. Further details are below.

Note: Any member of the public may provide comments to the Board of Directors on any agenda item. When providing comments to the Board, it is requested that you provide your name and city of residence for the record. Commenters are requested to address their comments to the Board as a whole through the Chair. Comments may be provided in one of the following manners:

1. **Providing Oral Comments During Meeting.** To provide comments during the meeting, join the Zoom meeting by computer, mobile phone, or dial-in number. On Zoom video conference by computer or mobile phone, use the "Raise Hand" feature. This will notify the moderator that you wish to speak during a specific item on the agenda or during non-agenda Public Comment. Members of the public will not be shown on video but will be able to speak when called upon. If joining the meeting using the Zoom dial-in number, you can raise your hand by pressing *9. Comments will be limited to three (3) minutes. Please be aware that the Chair has the authority to reduce equally each speaker's time to accommodate a large number of speakers.
2. **Written Comments.** Written public comments must be submitted prior to the start of the meeting by using this ([web form](#)). Please indicate a specific agenda item when submitting your comment. All written comments received prior to the meeting will be provided to the Board members in writing. In the discretion of the Chair, the first ten (10) submitted comments shall be stated into the record of the meeting. Comments read at the meeting will be limited to the first 400 words. Comments received after the start of the meeting will be collected, sent to the Board members in writing, and be part of the public record.

If you have anything that you wish to be distributed to the Board, please provide it via info@sdcommunitypower.org and it will be distributed to the Members.

The public may participate using the following remote options:

Teleconference Meeting Webinar <https://zoom.us/j/94794075133>

Telephone (Audio Only) (669) 900-6833 or (346) 248-7799 | Webinar ID: 947 9407 5133

Welcome

Call to Order

Roll Call

Pledge of Allegiance

Special Presentations and Introductions

Report from Closed Session (If held)

Items to be Added, Withdrawn, or Reordered on the Agenda

Public Comments

Opportunity for members of the public to address the Board on any items not on the agenda but within the jurisdiction of the Board. Members of the public may provide a comment in either manner described above.

Consent Calendar

All matters are approved by one motion without discussion unless a member of the Board of Directors requests a specific item to be removed from the Consent Calendar for discussion. A member of the public may comment on any item on the Consent Calendar in either manner described above.

- 1. Approval of Findings to Continue Holding Remote/Teleconference Meetings Pursuant to Assembly Bill 361**
- 2. Receive and File Treasurer's Report for Period Ending December 31, 2022**
- 3. Receive and File Update on Back Office Operations**
- 4. Receive and File Update on Marketing and Public Relations**
- 5. Receive and File Update on Community Advisory Committee**
- 6. Receive and File Update on Regulatory and Legislative Affairs**
- 7. Approval of Sublease Agreements with Nuvve Holding Corporation**
- 8. Approval of Amendment to Legal Services Agreement with Braun Blaising & Wynne, P.C. for up to \$100,000 for legal services through FY2023**

Regular Agenda

The following items call for discussion or action by the Board of Directors. The Board may discuss and/or take action on any item listed below if the Board is so inclined.

9. Approval of Fiscal Year (FY) 2022-23 Budget Amendment

Recommendation: Approve FY 2022-23 Amended Budget to reflect total operating revenues of \$929,791,929 and operating expenses of \$769,021,035.

10. Recent Changes in Brown Act Teleconferencing and Format of Future SDCP Meetings

Recommendation: Provide direction regarding the use of teleconferencing under recent amendments to the Brown Act and general format for public attendance at future meetings (e.g., in-person vs. hybrid).

11. Updates to Board Compensation and Reimbursement Policy

Recommendation: Adopt Resolution No. 2023-__ renaming the Board Compensation and Reimbursement Policy as the “Board and Committee Compensation and Reimbursement Policy,” amending the policy to include Board-appointed advisory committees, including the Community Advisory Committee, and making other changes.

12. Approval of a new Electrification Rate - TOU-ELEC

Recommendation: Approve the new Electrification Rate – TOU-ELEC

13. Approval of Partnership Agreement with the San Diego Padres for the 2023 & 2024 Seasons

Recommendation: Approve the Partnership Agreement with the San Diego Padres for the 2023 & 2024 Seasons

14. Approval of Partnership Agreement with the San Diego Wave for the 2023 & 2024 Seasons

Recommendation: Approve the Partnership Agreement with the San Diego Wave for the 2023 & 2024 Seasons

15. Approval of Partnership Agreement with the San Diego Loyal for the 2023 Season

Recommendation: Approve the Partnership Agreement with the San Diego Loyal for the 2023 Season

16. Approval of the Policy Platform

Recommendation: Approve the Policy Platform

17. Presentation on Residential Enrollment (SD County/National City)

Recommendation: Receive and File the presentation on Residential Enrollment (SD County/National City)

18. Community Power Plan Update

Recommendation: Receive and File and Community Power Plan Update

19. Regional Energy Network Progress Update

Recommendation: Receive and file the REN Update

20. Community Advisory Committee Quarterly Report

Recommendation: Receive and File the Community Advisory Committee Quarterly Report

Reports by Chief Executive Officer and General Counsel

SDCP Management and General Counsel may briefly provide information to the Board and the public. The Board may engage in discussion if the specific subject matter of the report is identified below, but the Board may not take any action other than to place the matter on a future agenda. Otherwise, there is to be no discussion or action taken unless authorized by law.

Director Comments

Board Members may briefly provide information to other members of the Board and the public, ask questions of staff, request an item to be placed on a future agenda, or report on conferences, events, or activities related to SDCP business. There is to be no discussion or action taken on comments made by Directors unless authorized by law.

Adjournment

Compliance with the Americans with Disabilities Act

SDCP Board of Directors meetings comply with the protections and prohibitions of the Americans with Disabilities Act. Individuals with a disability who require a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may contact (888) 382-0169 or info@sdcommunitypower.org. Requests for disability-related modifications or accommodations require different lead times and should be provided at least 72-hours in advance of the public meeting.

Availability of Board Documents

Copies of the agenda and agenda packet are available at <https://sdcommunitypower.org/resources/meeting-notes/>. Late-arriving documents related to a Board meeting item which are distributed to a majority of the Members prior to or during the Board meeting are available for public review as required by law. Public records, including agenda-related documents, can be requested electronically at info@sdcommunitypower.org or by mail to SDCP, PO BOX 12716, San Diego, CA 92112. The documents may also be posted at the above website. Such public records are also available for inspection, by appointment, at San Diego Community Power, 2488 Historic Decatur Road, Suite 250, San Diego, CA 92106. Please contact info@sdcommunitypower.org to arrange an appointment.



SAN DIEGO COMMUNITY POWER Staff Report – Item 1

To: San Diego Community Power Board of Directors

From: Ryan Baron, General Counsel

Subject: Findings to Continue Holding Remote/Teleconference Meetings Pursuant to Assembly Bill 361

Date: February 23, 2023

RECOMMENDATION

Find and determine that the Board has reconsidered the circumstances of the COVID-19 State of Emergency; the State of Emergency remains in effect; state or local officials continue to impose or recommend social distancing measures; and meetings of SDCP legislative bodies may be held remotely in compliance with Government Code section 54953(e) for the next 30 days.

BACKGROUND

As more fully described in the staff report for the October 28, 2021 meeting related to AB 361, the State of California has adopted AB 361, which allows public agencies to hold fully or partially virtual meetings under certain circumstances without being required to follow certain Brown Act teleconferencing requirements. Under AB 361, a legislative body holding a fully or partially virtual meeting pursuant to AB 361 must make certain findings at least every thirty (30) days to continue holding such meetings.

If the Board desires to continue allowing Directors and members of SDCP committees to participate remotely pursuant to AB 361, the Board must reconsider the COVID-19 State of Emergency, find that the proclaimed State of Emergency remains in effect, and find either: (1) that state or local officials continue to impose or recommend measures to promote social distancing; or (2) that as a result of the COVID-19 emergency, meeting in person would present imminent risks to the health or safety of attendees.

ANALYSIS AND DISCUSSION

Based on the continued COVID-19 State of Emergency and continued required or recommended social distancing measures, as initially described in the staff report for October 28, 2021 meeting relating to AB 361, the Board may make the findings necessary to continue allowing Board members and members of all SDCP committees to participate remotely pursuant to AB 361.

FISCAL IMPACT

None.

ATTACHMENTS

None.





SAN DIEGO COMMUNITY POWER Staff Report – Item 2

To: San Diego Community Power Board of Directors

From: Eric W. Washington, Chief Financial Officer

Via: Karin Burns, Chief Executive Officer

Subject: Treasurer's Report –Presentation of Financial Results for Fiscal Year 2023 Period ended 12/31/22

Date: February 23, 2023

RECOMMENDATION

Receive and File Report.

BACKGROUND

San Diego Community Power (SDCP) maintains its accounting records on a full accrual basis in accordance with Generally Accepted Accounting Principles (GAAP) as applicable to governmental enterprise funds.

SDCP has prepared its year-to-date financial statements for the six-month period ended December 31, 2022, along with budgetary comparisons.

ANALYSIS AND DISCUSSION

Actual financial results for the period ended 12/31/22: \$446.50 million in net operating revenues were reported compared to \$416.57 million budgeted for the period. \$434.67 million in total expenses were reported (including \$422.52 million in energy costs) compared to \$388.31 million budgeted for the period (including \$371.96 million budgeted for energy costs). After expenses, SDCP is reporting a change in net position of \$11.84 million for Fiscal Year 2023. The following is a summary of the actual results compared to the Fiscal Year 2023 Budget.

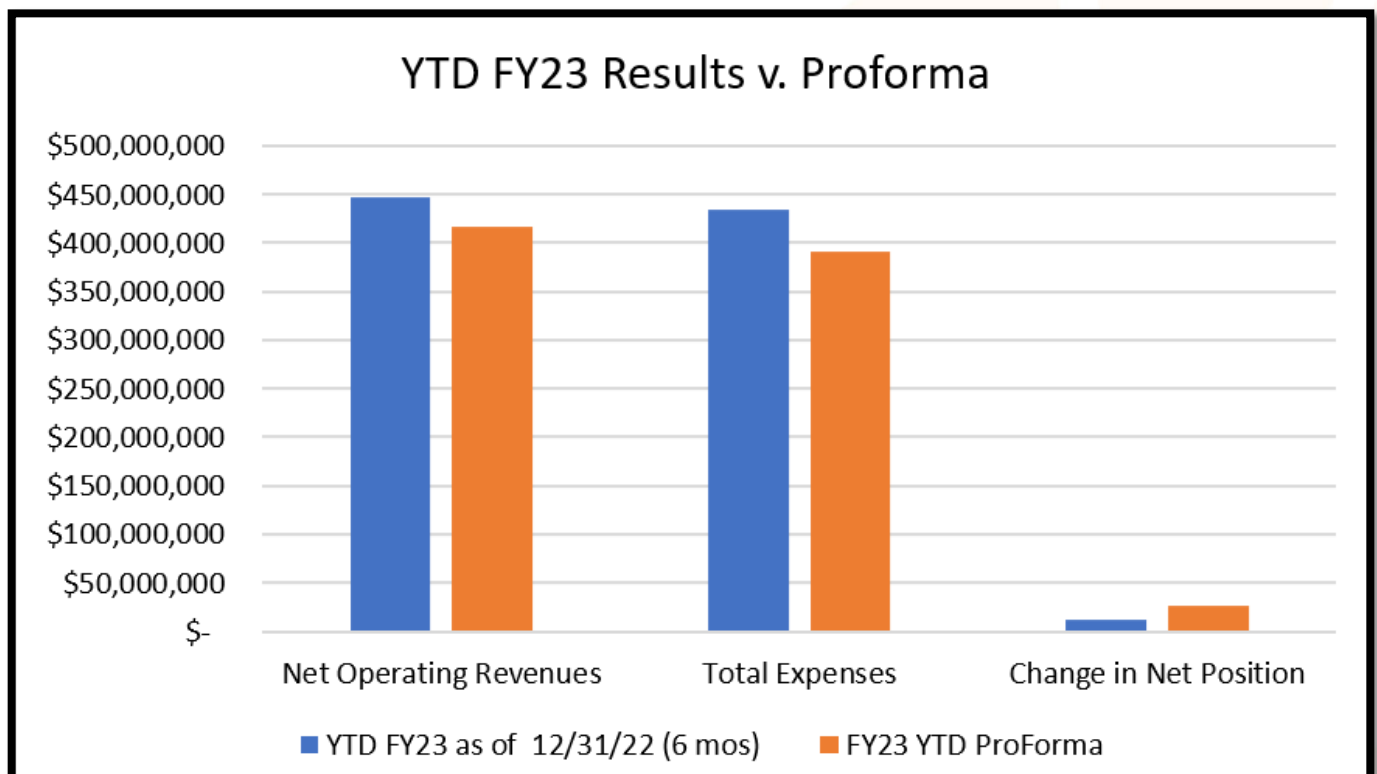
Budget Comparison				
	YTD FY23 as of 12/31/22 (6 mos)	FY23 YTD Budget	Budget Variance (\$)	Budget (%)
Net Operating Revenues	\$ 446,495,436	\$416,574,584	\$ 29,920,852	107
Total Expenses	\$ 434,659,339	\$388,976,251	\$ 45,683,088	112
Change in Net Position	\$ 11,836,097	\$ 27,598,333	\$ (15,762,236)	

- Net operating revenues finished \$29.92 million (or 7.0 percentage points) over the budget primarily due to opt outs performing better than projected.
- Operating expenses finished \$45.68 million (or 12.0 percentage points) over the budget primarily due to higher-than-budgeted energy costs.

Financial results for the period performed under the projections presented in the year-to-date proforma. SDCP's change in net position was -54.95% under the projection primarily due to higher-than projected energy usage and costs.

The following is a summary to actual results compared to the fiscal year-to-date proforma.

Proforma Comparison				
	YTD FY23 as of 12/31/22 (6 mos)	FY23 YTD ProForma	ProForma Variance (\$)	Proforma (%)
Net Operating Revenues	\$ 446,495,436	\$416,574,584	\$ 29,920,852	7.18%
Total Expenses	\$ 434,659,339	\$390,431,438	\$ 44,227,901	11.33%
Change in Net Position	\$ 11,836,097	\$ 26,143,146	\$ (14,307,049)	-54.73%



For the period ending 12/31/22, SDCP contributed \$11,836,097 to its reserves compared to \$26,143,146 presented in the proforma. Total SDCP reserves at the end of the period were \$54,367,049 and total available liquidity (including lines of credit) was \$56,488,276. SDCP has a total FY 2022-23 year-end reserve target of \$171,276,631, which is equivalent to 90-days of total operating expenses.

COMMITTEE REVIEW

The report was reviewed by the Finance and Risk Management Committee (FRMC) on February 9, 2023.

FISCAL IMPACT

N/A

ATTACHMENTS

Attachment A: 2023 Year-to-Date Period Ended 12/31/22 Financial Statements





ACCOUNTANTS' COMPILATION REPORT

Board of Directors
San Diego Community Power

Management is responsible for the accompanying special purpose budgetary comparison schedule of San Diego Community Power (SDCP), a California Joint Powers Authority, for the period ended December 31, 2022, and for determining that the budgetary basis of accounting is an acceptable financial reporting framework. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statement nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any assurance on this special purpose budgetary comparison statement.

The special purpose statement is prepared in accordance with the budgetary basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. This report is intended for the information of the Board of Directors of SDCP.

Management has elected to omit substantially all of the note disclosures required by accounting principles generally accepted in the United States of America in these interim financial statements. SDCP's annual audited financial statements will include the note disclosures omitted from these interim statements. If the omitted disclosures were included in these financial statements, they might influence the user's conclusions about the Authority's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to SDCP because we performed certain accounting services that impaired our independence.

Maher Accountancy

San Rafael, CA
January 25, 2023

SAN DIEGO COMMUNITY POWER
BUDGETARY COMPARISON SCHEDULE
Six Months Ended December 31, 2022

	2022/23 YTD Budget	2022/23 YTD Actual	2022/23 YTD Budget Variance (Under) Over	2022/23 YTD Actual/ Budget %	2022/23 Annual Budget	2022/23 Budget Remaining
REVENUES AND OTHER SOURCES						
Gross Ratepayer Revenues	420,782,408	\$ 451,005,491	30,223,083	107%	\$ 716,146,107	\$ 265,140,616
Less Uncollectible Customer Accounts	(4,207,824)	(4,510,055)	(302,231)	107%	(7,161,461)	(2,651,406)
Total Revenues and Other Sources	<u>416,574,584</u>	<u>446,495,436</u>	<u>29,920,852</u>		<u>708,984,646</u>	<u>262,489,210</u>
OPERATING EXPENSES						
Cost of Energy	371,964,441	422,522,133	50,557,692	114%	661,638,828	239,116,695
Professional Services and Consultants	8,193,753	7,065,532	(1,128,221)	86%	16,881,036	9,815,504
Personnel Costs	3,580,984	2,958,555	(622,429)	83%	7,951,499	4,992,944
Marketing and Outreach	1,815,917	884,758	(931,159)	49%	4,164,167	3,279,409
General and Administrative	1,947,623	596,229	(1,351,394)	31%	2,591,363	1,995,134
Programs	802,500	-	(802,500)	0%	1,395,000	1,395,000
Total Operating Expenses	<u>388,305,218</u>	<u>434,027,207</u>	<u>45,721,989</u>		<u>694,621,893</u>	<u>260,594,686</u>
Operating Income (Loss)	<u>28,269,366</u>	<u>12,468,229</u>	<u>(15,801,137)</u>		<u>14,362,753</u>	<u>1,894,524</u>
NON-OPERATING REVENUES (EXPENSES)						
Investment income	-	58,833	58,833		-	(58,833)
Debt Service and Bank Fees	(671,033)	(690,965)	(19,932)	103%	(1,314,922)	(623,957)
Total Non-Operating Revenues (Expenses)	<u>(671,033)</u>	<u>(632,132)</u>	<u>38,901</u>		<u>(1,314,922)</u>	<u>(682,790)</u>
CHANGE IN NET POSITION	<u>\$ 27,598,333</u>	<u>\$ 11,836,097</u>	<u>\$ (15,762,236)</u>		<u>\$ 13,047,831</u>	<u>\$ 1,211,734</u>



ACCOUNTANTS' COMPILATION REPORT

Management
San Diego Community Power

Management is responsible for the accompanying financial statements of San Diego Community Power (a California Joint Powers Authority) which comprise the statement of net position as of December 31, 2022, and the related statement of revenues, expenses, and changes in net position, and the statement of cash flows for the period then ended in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, conclusion, nor provide any assurance on these financial statements.

Management has elected to omit substantially all of the note disclosures required by accounting principles generally accepted in the United States of America in these interim financial statements. San Diego Community Power's annual audited financial statements include the note disclosures omitted from these interim statements. If the omitted disclosures were included in these financial statements, they might influence the user's conclusions about the Authority's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to the Authority because we performed certain accounting services that impaired our independence.

Maher Accountancy

San Rafael, CA
January 25, 2023

SAN DIEGO COMMUNITY POWER
STATEMENT OF NET POSITION
As of December 31, 2022

ASSETS

Current assets	
Cash and cash equivalents	\$ 30,008,358
Accounts receivable, net of allowance	65,857,701
Accrued revenue	27,723,298
Prepaid expenses	5,389,148
Other receivables	5,609,776
Deposits	15,197,511
Total current assets	<u>149,785,792</u>
Noncurrent assets	
Restricted cash	7,500,000
Deposits	4,005,000
Total noncurrent assets	<u>11,505,000</u>
Total assets	<u><u>161,290,792</u></u>

LIABILITIES

Current liabilities	
Accrued cost of electricity	78,198,334
Accounts payable	949,292
Other accrued liabilities	2,519,295
State surcharges payable	490,715
Security deposits	614,873
Interest payable	113,411
Total current liabilities	<u>82,885,920</u>
Noncurrent liabilities	
Other noncurrent liabilities	517,741
Bank note payable	23,520,082
Total noncurrent liabilities	<u>24,037,823</u>
Total liabilities	<u><u>106,923,743</u></u>

NET POSITION

Restricted for collateral	2,500,000
Unrestricted	51,867,049
Total net position	<u><u>\$ 54,367,049</u></u>

SAN DIEGO COMMUNITY POWER
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
Six Months Ended December 31, 2022

OPERATING REVENUES

Electricity sales, net	\$ 446,495,436
Total operating revenues	<u>446,495,436</u>

OPERATING EXPENSES

Cost of energy	422,522,132
Contract services	7,230,341
Staff compensation	2,958,555
General and administration	1,316,179
Total operating expenses	<u>434,027,207</u>
Operating income (loss)	<u>12,468,229</u>

NON-OPERATING REVENUES (EXPENSES)

Investment income	58,833
Interest and financing expense	<u>(690,965)</u>
Nonoperating revenues (expenses)	<u>(632,132)</u>

CHANGE IN NET POSITION

	11,836,097
Net position at beginning of period	<u>42,530,952</u>
Net position at end of period	<u><u>\$ 54,367,049</u></u>

SAN DIEGO COMMUNITY POWER
STATEMENT OF CASH FLOWS
Six Months Ended December 31, 2022

CASH FLOWS FROM OPERATING ACTIVITIES

Receipts from customers	\$ 451,302,805
Other operating receipts	5,318,211
Payments to suppliers for electricity	(392,560,218)
Payments for goods and services	(6,757,919)
Payments to employees for services	(2,693,111)
Payments for deposits and collateral	(72,321,912)
Payments for state surcharges	(903,633)
Net cash provided (used) by operating activities	<u>(18,615,777)</u>

CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

Proceeds from loans	20,180,000
Principal payments - loans	(28,000,000)
Principal payments - note	(5,000,000)
Interest and related expense payments	(691,416)
Net cash provided (used) by non-capital financing activities	<u>(13,511,416)</u>

CASH FLOWS FROM INVESTING ACTIVITIES

Interest income received	<u>58,833</u>
Net change in cash and cash equivalents	(32,068,360)
Cash and cash equivalents at beginning of period	<u>69,576,718</u>
Cash and cash equivalents at end of period	<u><u>\$ 37,508,358</u></u>

Reconciliation to the Statement of Net Position

Cash and cash equivalents (unrestricted)	\$ 30,008,358
Restricted cash	<u>7,500,000</u>
Cash and cash equivalents	<u><u>\$ 37,508,358</u></u>

SAN DIEGO COMMUNITY POWER
STATEMENT OF CASH FLOWS (continued)
Six Months Ended December 31, 2022

**RECONCILIATION OF OPERATING INCOME TO NET
CASH PROVIDED (USED) BY OPERATING ACTIVITIES**

Operating income	\$ 12,468,229
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities	
Provision for uncollectible accounts	4,510,055
(Increase) decrease in:	
Accounts receivable	(19,980,766)
Accrued revenue	19,216,317
Other receivables	(5,609,776)
Prepaid expenses	(927,840)
Deposits	(9,511,454)
Increase (decrease) in:	
Accrued cost of electricity	20,966,830
Accounts payable	324,337
Other accrued liabilities	1,779,289
State surcharges payable	158,129
Supplier security deposits	(42,009,127)
Net cash provided (used) by operating activities	<u><u>\$ (18,615,777)</u></u>

SAN DIEGO COMMUNITY POWER

FY23 - Supplemental Budget Details

Six Months Ended December 31, 2022

	2022/23 YTD Budget	2022/23 YTD Actual	2022/23 YTD Budget Variance (Under) Over	2022/23 YTD Actual/ Budget %	2022/23 Annual Budget	2022/23 Budget Remaining
OPERATING REVENUES						
Gross Ratepayer Revenues	\$ 420,782,408	\$ 451,005,491	\$ 30,223,083	107%	\$ 716,146,107	\$ 265,140,616
Less Uncollectible Accounts	(4,207,824)	(4,510,055)	(302,231)	107%	(7,161,461)	(2,651,406)
Net Operating Revenues	<u>416,574,584</u>	<u>446,495,436</u>	<u>29,920,852</u>		<u>708,984,646</u>	<u>262,489,210</u>
OPERATING EXPENSES						
Cost of Energy	<u>371,964,441</u>	<u>422,522,133</u>	<u>50,557,692</u>	114%	<u>661,638,828</u>	<u>239,116,695</u>
Professional Services and Consultants						
Data Management	4,792,437	4,306,820	(485,617)	90%	10,541,810	6,234,990
SDG&E Fees	1,102,813	1,172,187	69,374	106%	2,563,226	1,391,039
Technical Support	667,502	309,980	(357,522)	46%	1,335,000	1,025,020
Legal/Regulatory	672,502	620,097	(52,405)	92%	1,330,000	709,903
Other Services	<u>958,500</u>	<u>656,448</u>	<u>(302,052)</u>	<u>68%</u>	<u>1,111,000</u>	<u>454,552</u>
Total	<u>8,193,754</u>	<u>7,065,532</u>	<u>(1,128,222)</u>		<u>16,881,036</u>	<u>9,815,504</u>
Personnel Costs						
Salaries	2,883,073	2,597,243	(285,830)	90%	6,233,063	3,635,820
Benefits (retirement/health)	512,936	220,661	(292,275)	43%	1,274,972	1,054,311
Payroll Taxes	<u>184,974</u>	<u>140,651</u>	<u>(44,323)</u>	<u>76%</u>	<u>443,464</u>	<u>302,813</u>
Total	<u>3,580,983</u>	<u>2,958,555</u>	<u>(622,428)</u>		<u>7,951,499</u>	<u>4,992,944</u>
Marketing and Outreach						
Printing	1,302,999	533,850	(769,149)	41%	2,323,000	1,789,150
Sponsorships/Local Memberships	251,917	186,100	(65,817)	74%	1,199,167	1,013,067
Communications Consultants	<u>261,000</u>	<u>164,809</u>	<u>(96,191)</u>	<u>63%</u>	<u>642,000</u>	<u>477,191</u>
Total	<u>1,815,916</u>	<u>884,759</u>	<u>(931,157)</u>		<u>4,164,167</u>	<u>3,279,408</u>
General and Administration						
Other G&A	1,671,721	247,442	(1,424,279)	15%	2,037,461	1,790,019
Cal CCA Dues	185,000	182,991	(2,009)	99%	370,000	187,009
Rent	87,000	87,497	497	101%	180,000	92,503
Insurance	<u>3,902</u>	<u>78,298</u>	<u>74,396</u>	<u>2007%</u>	<u>3,902</u>	<u>(74,396)</u>
Total	<u>1,947,623</u>	<u>596,228</u>	<u>(1,351,395)</u>		<u>2,591,363</u>	<u>1,995,135</u>
Programs						
Programs	802,500	-	(802,500)	0%	1,395,000	1,395,000
Programs (Cost-Recovery)	<u>-</u>	<u>-</u>	<u>-</u>	<u>0%</u>	<u>-</u>	<u>-</u>
Total	<u>802,500</u>	<u>-</u>	<u>(802,500)</u>		<u>1,395,000</u>	<u>1,395,000</u>
Total Operating Expenses	<u>388,305,217</u>	<u>434,027,207</u>	<u>45,721,990</u>		<u>694,621,893</u>	<u>260,594,686</u>
Operating Income (Loss)	<u>28,269,367</u>	<u>12,468,229</u>	<u>(15,801,138)</u>		<u>14,362,753</u>	<u>1,894,524</u>
NON-OPERATING REVENUES (EXPENSES)						
Investment income	-	58,833	58,833		-	(58,833)
Interest and Related Expenses	<u>(671,033)</u>	<u>(690,965)</u>	<u>(19,932)</u>	0%	<u>(1,314,922)</u>	<u>(623,957)</u>
Total Non-Operating Rev (Exp)	<u>(671,033)</u>	<u>(632,132)</u>	<u>38,901</u>		<u>(1,314,922)</u>	<u>(682,790)</u>
CHANGE IN NET POSITION	<u>\$ 27,598,334</u>	<u>\$ 11,836,097</u>	<u>\$ (15,762,237)</u>		<u>\$ 13,047,831</u>	<u>\$ 1,211,734</u>



SAN DIEGO COMMUNITY POWER Staff Report – Item 3

To: San Diego Community Power Board of Directors

From: Lucas Utouh, Director of Data Analytics and Account Services

Via: Karin Burns, Chief Executive Officer

Subject: Update on Back-Office Operations

Date: February 23, 2023

RECOMMENDATION

Receive and file update on various back-office operations.

BACKGROUND

Staff will provide regular updates to the Board of Directors regarding San Diego Community Power's (SDCP) back-office activities centered around tracking opt actions (i.e., opt outs, opt ups and opt downs) as well as customer engagement metrics. The following is a brief overview of items pertaining to back-office operations.

ANALYSIS AND DISCUSSION

A) Mass Enrollment Update

Phase 3:

Staff is happy to report that our Phase 3 efforts for Imperial Beach, La Mesa, Encinitas, Chula Vista, San Diego and Net Energy Metering (NEM) customers with a true up month of February through January are now complete. Our cumulative count of active accounts being served under our portfolio currently stands at **752,924** as of 02/12/2023, cementing San Diego Community Power as the 2nd largest CCA by accounts served in the State of California. With the completion of enrollment of Net Energy Metering (NEM) customers with a true up month of January, we have effectively wrapped up mass enrollment for this pertinent phase. We'll continue to enroll all move ins and new constructions accordingly in Imperial Beach, La Mesa, Encinitas, Chula Vista and City of San Diego.

Phase 4:

Mass enrollment for our customers in National City and Unincorporated County of San Diego is slated to commence in April 2023. Customers on Net Energy Metering (NEM) will enroll as of their true up month starting in April of 2023 through March 2024.

The first of four enrollment notices were delivered on the first week of February to notify relevant customers of their upcoming April enrollment into SDCP service. The 2nd round of enrollment notices will be delivered the first week of March. Please see a snippet of what they look like per the snippet below:

Non-Net Energy Metering Enrollment Notice #2



SAN DIEGO COMMUNITY POWER

PO Box 12716
San Diego, CA 92112
SDCommunityPower.org

HELLO NEIGHBOR,

San Diego Community Power (SDCP) is a local provider of electricity that will serve your community by bringing you cleaner energy at competitive rates. We put our communities first, helping you take a giant step toward a more sustainable energy future.

We are a locally managed, not-for-profit, public agency that focuses on what families need and want most when it comes to their energy.

Beginning in **April 2023***, San Diego Community Power will become your new electric generation service provider – meaning we will purchase renewable power, like solar and wind, and provide it to you at competitive rates.

YOUR ENERGY. YOUR CHOICE.

When you are automatically enrolled into our service, you'll receive our standard service offering, **PowerOn**, which provides at least 50% renewable energy and is priced competitively to what you are currently paying with San Diego Gas & Electric (SDG&E).

If you want to further reduce your carbon footprint from energy consumption, you can choose to upgrade to **Power100**, which provides 100% renewable energy for a small premium.

You will continue to get your bill from SDG&E, but now you can choose who provides your electricity. You'll be automatically enrolled in our service unless you choose to opt out and return to SDG&E service, but you'll be missing out on some important benefits. With SDCP, you're empowered to choose a cleaner future.

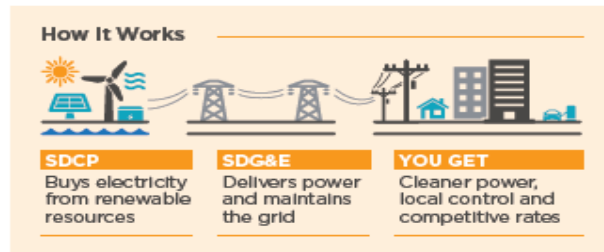
BENEFITS THAT YOU CAN EXPECT FROM SAN DIEGO COMMUNITY POWER:

- Competitively priced, cleaner, renewable power
- Energy programs tailored to meet the needs of San Diegans
- Local control by local representatives who prioritize people and our communities
- Reinvestment of revenues into the communities we serve
- Support of local job creation and development of local renewable energy projects

On behalf of everyone at SDCP, we are excited to serve your community with clean and renewable energy!

Sincerely,

Your local team at San Diego Community Power



To learn more about SDCP and our benefits, change your service level, or to opt out, please visit our website at www.SDCommunityPower.org or call us at 1-888-382-0169.

Para obtener más información sobre SDCP y nuestros beneficios, cambiar su nivel de servicio u optar por no participar, por favor visite www.SDCommunityPower.org o llame al 1-888-382-0169.

Upang matuto nang higit pa tungkol sa SDCP at sa aming mga benepisyo, baguhin ang antas ng iyong serbisyo, o mag-opt out, bisitahin ang www.SDCommunityPower.org o tumawag sa 1-888-382-0169.

**Please note that rooftop solar customers and other customers participating in Net Energy Metering (NEM) will be automatically enrolled at the end of their relevant period (commonly referred to as "true up"). For more information on enrollment, please see the FAQs on our website at SDCommunityPower.org/faq.*

TERMS & CONDITIONS OF SERVICE

San Diego Community Power electric generation rates are managed with the intention of providing cleaner electricity at competitive rates. Any changes to SDCP rates will be adopted at duly noticed public hearings of the San Diego Community Power Board of Directors. Changes to SDG&E or SDCP rates will impact cost comparisons between SDCP and SDG&E.

All SDG&E and SDCP customers pay a monthly Power Charge Indifference Adjustment (PCIA) and Franchise Fee Surcharge. SDCP has already accounted for these after-market charges in calculating rates. View SDCP rates and SDG&E cost comparisons on our website.

ENROLLMENT: SDCP is the default electricity service provider for the cities of Chula Vista, Encinitas, Imperial Beach, La Mesa, National City, San Diego, and the Unincorporated County of San Diego. You will be automatically enrolled in SDCP services unless you opt out at least five business days before your meter read date during the enrollment month. Accounts will be automatically enrolled in SDCP's PowerOn on your regularly scheduled meter read on or after the first day of the enrollment month. You may choose to opt up to Power100, which provides 100% renewable energy service at a slight premium.

BILLING: You will receive a single monthly bill from SDG&E that includes SDCP's electric generation charges. SDCP's electric generation charge replaces SDG&E's electric generation charge. SDCP's charge is not a duplicate charge or extra fee. SDG&E will continue to charge you for electric delivery services. If you opt out of SDCP, SDG&E will resume charging you for electric generation.

For complete Terms and Conditions of Service, please visit SDCommunityPower.org or call SDCP at 1-888-382-0169.



Net Energy Metering Enrollment Notice #2



SAN DIEGO COMMUNITY POWER

PO Box 12716
San Diego, CA 92112
SDCommunityPower.org

HELLO NEIGHBOR,

San Diego Community Power (SDCP) is a local provider of electricity that will serve your community by bringing you cleaner energy at competitive rates. We put our communities first, helping you take a giant step toward a more sustainable energy future. We are a locally managed, not-for-profit, public agency that focuses on what families need and want most when it comes to their energy.

Following the completion of your Net Energy Metering (NEM) relevant period (commonly referred to as your "annual true up"), San Diego Community Power will become your new electric generation service provider – meaning we will purchase renewable power, like solar and wind, and provide it to you at competitive rates when you pull more from the grid than you generate.

YOUR ENERGY. YOUR CHOICE.

When you are automatically enrolled into our service, you'll receive our standard service offering, **PowerOn**, which provides at least 50% renewable energy and is priced competitively to what you are currently paying with San Diego Gas & Electric (SDG&E).

If you want to further reduce your carbon footprint from energy consumption, you can choose to upgrade to **Power100**, which provides 100% renewable energy for a small premium.

You will continue to get your bill from SDG&E, but now you can choose who provides your electricity. You'll be automatically enrolled in our service unless you choose to opt out and return to SDG&E service, but you'll be missing out on some important benefits. With SDCP, you're empowered to choose a cleaner future.

BENEFITS THAT YOU CAN EXPECT FROM SAN DIEGO COMMUNITY POWER:

- Competitively priced, cleaner, renewable power
- Energy programs tailored to meet the needs of San Diegans
- Local control by local representatives who prioritize people and our communities
- Reinvestment of revenues into the communities we serve
- Support of local job creation and development of local renewable energy projects

As a customer with onsite generation, you will be automatically enrolled into our Net Energy Metering (NEM) program that functions almost identically to that of SDG&E's but with a few key differences that make our program better!

- Same rate schedules and accrual of credits
- Monthly billing to reduce a single large annual true up bill
- Premium Net Surplus Compensation for customers that generate extra electricity every year
- Automatic checks to customers that have a compensation amount over \$100, up to \$2,500
- Carry over of compensation credits if less than \$100

On behalf of everyone at SDCP, we are excited to serve your community with clean and renewable energy!

Sincerely,

Your local team at San Diego Community Power

How It Works



SDCP

Buys electricity from renewable resources

SDG&E

Delivers power and maintains the grid

YOU GET

Cleaner power, local control and competitive rates

To learn more about SDCP and our benefits, change your service level, or to opt out, please visit our website at www.SDCommunityPower.org or call us at 1-888-382-0169.

Para obtener más información sobre SDCP y nuestros beneficios, cambiar su nivel de servicio u optar por no participar, por favor visite www.SDCommunityPower.org o llame al 1-888-382-0169.

Upang matuto nang higit pa tungkol sa SDCP at sa aming mga benepisyo, baguhin ang antas ng iyong serbisyo, o mag-opt out, bisitahin ang www.SDCommunityPower.org o tumawag sa 1-888-382-0169.

B) Customer Participation Tracking

Staff and Calpine have worked together to create a reporting summary of customer actions to opt out of SDCP service, opt up to Power100, or opt down from Power100 to PowerOn. The below charts summarize these actions accordingly as of February 12th, 2023:

I. Opt Outs

Opt Outs by Jurisdiction	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
CITY OF CHULA VISTA	266	3472	122	27	3887
CITY OF ENCINITAS	66	1886	53	10	2015
CITY OF IMPERIAL BEACH	32	345	16	1	394
CITY OF LA MESA	85	1272	43	6	1406
CITY OF NATIONAL CITY	0	0	0	7	7
CITY OF SAN DIEGO	1077	19283	492	134	20986
COUNTY OF SAN DIEGO	0	0	0	399	399
Grand Total	1526	26258	726	584	29094

Opt Outs by Class Code	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
Residential	36	25722	714	556	27028
Commercial/Industrial	1490	536	12	28	2066
Grand Total	1526	26258	726	584	29094

Opt Outs by Reason	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
Rate or Cost Concerns	239	7755	11	30	8035
Dislike being automatically enrolled	202	7215	1	4	7422
Decline to Provide	228	3596	50	81	3955
Other	812	2653	187	189	3841
Existing relationship with the utility	2	2394	3	15	2414
Concerns about Government-Run Power Agency	24	1496	51	42	1613
Service or Billing Concerns	6	725	317	140	1188
Have renewable Energy Reliability Concerns	13	292	38	11	354
Concerns about lack of equivalent CCA programs	0	132	68	72	272
Grand Total	1526	26258	726	584	29094

Opt Outs by Method	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
Website	327	14354	330	341	15352
Customer Service Rep (CSR)	1098	7005	233	114	8450
Interactive Voice Response (IVR)	101	4899	163	129	5292
Grand Total	1526	26258	726	584	29094

II. Opt Ups to Power100

Opt Ups by Jurisdiction	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
CITY OF CHULA VISTA	702	168	5	1	876
CITY OF ENCINITAS	18	1	0	0	19
CITY OF IMPERIAL BEACH	60	29	0	0	89
CITY OF LA MESA	148	120	3	1	272
CITY OF NATIONAL CITY	0	0	0	1	1
CITY OF SAN DIEGO	3163	2874	109	25	6171
COUNTY OF SAN DIEGO	0	0	0	5	5
Grand Total	4091	3192	117	33	7433

Opt Ups by Class Code	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
Residential	3	2875	65	27	2970
Commercial/Industrial	4088	317	52	6	4463
Grand Total	4091	3192	117	33	7433

Opt Ups by Method	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
Customer Service Rep (CSR)	4060	1375	54	6	5495
Interactive Voice Response (IVR)	4	78	9	3	94
Web	27	1739	54	24	1844
Grand Total	4091	3192	117	33	7433

Cumulative Power 100 Dashboard

Opt Ups by Jurisdiction	Grand Total
CITY OF CHULA VISTA	874
CITY OF ENCINITAS	26001
CITY OF IMPERIAL BEACH	88
CITY OF LA MESA	270
CITY OF NATIONAL CITY	1
CITY OF SAN DIEGO	6141
COUNTY OF SAN DIEGO	5
Grand Total	33380



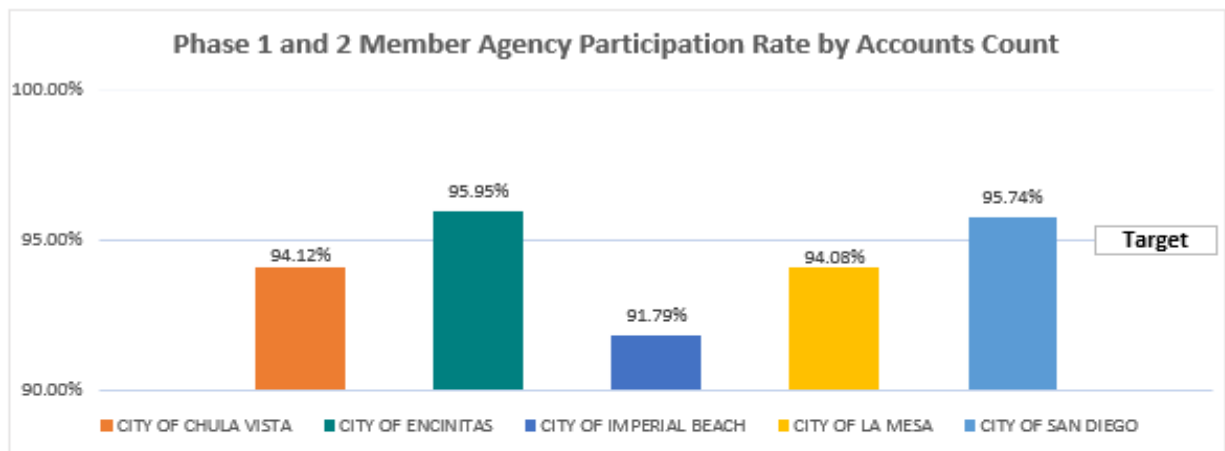
III. Opt Downs from Power100

Opt Downs by Jurisdiction	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
CITY OF CHULA VISTA	0	1	0	1	2
CITY OF ENCINITAS	35	423	8	3	469
CITY OF IMPERIAL BEACH	0	1	0	0	1
CITY OF LA MESA	0	2	0	0	2
CITY OF NATIONAL CITY			0	0	0
CITY OF SAN DIEGO	0	28	2	0	30
COUNTY OF SAN DIEGO			0	0	0
Grand Total	35	455	10	4	504

Opt Downs by Class Code	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
Residential	0	432	10	4	446
Commercial/Industrial	35	23	0	0	58
Grand Total	35	455	10	4	504

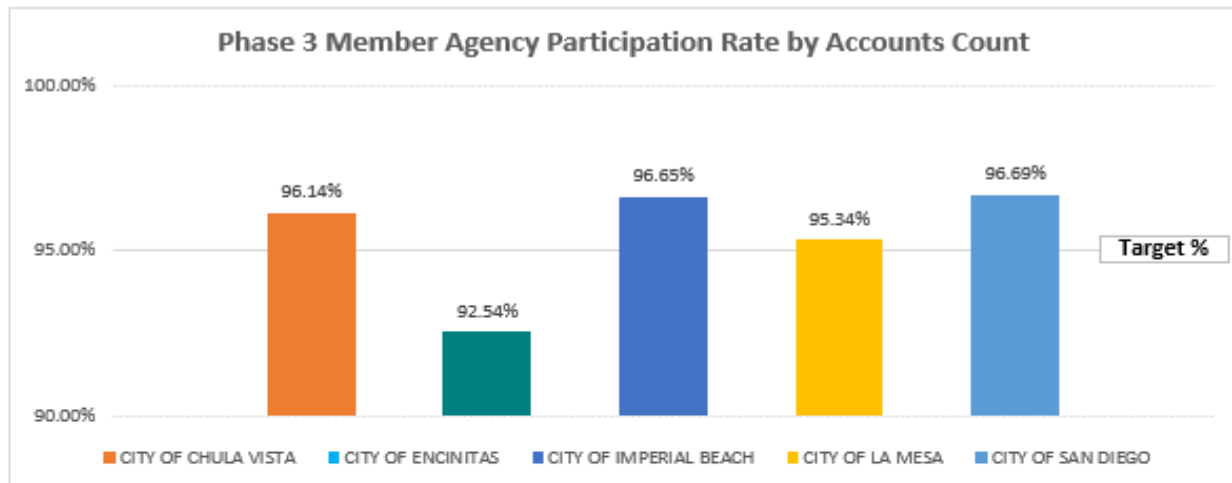
Opt Downs by Method	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
Customer Service Rep (CSR)	31	305	5	3	344
Interactive Voice Response (IVR)	4	26	0	1	31
Web	0	124	5	0	129
Grand Total	35	455	10	4	504

I. Participation Rate



Phase 1 and 2

Town or Territory	Active	Eligible	Total Opt Outs	Participation Rate by Accounts Count
CITY OF CHULA VISTA	7683	8163	480	94.12%
CITY OF ENCINITAS	3152	3285	133	95.95%
CITY OF IMPERIAL BEACH	537	585	48	91.79%
CITY OF LA MESA	2702	2872	170	94.08%
CITY OF SAN DIEGO	57409	59962	2553	95.74%
Grand Total	71483	74867	3384	95.48%



Phase 3

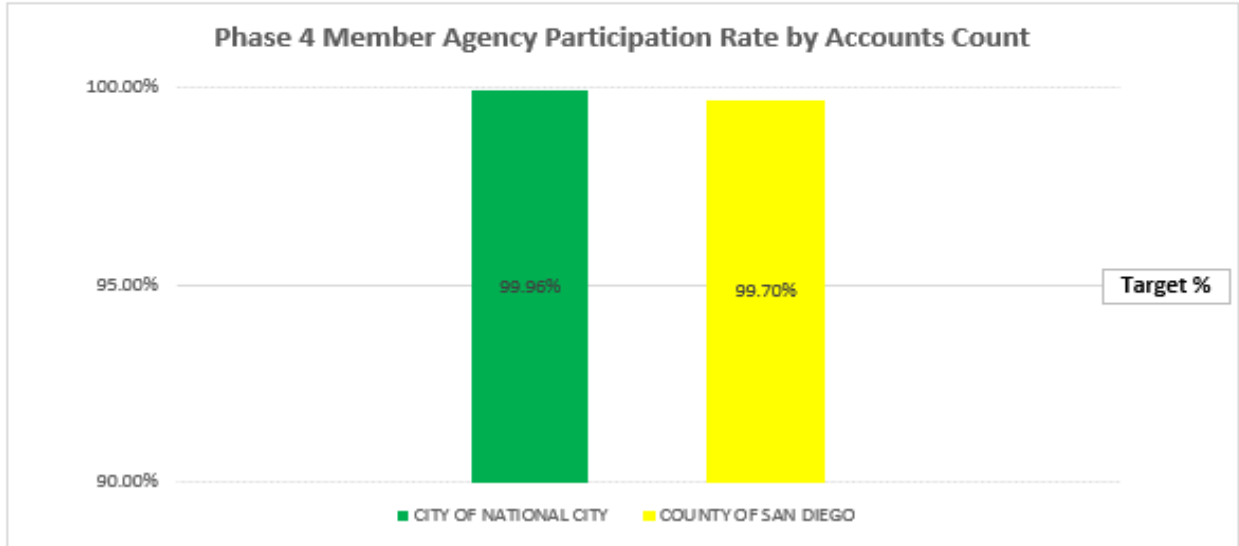
Town or Territory	Active	Eligible	Total Opt Outs	Participation Rate by Accounts Count
CITY OF CHULA VISTA	84983	88393	3410	96.14%
CITY OF ENCINITAS	23299	25178	1879	92.54%
CITY OF IMPERIAL BEACH	9976	10322	346	96.65%
CITY OF LA MESA	25275	26511	1236	95.34%
CITY OF SAN DIEGO	537908	556341	18433	96.69%
Grand Total	681441	706745	25304	96.42%

For Phase 3, the true participation rate is now being computed similar to Phase 1 and 2 given that mass enrollment of Net Energy Metering (NEM) customers with a true up month of January is now complete effectively closing out mass enrollment for the pertinent phase.

With our first enrollment notices for Phase 4 dropped into customers' mailboxes the first week of February, our mass enrollment process in National City and Unincorporated County of San Diego is officially underway. The participation rate for this new phase is fluid and will change as we ramp up enrollment in April 2023 through March 2024 for NEM customers. The true participation rate will be computed once customers across all months from April are fully enrolled. In the interim, we are reporting on the opt outs and eligible accounts associated with the phase on a rolling basis as of the reporting month:

Phase 4

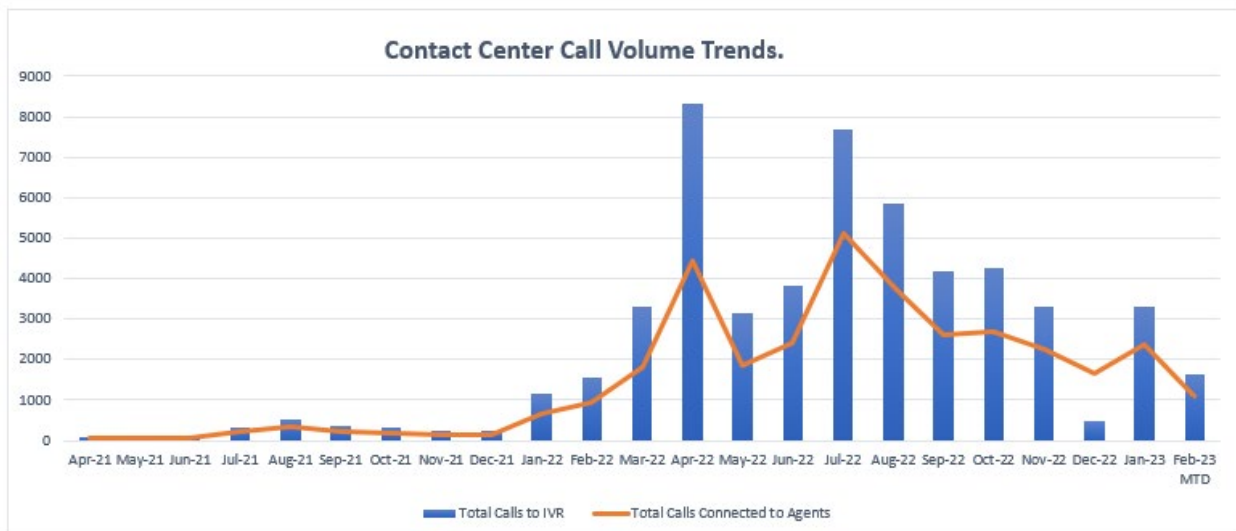
Town or Territory	Active	Eligible	Total Opt Outs	Participation Rate by Accounts Count
CITY OF NATIONAL CITY	0	18023	7	99.96%
COUNTY OF SAN DIEGO	0	134152	399	99.70%
Grand Total	0	152175	406	99.73%



C) Contact Center Metrics

Call volumes in January 2023 increased by **587%** compared to December mostly due to customers calling in with concerns and inquiries about their higher-than-normal bills driven primarily by sky-high gas prices and the electricity rate hike by SDG&E that went into effect as of 1/1/2023.

The chart below summarizes contact made by customers into our Contact Center broken down by month through February 12th, 2023:

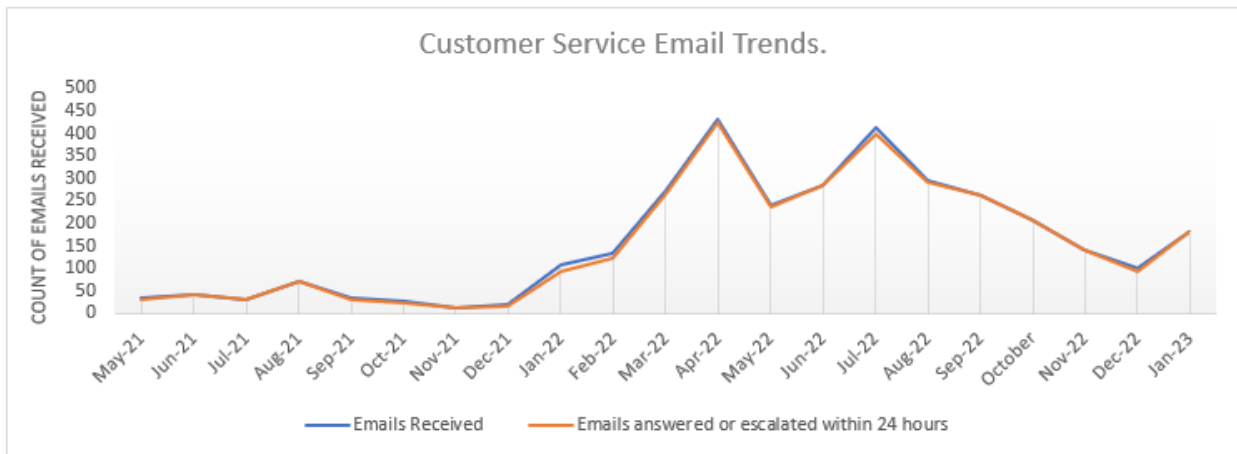


Interactive Voice Response (IVR) and Service Level Agreement (SLA) Metrics

IVR and SLA Details	CY 2021	CY 2022	Jan-23	Feb-23 MTD	Grand Total
Total Calls to IVR	2289	47118	3317	1642	54366
Total Calls Connected to Agents	1401	30174	2392	1090	35057
Average Seconds to Answer	0:00:20	0:00:11	0:00:04	0:00:04	0:00:14
Average Call Duration	0:08:27	0:09:49	0:09:08	0:09:45	0:09:15
Calls Answered within 60 Seconds (75% SLA)	96.23%	95.50%	98.91%	99.08%	96.09%
Abandon Rate	0.57%	0.36%	0.08%	0.09%	0.42%

Similar to other mass enrollments in other CCAs' service territories, we are anticipating the trend of our customers calling into our Contact Center's Interactive Voice Response (IVR) system tree and being able to self-serve their opt actions using the recorded prompts as well as utilizing our website for processing opt actions to continue accounting for over 65% of all instances. The remaining portion of customer calls are connected to our Customer Service Representatives to answer additional questions, assist with account support, or submit opt actions.

Email Details	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23 MTD	Grand Total
Emails Received	272	2894	183	75	3424
Emails answered or escalated within 24 hours	257	2821	181	74	3333
Completion %	94%	97%	99%	99%	97%



As of this latest reporting month, we still have a total of 13 Dedicated Customer Service Representatives staffed at our Contact Center and 2 Supervisors. Our robust Quality Assurance (QA) procedures are firmly in place to ensure that our customers are getting a world-class customer experience when they contact us.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

N/A





SAN DIEGO COMMUNITY POWER Staff Report – Item 4

To: San Diego Community Power Board of Directors
From: Jen Lebron, Director of Public Affairs
Via: Karin Burns, Chief Executive Officer
Subject: Marketing and Public Relations Update
Date: February 23, 2023

RECOMMENDATION

Receive and file update on Marketing and Public Relations activities for San Diego Community Power.

BACKGROUND

San Diego Community Power (SDCP) has engaged in a variety of public relations, marketing, and community outreach activities to drive awareness, spark engagement, and minimize opt-outs.

ANALYSIS AND DISCUSSION

SDCP has increased its focus on community engagement as it prepares for the enrollment of customers in National City and the unincorporated areas of San Diego County as well as develops its Community Power Plan, which will be a roadmap for the selection, development, and investment of local programs based on community needs and gaps in program offerings.

Public Engagement Events

SDCP participated and/or will participate in the following outreach events:

January 25, 2023 – North SD Chamber Business Summit

January 29, 2023 – LUNG FORCE Walk, Liberty Station

February 4, 2023 – North Park's Art Produce Gallery Collaboration

February 6, 2023 – GridTECH Connect Forum 2023

February 9, 2023 – San Diego Chamber of Commerce 152nd Anniversary Celebration

February 24, 2023 – Valley Center Buck-a-Bag book sale

February 25, 2023 – National City swap meet

March 1, 2023 – Julian food distribution

March 7, 2023 – Ramona library

March 16, 2023 – Alpine library

March 25, 2023 – El Cajon Buck-a-Bag book sale
March 27, 2023 – City Heights library

Communications and Outreach Strategy

SDCP is in regular communication with regional media in the spirit of transparency and openness as well as provide factual, timely information to the public at large.

SDCP and Civilian, its marketing and communications contractor, are working together to develop a high-impact campaign that will include multiple mailers sent directly to customers, targeted marketing in local publications, advertising on billboards in high-traffic areas and sending members of its staff to outreach events.

We have developed and updated our communications and outreach strategies for the onboarding of new board members, as well as updated our pre & post enrollment notices for clarity and talking points for our customer care agents regarding rates.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

N/A





SAN DIEGO COMMUNITY POWER Staff Report – Item 5

To: San Diego Community Power Board of Directors
From: Victoria Abrenica, Public Outreach Associate
Via: Karin Burns, Chief Executive Officer
Subject: Receive and File Community Advisory Committee Monthly Report
Date: February 23, 2023

RECOMMENDATION

Receive and file Community Advisory Committee monthly report.

BACKGROUND

According to Section 5.10.3 of the SDCP Joint Powers Authority (JPA) Agreement:

The Board shall establish a Community Advisory Committee comprised of non-Board members. The primary purpose of the Community Advisory Committee shall be to advise the Board of Directors and provide for a venue for ongoing citizen support and engagement in the strategic direction, goals, and programs of the Authority.

At the direction of the CEO, the Community Advisory Committee (CAC) provides quarterly presentations to the Board of Directors on the regular agenda, and monthly reports on the consent calendar.

ANALYSIS AND DISCUSSION

At the February 10, 2023, meeting of the CAC the following items were presented to the committee for review:

1. The committee received an update on the Community Power Plan.
2. The CAC received an update on the Regional Energy Network process.
3. The group discussed SDCP's Net Energy Metering 3.0 decision.
4. Staff provided updates on Public Relations and Back-Office Operations
5. The CAC received an update on the 2023 Brown Act and discussed the Remote Teleconferencing Policy.
6. The committee voted to approve the 2023 CAC Regular Meeting Schedule.

Lastly, Jen Derks from La Mesa resigned from the Community Advisory Committee. The CAC now has vacancies in La Mesa, Imperial Beach, and the unincorporated areas of San Diego County.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

2/10/2023 Community Advisory Committee meeting agenda





AGENDA

Regular Meeting of Community Advisory Committee San Diego Community Power (SDCP)

February 10, 2023

1:00 p.m.

The meeting will proceed as a teleconference meeting in compliance with waivers to certain provisions of the Brown Act provided for under Government Code section 54953(e)(1)(A), in relation to the COVID-19 State of Emergency and recommended social distancing measures. There will be no location for in-person attendance. In compliance with the Brown Act, SDCP is providing alternatives to in-person attendance for viewing and participating in the meeting. Further details are below.

Note: Any member of the public may provide comments to the Community Advisory Committee (CAC) on any agenda item. When providing comments to the CAC, it is requested that you provide your name and city of residence for the record. Commenters are requested to address their comments to the CAC as a whole through the Chair. Comments may be provided in one of the following manners:

1. Providing Oral Comments During Meeting. To provide comments during the meeting, join the Zoom meeting by computer, mobile phone, or dial-in number. On Zoom video conference by computer or mobile phone, use the "Raise Hand" feature. This will notify the moderator that you wish to speak during a specific item on the agenda or during non-agenda Public Comment. Members of the public will not be shown on video but will be able to speak when called upon. If joining the meeting using the Zoom dial-in number, you can raise your hand by pressing *9. Comments will be limited to three (3) minutes.
2. Written Comments. Written public comments must be submitted prior to the start of the meeting by using this ([web form](#)). Please indicate a specific agenda item when submitting your comment. All written comments received prior to the meeting will be provided to the CAC members in writing. In the discretion of the Chair, the first ten (10) submitted comments shall be stated into the record of the meeting. Comments read at the meeting will be limited to the first 400 words. Comments received after the start of the meeting will be collected, sent to the CAC members in writing, and be part of the public record.

If you have anything that you wish to be distributed to the CAC, please provide it via info@sdcommunitypower.org, who will distribute the information to the Members.

The public may participate using the following remote options:

Teleconference Meeting Webinar

<https://zoom.us/j/93647500600>

Telephone (Audio Only)

(669) 900-6833 or (253) 215-8782 | Webinar ID: 936 4750 0600

1. **Welcome**
2. **Roll Call**
3. **Public Comment for Items Not on the Agenda**
4. **Items to be Withdrawn, or Reordered on the Agenda**

REGULAR AGENDA

5. **Receive Update on the Community Power Plan**
6. **Receive Update on REN Process**
7. **Discuss NEM 3.0 Decision**
8. **Receive Update on Public Relations and Back-Office Operations**
9. **Receive Update on 2023 Brown Act and Discuss Remote Teleconferencing Policy**
10. **Approval of 2023 CAC Regular Meeting Schedule**
11. **Standing Item: Discussion of Potential Agenda Items for Board of Directors Meetings**
12. **Committee Member Announcements**
Committee Members may briefly provide information to other members and the public. There is to be no discussion or action taken on comments made by Committee Members unless authorized by law.
13. **Adjournment**

Availability of Committee Documents

Copies of the agenda and agenda packet are available at <https://sdcommunitypower.org/resources/meeting-notes/>. Late-arriving documents related to a CAC meeting item which are distributed to a majority of the Members prior to or during the CAC meeting are available for public review as required by law. Public records, including agenda-related documents, can instead be requested electronically at info@sdcommunitypower.org or by mail to SDCP at PO Box 12716, San Diego, CA 92112. The documents may also be posted at the above website. Such public records are also available for inspection, by appointment, at San Diego Community Power, 2488 Historic Decatur Road, Suite 250, San Diego, CA 92106. Please contact info@sdcommunitypower.org to arrange an appointment.



SAN DIEGO COMMUNITY POWER Staff Report – Item 6

To: San Diego Community Power Board of Directors
From: Laura Fernandez, Director of Regulatory & Legislative Affairs
Via: Karin Burns, Chief Executive Officer
Subject: Update on Regulatory and Legislative Affairs
Date: February 23, 2023

RECOMMENDATIONS

Receive and file update on regulatory and legislative affairs.

BACKGROUND

Staff will provide regular updates to the Board of Directors regarding SDCP's regulatory and legislative engagement.

ANALYSIS AND DISCUSSION

A) Regulatory Updates

Disadvantaged Communities Green Tariff (DAC-GT), Community Solar Green Tariff (CSGT), and Green Tariff Shared Renewables (GTSR)

Draft Resolution on SDCP's DAC-GT and CSGT Implementation Advice Letter

On February 10, 2023, the Energy Division of the California Public Utilities Commission (CPUC) issued a Draft Resolution (Attachment A) proposing approval of [SDCP's Tier 3 Implementation Advice Letter](#) to become a Program Administrator of the DAC-GT and CSGT programs. As previously reported to the Board, these two programs are funded by the public purpose program charge through the CPUC and will offer 100% renewable energy to customers who are eligible for the California Alternate Rates for Energy (CARE) or Family Electric Rate Assistance (FERA) rate and provide a 20% discount on the electricity and delivery portions of the customers' bills.

Comments on the Draft Resolution are due by March 2, 2023, and the CPUC is currently scheduled to consider the Draft Resolution for final adoption during its March 16 business meeting.

Green Access Programs (GAP) Proceeding

In a related effort, SDCP is also involved in the consolidated applications for review of the DAC-GT/CSGT as well as the GTSR programs. The purpose of SDCP's involvement is to seek changes to the program rules surrounding DAC-GT/CSGT and ensuring that ratepayer equity is achieved on the question of cost recovery for stranded costs from SDG&E's EcoChoice program.

On January 20, 2023, SDCP submitted Opening Testimony (Attachment B) in response to the Assigned Commissioner's [Scoping Memo and Ruling](#), issued December 2, 2022, which asked parties to evaluate and propose modifications for the current GAPs. SDCP's testimony noted the Commission should determine the appropriate cost recovery for previously accrued under-collections in SDG&E's GTSR-related balancing accounts now that the EcoChoice program is suspended, pushed back on SDG&E's narrative that the rise of CCAs is the singular cause of the failure of the GTSR program, and made recommendations regarding the timing of cost recovery for SDG&E's annual under- or over-collections.

As a next step, the CPUC scheduled a workshop for February 27, 2023, to discuss the GAP application proposals and opening testimony. SDCP will be represented by outside counsel presenting on behalf of a Joint CCA effort.

Resource Adequacy (RA)

RA Implementation Track Phase 3 Proposals

On January 20, 2023, eight parties submitted proposals in Phase 3 of the Implementation Track on Resource Adequacy ("RA"). Notably, [CPUC Energy Division Staff's proposal](#) includes several concerning elements, such as developing RA requirements for CCA expansion, requiring the publishing of RA deficiencies and citations, and extensions of the effective planning reserve margin beyond 2023. SDCP is working with CalCCA to oppose the problematic elements of the party proposals and offer solutions. Comments on the party proposals are due on February 24, 2023, and reply comments due March 3, 2023.

Draft Resolution on SDCP's Appeal of Month-Ahead Resource Adequacy Citation

On January 30, 2023, Administrative Law Judge Chiv issued a [draft resolution](#) on SDCP's appeal of a citation for a procurement deficiency in its September 2021 month-ahead system RA showing. The citation (No. E-4195-0107) was issued by the CPUC's Consumer Protection and Enforcement Division on October 2, 2021, and SDCP filed to appeal the citation on November 3, 2021. Through the appeal process, SDCP offered extensive evidence that it took every reasonable effort to comply with its September 2021 RA obligations and that the deficiency was a result of market factors outside of SDCP's control.



As SDCP staff anticipated, the draft resolution rejects SDCP's defense, and as such, SDCP will be required to pay the full amount of the penalty of \$581,817.60 upon the CPUC's approval the final resolution. On February 20, 2023, SDCP filed comments on the draft resolution recommending the record be corrected by removing any reference that SDCP "deliberately" failed to meet its obligation, as well as address matters raised in SDCP's Opening and Reply Briefs, including procurement issues with IOUs to meet RA requirements and consideration of whether settlements should be available in enforcement actions.

B) Legislative Update

On January 18, 2023, SDCP, along with East Bay Community Energy and Silicon Valley Clean Energy submitted a [comment letter](#) to the Environmental Protection Agency (EPA) in response to the Request for Information on the Climate Pollution Reduction Grants. The comments suggest that the grants could provide planning and implementation funding to pilot neighborhood-scale decarbonization. The comments also encourage EPA to reduce barriers to accessing funding for underserved communities by using a broad and flexible definition of underserved communities. Finally, the comments encourage the EPA to include Community Choice Aggregators as eligible recipients of program funds.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

Attachment A: E-5246 Draft Resolution

Attachment B: SDCP Opening Testimony on Green Access Programs



PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

Agenda ID# 21348
RESOLUTION E-5246
March 16, 2023

R E S O L U T I O N

Resolution E-5246. Pursuant to Decision 18-06-027, Approving with Modifications San Diego Community Power's Tariffs to Implement the Disadvantaged Communities Green Tariff and Community Solar Green Tariff Programs.

PROPOSED OUTCOME:

- Approves, with modifications, San Diego Community Power's (SDCP's) Advice Letter (AL) 10-E to create Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT) rates in compliance with Decision (D.) 18-06-027.

SAFETY CONSIDERATIONS:

- There are no expected safety implications associated with approval of this Resolution.

ESTIMATED COST:

- The full costs to implement the DAC-GT and CSGT programs have yet to be determined. The impact on rates cannot be estimated at this time as these programs will be funded through greenhouse gas allowance proceeds and/or public purpose program funds.

By SDCP AL 10-E filed on October 12, 2022.

SUMMARY

This Resolution approves, with modification, San Diego Community Power's (SDCP's) Advice Letter (AL) 10-E to create tariffs to implement the Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT) programs. The California Public Utilities Commission (CPUC) requires SDCP to modify its DAC-GT

and CSGT tariffs pursuant to the direction and clarifications provided in this Resolution.

BACKGROUND

The Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT) programs provide 100 percent clean energy at a 20 percent total bill discount to residential customers who reside in Disadvantaged Communities (DACs), as defined by Decision (D.) 18-06-027 *Alternate Decision Adopting Alternatives to Promote Solar Distributed Generation in Disadvantaged Communities* (Net Energy Metering DAC Decision or NEM DAC Decision).¹ The DAC-GT program is only available to residential DAC customers who are eligible for either the California Alternate Rates for Energy (CARE) program or the Family Electric Rate Assistance (FERA) program.² The CSGT program is available to both income-qualified and non-income-qualified residential DAC customers. Before any non-income-qualified customers are able to participate, 50 percent of a CSGT project's capacity must be subscribed to CARE or FERA eligible customers.³ In addition, community sponsors may be eligible to subscribe up to 25 percent of a CSGT project's capacity.

The NEM DAC Decision authorized Community Choice Aggregators (CCAs) to develop and implement their own DAC-GT and CSGT programs. The Decision further outlined that CCAs may access greenhouse gas (GHG) allowance revenues and public purpose program (PPP) funds to support these programs, by submitting a Tier 3 advice letter (AL) demonstrating how their DAC-GT and CSGT programs will abide by all rules and requirements for the programs.

To align program capacity allocation with the proportion of residential DAC customers served by CCAs, Resolution E-4999, issued June 3, 2019, allocated capacity to existing CCAs based on the proportional share of residential customers in DACs that each CCA serves.⁴ However, at the time there were no active CCAs in SDG&E's service area. As a result, SDG&E was allocated all 18 MW of its share of DAC-GT program capacity and all 5 MW of its share of CSGT program capacity.

Resolution E-4999 also directed that a workshop be held to address CCA implementation questions that were raised in the advice letter process. A DAC-GT and

¹ D.18-06-027 at 74.

² *Id.* at 51.

³ D.18-06-027 at COL 23-25.

⁴ Resolution E-4999 at 13.

CSGT Program Implementation Workshop for CCAs was held in September 2019 and determined that a working group should be convened to further discuss program-related customer billing issues. On October 15, 2019, Energy Division staff facilitated the first customer billing working group meeting among the IOUs and various CCAs at which it was agreed that these issues would be resolved through the CCAs' AL process and future working group meetings.

SDCP is a joint powers authority that was founded by the cities of San Diego, Encinitas, La Mesa, Chula Vista, and Imperial Beach on October 1, 2019. On March 9, 2020, the CPUC certified SDCP as a CCA and SDCP began serving customer load in SDG&E's service area in March 2021. A March 2021 data request from Energy Division to SDG&E showed that SDCP was estimated to serve 80% of the total 53,628 active residential customers in DACs within SDG&E's service area over the following 12 months. Based upon the methodology adopted in Resolution E-4999, SDCP calculated its allocation of DAC-GT and CSGT program capacity and on September 29, 2021, SDCP submitted AL 4-E seeking an allocation request for 14.39 MW of DAC-GT program capacity and 4 MW of CSGT program capacity from SDG&E. At that time, SDG&E had yet to procure any of its allocated capacity for either program and on October 18, 2021 submitted to the service list a signed letter of support for SDCP's request. The CPUC's Energy Division approved SDCP's request for allocation transfer via a disposition letter on October 29, 2021 pending future submission of a tier 3 AL including an implementation and marketing plan.⁵

On July 23, 2020, the CPUC issued D.20-07-008, the Decision Implementing Automatic Enrollment of Disadvantaged Communities Green Tariff. D.20-07-008 directed PG&E to automatically enroll a targeted population of customers in the DAC-GT program. The target population were customers who: 1) were identified as having a high risk of disconnection and 2) met the existing parameters of DAC-GT program eligibility.

Resolution E-5124, issued on April 16, 2021, further allowed participating CCAs to auto-enroll customers as long as 1) auto-enrolled customers meet the eligibility requirements of the DAC-GT program and 2) the criteria are in alignment with the spirit of D.20-07-008 and target eligible DAC-GT customers at high risk of disconnection.

The CPUC relied upon CalEPA's 2017 DAC designation (based on CalEnviroScreen or CES 3.0) when establishing eligibility rules for the DAC-GT and CSGT programs in the

⁵ D.18-06-027 at 104-105, OP 17.

NEM DAC Decision.⁶ In May 2022, CalEPA updated its DAC designations as part of CES version 4.0. Resolution E-5212 modified DAC-GT and CSGT program eligibility to include the updated version of CES 4.0.

On September 23, 2021, and November 18, 2021, the SDCP Board of Directors voted to authorize the County of San Diego and the City of National City, respectively, as new members of SDCP. Due to the CES update from 3.0 to 4.0 that occurred in May 2022, the number of eligible DACs within SDCP's territory has been reduced below the capacity allocation requested in SDCP's AL 4-E. However, as National City includes several DACs that were not included in AL 4-E at the time that AL filing, additional capacity allocation is needed to serve those customers.⁷

On October 12, 2022, SDCP filed AL 10-E to update its capacity allocation request, inclusive of National City's addition to SDCP, and submit its DAC-GT and CSGT implementation and marketing plans and forecasted budget for CPUC approval.

NOTICE

Notice of SDCP 10-E was made by publication in the CPUC's Daily Calendar. SDCP states that copies of its AL were mailed and distributed in accordance with Section 4 of General Order 96-B.

RESPONSES

San Diego Gas & Electric Company (SDG&E) filed a timely response to SDCP's AL on November 1, 2022.⁸ On November 8, 2022, SDCP filed a timely reply to SDG&E's response.

SDG&E's Response to SDCP's AL

⁶ CalEnviroScreen (CES) is a mapping tool that helps identify California communities that are most affected by many sources of pollution, and where people are often especially vulnerable to pollution's effects. The Office of Environmental Health Hazard Assessment, on behalf of the California Environmental Protection Agency (CalEPA) develops and updates the CalEnviroScreen tool pursuant to Public Resource Code § 71090.

⁷ SDCP AL 10-E at 5.

⁸ SDCP inadvertently submitted its DAC-GT and CSGT Implementation AL as "SDCP 5-E" before correcting the advice letter number to "SDCP 10-E." All references to SDCP 5-E in SDG&E's Response have been updated to "10-E".

SDG&E filed a timely response to SDCP's AL On November 1, 2022. In SDG&E's response, the utility stated that it largely supports SDCP's request for procurement capacity as a future program administrator of the Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT) programs. Specifically, SDG&E supports the transfer of an updated 15.78 MW of DAC-GT program capacity and an updated total of 4.38 MW of CSGT program capacity. It states that these allocations are in alignment with the latest available estimates of eligible customers that will transition from SDG&E service to SDCP service.

SDG&E also provides comments and clarifications regarding details of SDCP's Implementation Plan, included in AL 10-E. It states that as Program Administrator (PA), SDCP must meet the same program requirements as laid out in D.18-06-027 for IOUs such as supporting documentation, tariffs, cost recovery, and timing of funds transfer.

SDG&E notes that SDCP's AL states that supporting budget workpapers will be provided to the Evaluation, Measurement, and Verification (EM&V) contractors only "if available."⁹ SDG&E argues that the CPUC should direct SDCP to maintain records of all activity and spending in case of audit as any regulated investor-owned utility (IOU) is required to do. SDG&E posits that this ensures that all program spending is being evaluated fairly and in a comparable manner.

Second, SDG&E contends that SDCP's DAC-GT and CSGT tariffs do not contain the same elements included by all IOUs, such as back billing for months in which a customer is no longer CARE or FERA enrolled in order to protect ratepayers. Thirdly, SDG&E states that the cost recovery process for CCA programs should be consistent with D.18-06-027 and notes that SDCP does not have authority to directly recover costs for these programs. Lastly, SDG&E disputes SDCP's request that SDG&E include its request to transfer program funds in its November 2022 ERRA application. Citing Resolution E-4999, SDG&E contends that SDCP must follow the annual February 1 administration budget AL submission process and that it can only include such a funding request in a future ERRA application once the CPUC has approved SDCP's budget forecast.

⁹ SDCP AL 10-E, Appendix B at 18.

SDCP's Reply to SDG&E's Response

SDCP filed a timely reply to SDG&E's response on November 8, 2022. SDCP states that many of the points raised by SDG&E have previously been decided by the CPUC through the implementation of CCA DAC-GT and CSGT programs in Pacific Gas & Electric Company's (PG&E's) and Southern California Edison Company's (SCE's) service territories.

SDCP notes that its AL does not substantially differ from previously approved CCA DAC-GT and CSGT implementation ALs in regards to providing supporting documentation or in regards to specific tariff language.¹⁰ SDCP argues that it should be provided the same consideration as previous CCAs implementing these programs and that the CPUC should remain consistent with prior program approvals and decisions.

Regarding cost recovery, SDCP clarifies that its request for SDG&E to set aside funds in 2023 based on the budgets proposed in AL 10-E is consistent with past CPUC practice in Resolution E-5124, which approved CCA DAC-GT and CSGT programs in PG&E's territory, and D.20-12-038, which directed PG&E to set aside funds for Marin Clean Energy's and East Bay Community Energy's DAC-GT and CSGT programs subject to disposition of pending advice letter requests.

SDCP refutes SDG&E's funds transfer argument and states that its request for quarterly funds transfers is consistent with previous CPUC direction and that its request should be approved by the CPUC. Further, SDCP states that it has attached budgets for Program Years 2023 and 2024 to its AL which contain all necessary information that would be included in a February 1, 2023 budget AL consistent with Resolution E-5124 and E-5130 approving prior CCA DAC-GT and CSGT programs in PG&E's and SCE's territories. SDCP further clarifies that it will file a February 1 annual budget AL beginning in 2024 for Program Year 2025.

DISCUSSION

The discussion section is arranged in two parts. The first section addresses issues identified in SDG&E's reply to SDCP's AL, while the second addresses aspects of SDCP's proposed program implementation that warrant clarification.

¹⁰ See PCE AL 11-E at 20, LCE AL 13-E at 12, PRIME AL 8-E at 12, SJP AL 6-E at 12.

Disposition of SDG&E's Response

Supporting Documentation and Tariffs

While SDCP states that it will provide supporting budget workpapers to the Evaluation, Measurement, and Verification (EM&V) contractors only “if available” and that this is consistent with prior CPUC-approved CCA DAC-GT and CSGT implementation plans, CCAs must operate the DAC-GT and CSGT programs in accordance with best practice. All Program Administrators should ensure that data collection and financial accounting is transparent and accessible by the CPUC. Participation in the administration of these programs is voluntary and both CCAs and IOUs should follow the same rules as any other program administrator whether it be for accounting, reporting, or other program documentation.

In regard to SDG&E's concern over SDCP not including the same elements included by all IOUs, such as back billing for months in which a customer is no longer CARE- or FERA-enrolled in order to protect ratepayers, we find that SDCP has provided sufficient detail in its DAC-GT tariff consistent with other CCA tariffs. For example, SDCP states that “Customers who, after enrollment into the DAC-GT program become ineligible for CARE or FERA, will also be unenrolled from the DAC-GT program.”¹¹

Should this mitigation plan, or other tariff language be found insufficient, the CPUC may request that SDCP or other CCAs update their DAC-GT and CSGT tariffs in the future.

Cost Recovery and Timing of Funds Transfer

SDG&E's dispute of SDCP's request to set aside funding is moot. The CPUC has already directed SDG&E to set aside funding for SDCP's budget request in D.22-12-042, which approved SDG&E's 2023 ERRRA Forecast. D.22-12-042 directed SDG&E to set aside a total of \$0.631 million in 2023 for its Program Year 2023 DAC-GT and CSGT programs (\$0.336 million and \$0.295 million, respectively) subject to disposition of pending funding requests.¹²

¹¹ SDCP AL 10-E at 6 and 8.

¹² D.22-12-042 at 32, *Decision Approving San Diego Gas & Electric Company's 2023 Electric Procurement Revenue Requirement Forecasts, 2023 Electric Sales Forecast, and Greenhouse Gas Related Forecasts*.

SDG&E and SDCP shall take the following procedural steps regarding ERRa compliance and cost recovery, consistent with the process approved in Resolution E-5124 for all CCAs participating in the DAC-GT and CSGT programs:

1. SDG&E will include SDCP's PY 2024 budget estimate in its 2024 ERRa Forecast filing in early June or its 2024 ERRa Forecast update in November.
2. If the CPUC approves SDCP's Annual Budget Advice Letter, SDG&E will then include the total budget estimate for the upcoming program year in the ERRa Forecast filing in early June of each year.
3. If SDG&E receives approval of its ERRa Forecast from the CPUC, SDG&E will record SDCP's approved budgets in the DAC-GT and or CSGT subaccount and set aside the total requested SDCP budgets in a subaccount for SDCP's DAC-GT and/or CSGT balancing accounts.
4. SDG&E will then remit program funds to the SDCP in four quarterly installments (by January 1, April 1, July 1, and October 1 of each year). If the ERRa Forecast is not approved by January 1 of a given program year, SDG&E will transfer all past due funds to SDP within no more than thirty days of issuance of ERRa Forecast approval.
5. Once received, SDCP will track the program funds and costs in separate accounts (i.e., one account for DAC-GT program funds and/or a separate account for CSGT program funds). These accounts will record all generation cost deltas, customer bill discounts, and program expenses and will be the basis for recording actual expenditures in the Annual Budget Advice Letters.

Clarification of CCAs' Program Implementation

Program Funding

Decision 18-06-027 specified that greenhouse gas (GHG) auction proceeds are the primary funding source for the DAC-GT and CSGT programs, supplemented by public purpose program (PPP) funds as needed. The California Air Resources Board ("CARB") Cap-and-Trade regulations prohibit the use of GHG auction proceeds for programs to subsidize or discount volumetric rates.¹³ SDCP states in its AL that it will fund its program solely with PPP funds due to the Cap-and-Trade regulation. We clarify here

¹³ Barclays Official California Code of Regulations Title 17 Division. Air Resources Chapter 1 Air Resources Board Subchapter 10 Climate Change Article 5 California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Sub article 9 Direct Allocations of California GHG Allowances (Refs & Annos) 17 CCR §95892 § 95892. Allocation to Electrical Distribution Utilities for Protection of Electricity Ratepayers.

that only the DAC-GT and CSGT above-market energy budget line item can be funded with GHG allowance proceeds. All other line items for the customer 20 percent discount, program administration, and marketing, outreach, and education should be funded through PPP funds.

DAC-GT Customer Enrollment

SDCP states that “[a] participating customer can remain on the DAC-GT tariff for up to 20 years from the time of enrollment or the duration of the project’s term, whichever concludes first.”¹⁴ We clarify that participating customers can remain on the DAC-GT tariff for up to 20 years from the time of enrollment *irrespective* of the duration of a specific project’s term. To date, this 20-year eligibility term for DAC-GT has been applied consistently across Program Administrators.

Budget

SDCP states that “Program Administrators must submit annual program budget forecasts via a Tier 1 Advice Letter by February 1st of each year for the following PY.”¹⁵ Resolution E-5125 approved with modification PG&E’s and SCE’s requests to adjust administrative and marketing budget caps for the DAC-GT and/or CSGT programs. We clarify that this Resolution also required that Program Administrators submit their annual budget ALs as Tier 2 ALs instead of Tier 1 ALs to allow for great opportunity for stakeholder review and additional oversight.¹⁶ The Resolution also required that DAC-GT and/or CSGT PAs submit in their AL an accompanying rationale for above-cap program administration and marketing, education and outreach spending.¹⁷

Program Capacity Transfers

SDG&E has agreed to SDCP’s request to transfer additional DAC-GT and CSGT program capacity by responding to AL 10-E with a signed letter of support. The updated figures below include SDCP’s recent expansion to National City, approved in November 2021.¹⁸ The CPUC hereby approves the jointly requested capacity transfers.

¹⁴SDCP AL 10-E, Appendix B, at 7 and Appendix C at 6.

¹⁵ *Id.*, Appendix B, at 16.

¹⁶ Resolution E-5125 at 11, OP 3.

¹⁷ *Id.* at 11, OP 2.

¹⁸ SDCP AL 10-E, Appendix A, at 4 states that SDCP is requesting an additional 1.39 MW DAC-GT and 0.38 MW CSGT capacity from SDG&E (to account for SDCP’s share of National City residential customers in DACs) in addition to the capacity transfer approved in SDCP AL 4-E.

The updated total capacity allocations in SDG&E's service territory, are detailed in Table 1:

Table 1: Updated IOU/CCA Program Capacity Allocation in SDG&E's Service Territory				
SDG&E or CCA:	Estimated Residential DAC Customers Served by Entity (Adjusted for National City)	Percent of Residential DAC Customers in SDG&E's Service Territory	DAC-GT Allocation (MW)	CSGT Allocation (MW)
SDG&E	8,592	12.33%	2.22	0.62
San Diego Community Power	61,061	87.67%	15.78	4.38
Total SDG&E DAC Residential Customers	69,653	100%	18	5

Auto-Enrollment

SDCP proposes automatically enrolling eligible DAC-GT customers. While neither D.18-06-027 nor Resolution E-4999 direct CCAs to implement automatic enrollment of eligible customers under the DAC-GT program, D.20-07-008, *Decision Implementing Automatic Enrollment of DAC-GT*, implemented auto-enrollment of certain customer groups eligible for DAC-GT enrollment by PG&E. Automatic enrollment means that eligible customers are automatically subscribed to the DAC-GT tariff by a Program Administrator based on certain criteria until the program capacity allocation in MWs is reached. Decision 20-07-008 outlined the rationale for pursuing and accelerating automatic enrollment including fulfilling the objectives of the Commission's Environmental and Social Justice Action Plan and mitigating the economic effects of the COVID-19 pandemic and the statewide stay-at-home orders. Effectively, automatic enrollment lowers barriers to access for customers such as transaction costs, or non-monetized costs, including the time investment to learn about the technology and application process.¹⁹ Eligible customers are enrolled automatically in the DAC-GT tariff by the Program Administrator (IOU or CCA) based on certain criteria approved by the CPUC. Customers are then notified of their enrollment in the program and given the option to opt-out.

¹⁹ California Energy Commission, Low Income Barriers Study Part A at 50.

SDCP has proposed enrolling any eligible residential customers that live in one of the top 10% DACs of CalEnviroScreen 4.0 and who are currently enrolled in CARE or FERA until customer subscriptions reach SDCP's DAC-GT capacity cap. SDCP proposes prioritizing customers who have had payments made to their accounts. If there is not enough program capacity to auto-enroll all customers in a given category under the DAC-GT program, SDCP states that customers from the respective category will be randomly selected for program enrollment and all remaining customers will be placed on a waitlist.

We authorize SDCP's auto-enrollment proposal based on Resolution E-5124's criteria that 1) the customers who are auto-enrolled meet the eligibility requirements of the DAC-GT program and 2) the criteria are in alignment with the spirit of D.20-07-008 and target eligible DAC-GT customers at high risk of disconnection.

Application of the 20% Discount & Working Group Meetings

SDCP states in its AL that "billing costs are estimated on the scenario that SDCP will be calculating the full bill discount for customers based on generation and delivery OAT [Otherwise Applicable Tariff], subject to change based on agreement with SDG&E." SDCP also notes that it "is currently working with SDG&E to coordinate the best approach to applying the bill discount and plans to file a supplemental advice letter once that approach has been agreed upon." We clarify here that if there is any disagreement over issues such as costs, billing, data sharing, or application of the 20% discount between IOUs and participating CCAs, the CCA may utilize the Annual Budget Advice Letter process or request that the issue be discussed during a Billing Working Group meeting, facilitated by Energy Division staff.

Solicitation Frequency & Review

Resolution E-4999 OP 8 required, within 60 days of issuance of the resolution, the IOUs to submit Tier 2 ALs with their solicitation documents for their first DAC-GT and CSGT Request for Offers (RFOs). Additionally, that resolution specified "each utility shall issue its RFO within 60 days of the CPUC's approval of its solicitation documents."²⁰

²⁰ Resolution E-4999 at OP 8.

Resolution E-5102, E-5124, and E-5130, which approved various CCA DAC-GT and CSGT tariffs, applied similar solicitation requirements to those outlined in Resolution E-4999.

To maintain consistency across the growing number of CCA-administered programs, participating CCAs:

- May hold solicitations once a year or as needed.²¹
- Shall submit a Tier 2 Advice Letter with their solicitation documents for their first DAC-GT and CSGT RFOs within 60 days of issuance of the resolution approving their implementation AL. A CCA shall issue its first RFO within 60 days of the Commission's approval of its solicitation documents.
- Shall submit a Tier 2 AL with all executed Power Purchase Agreements for approval no later than 180 days following notification of selected bidders.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review. Please note that comments are due 20 days from the mailing date of this resolution. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this resolution was neither waived nor reduced.

FINDINGS AND CONCLUSIONS

1. On June 22, 2018, pursuant to AB 327, the CPUC adopted Decision (D.)18-06-027 (NEM DAC Decision), creating the DAC Green Tariff (DAC-GT) program, and the Community Solar Green Tariff program (CSGT), which provide residential customers in DACs increased access to renewable generation.

²¹ D.18-06-027 at 86 required the IOUs to hold solicitations twice a year. Given that participating CCAs have comparatively smaller capacity allocation, it reasonable to CCAs to issue DAC-GT and CSGT RFOs once a year or as needed.

2. The NEM DAC Decision authorized community choice aggregators (CCAs) to develop and implement their own DAC-GT and CSGT programs, and authorized them to access greenhouse gas (GHG) allowance revenues and public purpose program funds to support these programs, if each CCA submits a Tier 3 AL demonstrating how their DAC-GT and CSGT programs will abide by all rules and requirements for the programs established in the NEM DAC Decision.
3. The NEM DAC Decision required CCAs to file Tier 3 Advice Letters (ALs) to create a DAC-GT tariff and a CSGT tariff.
4. On June 3, 2019 the CPUC issued Resolution E-4999 which approved with modification, PG&E, SCE and SDG&E's tariffs to implement their DAC-GT and CSGT Programs.
5. Resolution E-4999, issued June 3, 2019, allocated capacity to CCAs based on the proportional share of residential customers in DACs that each CCA serves and set out this allocation in Table 1 and Table 2 of that Resolution.
6. On July 23, 2020, D.20-07-008 directed PG&E to automatically enroll eligible DAC-GT customers at high risk of disconnection.
7. To satisfy the requirements in the NEM DAC Decision, SDCP filed AL 10-E on October 12, 2022.
8. On November 1, 2022, SDG&E submitted a timely response to SDCP AL 10-E which agreed to SDCP's updated capacity transfer request and outlined SDG&E's remaining concerns with SDCP's implementation plan.
9. On November 8, 2022, SDCP submitted a reply to SDG&E's response addressing SDG&E's concerns.
10. On December 19, 2022, D.22-12-042 directed SDG&E to set aside SDCP's 2023 funding request subject to disposition of SDCP's AL in this resolution.
11. It is reasonable for SDG&E to include SDCP's PY 2024 budget estimates in its 2024 ERRA Forecast filing in June and/or ERRA Forecast update in November, record SDCP's approved budgets in SDG&E's DAC-GT and/or CSGT balancing accounts, and for SDG&E to then transfer program funds to SDCP in quarterly installments.
12. It is reasonable for participating CCAs to automatically enroll eligible DAC-GT customers as long as their enrollment criteria are in alignment with the spirit of D.20-07-008 and target customers at high risk of disconnection.

THEREFORE IT IS ORDERED THAT:

1. San Diego Community Power's (SDCP's) Advice Letter (AL) 10-E is approved with the modifications set forth below and otherwise specified herein. SDCP shall submit a supplemental compliance Advice Letter within 30 days of the

issuance of this Resolution with revised Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT) tariffs that reflect the changes to the tariffs directed below:

- a. SDCP shall update its DAC-GT and CSGT tariffs to clarify that the above-market energy budget line item should be funded with greenhouse gas allowance proceeds and the customer 20 percent discount, program administration, and marketing, outreach, and education line items should be funded with public purpose program funds.
 - b. SDCP shall update its DAC-GT tariff to allow customers to remain on the DAC-GT tariff for up to 20 years from the time of enrollment.
2. San Diego Gas and Electric Company (SDG&E) shall include San Diego Community Power's (SDCP's) estimated budget for Program Year 2024 in its 2024 Energy Resources Recovery Account (ERRA) Forecast Filing. Once SDG&E receives approval from the Commission of its ERRA Forecast, SDG&E will record SDCP's approved budgets in the Disadvantaged Communities Green Tariff and Community Solar Green Tariff balancing accounts and transfer program funds in quarterly installments.
3. San Diego Community Power (SDCP) shall submit a Tier 2 Advice Letter with their solicitation documents for their first Disadvantaged Communities Green Tariff and Community Solar Green Tariff Request for Offers (RFO) within 60 days of issuance of this Resolution. SDCP shall issue its first RFO within 60 days of the Commission's approval of its solicitation documents.
4. San Diego Community Power shall submit all executed Power Purchase Agreements via a Tier 2 Advice Letter for approval no later than 180 days following notification of selected bidders. If additional time is needed, the director of Energy Division, or his/her/their designee, is authorized to adjust this schedule as necessary.
5. San Diego Community Power shall submit any request for above-cap program administration and marketing, education, and outreach spending with an accompanying rationale for why the exceedance is warranted in their Annual Budget Advice Letters (AL) due each February.
6. To allow for additional review and oversight, San Diego Community Power Disadvantaged Communities Green Tariff and Community Solar Green Tariff Annual Budget Advice Letters shall be submitted as Tier 2 rather than Tier 1 advice letters.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on March 16, 2023; the following Commissioners voting favorably thereon:

Rachel Peterson
Executive Director

Docket No.: A.22-05-022 et al

Exhibit No.: _____

Date: January 20, 2023

Witness: Carlo Bencomo-Jasso

**PREPARED DIRECT TESTIMONY OF CARLO BENCOMO-JASSO
ON BEHALF OF
SAN DIEGO COMMUNITY POWER
IN SAN DIEGO GAS AND ELECTRIC COMPANY'S
2022 GREEN ACCESS PROGRAMS PROCEEDING**

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Attachments

Attachment A:	Qualifications of Witness
Attachment B:	SDG&E Responses to SDCP and CEA Data Requests Sets 01 and 02

1 **I. INTRODUCTION AND SUMMARY OF TESTIMONY**

2 San Diego Community Power (“**SDCP**”) presents this direct testimony in the
3 *Application of San Diego Gas & Electric Company (“**SDG&E**”) to Review Green Access*
4 *Programs Pursuant to Decisions 18-06-027 and 21-12-036 (“**Application**”)*. This
5 testimony has been prepared on behalf of SDCP by Carlo Bencomo-Jasso, Manager,
6 NewGen Strategies and Solutions, LLC. Mr. Bencomo-Jasso’s qualifications are set forth
7 in Attachment A.

8 SDCP is monitoring the status of SDG&E’s Green Tariff Shared Renewable
9 (“**GTSR**”) program, specifically the EcoChoice program offering, and has an interest in
10 ensuring equitable recovery of program costs. In its initial Application, SDG&E
11 requested the California Public Utilities Commission’s (“**Commission’s**”) approval to
12 suspend its GTSR program offerings¹ and it proposed to file for recovery of its past
13 GTSR program costs in the next annual Energy Resource Recovery Account (“**ERRA**”)
14 Compliance proceeding.² Citing GTSR rate increases, which it argued cannot be
15 overcome through program design changes, SDG&E requested authorization to suspend
16 the GTSR program.³ In response to this request from SDG&E, an Administrative Law
17 Judge (“**ALJ**”) ruling temporarily suspended the EcoChoice portion of SDG&E’s GTSR
18 program.⁴

19 Given that SDG&E’s EcoChoice program has been suspended, my testimony
20 addresses issues raised by SDG&E related to recovery of recorded program costs. While

¹ Application (A.) 22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, p. 77 at 10-14.

² A.22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, p. 81 at 1-4.

³ A.22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, p. 3 at 2-4.

⁴ Administrative Law Judge’s Ruling Granting Request for Green Tariff Suspension issued on August 25, 2022.

1 I have not performed a comprehensive evaluation of the performance of SDG&E's GTSR
2 program, my testimony presents recommendations addressing issues affecting the GTSR
3 program, as listed in Commissioner Alice Reynolds' December 2, 2022, Scoping Ruling⁵:

4 **Part B. Recommendations for Improving Existing Green Access Programs.**

5 To improve the existing Green Access Programs, parties may propose to modify
6 an existing tariff or program, or provide a recommendation for establishing a new
7 tariff or program, if doing so would be beneficial to ratepayers (taking into
8 account AB 2838 (O'Donnell, 2022)).
9

- 10 1. A viable recommendation must address the following issues:
 - 11 a. How the recommendation specifically addresses any findings
12 or gaps identified in your evaluation (or other parties'
13 evaluations) of existing programs.
 - 14 c. Consider the continuing growth of CCAs and any impact
15 departing load may have on new tariff proposals.
- 16 2. Depending on the program, a recommendation may address the
17 following issues and objectives.
 - 18 a. A recommendation to modify or terminate an existing Green
19 Access Program, or establish a new program, pursuant to AB
20 2316 or AB 2838, may consider:
 - 21 i. How a program may impact participating and non-
22 participating ratepayers.
 - 23 iv. An appropriate path or process for cost recovery.

24 Based on my review of SDG&E's Application, supporting workpapers, and
25
26 responses to discovery, I make the following recommendations:

- 27 • The Commission should determine the appropriate cost recovery for
28 previously accrued under-collections in SDG&E's GTSR-related
29 balancing accounts now that the EcoChoice program is suspended. SDCP
30 previously recommended that the current Application was best-suited for
31 such an evaluation,⁶ however, based on the scoping ruling in this case, and
32

⁵ A.22-05-022 et. al., *Assigned Commissioner's Scoping Memo and Ruling*, pp. 3-4 (December 2, 2022) ("2022 Scoping Ruling").

⁶ A.22-05-022 et. al., *Joint Pre-Hearing Conference Statement Submitted By Pacific Gas and Electric Company*, p. 5 (October 5, 2022)

SDG&E’s unwillingness to provide the data needed to determine the cause of past under-collections,⁷ SDCP recommends that an evaluation of residual cost balances and assignment of cost responsibility should occur in a separate proceeding, either an ERRA Compliance application or a stand-alone proceeding.

- Only after the cause of the under-collections recorded to the Green Tariff Shared Renewable Balancing Account (“**GTSRBA**”) has been investigated should the Commission decide from whom these costs will be recovered. The Commission should direct SDG&E to explain and support, in a separate ERRA Compliance application or stand-alone proceeding, the *cause* of past GTSRBA under-collections (in particular, the significant under-collections recorded during 2019 and 2020) and from whom it proposes to recover such costs.
- A similar process should be followed if any other Green Access Programs are suspended or terminated in the future; i.e., responsibility for any residual program under- or over-collections should be evaluated in a separate ERRA Compliance or stand-alone proceeding.
- If the GTSR Program is allowed to continue, annual program under- or over-collections should be rolled into GTSR rates in the following year, rather than wait multiple years, pending final review in future ERRA Compliance proceedings.

⁷ SDG&E objected to various questions in SDCP and CEA Data Requests Set 01 and 02 on the grounds that program cost recovery was out of scope in A.22-05-022 et. al. See Gregory E. Barnes (Sender), *Email re: SDG&E Responses and Objections to SDCP and CEA Data Requests Set 1 and 2*, Ty Tosdal (Recipient), (December 19, 2022) (“Attachment B”)

1 **II. THE RELATIONSHIP OF SDG&E'S GTSR PROGRAM FAILURE TO**
2 **DEPARTING CUSTOMER LOAD.**

3 Throughout its testimony, SDG&E points to the rise and proliferation of CCAs in
4 its service territory as causing the failure of the GTSR program. SDG&E explains that
5 “while the GTSR program was once successful in SDG&E’s service territory... the
6 recent, rapid transition to CCA service in SDG&E’s territory has made SDG&E’s GTSR
7 unviable.”⁸ SDG&E asserts that the reduction of GTSR enrollment caused by the
8 departure of customers to CCAs has led to higher program rates as costs are spread over
9 fewer remaining participants. These higher program rates have led to a “drastic attrition
10 of SDG&E’s remaining bundled EcoChoice participants, stranded costs to run the
11 program, with far fewer customers who remain on the tariff.”⁹

12 While it is true that a portion of GTSR program participants have departed for
13 CCA service, SDG&E’s narrative that the rise of CCAs is the singular cause of the failure
14 of the GTSR program is incorrect. Rather, delayed recognition of excess costs recorded
15 to the GTSRBA (in particular, the significant under-collections SDG&E recorded in 2019
16 and 2020), which were incurred before SDG&E experienced significant customer
17 migration to CCAs, caused a dramatic rise in rates in 2022 once the accumulated under-
18 collections from past years were finally included.

19 According to SDG&E’s testimony, the cumulative balance of under-collected
20 program operation costs recorded to the GTSRBA is approximately \$3.6 million.¹⁰

21 SDG&E also has a cumulative balance of approximately \$1.4 million of administrative

⁸ A.22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, p. 52 at 11-13.

⁹ A.22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, p. 54 at 6-8.

¹⁰ A.22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, p. 71 at Table 10-HB.

(including marketing, education, and outreach) costs recorded to GTSR-related memorandum accounts.¹¹ The annual activity recorded to GTSRBA during 2019 and 2020 was an under-collection of \$2,019,316 and \$1,388,237, respectively, which collectively accounts for approximately 95% of the GTSRBA balance as of March 2022.¹² Table 10-HB¹³ from SDG&E's initial testimony in this Application is replicated below, highlighting the extraordinary nature of the 2019 and 2020 under-collections relative to under-collections for other years.

Table 10-HB: Green Tariff Share Renewables Balancing Account Year-End Net Activity and Annual Cumulative Balance¹⁰⁰

Calendar Year	Year- End Net Activity	Annual Cumulative Balance
2015	\$ -	\$ -
2016	\$ 95	\$ 95
2017	\$ 5,877	\$ 5,972
2018	\$ 119,269	\$ 125,241
2019	\$ 2,019,316	\$ 2,144,557
2020	\$ 1,388,237	\$ 3,532,794
2021	\$ 88,318	\$ 3,621,112
2022	\$ (22,804)	\$ 3,598,308
<i>Balance as of March 2022</i>		\$ 3,598,308

The vast majority of CCA customer migration in the SDG&E service territory is related to the launch of SDCP.¹⁴ SDCP first began enrolling municipal customers in March 2021, with commercial and industrial customer enrollment occurring in June

¹¹ A.22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, p. 70 at Table 9-HB.

¹² A.22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, p. 71 at Table 10-HB

¹³ SDG&E footnote not included.

¹⁴ Clean Energy Alliance's Implementation Plan described that there were approximately 58,000 eligible customer accounts within its boundaries and that it anticipated a single-phase roll-out beginning in May 2021. See CEA CCA Implementation Plan and Statement of Intent (December 2019), p. 18 at <https://thecleanenergyalliance.org/wp-content/uploads/2020/12/CEA-Implementation-Plan-with-Reso-and-Attachments.pdf>

1 2021. Residential customers for the cities of Chula Vista, Encinitas, La Mesa, Imperial
2 Beach, and San Diego were enrolled with SDCP between February and June 2022.¹⁵
3 Based on these SDCP enrollment timelines, SDG&E did not experience the sizable
4 customer departures it references until 2021, many months after SDG&E had already
5 incurred over \$3.5 million in under-collected program costs. It is still unclear what
6 circumstances led to program costs to far exceed program revenues in 2019 and 2020.
7 Notably, in Table 10-HB above, the GTSRBA activity during 2021 and 2022 is minimal
8 (also including an over-collection), even though large numbers of customers were
9 departing to CCA service during that time.

10 Despite the large balances accruing in the GTSRBA, SDG&E did not recover the
11 historical under-collection recorded from 2016 through 2019¹⁶ until program rates for
12 2022 were determined in its 2022 ERRA Forecast proceeding (A.21-04-010).¹⁷ As noted
13 in Table 2-ED in the current Application, SDG&E has yet to include in EcoChoice rates
14 the additional under-collection recorded to GTSRBA during 2020.¹⁸ Although SDG&E's
15 testimony points to the steep increase in GTSR rates as the central cause of the failure of
16 the GTSR program, it neglects to explain that the increase in rates is due to including
17 years-old under-recoveries in prospective program rates. Table 1 below shows the annual

¹⁵ See SDCP's Revised Implementation Plan available at https://sdcommunitypower.org/wp-content/uploads/2021/11/2021.07.21_Letter-to-CPUC-Regarding-Revisions-to-Implementation-Plan.pdf

¹⁶ SDG&E included the 2018 GTSRBA balance in its initial 2021 ERRA Forecast proceeding (A.20-04-014). However, since a final decision in the 2018 ERRA Compliance proceeding was still pending at the time, SDG&E removed the balance from its filing and deferred recovery of the GTSRBA until the 2022 ERRA Forecast proceeding. (See A.20-04-014, *Updated Prepared Direct Testimony of Stacy Fuhrer on Behalf of San Diego Gas & Electric Company*, p. SF-21, footnote 74).

¹⁷ A.22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, pp. 84-85 at Table 2-ED.

¹⁸ *Id.*

Renewable Power Rate component of the EcoChoice program (*aka*, Schedule GT, Shared Renewables Green Tariff) since 2015.¹⁹

Table 1. SDG&E Historical Renewable Power Rate – Schedule GT (\$/kWh)²⁰

	Renewable Power Rate (\$/kWh)
2015	\$0.09901
2016	\$0.09369
2017	\$0.09368
2018	\$0.06407
2019	\$0.06200
2020	\$0.06200
2021	\$0.06034
2022	\$0.28907

The significant increase in the 2022 Renewable Power Rate occurs when SDG&E finally included the GTSRBA under-collections from 2016 through 2019. Indeed, if the GTSRBA balance were excluded, the 2022 Renewable Power Rate would have declined to \$0.05074/kWh.²¹ In its 2023 ERRA Forecast case, SDG&E calculated an illustrative 2023 Renewable Power Rate of \$1.158/kWh, which included the additional 2020 GTSRBA under-collection of \$1.338 million.²² Excluding the impact of the 2020 GTSRBA under-collection, the illustrative 2023 Renewable Power Rate would have been \$0.05399/kWh.²³ These reduced Renewable Power Rates would have been the lowest since the inception of the GTSR program.

SDG&E has not explained what occurred during 2019 and 2020 that caused such significant and unexpected under-collections. Furthermore, when SDCP requested data in

¹⁹ The Renewable Power Rates presented for 2015 and 2016 are the “Cost of Local Solar (\$/kWh) w/FF&U” values shown on SDG&E’s Schedule GT in 2015 and 2016.

²⁰ SDG&E Schedule GT (2015-2022).

²¹ A.21-04-010, Revised Updated Prepared Direct Testimony of Gwendolyn R. Morien, p. GRM-26 at 6-18 and footnote 90.

²² A.22-05-025, Prepared Direct Testimony of Gwendolyn R. Morien, p. GRM-32 at 3-13 and footnote 104.

²³ *Id.*

1 this proceeding to perform an independent analysis of the GTSRBA, SDG&E refused to
2 respond.²⁴ Small variances are expected in the balancing account, due mainly to
3 variations in participant sales volume or solar resource output during the year. However,
4 large under-collections, like those recorded to GTSRBA in 2019 and 2020, are unusual
5 even when compared to years with significant customer departure from the program.
6 SDG&E should be required to reconcile the expected and actual program costs and
7 revenues to provide clarity to the Commission about what occurred with the EcoChoice
8 program during 2019 and 2020.

9 If the GTSR program is allowed to continue, SDG&E should be required to
10 include annual under- or over-collections from the prior year in GTSR rates for the
11 following year, rather than wait multiple years, pending final review in future ERRR
12 Compliance proceedings. This process for setting rates is the same approach currently
13 used for bundled customer commodity rates and the Power Charge Indifference
14 Adjustment (“PCIA”) rates determined annually in the ERRR Forecast proceedings. In
15 those cases, the recorded balance in the ERRR and Portfolio Allocation Balancing
16 Account (“PABA”) balancing accounts is included in rates for the next year, subject to a
17 final review of the ERRR and PABA balancing accounts in the ERRR Compliance
18 proceedings.

19 **III. COST RECOVERY FOR SUSPENDED OR TERMINATED GTSR PROGRAMS**

20 The suspension of SDG&E’s EcoChoice program highlights certain issues that
21 must be addressed when a GTSR program is no longer offered to customers. Critical
22 questions include:

²⁴ Attachment B, *supra* note 7.

1 1) What is the appropriate cost recovery for residual amounts recorded to
2 program-related balancing and/or memorandum accounts?

3 2) What is the appropriate rate treatment for renewable generation resources
4 procured in support of the program?

5 In its initial Application, SDG&E requested Commission approval of a path to
6 seek recovery of its GTSR program cost under-collections. Specifically, SDG&E
7 proposes that it should be able to file for recovery of its historical GTSR program cost
8 under-collection in the next annual ERRA Compliance application.²⁵ Future program-
9 related costs, if any, would be reviewed in future ERRA Compliance filings as
10 warranted.²⁶ SDCP recommends that a final program evaluation should be undertaken
11 after program suspension or termination to determine proper disposition of residual costs.
12 This evaluation could occur in a separate ERRA Compliance filing or stand-alone
13 proceeding. Additionally, if any other Green Access Programs are suspended or
14 terminated in the future, responsibility for any residual program under- or over-
15 collections should also be evaluated in a separate ERRA Compliance filing or stand-alone
16 proceeding. SDCP does not oppose SDG&E's proposal to use the ERRA Compliance
17 filing as the process for determining eventual cost recovery of its stranded program costs,
18 with one important caveat.

19 Historically, SDG&E has recovered the GTSRBA balance only from GTSR
20 participants, consistent with applicable statute, which mandates nonparticipant
21 indifference.²⁷ Once there are no longer active program participants, determining the

²⁵ A.22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, p. 81 at 1-4.

²⁶ Id. at 9-14.

²⁷ Cal. Pub. Util. Code § 2833(q).

1 proper assignment to any customer group for recovery of residual program costs would
2 require an evaluation of the timing and cause of the remaining under- or over-collected
3 balances. SDG&E argues that because GTSR-related balancing accounts have been
4 reviewed in past ERRA Compliance cases, cost recovery should simply be granted in the
5 next ERRA Compliance case.²⁸ Although the Commission has repeatedly directed
6 SDG&E to provide such information in the Application²⁹, SDG&E is conspicuously
7 silent in its testimony regarding which customers it believes should be responsible to pay
8 for the stranded program costs now that the EcoChoice portion of the GTSR program is
9 suspended and there are essentially no program participants.

10 The GTSRBA accounting from past years has been reviewed in previous ERRA
11 Compliance cases but the *cause* of the significant program cost over-runs in 2019 and
12 2020 has not been explained or justified by SDG&E. SDCP recommends that the
13 Commission require that SDG&E explain in detail the cause of the GTSRBA under-
14 collections in the same ERRA Compliance filing or stand-alone proceeding where it
15 seeks residual program cost recovery. Specifically related to the under-collections
16 recorded in 2019 and 2020, SDG&E should be required to reconcile the expected and
17 actual program costs and revenues to provide clarity to the Commission about what
18 occurred with the EcoChoice program during those years. Only after a full evaluation of

²⁸ A.22-05-023, Prepared Direct Testimony of San Diego Gas and Electric Company, p. 81 at 6-9.

²⁹ The Commission's Energy Division directed SDG&E to provide a complete suspension proposal that included an evaluation of stranded costs and a plan to resolve the issues to who would pay for program costs and mitigation efforts. *Staff Disposition of SDG&E Advice Letter Request to Suspend EcoChoice and EcoShare Rates (Schedule GT and Schedule ECR)*, p. 6 (April 19, 2022) available at <https://tosdalapc.egnyte.com/dl/nkHZ7rAKH9>; See also, A.22-05-022 et. al., Administrative Law Judge's Ruling Granting Request for Green Tariff Suspension, Ordering Paragraph 2, (August 25, 2022)

1 the timing and cause of GTSR-related under collections will it be possible to determine
2 which customers should be responsible for the costs once the program is no longer active.

3 Regarding the renewable generation resources procured to supply the GTSR
4 program, current statute dictates that excess generation resulting from customer attrition
5 or other causes shall be applied to the utility's renewable portfolio standard procurement
6 obligations.³⁰ In SDG&E's 2023 ERRRA Forecast proceeding, SDG&E proposed, and the
7 Commission approved in D.22-12-042, that excess generation from solar resources
8 previously dedicated to the GTSR program be included with other RPS-eligible resources
9 in the calculation of SDG&E's Power Charge Indifference Amount and assigned to a
10 PCIA vintage using the same rules that apply to other PCIA-eligible resources.

11
12 This concludes my testimony.

³⁰ Cal. Pub. Util. Code § 2833(t).

ATTACHMENT A

QUALIFICATIONS OF WITNESS CARLO BENCOMO-JASSO

Mr. Carlo Bencomo-Jasso joined NewGen as a Manager in April 2022. Mr. Bencomo-Jasso has over 10 years of experience in the energy industry, with prior experience working on regulatory and resource planning issues in California, including rate and feasibility analysis for Community Choice Aggregators.

EDUCATION

- Master of Environment and Energy, Boston University – Boston, Massachusetts
- Master of Environmental Science and Management, Bren School of Environmental Science & Management – University of California, Santa Barbara
- Bachelor of Arts in History, Princeton University – Princeton, New Jersey

KEY EXPERTISE

- Financial Advisory
- Economic and Regulatory Analysis
- Financial Planning
- Rate Design and Strategy
- Ratemaking Activities
- Regulatory
- Resource Planning

RELEVANT EXPERIENCE

Electric Cost of Service, Rate Design, and Regulatory Analysis

Mr. Bencomo-Jasso assists with preparing cost of service studies and rate design studies, and performing financial and regulatory analyses for electric utilities. A sample of the utility clients that Mr. Bencomo-Jasso's has supported includes the following:

- Central Coast Community Energy, California

PRIOR RELEVANT EXPERIENCE

Below is a small sample of Mr. Bencomo-Jasso's work within the energy utility industry.

Project Manager & Senior Associate in Energy Utility Industry

- Conduct forecasting of electric utility rates of Southern California Edison, Pacific Gas & Electric, and San Diego Gas & Electric.
- Track and review regulatory proceedings.
- Provide expert witness testimony for clients on utility general rate cases.
- Assess Integrated Resource Plans of community choice aggregators.
- Conduct analysis and research of the feasibility of community choice aggregators in new jurisdictions.
- Create official proposal responses to Requests for Proposals.
- Created proxy price estimates and evaluate bids for power procurements.
- Assessed renewable resource build-outs in Integrated Resource Plans.
- Conducted research and analyses for electric generation, transmission, and distribution services unbundling.

Carlo Bencomo-Jasso

MANAGER

Energy Utility Industry Analyst

- Performed collection, cleaning, and statistical analysis of energy commodity pricing and power data for various projects using Excel and R.
- Created data analytics reports, discovery requests, and case testimony for projects.
- Performed load forecasting and capacity market modeling.
- Conducted economic impact and cost-benefit analyses for energy projects, including renewable energy development projects.

Solar Rooftop Program Analyst

- Aided in identifying and creating leasing agreements with commercial property owners for the installation of solar arrays 1 MW and larger in size.
- Maintained program databases and addressed program inquiries.
- Created presentations and weekly status reports on site acquisitions and leasing agreements for senior management.
- Helped create marketing materials and emails for program promotions and outreach.

PREVIOUSLY FILED TESTIMONY

- Rhode Island Public Utilities Commission Docket No. 4692 and 4805 – Conclusions and Summary of Opinions of Richard Hahn, Matthew Loiacono, and Carlo Bencomo-Jasso on Behalf of the Rhode Island Division of Public Utilities and Carriers. March 19, 2018.
- Rhode Island Public Utilities Commission Docket No. 4692 and 4805 – Testimony of Carlo Bencomo-Jasso on Behalf of the Rhode Island Division of Public Utilities and Carriers on National Grid's 2018 Annual Retail Rate Filing and 2018 Renewable Energy Standard Charge and Reconciliation Filing. March 28, 2018
- CPUC Application 19-11-019 – Direct Testimony of William A. Monsen and Carlo Bencomo-Jasso on Behalf of the California Farm Bureau Federation Concerning Revenue Allocation and Agricultural Rate Design. November 20, 2020.
- CPUC Application 22-05-025 – Direct Testimony of Carlo Bencomo-Jasso on Behalf of San Diego Community Power and Clean Energy Alliance in San Diego Gas and Electric Company's 2023 ERRR Forecast Proceeding. August 22, 2022.
- CPUC Application 22-06-001 – Direct Testimony of Carlo Bencomo-Jasso on Behalf of San Diego Community Power and Clean Energy Alliance in San Diego Gas and Electric Company's 2021 ERRR Compliance Proceeding. December 16, 2022.

ATTACHMENT B

SDG&E RESPONSES TO SDCP AND CEA DATA REQUESTS SETS 01 AND 02

Chasity Hendren

From: Barnes, E. Gregory <GBarnes@sdge.com>
Sent: Monday, December 19, 2022 4:47 PM
To: Ty Tosdal; Somerville, Michelle
Cc: Chasity Hendren; Brian Dickman; Carlo Bencomo-Jasso; Sebastian Sarria
Subject: RE: SDCP and CEA Request for Responses and Meet and Confer re: SDCP and CEA Data Requests Set 1 and 2 (A. 22-05-22)
Attachments: SDGE Draft Response to SDCP_CEA Data Request_02_SDGE GAP Q 2_3_4_7_redacted.pdf
Follow Up Flag: Follow up
Flag Status: Completed

Dear Ty,

Please find attached SDG&E's response to the below-referenced data request set 2, questions 2, 3, 4 and 7. Note we have redacted certain confidential market information from the response. We will provide the redacted information when your clients execute an appropriate NDA governing the production of confidential electric procurement data in this proceeding. Last week, I forwarded such an NDA to you for each of your clients, which are based on the Commission-approved Model NDA Regarding Market Protected Materials, and are substantively identical to the ones executed by SDCP and CEA in SDG&E's 2023 ERRA Forecast Proceeding (A.22-05-025).

With respect to the remainder of the data requests referenced in your note, SDG&E maintains its objection. Your citations to the scoping memo's references related to cost recovery for departing load elide the distinction in the scoping memo – that the proceeding is to address the impact of new proposals, including a path for cost recovery. Scoping memo at 4, Appendix A at 1. The notion of litigating the reasonableness of current program costs in this proceeding was specifically advocated by SDCP and CEA in the joint prehearing conference statement, and argued at the PHC. The scoping memo rejects this scope, adopting SDG&E's position argued at the PHC, that only an "appropriate path or process for cost recovery" for new programs is in scope. *Id.*, Appendix A at 1. Cost recovery for the current programs is addressed in SDG&E's ERRA proceedings.

Given this background, and our prior meet-and-confer, I do not believe a further meet-and-confer is warranted, although I remain willing to discuss further if you think it useful.

Sincerely,

Greg Barnes

Attorney for SDG&E
858-654-1583
gbarnes@sdge.com

From: Ty Tosdal <ty@tosdalapc.com>
Sent: Monday, December 12, 2022 12:42 PM
To: Barnes, E. Gregory <GBarnes@sdge.com>; Cerda, Roger A <RCerda@sdge.com>; Somerville, Michelle <MSomerville@sdge.com>
Cc: Chasity Hendren <chasity@tosdalapc.com>; Brian Dickman <bdickman@newgenstrategies.net>; Carlo Bencomo-Jasso <cbencomojasso@newgenstrategies.net>; Sebastian Sarria <SSarria@sdcommunitypower.org>; Butler, Sabrina <SabrinaButler@sdge.com>; Nordin, Sara H <SNordin@sdge.com>
Subject: [EXTERNAL] Re: SDCP and CEA Request for Responses and Meet and Confer re: SDCP and CEA Data Requests Set 1 and 2 (A. 22-05-22)

CAUTION! EXTERNAL SENDER, STOP, ASSESS, AND VERIFY

Do you know this person? Were you expecting this email, any links or attachments? Does the content make sense? If suspicious, do not click links, open attachments, or provide credentials. Don't delete it. **Report it by using the REPORT SPAM option!**

Brief correction: The date below in red should be one week from today **Monday, December 19**. Please forgive the error.

Thanks,

Ty

From: Ty Tosdal <ty@tosdalapc.com>

Date: Monday, December 12, 2022 at 12:30 PM

To: GBarnes@sdge.com <GBarnes@sdge.com>, Cerda, Roger A <RCerda@sdge.com>, Somerville, Michelle <MSomerville@sdge.com>

Cc: Chasity Hendren <chasity@tosdalapc.com>, Brian Dickman <bdickman@newgenstrategies.net>, Carlo Bencomo-Jasso <cbencomojasso@newgenstrategies.net>, Sebastian Sarria <ssarria@sdcommunitypower.org>

Subject: SDCP and CEA Request for Responses and Meet and Confer re: SDCP and CEA Data Requests Set 1 and 2 (A. 22-05-22)

Hello Greg, Roger and Michelle,

I hope this message finds you well, apologies in advance for the longish email. By now I expect that you have had a chance to review the scoping memo in SDG&E's Green Access Program case, issued on December 2, 2022. The scoping memo clearly and unequivocally identifies cost recovery vis-à-vis departed load and other customers as an issue that will be addressed in the proceeding.

Part A. Evaluation of the Existing Green Access Programs of the scoping memo contains the following language:

3. Consider the continuing growth of Community Choice Aggregators (CCAs) and any impact departing load may have on current programs.

Similarly, Appendix A, Part B. Recommendations for Improving Green Access Programs contains the following language:

1. c. Consider the continuing growth of CCAs and any impact departing load may have on new tariff proposals.

...

2. a. A recommendation to modify or terminate an existing Green Access Program, or establish a new program, pursuant to AB 2316 or AB 2838, may consider:

i. How a program may impact participating and non-participating ratepayers.

...

iv. An appropriate path or process for cost recovery.

You recall that at present SDCP and CEA have two pending data requests in this case, Set 1 and Set 2, that were served on SDG&E on October 12 and October 25, 2022 respectively.

With respect to Set 1, SDG&E responded on October 26, 2022, that it objected to providing a full response until the Commission clarifies the scope of the proceeding. Furthermore, SDG&E stated that much of the request relates to costs which SDG&E contends are not under review for reasonableness in this proceeding. (SDG&E also responded on October 26, 2022, that with respect to Question 5 of the data request, the statement in footnote 24 of the application is based

on the CPUC's April 4, 2022, CCA and ESP formation status report, together with the approval dates of the implementation advice letters related to the GTSR program which are available on the Commission's website.) SDCP and CEA requested and held a meet-and-confer session with SDG&E on November 2, 2022, satisfying the requirements of Rule 11.3(a) for data request Set 1.

With respect to Set 2, SDG&E similarly responded via email on November 8, 2022, stating that SDG&E objects to providing a full response to the data request until the Commission clarifies the scope of the proceeding. With respect to questions 2-4 and number 7, SDG&E stated that it needed more time to respond, but the information in response to these questions could be provided by November 28, 2022. Please correct us, but as of today's date, SDG&E has provided no additional information in response to questions 2-4 or any other questions from Set 2.

Please respond in full to SDCP and CEA's data requests Set 1 and Set 2 within five business days, or no later than **Monday, December 19**. On that date, SDG&E will have had over six weeks from the time the data requests were issued and 10 business days since the scoping memo was issued to prepare responses. To the extent that SDG&E believes a meet-and-confer is necessary for any purpose related to these discovery requests, Set 1 or Set 2, please consider this message a time-sensitive request to meet before **Monday, December 19**, and discuss any outstanding issues.

As you are aware, the scoping memo in this case sets January 20, 2023, as the deadline for party proposals. SDCP and CEA plan to submit a party proposal on that date and require the information requested in the data requests that have been submitted to SDG&E in order to prepare an informed proposal. Please promptly respond to our data requests so that we may fully participate in this proceeding as the Commission has outlined.

Thank You,

Ty Tosdal
Counsel for SDCP and CEA

This email originated outside of Sempra. Be cautious of attachments, web links, or requests for information.



SAN DIEGO COMMUNITY POWER Staff Report – Item 7

To: San Diego Community Power Board of Directors

From: Eric W. Washington, Chief Financial Officer

Via: Karin Burns, Chief Executive Officer

Subject: Approval of Sublease Agreements with Nuvve Holding Corporation

Date: February 23, 2023

RECOMMENDATION

Authorize the Chief Financial Officer or Chief Executive Officer to execute Sublease Agreements in substantially the form attached hereto, all potential extension options and related documents necessary to rent office space through Nuvve Holding Corporation at 2488 Historic Decatur Road, San Diego, California 92106.

BACKGROUND

On June 1, 2022, SDCP entered into a Sublease Agreement to rent 4,811 square feet of office space with Nuvve Holding Corporation at 2488 Historic Decatur Road, Suite 250, San Diego, California 92106. The term of the Sublease Agreement was for six months, effective June 1, 2022, with two potential six-month extensions at a rate of \$14,500 per month.

Subsequently, SDCP's number of employees increased rapidly from 17 to 32 since the Sublease Agreement was signed. SDCP additionally plans on increasing staffing from 32 to 43 by the end of FY 2022-23 and adding even more staff in FY 2023-24 and beyond. To quickly accommodate new employees, SDCP will need to enter in new Sublease Agreements with Nuvve Holding Corporation to a term from November 1, 2022 to October 31, 2025. The new Sublease Agreements includes the original space, Suite 250, and an additional 2,408 square feet of space located at 2488 Historic Decatur Road, Suite 230, San Diego, California 92106. The monthly cost for the new Sublease Agreements is \$31,041.70.

In order to accommodate SDCP's rapid expansion, the most timely and cost-efficient way of obtaining the needed space will be to obtain Suite 230 through a new Sublease Agreement with Nuvve Holding Corporation. Staff recommends approval to execute the necessary documents to obtain additional office spaces.

ANALYSIS AND DISCUSSION

SDCP currently has 32 members of staff and plans to grow to 43 staff by the end of fiscal year 2022-23. Meanwhile, SDCP's current office space can only hold up to 32 people maximum and resides within a shared area with other companies at 2488 Historic Decatur Road, San Diego, CA 92106. Given that SDCP has reached maximum occupancy on the Sublease Agreement for suite 250, staff recommend adding a larger office, near its current office, at 2488 Historic Decatur Road, Suite 230, San Diego, California 92106.

The new potential office space would accommodate SDCP's growing staff and will be a dedicated area only for SDCP. It also includes private office rooms, conference rooms and a possible shared community space. The term of the agreement for the new office is for 3 years from November 1, 2022 to October 31, 2025. Staff believes that this new office space can accommodate SDCP as it continues to grow and add staff.

In addition, the cost is substantially less for obtaining the additional office space, Suite 230, within the same premise as the original office space compared to moving SDCP as a whole to a new location.

Staff therefore recommend that the Board authorize the Chief Financial Officer or Chief Executive Officer to execute new Sublease Agreements for 3 years and any related documents necessary to rent office space through Nuvve Holding Corporation at 2488 Historic Decatur Road, Suite 230 & 250, San Diego, California 92106. Additionally, the sublease agreement are drafts but are substantially complete and subject to minor revisions by the Chief Financial Officer or Chief Executive Officer.

COMMITTEE REVIEW

The report was not reviewed by the Finance and Risk Management Committee (FRMC).

FISCAL IMPACT

SDCP's current Sublease agreement to lease office space is at a rate of \$14,500 per month for a shared office space that holds up to 32 people. This rate is accounted for in the FY 2023 budget. The proposed Sublease Agreements is at an increased rate of \$31,041.70 per month but is for a dedicated office space that holds 50+ people and staff therefore believe the new Sublease Agreements to be a necessary investment.

ATTACHMENTS

- Attachment A: Draft Sublease Agreement with Nuvve Holding Corp – 2488 Historic Decatur, Suite 230
- Attachment B: Draft Sublease Agreement with Nuvve Holding Corp – 2488 Historic Decatur, Suite 250



SUBLEASE AGREEMENT

This Sublease Agreement (“**Sublease**”), dated as of the 1st day of November, 2022, is entered into between Nuvve Holding Corp., a Delaware corporation having its headquarters at 2488 Historic Decatur Road, Suite 200, San Diego, California, 92106 (“**Sublandlord**”) and San Diego Community Power, a California joint power agency qualified to do business in the State of California, having an address at 815 E Street, San Diego, Suite 12716, San Diego, California, 92112 (“**Subtenant**” and, together with Sublandlord, collectively referred herein as the “**Parties**” or individually as a “**Party**”).

RECITALS

- A. **WHEREAS**, Sublandlord is the tenant under that certain lease agreement dated May 16, 2021, as amended by that certain First Amendment to Lease, dated as of November 3, 2021, as attached collectively hereto as Annex 1, together, the “**Primary Lease**”) with LVA5 SAN DIEGO LS, L.P. (“**Prime Landlord**”); and
- B. **WHEREAS**, pursuant to the Primary Lease, Sublandlord leased those certain premises (“**Demised Premises**”) more particularly described in the Primary Lease and located in the building having a street address of 2488 Historic Decatur Road, San Diego, California 92106 (“**Building**”);
- C. **WHEREAS**, Sublandlord and Subtenant have previously entered into a Sublease Agreement dated June 1, 2022 (the “**Prior Sublease**”) for a part of the Demised Premises containing 4811 square feet, and
- D. **WHEREAS**, Sublandlord desires to sublease an additional portion of the Demised Premises to Subtenant, and Subtenant desires to sublease a portion of the Demised Premises from Sublandlord, in accordance with the terms and conditions of this Sublease.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Demise.**

Sublandlord hereby leases to Subtenant, and Subtenant hereby leases from Sublandlord, the premises, commonly known as Suite 230 (“**Subleased Premises**”) shown on Exhibit A attached to and made a part of this Sublease, located on a portion of the second floor in the Building and comprising a portion of the Demised Premises, containing approximately 2408 square feet. Subtenant acknowledges that the Demised Premises are subject to a relocation clause in the Primary Lease and that agrees that the Subleased Premises may be subject to relocation in the same manner as provided in the Primary Lease with regard to the Demised Premises. In connection with its use of the Subleased Premises, Subtenant shall be entitled to use up to 9 unreserved parking spaces in the Parking Facility as provided in, and subject to the terms of, Exhibit F of the Primary Lease. In consideration of the payment of FF&E Rent, as provided below, Subtenant shall be entitled to use any furniture, fixtures and equipment (“**FF&E**”) located in the Subleased Premises as of the Commencement Date. In connection with Subtenant’s use of the Subleased Premises, Subtenant shall be solely responsible for all required upkeep, repair and

replacement of the FF&E. The FF&E is being provided in its as-is, where-is condition, without warranty of any type, express or implied and Sublandlord shall have no maintenance, repair or replacement obligations related to the same. Sublandlord reserves the right (i) to access and use an engineering/IT closet in the Sublease Premises for its own use, (ii) to secure such closets and (iii) to limit Subtenant's access to the closet.

2. **Term.**

(a) The term of this Sublease ("**Term**") shall be three (3) years and shall commence on the date which is the later to occur of: (i) November 1st, 2022; and (ii) the date on which the Prime Landlord Consent (hereinafter defined) is obtained ("**Sublease Commencement Date**"), and shall expire October 31, 2025 ("**Sublease Expiration Date**"), unless sooner terminated or cancelled in accordance with the terms and conditions of this Sublease.

(b) In the event that the Prime Landlord Consent has not been obtained by November 1, 2022, Subtenant's right to occupy the Subleased Premises shall be limited to a non-exclusive and revocable license and shall be limited to such use as is permitted by the Primary Lease. Such license shall remain in effect until the termination of this Lease, at which time Subtenant shall surrender the Subleased Premises as provided in this Sublease or until the receipt of the Prime Landlord Consent in which case, Subtenant's subleasehold rights under this Sublease shall replace this license.

(c) If for any reason the term of the Primary Lease is terminated prior to the Sublease Expiration Date, this Sublease shall terminate on the date of such termination and Sublandlord shall not be liable to Subtenant for such termination.

3. **Permitted Use.**

Subtenant shall use and occupy the Subleased Premises solely in accordance with, and as permitted under, the terms of the Primary Lease and for no other purpose. Subtenant may use the Subleased Premises only for executive and general office use (the "**Sublease Permitted Use**"), and for no other use or purpose. Subtenant shall not do anything in or upon the Subleased Premises which may be prohibited by and shall otherwise comply with, any insurance policy then in force covering the Building, the Demised Premises or any portion thereof, whether carried by Sublandlord or Prime Landlord or otherwise violates any laws, rules, regulations, ordinances or other governmental or quasi-governmental directory (the "Legal Requirements"). Subtenant, at Subtenant's sole cost and expense, agrees to:

(i) maintain in good order and repair (except for ordinary wear and tear) the Subleased Premises;

(ii) perform all repairs, alteration, improvements or additions to the Subleased Premises that may be required on account of any existing or future Legal Requirements to the extent required by the specific nature of Subtenant's business or to the extent due to alterations performed by Subtenant, or the action or inaction of Subtenant, or, to the extent required of Sublandlord under the Primary Lease because Subtenant's use is inconsistent with the Sublease Permitted Use.

- (iii) use the Subleased Premises in compliance with all Legal Requirements;
- (iv) not overload or deface the Subleased Premises or permit any use of the Subleased Premises in a manner that would create any fire hazard, nor be unlawful, noisy, offensive or create a nuisance, or violate any governmental law or regulation or applicable insurance rating association requirement, nor increase any insurance rates, nor make voidable any insurance policy, nor commit waste or other injurious acts upon person or property;
- (v) pay for all other costs of operating Subtenant's business in the Subleased Premises, such as janitorial services, security services, etc. which are not included as part of Operating Expenses under the Primary Lease; and
- (vi) pay to all governmental authorities all personal property taxes which may be levied against Subtenant's merchandise, trade fixtures and other personal property in or about the Subleased Premises.

4. Payment of Base Rent and Additional Rent.

(a) Commencing on November 1, 2022, regardless of whether the Term has commenced as of such date, Subtenant covenants and agrees with Sublandlord to pay all payments of Monthly Base Rent, as due by Sublandlord, as Tenant under the Primary Lease, to the extent applicable to the Subleased Premises, to Prime Landlord as provided in the Primary Lease, which shall, until the start of the Term, be a license fee and upon the commencement of the Term shall be rent ("Sublease Base Rent"). Sublease Base Rent shall be in the following amounts: (i) from November 1, 2022 to September 30, 2025 is \$10,354.40. per month. Sublease Base Rent and Additional Rent, as defined below, shall be paid to Sublandlord at Sublandlord's Address in advance, on or before the first day of each calendar month from November 1, 2022 until the last month of the Term. At Sublandlord's option, all payments of Rent shall be made by an electronic transfer of funds by a method approved by Sublandlord. Subtenant shall pay to Sublandlord the first monthly installment of Sublease Base Rent at the time of execution and delivery of this Sublease by Subtenant to Sublandlord.

(b) In addition to Base Rent, commencing on the Sublease Commencement Date and continuing throughout the Term of this Sublease, Subtenant shall pay to Sublandlord: (i) 6.61% ("Subtenant's Share") of operating expenses ("Operating Expenses") for the Demised Premises; (ii) Subtenant's Share of real estate taxes and assessments ("Taxes") for the Demised Premises; (iii) all costs and expenses incurred by Sublandlord in connection with its subleasing of the Subleased Premises to Subtenant; (iv) Subtenant's Share of all utility costs paid by Sublandlord for the Demised Premises, and (v) all amounts due and payable by Sublandlord under the Primary Lease due or attributable to the Subleased Premises or the actions or omissions of Subtenant (collectively, "Additional Rent"). Sublandlord and Subtenant acknowledge and agree that this Sublease provides for the complete pass-through of all rents due by Sublandlord, as the Tenant under the Primary Lease with regard to the Subleased Premises. Sublandlord shall invoice Subtenant for all Additional Rent based on Subtenant's Share of any costs which Landlord has charged to Sublandlord, as the tenant under the Lease, and the amount so invoiced shall be due and payable by Subtenant to Sublandlord within fifteen (15) days of the date of the invoice. Subtenant shall pay all sums or payments which are due to Prime Landlord

from Sublandlord, as the Tenant under the Primary Lease to the extent related to the Subleased Premises. The above payments, together with all other payments due by Subtenant under this Sublease, including, without limitation, the late fee and interest, shall be defined as "Additional Sublease Rent" and shall, together with the Sublease Base Rent and the Additional Rent, be defined as "Rent." All Rent shall be due without offsets or deductions. Subtenant's covenants to pay Rent is independent of any other consent set forth in this Sublease and shall survive the termination of this Sublease and the Primary Lease..

(c) Except for the first monthly installment of Base Rent as described in subsection (a) above, all Base Rent shall be due and payable on the first day of each and every month, without demand therefor unless otherwise designated by Sublandlord and without any deduction, offset, abatement, counterclaim, or defense. The monthly installments of Base Rent payable on account of any partial calendar month during the Term of this Sublease, if any, shall be prorated. In the event that Subtenant fails to pay any amount of Sublease Base Rent, or Additional Rent due to Sublandlord within 3 days the same is due, Subtenant shall pay Sublandlord a late charge equal to 5% of the amount then outstanding and the interest on such overdue amount until paid at the rate of the lesser of (i) fifteen percent (15%) per annum, or (ii) the maximum rate permitted by law ("Interest").

(d) In addition to the foregoing. Subtenant shall pay to Sublandlord, commencing on November 1, 2022 and on the first date of each month thereafter until the end of the Term, the sum of \$827.59 per month as rental for the FF&E (the "FF&E Rent"). The FF&E Rent shall be independent of Rent but shall otherwise be paid in the same manner as Sublease Base Rent, including, without limitation, being subject to the same late charge and Interest.

5. Security Deposit.

Simultaneously with the execution and delivery of this Sublease, Subtenant shall deposit with Sublandlord a security deposit ("**Security Deposit**") in the amount of two months' base rent as security for the full and faithful performance by Subtenant of Subtenant's obligations hereunder. The Security Deposit shall be paid in U.S. dollars and in immediately available funds. If Subtenant shall observe and perform, in all material respects, every provision of this Sublease to be observed or performed by Subtenant, the Security Deposit shall be returned to Subtenant within forty-five (45) days following the expiration or earlier termination of the term of this Sublease, or, if a default then exists, such part of the Security Deposit as remains after Sublandlord has cured such default on Subtenant's behalf. In the event that Subtenant defaults in the observance or performance of any covenants or agreements to be observed or performed by Subtenant pursuant to this Sublease, Sublandlord may, in addition to and without prejudice to any other rights or remedies it may have under this Sublease, apply all or any part of the Security Deposit to the satisfaction of any damages suffered or costs incurred by Sublandlord by reason of Subtenant's default. It is understood by the parties hereto that Sublandlord shall not be required to keep the Security Deposit separate from its funds, and Subtenant shall not be entitled to any interest on the Security Deposit. In the event any part of the Security Deposit is applied by Sublandlord as permitted herein, Subtenant shall immediately deposit additional funds with Sublandlord, to be held as a Security Deposit, in an amount required to bring the total Security Deposit held by Sublandlord to the amount of the Security Deposit as set forth above.

6. Compliance with Primary Lease.

The terms, covenants, and conditions of the Primary Lease, in the form attached hereto as Annex 1, are incorporated herein by reference, except to the extent they are deleted or modified by the provisions of this Sublease or are otherwise inconsistent with the terms of this Sublease. Subject to the foregoing, the terms, covenants, and conditions of the Primary Lease binding on or inuring to the benefit of Prime Landlord shall, in respect of this Sublease, be binding on or inure to the benefit of Sublandlord and the terms, covenants, and conditions of the Primary Lease binding on or inuring to the benefit of Sublandlord shall, in respect of this Sublease, be binding on and inure to the benefit of Subtenant. Subject to the limitations herein, whenever the term “**Lessor**” or “**Landlord**” appears in the Primary Lease, the word “**Sublandlord**” shall be substituted therefor; whenever the term “**Lessee**” or “**Tenant**” appears in the Primary Lease, the word “**Subtenant**” shall be substituted therefor; and whenever the word “**Premises**” appears in the Primary Lease, the word “**Subleased Premises**” shall be substituted therefor. Without limiting the foregoing, Subtenant shall (i) obey any rules and regulations that may be applicable to the Subleased Premises pursuant to the Primary Lease to the extent that Subtenant has been provided with copies of the same and (ii) comply with all requirements applicable to Sublandlord as Tenant under the Primary Lease as the same are applicable to the Subleased Premises except as expressly provided otherwise to the contrary in this Sublease, and for matters which are personal to Sublandlord and not applicable as a result of the occupancy of the Subleased Premises, such as Sublandlord’s obligation to provide evidence of authority or financial information, to the extent so required in the Primary Lease. Notwithstanding anything to the contrary herein, Subtenant shall not take any action or permit any act or omission that would (a) constitute a violation, breach or default by Sublandlord under the Primary Lease, (b) increase any of the obligations of Sublandlord under the Primary Lease, or (c) give Prime Landlord the right to terminate the Primary Lease. If there is any conflict between the terms of this Sublease and the Primary Lease, as between Subtenant and Sublandlord, this Sublease shall control, except to the extent it would cause a breach of default under the Primary Lease, in which event the affected terms of the Primary Lease shall control. Subtenant shall have no right to make Alterations to the Subleased Premises without the consent of Sublandlord, which may be withheld in its sole discretion and Prime Landlord, which shall be according to such standard as is provided in the Primary Lease. Notwithstanding the foregoing, in no event shall Subtenant be entitled to exercise any expansion, extension or other rights under the Primary Lease and the parties respectively agree that Subtenant shall not be deemed to have been granted any such rights of Sublandlord as Tenant under the Primary Lease. Sublandlord shall have no right to any allowance or other payment from Prime Landlord to Sublandlord as Tenant under the Primary Lease.

7. Subordination to Primary Lease.

This Sublease is subject and subordinate to the Primary Lease and to all matters of record affecting the Demised Premises, as the same are modified and replaced at any time. A copy of the Primary Lease is attached hereto as Annex 1 and made a part of this Sublease. Nothing in this Sublease shall be construed to create privity of estate or privity of contract between Subtenant and Prime Landlord.

8. Representations of Sublandlord.

Sublandlord represents and warrants the following is true and correct as of the date hereof:

(a) Sublandlord is the tenant under the Primary Lease and has the capacity to enter into this Sublease with Subtenant, subject to Prime Landlord's consent.

(b) The Primary Lease attached hereto as Annex 1 is a true, correct, and complete copy of the Primary Lease, is in full force and effect, and has not been further modified, amended, or supplemented except as expressly set out herein.

(c) Sublandlord has not received any notice, and has no actual knowledge, of any default by Sublandlord under the Primary Lease.

9. AS-IS Condition.

Subtenant accepts the Subleased Premises in its current, "as-is" condition. Sublandlord shall have no obligation to furnish or supply any work, services, furniture, fixtures, equipment, or decorations, except Sublandlord shall deliver the Subleased Premises in broom clean condition. On or before the Sublease Expiration Date or earlier termination or expiration of this Sublease, Subtenant shall restore the Subleased Premises to the condition existing as of the Sublease Commencement Date, ordinary wear and tear excepted and as is otherwise required in the Primary Lease. The obligations of Subtenant hereunder shall survive the expiration or earlier termination of this Sublease.

10. Performance by Sublandlord.

Notwithstanding any other provision of this Sublease, Sublandlord shall have no obligation: (a) to furnish or provide, or cause to be furnished or provided, any repairs, restoration, alterations, or other work, or electricity, heating, ventilation, air-conditioning, water, elevator, cleaning, or other utilities or services; or (b) to comply with or perform or, except as expressly provided in this Sublease, to cause the compliance with or performance of, any of the terms and conditions required to be performed by Prime Landlord under the terms of the Primary Lease. Subtenant hereby agrees that Prime Landlord is solely responsible for the performance of the foregoing obligations. Notwithstanding the foregoing, on the written request of Subtenant, Sublandlord shall make a written demand on Prime Landlord to perform its obligations under the Primary Lease with respect to the Subleased Premises if Prime Landlord fails to perform same within the time frame and in the manner required under the Primary Lease; provided, however, Subtenant shall not be required to bring any action against the Prime Landlord to enforce Prime Landlord's obligations. If Sublandlord makes written demand on Prime Landlord or brings an action against Prime Landlord to enforce Prime Landlord's obligations under the Primary Lease with respect to the Subleased Premises, all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) so incurred by Sublandlord in connection therewith shall be deemed Additional Rent and shall be due and payable by Subtenant to Sublandlord within 30 days after Subtenant's receipt of an itemized invoice therefor from Sublandlord. Except to the extent arising from or relating to the acts or omissions of Sublandlord, Sublandlord shall not be liable in damages or otherwise for any failure or interruption of any utility service being furnished to the Subleased Premises and no such failure or interruption shall entitle Subtenant to terminate this Sublease or abate any Rent due hereunder.

11. Insurance.

During the Sublease Term, Subtenant shall maintain comprehensive public liability insurance and other insurance coverage in the same amounts and types of coverage as is required by Sublandlord, as the Tenant under the Primary Lease, including as is required of Sublandlord in Exhibit G of the Primary Lease. Prior to the commencement of the Sublease Term, and thereafter not less than thirty (30) days prior to the expiration date of each expiring policy, Subtenant shall deliver to Sublandlord certificates of the policies required hereunder. All of Subtenant's public liability policies shall name Subtenant, Sublandlord, Prime Landlord, any mortgagee of which Subtenant has notice, and any other party identified by Sublandlord, as additional insureds.

12. No Breach of Primary Lease.

Subtenant shall not do or permit to be done any act or thing, or omit to do anything, which may constitute a breach or violation of any term, covenant, or condition of the Primary Lease, notwithstanding such act, thing, or omission is permitted under the terms of this Sublease. Any breach or violation of any term, covenant or condition of the Primary Lease or any default under the Prior Sublease shall be an immediate default under this Lease. This Sublease shall automatically terminate on the cancellation, expiration, or termination of the Primary Lease for any reason, including, without limitation, Prime Landlord's early termination rights under the Primary Lease. Notwithstanding the foregoing, neither Sublandlord (so long as Subtenant is not in default under this Sublease) nor Subtenant shall be relieved from liability to the other under this Sublease by reason of any termination of this Sublease pursuant to the preceding sentence of this Section as a result of a default by Sublandlord or Subtenant, respectively, under this Sublease. So long as Subtenant is not in default under this Sublease, Sublandlord covenants and agrees, during the Term, not to voluntarily cancel or surrender the Primary Lease or voluntarily and materially modify the Primary Lease so as to deprive Subtenant of any material rights under this Sublease, without the prior written consent of Subtenant; provided that, Sublandlord may voluntarily cancel or surrender the Primary Lease (i) if Prime Landlord agrees to recognize this Sublease as a direct lease between Prime Landlord and Subtenant, or (ii) following a casualty loss or condemnation of all or a part of the Demised Premises which permits Sublandlord to terminate the Primary Lease under the Primary Lease.

13. Subtenant Defaults.

(a) If Subtenant fails to cure a default under this Sublease within a period which is half (rounded up) of the applicable grace or cure period contained in the Primary Lease, Sublandlord shall have the right, but not the obligation, to seek to remedy any such default as is provided to Prime Landlord under the Primary Lease, provided, however, that in the case of: (i) a life safety or property related emergency; or (ii) a default which must be cured within a time frame set out in the Primary Lease which does not allow sufficient time for prior notice to be given to Subtenant, Sublandlord may remedy any such default without being required first to give notice to Subtenant. Any reasonable cost and expense (including, without limitation, reasonable attorneys' fees and expenses) incurred by Sublandlord as a result of such default or in enforcing the terms of this Sublease shall be deemed Additional Rent and shall be due and payable by Subtenant to Sublandlord within 30 days after notice from Sublandlord. At the election of Sublandlord, Subtenant shall also be in default if Subtenant (i) commits any act or omission that shall cause Sublandlord to be in default that is not capable of cure under the terms

of the Primary Lease or results in the termination of the Primary Lease; (ii) abandons the Subleased Premises; (iii) fails to deliver the document or agreements required pursuant to the Primary Lease in the time specified therein or fail to deliver an estoppel certificate required pursuant to the Primary Lease within the time specified therein; (iv) fails to maintain the insurance required under this Sublease; (v) a petition or answer to reorganize the Subtenant is approved by any court or judge thereof, or Subtenant shall be adjudicated as bankrupt, or Subtenant shall make a general assignment for the benefit of creditors, or Subtenant shall take any benefit under any insolvency or bankruptcy act, or a receiver or trustee is appointed for Subtenant's property, or this Sublease shall be transferred or pass to, or devolve upon, any other person, firm, association or corporation, except in a manner permitted by this Sublease; (vi) defaults under the Prior Sublease. A default under this Sublease shall also be a default by Subtenant under the Prior Lease.

(b) If Subtenant fails to pay any installment of Base Rent, Additional Rent or any other payment due under this Sublease within 5 days after the due date of such payment, Subtenant shall pay to Sublandlord, as Additional Rent, a **"late charge"** of 5% of the monthly Base Rent for the purposes of defraying the expense of handling such delinquent payment and Subtenant shall also pay to Sublandlord, as Additional Rent, interest at the Default Rate (hereinafter defined) from the due date of such payment to the date payment is made. **"Default Rate"** shall mean a rate *per annum* equal to 10%.

(c) If Subtenant shall default in the performance or observance of any agreement or condition in the Sublease, subject to the cure periods provided for above (or such shorter period as is appropriate in the event of emergency), Sublandlord may at any time thereafter, without waiving any claim for damages, cure such default for the account of Subtenant, and all reasonable amounts paid and any contractual liability incurred by Sublandlord in so doing shall be deemed paid or incurred for the account of Subtenant. Subtenant shall pay to Sublandlord within 30 days of written demand therefor, as Additional Rent, such amounts paid and liability incurred together with Interest thereon. Subtenant waives any right now or hereafter granted by law to make any repairs which are the responsibility of Sublandlord or Prime Landlord under this Sublease or the Primary Lease respectively, upon such party's respective failure to make such repairs and any right to offset any Rent due under this Sublease as a result of the default of Sublandlord. Sublandlord shall not be deemed to be in default under this Sublease unless Sublandlord fails to perform or observe any agreement or condition contained herein and such failure is not corrected within thirty (30) days after Sublandlord receives notice from Subtenant of such failure (or such longer period as may be reasonably required to correct such failure if within such 30-day period Sublandlord shall commence to correct the same and thereafter diligently pursue the correction thereof). .

14. **Consents.**

Whenever the consent or approval of Sublandlord is required, Subtenant shall also be obligated to obtain the written consent or approval of Prime Landlord, if required under the terms of the Primary Lease. Sublandlord shall promptly make such consent request on behalf of Subtenant and Subtenant shall promptly provide any information or documentation that Prime Landlord may request. Subtenant shall reimburse Sublandlord, not later than 30 days after written demand by Sublandlord, for any fees and disbursements of attorneys, architects, engineers, or others charged by Prime Landlord or

incurred by Sublandlord in connection with any consent or approval. Sublandlord shall have no liability of any kind to Subtenant for Prime Landlord's failure to give its consent or approval.

15. Prime Landlord Consent to Sublease.

This Sublease is expressly conditioned on obtaining the written consent of Prime Landlord and the written consent of any mortgagee, ground lessor, or other third party required under the Primary Lease (collectively, "**Prime Landlord Consent**").

(a) Any fees and expenses incurred by the Prime Landlord or any mortgagee, ground lessor, or other third party in connection with requesting and obtaining the Prime Landlord Consent shall be paid by Sublandlord and shall thereafter be reimbursed by Subtenant to Sublandlord as Additional Rent not later than 30 days after written demand by Sublandlord, regardless of whether this Sublease is approved or not. Subtenant agrees to cooperate with Prime Landlord and supply all information and documentation requested by Prime Landlord within 15 days of its request therefor. Sublandlord shall not be required to perform any acts, expend any funds, or bring any legal proceedings to obtain the Prime Landlord Consent and Subtenant shall have no right to any claim against Sublandlord if the Prime Landlord Consent is not obtained.

(b) If the Prime Landlord Consent is not obtained within 90 days from the date of this Sublease, either Party may terminate this Sublease on written notice to the other, whereupon Sublandlord shall promptly refund to Subtenant the first month's Base Rent and the Security Deposit paid to Sublandlord (but not any payments made or due under the revocable license), and neither Party shall have any further obligation to the other under this Sublease, except to the extent that the provisions of this Sublease shall survive the termination of this Sublease.

(c) This Section 15 shall survive the expiration or earlier termination of this Sublease.

16. Assignment or Subletting.

Subtenant shall not sublet all or any portion of the Subleased Premises or assign, encumber, mortgage, pledge, or otherwise transfer this Sublease (by operation of law or otherwise) or any interest therein, without the prior written consent of: (a) Sublandlord, which consent may be withheld in its sole and absolute discretion; and (b) Prime Landlord, pursuant to the standards provided for in the Primary Lease.

17. Indemnity.

17.1 Subtenant shall defend, indemnify and save harmless Sublandlord, Prime Landlord, and all mortgagees of which Subtenant has notice, and their respective agents, directors employees, contractors, customers and "Affiliates" (the "Sublandlord Indemnified Parties") against all costs, expenses, damages, penalties, fines or claims (including reasonable attorneys' fees), whether for personal injury, bodily injury or property damage, (i) caused by the negligent act or omission of Subtenant, its agents, employees, contractors or invitees; (ii) occurring on the Subleased Premises after November 1, 2022 or during the Sublease Term (except if caused by any negligent act or omission of Sublandlord); (iii) arising out of any default by Subtenant under this Sublease; (iv) arising out of Subtenant's failure to comply with all applicable Legal Requirements pertaining to its specific use of the

Subleased Premises, or (v) arising out of any negligent act or omission of Subtenant, its agents, employees, contractors or invitees in the Subleased Premises. The provisions of this Section 17.1 shall survive the expiration or earlier termination of this Sublease.

17.2 Subtenant shall comply with all Legal Requirements related to the protection of the environment or relating to hazardous or toxic substances (“Environmental Laws”) with respect to Subtenant’s use of the Subleased Premises, and notwithstanding anything contained in the Primary Lease to the contrary, shall not produce, generate, handle, store, treat, transport, dispose, release or remove any hazardous substances on or about the Subleased Premises. The foregoing notwithstanding, Subtenant shall have the right to store and use de minimis quantities of cleaning supplies and office supplies used by Subtenant in the ordinary course of its business provided that the storage, use and disposal of such materials is in compliance with all Environmental Laws. Subtenant shall defend, indemnify and save harmless the Sublandlord Indemnified Parties, against all loss, liability and/or expenses relating to personal, property or economic injury arising from the presence of hazardous substances located within the Demised Premises to the extent introduced by or if permitted to be introduced by Subtenant, its agents, employees, contractors or invitees. Subtenant shall perform the obligations of Sublandlord as set forth in the Primary Lease with respect to the presence of hazardous substances located within the Demised Premises if introduced by or if permitted to be introduced by Subtenant, its agents, employees, contractors or invitees. The provisions of this Section 17.2 shall survive the expiration or earlier termination of this Sublease..

18. Release.

Subtenant hereby releases Sublandlord or anyone claiming through or under Sublandlord by way of subrogation or otherwise. Subtenant hereby releases Prime Landlord or anyone claiming through or under Prime Landlord by way of subrogation or otherwise to the extent that Sublandlord releases Prime Landlord under the terms of the Primary Lease. Subtenant shall cause its insurance carriers to include any clauses or endorsements in favor of Sublandlord, Prime Landlord, and any additional parties, which Sublandlord is required to provide under the provisions of the Primary Lease.

19. Notices.

All notices and other communications required or permitted under this Sublease shall be given in the same manner as in the Primary Lease. Notices shall be addressed to the addresses set out below:

To Subtenant before the Commencement Date at: 815 E Street, Suite 12716, San Diego, CA 92112
ATTN: Chief Financial Officer

To Subtenant after the Commencement Date at: 815 E Street, Suite 12716, San Diego, CA 92112
ATTN: Chief Financial Officer

With a copy to: Best Best & Krieger LLP, 18101 Von Karman

Avenue, Suite 1000, Irvine, CA 92612, ATTN:
Ryan M.F. Baron, Esq., General Counsel

To Sublandlord at:

2488 Historic Decatur Road, Suite 200, San Diego,
California 92106 ATTN: Chief Financial Officer

20. Brokers.

Sublandlord and Subtenant each represent to the other that it has not dealt with any other broker in connection with this Sublease and the transactions contemplated hereby.

21. Entire Agreement.

This Sublease contains the entire agreement between the Parties regarding the subject matter contained herein and all prior negotiations and agreements are merged herein. If any provisions of this Sublease are held to be invalid or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions of this Sublease shall remain unaffected.

22. Amendments and Modifications.

This Sublease may not be modified or amended in any manner other than by a written agreement signed by the Party to be charged.

23. Successors and Assigns.

Subject to the limits on assignments provided in this Sublease, the covenants and agreements contained in this Sublease shall bind and inure to the benefit of Sublandlord and Subtenant and their respective permitted successors and assigns.

24. Counterparts.

This Sublease may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument. A signed copy of this Sublease delivered by either DocuSign or email shall be deemed to have the same legal effect as delivery of an original signed copy of this Sublease.

25. Defined Terms.

All capitalized terms not otherwise defined in this Sublease shall have the definitions contained in the Primary Lease.

26. Choice of Law and Venue.

This Sublease shall be governed by, and construed in accordance with, the laws of the California, without regard to conflict of law rules, and any dispute shall be venued exclusively in the courts sitting in San Diego.

27. Personal Property.

Any trade fixtures, equipment, signs or other personal property ("Personal Property") however attached to or incorporated in the Subleased Premises installed by Subtenant shall remain its property, and Subtenant shall remove such property before the expiration or earlier termination of this Sublease and repair any damage caused by such removal. Sublandlord shall have no liability with respect to Subtenant's property, including such property not so removed, which shall, if so elected by Sublandlord, be deemed abandoned and Sublandlord shall have the right to remove and store same at Subtenant's expense or to assume ownership of the same. Subtenant shall indemnify Sublandlord against any loss, claim or damage resulting from or arising from Subtenant's failure to remove all Personal Property as required in the Sublease.

28. Access.

Sublandlord, its agents, employees and contractors, and Prime Landlord (to the extent permitted under the Primary Lease), may enter the Subleased Premises, at reasonable times after not less than 24-hour notice (which may be by telephone or email) which notice shall not be required in the event of emergency, to make repairs to and/or inspect the Subleased Premises, and/or to exercise any other rights or perform any other obligations of Sublandlord hereunder. So long as Sublandlord uses reasonable efforts to ensure that such access does not interfere with the operation of Subtenant's business, Sublandlord shall not be liable to Subtenant by reason of any inconvenience, noise or loss of business as a result of any interruption of any service or utility serving the Subleased Premises beyond Sublandlord's reasonable control and in connection with Sublandlord's valid entry onto the Subleased Premises. Sublessor may access the IT/Engineering cabinet reserved for its use at any time.

29. Payments by Sublandlord/Exculpation.

Notwithstanding anything contained in this Sublease to the contrary, Subtenant shall not be entitled to any deduction or abatement under this Sublease from Sublease Base Rent, Additional Rent or other charges or fees due herein except as expressly provided herein and then only to the extent a similar deduction in equal (or proportionate, as the case may be) amount is allowed and made under the Primary Lease by Prime Landlord to Sublandlord. Sublandlord shall not be liable to Subtenant in damages or otherwise for any breach by Prime Landlord under the Primary Lease or those claiming under Prime Landlord of any of the covenants, agreements, conditions, representations, warranties, terms or provisions of the Primary Lease.

30. Holding Over.

If Subtenant remains on the Subleases Premises after the expiration or earlier termination of the Sublease Term, then such holding over shall not be deemed to extend or renew the Sublease Term or to create any tenancy at will, but such holding over shall be deemed a tenancy-at-sufferance and shall be at a rent equal to 150% of the Sublease Base Rent, any Additional Rent and all other charges due hereunder for the first thirty (30) days of the holdover and thereafter at twice the Sublease Base Rent, and otherwise subject to all the terms and provisions of this Sublease. Subtenant shall also indemnify Sublandlord for all liability Sublandlord may incur as result of such holdover, including all consequential damages and direct damages, such obligation to survive the expiration or earlier termination of this Sublease. Notwithstanding the foregoing, Sublandlord may, at its option, regain

possession of the Subleased Premises or any part thereof by any and all means available to Sublandlord under this Sublease, the Primary Lease or at law. For avoidance of doubt, if Subtenant has not satisfied its obligations pertaining to the surrender of the Subleased Premises, including without limitation the removal of its personal property from the Subleased Premises, the same shall constitute a holding over and be subject to the provisions of this Sublease.

31. Waiver.

The failure of Sublandlord or Subtenant to insist upon strict performance by the other of any of the provisions of this Sublease or to exercise any option herein conferred shall not be deemed as a waiver or relinquishment for the future of any such provision or option. Except as expressly provided otherwise herein, all of Sublandlord's rights and remedies provided for herein or otherwise existing at law or in equity are cumulative, and the exercise of one or more rights or remedies by Sublandlord shall not preclude or waive its right to the exercise of any or all of the others.

32. Removal.

Subtenant acknowledges and agrees that it shall be solely responsible for removing all of its Personal Property and all improvements, alterations, additions and fixtures installed by Subtenant from the Subleased Premises as is required under the Primary Lease, including the removal of all cabling. The FF&E shall be returned to Sublandlord in the same condition as existed when provided to Subtenant subject to normal wear and tear, and any damaged or destroyed FF&E shall be repaired or replaced by Subtenant prior to the end of the Sublease Term.

33. Certificates.

During the Sublease Term, each party shall, within 15 business days of a written request by the other, certify in writing as to the validity of this Sublease, the Sublease Term, the Sublease Base Rent and Additional Rent owed hereunder, and the existence of any amendments, defaults, off-sets or counterclaims. In addition, at the request of Prime Landlord or Sublandlord, Subtenant shall provide a form of estoppel certificate similar to that required of Sublandlord, as Tenant under the Primary Lease, as provided in the Primary Lease.

34. Transfer of Sublandlord's Interest.

In the event of any transfer of Sublandlord's interest in the Demised Premises, the transferor shall cease to be liable and shall be released from all liability for the performance or observance of any agreements or conditions on the part of Sublandlord to be performed or observed subsequent to the time of said transfer, provided that such transferee assumed in writing all of Sublandlord's obligations hereunder. If any security deposit or prepaid rent has been paid by Subtenant, Sublandlord may transfer such security deposit or prepaid rent to Sublandlord's successor, and on such transfer Sublandlord shall be discharged from any further liability in connection with the security deposit or prepaid rent.

35. No Sublandlord Representations.

Subtenant agrees that neither Sublandlord nor any other party on behalf of Sublandlord has made any representations or covenants except those that are expressly set forth in this Sublease.

Sublandlord shall not be liable, and Subtenant shall not be entitled to any remedy including the termination of this Sublease, for the breach of any representations or covenants, which are not expressly set forth in this Sublease.

36. Confidentiality of Lease.

Except as may be required by law, Sublandlord and Subtenant hereby agree to keep the terms of this Sublease and the Primary Lease confidential and not disclose same to any other person or entity, without the prior consent of the other party; provided, however, that the terms hereof may be disclosed without such consent to a party's accountants, attorneys, employees, agents, potential transferees and lenders, and others in privity with such party to the extent reasonably necessary for such party's business purposes, or in connection with a dispute hereunder.

37. Subordination.

Subtenant agrees to cooperate with Sublandlord and to execute such reasonable documentation as may be necessary to enable Sublandlord to comply with Section 24 of the Primary Lease.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Sublease to be executed as of the date first set forth above.

SUBLANDLORD:

NUVVE HOLDING CORP.

By: _____

Gregory Poilasne

Its: CEO

SUBTENANT:

SAN DIEGO COMMUNITY POWER

By: _____

Name:

Its:

EXHIBIT A

Sharing a portion of 2,408 square feet of the annex office space located at 2488 Historic Decatur Rd., Suite 230

ANNEX 1

Primary Lease, as amended

SUBLEASE AGREEMENT

This Sublease Agreement (“**Sublease**”), dated as of the 1st day of November, 2022, is entered into between Nuvve Holding Corp., a Delaware corporation having its headquarters at 2488 Historic Decatur Road, Suite 200, San Diego, California, 92106 (“**Sublandlord**”) and San Diego Community Power, a California joint power agency qualified to do business in the State of California, having an address at 815 E Street, San Diego, Suite 12716, San Diego, California, 92112 (“**Subtenant**” and, together with Sublandlord, collectively referred herein as the “**Parties**” or individually as a “**Party**”).

RECITALS

- A. **WHEREAS**, Sublandlord is the tenant under that certain lease agreement dated May 16, 2021, as amended by that certain First Amendment to Lease, dated as of November 3, 2021, as attached collectively hereto as Annex 1, together, the “**Primary Lease**”) with LVA5 SAN DIEGO LS, L.P. (“**Prime Landlord**”); and
- B. **WHEREAS**, pursuant to the Primary Lease, Sublandlord leased those certain premises (“**Demised Premises**”) more particularly described in the Primary Lease and located in the building having a street address of 2488 Historic Decatur Road, San Diego, California 92106 (“**Building**”);
- C. **WHEREAS**, Sublandlord and Subtenant have previously entered into a Sublease Agreement dated June 1, 2022 (the “**Prior Sublease**”) for a part of the Demised Premises containing 4811 square feet, and
- D. **WHEREAS**, Sublandlord desires to sublease an additional portion of the Demised Premises to Subtenant, and Subtenant desires to sublease a portion of the Demised Premises from Sublandlord, in accordance with the terms and conditions of this Sublease.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Demise.**

Sublandlord hereby leases to Subtenant, and Subtenant hereby leases from Sublandlord, the premises, commonly known as Suite 250 (“**Subleased Premises**”) shown on Exhibit A attached to and made a part of this Sublease, located on a portion of the second floor in the Building and comprising a portion of the Demised Premises, containing approximately 4811 square feet. Subtenant acknowledges that the Demised Premises are subject to a relocation clause in the Primary Lease and that agrees that the Subleased Premises may be subject to relocation in the same manner as provided in the Primary Lease with regard to the Demised Premises. In connection with its use of the Subleased Premises, Subtenant shall be entitled to use up to **unreserved parking spaces** in the Parking Facility as provided in, and subject to the terms of, Exhibit F of the Primary Lease. In consideration of the payment of FF&E Rent, as provided below, Subtenant shall be entitled to use any furniture, fixtures and equipment (“**FF&E**”) located in the Subleased Premises as of the Commencement Date. In connection with Subtenant’s use of the Subleased Premises, Subtenant shall be solely responsible for all required upkeep, repair and

replacement of the FF&E. The FF&E is being provided in its as-is, where-is condition, without warranty of any type, express or implied and Sublandlord shall have no maintenance, repair or replacement obligations related to the same. Sublandlord reserves the right (i) to access and use an engineering/IT closet in the Sublease Premises for its own use, (ii) to secure such closets and (iii) to limit Subtenant's access to the closet.

2. **Term.**

(a) The term of this Sublease ("**Term**") shall be three (3) years and shall commence on the date which is the later to occur of: (i) November 1st, 2022; and (ii) the date on which the Prime Landlord Consent (hereinafter defined) is obtained ("**Sublease Commencement Date**"), and shall expire October 31, 2025 ("**Sublease Expiration Date**"), unless sooner terminated or cancelled in accordance with the terms and conditions of this Sublease.

(b) In the event that the Prime Landlord Consent has not been obtained by November 1, 2022, Subtenant's right to occupy the Subleased Premises shall be limited to a non-exclusive and revocable license and shall be limited to such use as is permitted by the Primary Lease. Such license shall remain in effect until the termination of this Lease, at which time Subtenant shall surrender the Subleased Premises as provided in this Sublease or until the receipt of the Prime Landlord Consent in which case, Subtenant's subleasehold rights under this Sublease shall replace this license.

(c) If for any reason the term of the Primary Lease is terminated prior to the Sublease Expiration Date, this Sublease shall terminate on the date of such termination and Sublandlord shall not be liable to Subtenant for such termination.

3. **Permitted Use.**

Subtenant shall use and occupy the Subleased Premises solely in accordance with, and as permitted under, the terms of the Primary Lease and for no other purpose. Subtenant may use the Subleased Premises only for executive and general office use (the "**Sublease Permitted Use**"), and for no other use or purpose. Subtenant shall not do anything in or upon the Subleased Premises which may be prohibited by and shall otherwise comply with, any insurance policy then in force covering the Building, the Demised Premises or any portion thereof, whether carried by Sublandlord or Prime Landlord or otherwise violates any laws, rules, regulations, ordinances or other governmental or quasi-governmental directory (the "Legal Requirements"). Subtenant, at Subtenant's sole cost and expense, agrees to:

(i) maintain in good order and repair (except for ordinary wear and tear) the Subleased Premises;

(ii) perform all repairs, alteration, improvements or additions to the Subleased Premises that may be required on account of any existing or future Legal Requirements to the extent required by the specific nature of Subtenant's business or to the extent due to alterations performed by Subtenant, or the action or inaction of Subtenant, or, to the extent required of Sublandlord under the Primary Lease because Subtenant's use is inconsistent with the Sublease Permitted Use.

- (iii) use the Subleased Premises in compliance with all Legal Requirements;
- (iv) not overload or deface the Subleased Premises or permit any use of the Subleased Premises in a manner that would create any fire hazard, nor be unlawful, noisy, offensive or create a nuisance, or violate any governmental law or regulation or applicable insurance rating association requirement, nor increase any insurance rates, nor make voidable any insurance policy, nor commit waste or other injurious acts upon person or property;
- (v) pay for all other costs of operating Subtenant's business in the Subleased Premises, such as janitorial services, security services, etc. which are not included as part of Operating Expenses under the Primary Lease; and
- (vi) pay to all governmental authorities all personal property taxes which may be levied against Subtenant's merchandise, trade fixtures and other personal property in or about the Subleased Premises.

4. Payment of Base Rent and Additional Rent.

(a) Commencing on November 1, 2022, regardless of whether the Term has commenced as of such date, Subtenant covenants and agrees with Sublandlord to pay all payments of Monthly Base Rent, as due by Sublandlord, as Tenant under the Primary Lease, to the extent applicable to the Subleased Premises, to Prime Landlord as provided in the Primary Lease, which shall, until the start of the Term, be a license fee and upon the commencement of the Term shall be rent ("Sublease Base Rent"). Sublease Base Rent shall be in the following amounts: (i) from November 1, 2022 to September 30, 2025 is \$20,687.30. per month Sublease Base Rent and Additional Rent, as defined below, shall be paid to Sublandlord at Sublandlord's Address in advance, on or before the first day of each calendar month from November 1, 2022 until the last month of the Term. At Sublandlord's option, all payments of Rent shall be made by an electronic transfer of funds by a method approved by Sublandlord. Subtenant shall pay to Sublandlord the first monthly installment of Sublease Base Rent at the time of execution and delivery of this Sublease by Subtenant to Sublandlord.

(b) In addition to Base Rent, commencing on the Sublease Commencement Date and continuing throughout the Term of this Sublease, Subtenant shall pay to Sublandlord: (i) 6.61% ("Subtenant's Share") of operating expenses ("Operating Expenses") for the Demised Premises; (ii) Subtenant's Share of real estate taxes and assessments ("Taxes") for the Demised Premises; (iii) all costs and expenses incurred by Sublandlord in connection with its subleasing of the Subleased Premises to Subtenant; (iv) Subtenant's Share of all utility costs paid by Sublandlord for the Demised Premises, and (v) all amounts due and payable by Sublandlord under the Primary Lease due or attributable to the Subleased Premises or the actions or omissions of Subtenant (collectively, "Additional Rent"). Sublandlord and Subtenant acknowledge and agree that this Sublease provides for the complete pass-through of all rents due by Sublandlord, as the Tenant under the Primary Lease with regard to the Subleased Premises. Sublandlord shall invoice Subtenant for all Additional Rent based on Subtenant's Share of any costs which Landlord has charged to Sublandlord, as the tenant under the Lease, and the amount so invoiced shall be due and payable by Subtenant to Sublandlord within fifteen (15) days of the date of the invoice. Subtenant shall pay all sums or payments which are due to Prime Landlord

from Sublandlord, as the Tenant under the Primary Lease to the extent related to the Subleased Premises. The above payments, together with all other payments due by Subtenant under this Sublease, including, without limitation, the late fee and interest, shall be defined as "Additional Sublease Rent" and shall, together with the Sublease Base Rent and the Additional Rent, be defined as "Rent." All Rent shall be due without offsets or deductions. Subtenant's covenants to pay Rent is independent of any other consent set forth in this Sublease and shall survive the termination of this Sublease and the Primary Lease.

(c) Except for the first monthly installment of Base Rent as described in subsection (a) above, all Base Rent shall be due and payable on the first day of each and every month, without demand therefor unless otherwise designated by Sublandlord and without any deduction, offset, abatement, counterclaim, or defense. The monthly installments of Base Rent payable on account of any partial calendar month during the Term of this Sublease, if any, shall be prorated. In the event that Subtenant fails to pay any amount of Sublease Base Rent, or Additional Rent due to Sublandlord within 3 days the same is due, Subtenant shall pay Sublandlord a late charge equal to 5% of the amount then outstanding and the interest on such overdue amount until paid at the rate of the lesser of (i) fifteen percent (15%) per annum, or (ii) the maximum rate permitted by law ("Interest").

(d) In addition to the foregoing. Subtenant shall pay to Sublandlord, commencing on November 1, 2022 and on the first date of each month thereafter until the end of the Term, the sum of \$1,361.34 per month as rental for the FF&E (the "FF&E Rent"). The FF&E Rent shall be independent of Rent but shall otherwise be paid in the same manner as Sublease Base Rent, including, without limitation, being subject to the same late charge and Interest.

(e) In addition, the Sublandlord shall reduce the Sublease Base Rent for payments received from Cleantech San Diego Association for its partial use of Subleased Premises during the Term.

5. **Security Deposit.**

Simultaneously with the execution and delivery of this Sublease, Subtenant shall deposit with Sublandlord a security deposit ("**Security Deposit**") in the amount of two months' base rent as security for the full and faithful performance by Subtenant of Subtenant's obligations hereunder. The Security Deposit shall be paid in U.S. dollars and in immediately available funds. If Subtenant shall observe and perform, in all material respects, every provision of this Sublease to be observed or performed by Subtenant, the Security Deposit shall be returned to Subtenant within forty-five (45) days following the expiration or earlier termination of the term of this Sublease, or, if a default then exists, such part of the Security Deposit as remains after Sublandlord has cured such default on Subtenant's behalf. In the event that Subtenant defaults in the observance or performance of any covenants or agreements to be observed or performed by Subtenant pursuant to this Sublease, Sublandlord may, in addition to and without prejudice to any other rights or remedies it may have under this Sublease, apply all or any part of the Security Deposit to the satisfaction of any damages suffered or costs incurred by Sublandlord by reason of Subtenant's default. It is understood by the parties hereto that Sublandlord shall not be required to keep the Security Deposit separate from its funds, and Subtenant shall not be entitled to any interest on the Security Deposit. In the event any part of the Security Deposit is applied by Sublandlord as permitted herein, Subtenant shall immediately deposit additional funds with Sublandlord, to be held as a

Security Deposit, in an amount required to bring the total Security Deposit held by Sublandlord to the amount of the Security Deposit as set forth above.

6. Compliance with Primary Lease.

The terms, covenants, and conditions of the Primary Lease, in the form attached hereto as Annex 1, are incorporated herein by reference, except to the extent they are deleted or modified by the provisions of this Sublease or are otherwise inconsistent with the terms of this Sublease. Subject to the foregoing, the terms, covenants, and conditions of the Primary Lease binding on or inuring to the benefit of Prime Landlord shall, in respect of this Sublease, be binding on or inure to the benefit of Sublandlord and the terms, covenants, and conditions of the Primary Lease binding on or inuring to the benefit of Sublandlord shall, in respect of this Sublease, be binding on and inure to the benefit of Subtenant. Subject to the limitations herein, whenever the term “**Lessor**” or “**Landlord**” appears in the Primary Lease, the word “**Sublandlord**” shall be substituted therefor; whenever the term “**Lessee**” or “**Tenant**” appears in the Primary Lease, the word “**Subtenant**” shall be substituted therefor; and whenever the word “**Premises**” appears in the Primary Lease, the word “**Subleased Premises**” shall be substituted therefor. Without limiting the foregoing, Subtenant shall (i) obey any rules and regulations that may be applicable to the Subleased Premises pursuant to the Primary Lease to the extent that Subtenant has been provided with copies of the same and (ii) comply with all requirements applicable to Sublandlord as Tenant under the Primary Lease as the same are applicable to the Subleased Premises except as expressly provided otherwise to the contrary in this Sublease, and for matters which are personal to Sublandlord and not applicable as a result of the occupancy of the Subleased Premises, such as Sublandlord’s obligation to provide evidence of authority or financial information, to the extent so required in the Primary Lease. Notwithstanding anything to the contrary herein, Subtenant shall not take any action or permit any act or omission that would (a) constitute a violation, breach or default by Sublandlord under the Primary Lease, (b) increase any of the obligations of Sublandlord under the Primary Lease, or (c) give Prime Landlord the right to terminate the Primary Lease. If there is any conflict between the terms of this Sublease and the Primary Lease, as between Subtenant and Sublandlord, this Sublease shall control, except to the extent it would cause a breach of default under the Primary Lease, in which event the affected terms of the Primary Lease shall control. Subtenant shall have no right to make Alternations to the Subleased Premises without the consent of Sublandlord, which may be withheld in its sole discretion and Prime Landlord, which shall be according to such standard as is provided in the Primary Lease. Notwithstanding the foregoing, in no event shall Subtenant be entitled to exercise any expansion, extension or other rights under the Primary Lease and the parties respectively agree that Subtenant shall not be deemed to have been granted any such rights of Sublandlord as Tenant under the Primary Lease. Sublandlord shall have no right to any allowance or other payment from Prime Landlord to Sublandlord as Tenant under the Primary Lease.

7. Subordination to Primary Lease.

This Sublease is subject and subordinate to the Primary Lease and to all matters of record affecting the Demised Premises, as the same are modified and replaced at any time. A copy of the Primary Lease is attached hereto as Annex 1 and made a part of this Sublease. Nothing in this Sublease shall be construed to create privity of estate or privity of contract between Subtenant and Prime Landlord.

8. Representations of Sublandlord.

Sublandlord represents and warrants the following is true and correct as of the date hereof:

(a) Sublandlord is the tenant under the Primary Lease and has the capacity to enter into this Sublease with Subtenant, subject to Prime Landlord's consent.

(b) The Primary Lease attached hereto as Annex 1 is a true, correct, and complete copy of the Primary Lease, is in full force and effect, and has not been further modified, amended, or supplemented except as expressly set out herein.

(c) Sublandlord has not received any notice, and has no actual knowledge, of any default by Sublandlord under the Primary Lease.

9. AS-IS Condition.

Subtenant accepts the Subleased Premises in its current, "as-is" condition. Sublandlord shall have no obligation to furnish or supply any work, services, furniture, fixtures, equipment, or decorations, except Sublandlord shall deliver the Subleased Premises in broom clean condition. On or before the Sublease Expiration Date or earlier termination or expiration of this Sublease, Subtenant shall restore the Subleased Premises to the condition existing as of the Sublease Commencement Date, ordinary wear and tear excepted and as is otherwise required in the Primary Lease. The obligations of Subtenant hereunder shall survive the expiration or earlier termination of this Sublease.

10. Performance by Sublandlord.

Notwithstanding any other provision of this Sublease, Sublandlord shall have no obligation: (a) to furnish or provide, or cause to be furnished or provided, any repairs, restoration, alterations, or other work, or electricity, heating, ventilation, air-conditioning, water, elevator, cleaning, or other utilities or services; or (b) to comply with or perform or, except as expressly provided in this Sublease, to cause the compliance with or performance of, any of the terms and conditions required to be performed by Prime Landlord under the terms of the Primary Lease. Subtenant hereby agrees that Prime Landlord is solely responsible for the performance of the foregoing obligations. Notwithstanding the foregoing, on the written request of Subtenant, Sublandlord shall make a written demand on Prime Landlord to perform its obligations under the Primary Lease with respect to the Subleased Premises if Prime Landlord fails to perform same within the time frame and in the manner required under the Primary Lease; provided, however, Subtenant shall not be required to bring any action against the Prime Landlord to enforce Prime Landlord's obligations. If Sublandlord makes written demand on Prime Landlord or brings an action against Prime Landlord to enforce Prime Landlord's obligations under the Primary Lease with respect to the Subleased Premises, all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) so incurred by Sublandlord in connection therewith shall be deemed Additional Rent and shall be due and payable by Subtenant to Sublandlord within 30 days after Subtenant's receipt of an itemized invoice therefor from Sublandlord. Except to the extent arising from or relating to the acts or omissions of Sublandlord, Sublandlord shall not be liable in damages or otherwise for any failure or interruption of any utility service being furnished to the Subleased Premises and no such failure or interruption shall entitle Subtenant to terminate this Sublease or abate any Rent due hereunder.

11. Insurance.

During the Sublease Term, Subtenant shall maintain comprehensive public liability insurance and other insurance coverage in the same amounts and types of coverage as is required by Sublandlord, as the Tenant under the Primary Lease, including as is required of Sublandlord in Exhibit G of the Primary Lease. Prior to the commencement of the Sublease Term, and thereafter not less than thirty (30) days prior to the expiration date of each expiring policy, Subtenant shall deliver to Sublandlord certificates of the policies required hereunder. All of Subtenant's public liability policies shall name Subtenant, Sublandlord, Prime Landlord, any mortgagee of which Subtenant has notice, and any other party identified by Sublandlord, as additional insureds.

12. No Breach of Primary Lease.

Subtenant shall not do or permit to be done any act or thing, or omit to do anything, which may constitute a breach or violation of any term, covenant, or condition of the Primary Lease, notwithstanding such act, thing, or omission is permitted under the terms of this Sublease. Any breach or violation of any term, covenant or condition of the Primary Lease or any default under the Prior Sublease shall be an immediate default under this Lease. This Sublease shall automatically terminate on the cancellation, expiration, or termination of the Primary Lease for any reason, including, without limitation, Prime Landlord's early termination rights under the Primary Lease. Notwithstanding the foregoing, neither Sublandlord (so long as Subtenant is not in default under this Sublease) nor Subtenant shall be relieved from liability to the other under this Sublease by reason of any termination of this Sublease pursuant to the preceding sentence of this Section as a result of a default by Sublandlord or Subtenant, respectively, under this Sublease. So long as Subtenant is not in default under this Sublease, Sublandlord covenants and agrees, during the Term, not to voluntarily cancel or surrender the Primary Lease or voluntarily and materially modify the Primary Lease so as to deprive Subtenant of any material rights under this Sublease, without the prior written consent of Subtenant; provided that, Sublandlord may voluntarily cancel or surrender the Primary Lease (i) if Prime Landlord agrees to recognize this Sublease as a direct lease between Prime Landlord and Subtenant, or (ii) following a casualty loss or condemnation of all or a part of the Demised Premises which permits Sublandlord to terminate the Primary Lease under the Primary Lease.

13. Subtenant Defaults.

(a) If Subtenant fails to cure a default under this Sublease within a period which is half (rounded up) of the applicable grace or cure period contained in the Primary Lease, Sublandlord shall have the right, but not the obligation, to seek to remedy any such default as is provided to Prime Landlord under the Primary Lease, provided, however, that in the case of: (i) a life safety or property related emergency; or (ii) a default which must be cured within a time frame set out in the Primary Lease which does not allow sufficient time for prior notice to be given to Subtenant, Sublandlord may remedy any such default without being required first to give notice to Subtenant. Any reasonable cost and expense (including, without limitation, reasonable attorneys' fees and expenses) incurred by Sublandlord as a result of such default or in enforcing the terms of this Sublease shall be deemed Additional Rent and shall be due and payable by Subtenant to Sublandlord within 30 days after notice from Sublandlord. At the

election of Sublandlord, Subtenant shall also be in default if Subtenant (i) commits any act or omission that shall cause Sublandlord to be in default that is not capable of cure under the terms of the Primary Lease or results in the termination of the Primary Lease; (ii) abandons the Subleased Premises; (iii) fails to deliver the document or agreements required pursuant to the Primary Lease in the time specified therein or fail to deliver an estoppel certificate required pursuant to the Primary Lease within the time specified therein; (iv) fails to maintain the insurance required under this Sublease; (v) a petition or answer to reorganize the Subtenant is approved by any court or judge thereof, or Subtenant shall be adjudicated as bankrupt, or Subtenant shall make a general assignment for the benefit of creditors, or Subtenant shall take any benefit under any insolvency or bankruptcy act, or a receiver or trustee is appointed for Subtenant's property, or this Sublease shall be transferred or pass to, or devolve upon, any other person, firm, association or corporation, except in a manner permitted by this Sublease; (vi) defaults under the Prior Sublease. A default under this Sublease shall also be a default by Subtenant under the Prior Lease.

(b) If Subtenant fails to pay any installment of Base Rent, Additional Rent or any other payment due under this Sublease within 5 days after the due date of such payment, Subtenant shall pay to Sublandlord, as Additional Rent, a "**late charge**" of 5% of the monthly Base Rent for the purposes of defraying the expense of handling such delinquent payment and Subtenant shall also pay to Sublandlord, as Additional Rent, interest at the Default Rate (hereinafter defined) from the due date of such payment to the date payment is made. "**Default Rate**" shall mean a rate *per annum* equal to 10%.

(c) If Subtenant shall default in the performance or observance of any agreement or condition in the Sublease, subject to the cure periods provided for above (or such shorter period as is appropriate in the event of emergency), Sublandlord may at any time thereafter, without waiving any claim for damages, cure such default for the account of Subtenant, and all reasonable amounts paid and any contractual liability incurred by Sublandlord in so doing shall be deemed paid or incurred for the account of Subtenant. Subtenant shall pay to Sublandlord within 30 days of written demand therefor, as Additional Rent, such amounts paid and liability incurred together with Interest thereon. Subtenant waives any right now or hereafter granted by law to make any repairs which are the responsibility of Sublandlord or Prime Landlord under this Sublease or the Primary Lease respectively, upon such party's respective failure to make such repairs and any right to offset any Rent due under this Sublease as a result of the default of Sublandlord. Sublandlord shall not be deemed to be in default under this Sublease unless Sublandlord fails to perform or observe any agreement or condition contained herein and such failure is not corrected within thirty (30) days after Sublandlord receives notice from Subtenant of such failure (or such longer period as may be reasonably required to correct such failure if within such 30-day period Sublandlord shall commence to correct the same and thereafter diligently pursue the correction thereof). .

14. **Consents.**

Whenever the consent or approval of Sublandlord is required, Subtenant shall also be obligated to obtain the written consent or approval of Prime Landlord, if required under the terms of the Primary Lease. Sublandlord shall promptly make such consent request on behalf of Subtenant and Subtenant shall promptly provide any information or documentation that Prime Landlord may request.

Subtenant shall reimburse Sublandlord, not later than 30 days after written demand by Sublandlord, for any fees and disbursements of attorneys, architects, engineers, or others charged by Prime Landlord or incurred by Sublandlord in connection with any consent or approval. Sublandlord shall have no liability of any kind to Subtenant for Prime Landlord's failure to give its consent or approval.

15. Prime Landlord Consent to Sublease.

This Sublease is expressly conditioned on obtaining the written consent of Prime Landlord and the written consent of any mortgagee, ground lessor, or other third party required under the Primary Lease (collectively, "**Prime Landlord Consent**").

(a) Any fees and expenses incurred by the Prime Landlord or any mortgagee, ground lessor, or other third party in connection with requesting and obtaining the Prime Landlord Consent shall be paid by Sublandlord and shall thereafter be reimbursed by Subtenant to Sublandlord as Additional Rent not later than 30 days after written demand by Sublandlord, regardless of whether this Sublease is approved or not. Subtenant agrees to cooperate with Prime Landlord and supply all information and documentation requested by Prime Landlord within 15 days of its request therefor. Sublandlord shall not be required to perform any acts, expend any funds, or bring any legal proceedings to obtain the Prime Landlord Consent and Subtenant shall have no right to any claim against Sublandlord if the Prime Landlord Consent is not obtained.

(b) If the Prime Landlord Consent is not obtained within 90 days from the date of this Sublease, either Party may terminate this Sublease on written notice to the other, whereupon Sublandlord shall promptly refund to Subtenant the first month's Base Rent and the Security Deposit paid to Sublandlord (but not any payments made or due under the revocable license), and neither Party shall have any further obligation to the other under this Sublease, except to the extent that the provisions of this Sublease shall survive the termination of this Sublease.

(c) This Section 15 shall survive the expiration or earlier termination of this Sublease.

16. Assignment or Subletting.

Subtenant shall not sublet all or any portion of the Subleased Premises or assign, encumber, mortgage, pledge, or otherwise transfer this Sublease (by operation of law or otherwise) or any interest therein, without the prior written consent of: (a) Sublandlord, which consent may be withheld in its sole and absolute discretion; and (b) Prime Landlord, pursuant to the standards provided for in the Primary Lease.

17. Indemnity.

17.1 Subtenant shall defend, indemnify and save harmless Sublandlord, Prime Landlord, and all mortgagees of which Subtenant has notice, and their respective agents, directors employees, contractors, customers and "Affiliates" (the "Sublandlord Indemnified Parties") against all costs, expenses, damages, penalties, fines or claims (including reasonable attorneys' fees), whether for personal injury, bodily injury or property damage, (i) caused by the negligent act or omission of Subtenant, its agents, employees, contractors or invitees; (ii) occurring on the Subleased Premises after November 1, 2022 or during the Sublease Term (except if caused by any negligent act or omission of

Sublandlord); (iii) arising out of any default by Subtenant under this Sublease; (iv) arising out of Subtenant's failure to comply with all applicable Legal Requirements pertaining to its specific use of the Subleased Premises, or (v) arising out of any negligent act or omission of Subtenant, its agents, employees, contractors or invitees in the Subleased Premises. The provisions of this Section 17.1 shall survive the expiration or earlier termination of this Sublease.

17.2 Subtenant shall comply with all Legal Requirements related to the protection of the environment or relating to hazardous or toxic substances ("Environmental Laws") with respect to Subtenant's use of the Subleased Premises, and notwithstanding anything contained in the Primary Lease to the contrary, shall not produce, generate, handle, store, treat, transport, dispose, release or remove any hazardous substances on or about the Subleased Premises. The foregoing notwithstanding, Subtenant shall have the right to store and use de minimis quantities of cleaning supplies and office supplies used by Subtenant in the ordinary course of its business provided that the storage, use and disposal of such materials is in compliance with all Environmental Laws. Subtenant shall defend, indemnify and save harmless the Sublandlord Indemnified Parties, against all loss, liability and/or expenses relating to personal, property or economic injury arising from the presence of hazardous substances located within the Demised Premises to the extent introduced by or if permitted to be introduced by Subtenant, its agents, employees, contractors or invitees. Subtenant shall perform the obligations of Sublandlord as set forth in the Primary Lease with respect to the presence of hazardous substances located within the Demised Premises if introduced by or if permitted to be introduced by Subtenant, its agents, employees, contractors or invitees. The provisions of this Section 17.2 shall survive the expiration or earlier termination of this Sublease..

18. Release.

Subtenant hereby releases Sublandlord or anyone claiming through or under Sublandlord by way of subrogation or otherwise. Subtenant hereby releases Prime Landlord or anyone claiming through or under Prime Landlord by way of subrogation or otherwise to the extent that Sublandlord releases Prime Landlord under the terms of the Primary Lease. Subtenant shall cause its insurance carriers to include any clauses or endorsements in favor of Sublandlord, Prime Landlord, and any additional parties, which Sublandlord is required to provide under the provisions of the Primary Lease.

19. Notices.

All notices and other communications required or permitted under this Sublease shall be given in the same manner as in the Primary Lease. Notices shall be addressed to the addresses set out below:

To Subtenant before the Commencement Date at: 815 E Street, Suite 12716, San Diego, CA 92112
ATTN: Chief Financial Officer

To Subtenant after the Commencement Date at: 815 E Street, Suite 12716, San Diego, CA 92112
ATTN: Chief Financial Officer

With a copy to:

Best Best & Krieger LLP, 18101 Von Karman
Avenue, Suite 1000, Irvine, CA 92612, ATTN:
Ryan M.F. Baron, Esq., General Counsel

To Sublandlord at:

2488 Historic Decatur Road, Suite 200, San Diego,
California 92106 ATTN: Chief Financial Officer

20. Brokers.

Sublandlord and Subtenant each represent to the other that it has not dealt with any other broker in connection with this Sublease and the transactions contemplated hereby.

21. Entire Agreement.

This Sublease contains the entire agreement between the Parties regarding the subject matter contained herein and all prior negotiations and agreements are merged herein. If any provisions of this Sublease are held to be invalid or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions of this Sublease shall remain unaffected.

22. Amendments and Modifications.

This Sublease may not be modified or amended in any manner other than by a written agreement signed by the Party to be charged.

23. Successors and Assigns.

Subject to the limits on assignments provided in this Sublease, the covenants and agreements contained in this Sublease shall bind and inure to the benefit of Sublandlord and Subtenant and their respective permitted successors and assigns.

24. Counterparts.

This Sublease may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument. A signed copy of this Sublease delivered by either DocuSign or email shall be deemed to have the same legal effect as delivery of an original signed copy of this Sublease.

25. Defined Terms.

All capitalized terms not otherwise defined in this Sublease shall have the definitions contained in the Primary Lease.

26. Choice of Law and Venue.

This Sublease shall be governed by, and construed in accordance with, the laws of the California, without regard to conflict of law rules, and any dispute shall be venued exclusively in the courts sitting in San Diego.

27. Personal Property.

Any trade fixtures, equipment, signs or other personal property ("Personal Property") however attached to or incorporated in the Subleased Premises installed by Subtenant shall remain its property, and Subtenant shall remove such property before the expiration or earlier termination of this Sublease and repair any damage caused by such removal. Sublandlord shall have no liability with respect to Subtenant's property, including such property not so removed, which shall, if so elected by Sublandlord, be deemed abandoned and Sublandlord shall have the right to remove and store same at Subtenant's expense or to assume ownership of the same. Subtenant shall indemnify Sublandlord against any loss, claim or damage resulting from or arising from Subtenant's failure to remove all Personal Property as required in the Sublease.

28. Access.

Sublandlord, its agents, employees and contractors, and Prime Landlord (to the extent permitted under the Primary Lease), may enter the Subleased Premises, at reasonable times after not less than 24-hour notice (which may be by telephone or email) which notice shall not be required in the event of emergency, to make repairs to and/or inspect the Subleased Premises, and/or to exercise any other rights or perform any other obligations of Sublandlord hereunder. So long as Sublandlord uses reasonable efforts to ensure that such access does not interfere with the operation of Subtenant's business, Sublandlord shall not be liable to Subtenant by reason of any inconvenience, noise or loss of business as a result of any interruption of any service or utility serving the Subleased Premises beyond Sublandlord's reasonable control and in connection with Sublandlord's valid entry onto the Subleased Premises. Sublessor may access the IT/Engineering cabinet reserved for its use at any time.

29. Payments by Sublandlord/Exculpation.

Notwithstanding anything contained in this Sublease to the contrary, Subtenant shall not be entitled to any deduction or abatement under this Sublease from Sublease Base Rent, Additional Rent or other charges or fees due herein except as expressly provided herein and then only to the extent a similar deduction in equal (or proportionate, as the case may be) amount is allowed and made under the Primary Lease by Prime Landlord to Sublandlord. Sublandlord shall not be liable to Subtenant in damages or otherwise for any breach by Prime Landlord under the Primary Lease or those claiming under Prime Landlord of any of the covenants, agreements, conditions, representations, warranties, terms or provisions of the Primary Lease.

30. Holding Over.

If Subtenant remains on the Subleases Premises after the expiration or earlier termination of the Sublease Term, then such holding over shall not be deemed to extend or renew the Sublease Term or to create any tenancy at will, but such holding over shall be deemed a tenancy-at-sufferance and shall be at a rent equal to 150% of the Sublease Base Rent, any Additional Rent and all other charges due hereunder for the first thirty (30) days of the holdover and thereafter at twice the Sublease Base Rent,

and otherwise subject to all the terms and provisions of this Sublease. Subtenant shall also indemnify Sublandlord for all liability Sublandlord may incur as result of such holdover, including all consequential damages and direct damages, such obligation to survive the expiration or earlier termination of this Sublease. Notwithstanding the foregoing, Sublandlord may, at its option, regain possession of the Subleased Premises or any part thereof by any and all means available to Sublandlord under this Sublease, the Primary Lease or at law. For avoidance of doubt, if Subtenant has not satisfied its obligations pertaining to the surrender of the Subleased Premises, including without limitation the removal of its personal property from the Subleased Premises, the same shall constitute a holding over and be subject to the provisions of this Sublease.

31. Waiver.

The failure of Sublandlord or Subtenant to insist upon strict performance by the other of any of the provisions of this Sublease or to exercise any option herein conferred shall not be deemed as a waiver or relinquishment for the future of any such provision or option. Except as expressly provided otherwise herein, all of Sublandlord's rights and remedies provided for herein or otherwise existing at law or in equity are cumulative, and the exercise of one or more rights or remedies by Sublandlord shall not preclude or waive its right to the exercise of any or all of the others.

32. Removal.

Subtenant acknowledges and agrees that it shall be solely responsible for removing all of its Personal Property and all improvements, alterations, additions and fixtures installed by Subtenant from the Subleased Premises as is required under the Primary Lease, including the removal of all cabling. The FF&E shall be returned to Sublandlord in the same condition as existed when provided to Subtenant subject to normal wear and tear, and any damaged or destroyed FF&E shall be repaired or replaced by Subtenant prior to the end of the Sublease Term.

33. Certificates.

During the Sublease Term, each party shall, within 15 business days of a written request by the other, certify in writing as to the validity of this Sublease, the Sublease Term, the Sublease Base Rent and Additional Rent owed hereunder, and the existence of any amendments, defaults, off-sets or counterclaims. In addition, at the request of Prime Landlord or Sublandlord, Subtenant shall provide a form of estoppel certificate similar to that required of Sublandlord, as Tenant under the Primary Lease, as provided in the Primary Lease.

34. Transfer of Sublandlord's Interest.

In the event of any transfer of Sublandlord's interest in the Demised Premises, the transferor shall cease to be liable and shall be released from all liability for the performance or observance of any agreements or conditions on the part of Sublandlord to be performed or observed subsequent to the time of said transfer, provided that such transferee assumed in writing all of Sublandlord's obligations hereunder. If any security deposit or prepaid rent has been paid by Subtenant, Sublandlord may transfer such security deposit or prepaid rent to Sublandlord's successor, and on such transfer Sublandlord shall be discharged from any further liability in connection with the security deposit or prepaid rent.

35. No Sublandlord Representations.

Subtenant agrees that neither Sublandlord nor any other party on behalf of Sublandlord has made any representations or covenants except those that are expressly set forth in this Sublease. Sublandlord shall not be liable, and Subtenant shall not be entitled to any remedy including the termination of this Sublease, for the breach of any representations or covenants, which are not expressly set forth in this Sublease.

36. Confidentiality of Lease.

Except as may be required by law, Sublandlord and Subtenant hereby agree to keep the terms of this Sublease and the Primary Lease confidential and not disclose same to any other person or entity, without the prior consent of the other party; provided, however, that the terms hereof may be disclosed without such consent to a party's accountants, attorneys, employees, agents, potential transferees and lenders, and others in privity with such party to the extent reasonably necessary for such party's business purposes, or in connection with a dispute hereunder.

37. Subordination.

Subtenant agrees to cooperate with Sublandlord and to execute such reasonable documentation as may be necessary to enable Sublandlord to comply with Section 24 of the Primary Lease.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Sublease to be executed as of the date first set forth above.

SUBLANDLORD:

NUVVE HOLDING CORP.

By: _____

Gregory Poilasne

Its: CEO

SUBTENANT:

SAN DIEGO COMMUNITY POWER

By: _____

Name:

Its:

EXHIBIT A

Sharing a portion of 4,811 square feet of the annex office space located at 2488 Historic Decatur Rd., Suite 250

ANNEX 1

Primary Lease, as amended



SAN DIEGO COMMUNITY POWER Staff Report – Item 8

To: San Diego Community Power Board of Directors

From: Laura Fernandez, Director of Regulatory and Legislative Affairs

Via: Karin Burns, Chief Executive Officer

Subject: Amendment to Professional Services Agreement with Braun Blaising & Wynne, P.C. for up to \$100,000 for services through FY2023

Date: February 23, 2023

RECOMMENDATION

Approve the first amendment to the professional services agreement with Braun Blaising & Wynne, P.C. to increase the not-to-exceed amount to \$100,000, and to authorize the Chief Executive Officer or Chief Financial Officer to execute the agreement.

BACKGROUND

On April 19, 2021, Braun Blaising Smith Wynne, P.C. (BBSW) (who has recently changed its name to BB&W) was authorized by the San Diego Community Power (SDCP) interim Chief Executive Officer, Bill Carnahan, through the SDCP Procurement Policy and Delegated Contract Authority Policy to provide regulatory and legal services related to, among other things, rates, rules, policies and regulations affecting Community Choice Aggregation (CCA) programs with an annual recurring not-to-exceed amount of \$60,000.

Subsequently, on June 23, 2022, the SDCP Board of Directors (Board) approved the FY 2022-23 annual operating budget which included and authorized the renewal of the BB&W contract for FY2023 with a not-to-exceed amount of \$60,000.

Through January 31, 2023, SDCP has spent \$53,962 in FY2023 for legal services through BB&W with an average monthly burn rate of \$7,709 and anticipates needing to increase its not-to-exceed amount to \$100,000 to maintain legal services with BB&W through the end of the fiscal year.

ANALYSIS AND DISCUSSION

Since the start of FY2023, BB&W, in an increasingly challenging regulatory and legislative environment, has supported SDCP on several key matters including drafting and filing its integrated resource plan (IRP), Renewables Portfolio Standard procurement plan, as well as its Disadvantaged Communities Green Tariff / Community Solar Green Tariff Program (DAC-GT/CSGT) Advice Letter. Further, due to past and current staffing constraints within

the internal SDCP team as well as declining external support from other regulatory counsel, BB&W has been and is expected to continue to provide more extensive support than was originally contemplated. SDCP staff expects that increasing the not-to-exceed amount as detailed herein will ensure that BB&W will be able to support SDCP in the coming months with regular compliance filing activity, comments on the Draft Resolution for DAC-GT/CSGT program approval, as well as other ongoing regulatory initiatives.

The term of the current agreement is through June 30, 2023 and doesn't include additional capacity for services not anticipated at the time the Agreement was issued at the start of FY 2023. Of the \$60,000 not-to-exceed amount available in the Agreement, there is \$6,038 remaining as of January 31, 2023. Staff therefore propose increasing the not-to-exceed amount of the Agreement to \$100,000 for additional services through June 30, 2023.

COMMITTEE REVIEW

The report was not reviewed by the Finance and Risk Management Committee (FRMC).

FISCAL IMPACT

Approval of this amendment will increase the BB&W contract by \$40,000 to a new total not-to-exceed amount of \$100,000 for FY2023. The increased contract amount is additionally included in the proposed FY 2022-23 amended budget which was reviewed by the Finance and Risk Management Committee on February 8, 2023 and is an action item for the Board on February 23, 2023.

ATTACHMENTS

Attachment A: Legal Services Agreement amendment with BB&W.



**FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT BETWEEN
SAN DIEGO COMMUNITY POWER AND BRAUN BLAISING SMITH WYNNE, P.C.**

THIS FIRST AMENDMENT (this “Amendment”) is entered into as of this February 23, 2022 by and between SAN DIEGO COMMUNITY POWER, a California joint powers agency (“SDCP”) and BRAUN BLAISING & WYNNE, P.C., (“Consultant”). SDCP and Consultant are sometimes individually referred to herein as the “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the Parties entered into that certain Legal Services Agreement between San Diego Community Power and Braun Blaising Smith Wynne, P.C., dated April 19, 2021 (the “Agreement”) with an annual recurring term starting July 1, 2021; and

WHEREAS, Braun Blaising Smith Wynne, P.C. amended its articles of incorporation, effective July 1, 2022, to reflect the new name for the corporation, Braun Blaising & Wynne, P.C.; and

WHEREAS, pursuant to section 3.F of the Agreement, the total amount of charges under this Agreement shall not exceed \$60,000 per year without the express written consent of the Client; and

WHEREAS, pursuant to the Agreement, Consultant provides regulatory and legal services related to, among other things, rates, rules, policies and regulations affecting Community Choice Aggregation (“CCA”) programs; and

WHEREAS, the Parties desire to amend the Agreement to increase the maximum compensation amount payable to Consultant for its services for the remainder of the annual term of the Agreement through June 30, 2023.

NOW, THEREFORE, it is agreed by and between the parties as follows:

1. Recitals. The Recitals set forth above are true and correct and are incorporated into the body of this Amendment as though expressly set forth herein.
2. Amendment of Section 3.F. Section 3.F of the Agreement is amended to increase the not-to-exceed amount payable by SDCP to Consultant for Consultant’s services by \$40,000 (for a total not-to-exceed amount of \$100,000 for the remainder of the annual term under the Agreement).
4. Effect of Amendment. Except as expressly set forth in this Amendment, all other sections, provisions, exhibits and commitments of the Agreement remain unchanged and in full force and effect.

5. Counterparts. This Amendment may be executed in one or more counterparts, including facsimile counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to the Legal Services Agreement between San Diego Community Power and Braun Blaising & Wynne, P.C., as of the date first set forth above.

SAN DIEGO COMMUNITY POWER

BRAUN BLAISING & WYNNE, P.C.

Name: Karin Burns
Title: Chief Executive Officer

Date: _____

Name: Scott Blaising
Title: Principal/Shareholder

Date: _____

APPROVED AS TO FORM:

SDCP General Counsel



SAN DIEGO COMMUNITY POWER Staff Report – Item 9

To: San Diego Community Power Board of Directors
From: Eric Washington, Chief Financial Officer
Via: Karin Burns, Chief Executive Officer
Subject: Approval of Fiscal Year (FY) 2022-23 Budget Amendment
Date: February 23, 2023

RECOMMENDATION

Approve the FY 2022-23 Amended Budget for net revenue of \$929,791,929 and total expenses of \$772,078,710.

BACKGROUND

On October 1, 2019, the Founding Members of San Diego Community Power (SDCP) adopted the Joint Powers Agreement (JPA) which was amended and restated on December 16, 2021. Section 4.6.2 of the JPA specifies that the SDCP Board of Directors (Board) shall adopt an annual budget with a fiscal year that runs from July 1 to June 30.

Section 7.3.1 of the JPA specifies that the board may revise the budget from time to time as may be reasonably necessary to address contingencies and unexpected expenses. On June 23, 2022, the Board approved the FY 2022-23 budget which included net revenue of \$708,984,646, operating expenses of \$694,621,893, and total expenses of \$695,936,815, resulting in net income of \$13,047,831.

Since then, the FY 2022-23 budget has had significant changes to its operating revenues and expenses. Specifically, on January 23, 2023, the Board approved a rate change, effective February 1, 2022. This rate change was largely due to significantly higher market power costs affecting all market participants and to an increase in the cost of market power supply in 2023; taken together, energy costs have driven an increase in projected expenses for remainder of FY 2022-23. Other expense adjustments include small adjustments in personnel, professional services and consultants, and general and administration costs. These adjustments are primarily due to the timing of acquiring staff, aligning with known costs and contracted services.

Staff therefore recommend approving an amendment to the FY 2022-23 budget to increase total net operating revenues to \$929,791,929 and total expenses to \$772,078,710, resulting in a net position of \$157,713,219 for FY 2022-23.

ANALYSIS AND DISCUSSION

FY 2022-23 Amended Budget

The FY 2022-23 amended budget seeks to make adjustments to the budget originally presented to the Board in June 2022. The amended budget includes both significant increases in revenues and in the cost of energy as has been previously discussed in prior Board meetings. This proposed amended budget adjusts the revenues and costs to be in line with the most recent proforma which reflects the rate change approved by the Board in January 2023.

Table 1 illustrates the proposed FY 2022-23 budget amendment in comparison to SDCP's budgets from prior years.

Table 1. SDCP Operating Budgets

SDCP Budget	Board Adoption Date	Total Expense	Net Position
Fiscal Year 2020-21 Operating Budget	6/25/20 (amended) 5/27/21	\$34,135,000	(\$7,848,092)
Fiscal Year 2021-22 Operating Budget	6/24/21 (amended) 2/24/22	\$341,934,335	\$36,119,151
Fiscal Year 2022-23 Operating Budget	6/23/22	\$695,936,815	\$13,047,831
Fiscal Year 2022-23 Amended Budget (proposed)	(amended) 2/23/23	\$772,078,710	\$157,713,219

The FY 2022-23 budget amendment includes the key assumptions outlined below. A more detailed breakdown and explanation of revenues and expenses are presented in Attachment A.

Net Revenue

The Board approved a rate change during its meeting on January 23, 2023, that was effective on February 1, 2023. The rate change increased projected net revenue in FY 2022-23 from \$708,984,646 to \$929,791,929.

Cost of Energy

Energy costs were adjusted up by 11.7% from \$661,638,828 to \$738,800,294. This increase was driven by increased market power costs affecting all market participants. SDCP is also impacted by the increase in cost of market power supply in 2023.

Operating Expenses

SDCP's non-energy operating expenses fall into five categories: personnel costs, professional services and consultants, marketing and outreach, general and administration and programs. SDCP generally has direct control of these costs and actively manages them. Overall, SDCP is proposing a reduction in non-operating expenses of 3.0% from \$32,983,065 to \$31,993,120. Overall, given the small percentage



of SDCP's total expenses, operating expenses had minimal impact on the overall total expense. Expense assumptions include the following:

- **Personnel** include salaries, payroll taxes, benefits, and excused absence and paid time off for staff. The recruitment strategy includes increasing staffing levels to 43 (instead of 40 in the adopted budget) by the end of FY 2022-23.
- **Professional Services and Consultants** include SDG&E fees, data management fees from Calpine, technical support (for rate setting, load analysis, energy scheduling, etc.), legal/regulatory services and other general contracts related to IT services, audits and accounting services.
- **Marketing and Outreach** includes expenses for mandatory enrollment notices, communication consultants, mailers, printing, sponsorships, and partnerships to inform the community of SDCP. These costs additionally include required mailers and outreach for Phase 4 enrollment.
- **General and Administration** budget covers the cost of office space, equipment, membership dues, and other general operational costs.
- **Programs** includes funding to support initial pilot programs after the SDCP Community Power Plan is launched and other community-based program efforts.

Net Income

The proposed FY 2022-23 budget results in a net position of \$157,713,219.

The following table illustrates SDCP's proposed FY 2022-23 budget amendment compared to its adopted budget for FY 2022-23.

Table 2. FY 2022-23 Budget Amendment compared to FY 2022-23 Adopted Budget

Item	FY 23 Adopted Budget, \$M	FY 23 Amended Budget, \$M	Difference
Gross Revenue	716.1	939.2	223.1
Less Uncollectible Accounts	(7.2)	(9.4)	(2.2)
Net Revenue	709.0	929.8	220.8
Cost of Energy	661.6	738.8	77.2
Non-Energy Costs	33.0	32.0	(1.0)
Subtotal Operating Expense	694.6	770.8	76.2
Debt Service	1.3	1.3	0.0
Total Expense	695.9	772.1	76.2
Net Position	13.0	157.7	
Cumulative Net Position	55.5	200.2	
Days Cash on Hand	29.2	94.8	



Community Choice Aggregator (CCA) Comparison

Upon completion of Phase 4 in FY23, San Diego Community Power's budget will be similar in proportion when compared to other similar CCAs in California and most notably to Clean Power Alliance.

Budget Development Timeline

On July 28, 2022, the Board adopted a budget development schedule as part of the SDCP Budget Policy. This development schedule includes a mid-year budget review through the proposed budget amendment.

Table 4. Current Budget Development Schedule

February	March-April	May	June	
Develop Operating Revenue Estimate Develop Operating Expense Estimate Develop financial plan for credit rating	Strategic planning sessions with SDCP Board Staff develop operating budgets Baseline budget is developed	FRMC Preview and Recommend SDCP Board Preview and feedback	SDCP Board Approval	July 1 st Budget Implemented
				 Mid-year budget review (February) Budget amendments as necessary

COMMITTEE REVIEW

The Finance and Risk Management Committee (FRMC) reviewed the preliminary proposed FY 2022-23 amended budget on February 9, 2023.

Since the meeting with the FRMC, the budget amendment was revised to increase non-energy costs from \$29.3 million to \$32.0 million primarily due to right sizing contracts based on not-to-exceed amounts rather than estimated burn rates and due to updating the timing of sponsorships and memberships. Net revenue and the cost of energy have remain unchanged.

FISCAL IMPACT

The FY 2022-23 amended budget right sizes the revenues to the rate increase approved by the board on January 23, 2023. The amendment also accounts for increases in energy costs and aligns expenses with known personnel, marketing, communications, professional services, and general and administrative costs.

The resulting FY 2022-23 budget amendment results in operating income of \$157.7 million versus \$13.0 million in the FY 2022-23 adopted budget.

ATTACHMENTS

Attachment A: FY2022-23 Budget Amendment





FISCAL YEAR 2023 AMENDED BUDGET

for the period

July 1, 2022 through June 30, 2023



San Diego Community Power
Budget Amendment for FY 2022-23
Supplemental Details

	FY 2022-23 Adopted Budget	Amendments	FY 2022-23 Budget Amendment	% of Net Revenues
OPERATING REVENUES				
Gross Ratepayer Revenues	\$716,146,107	\$223,037,659	\$939,183,767	
(Less 1% Uncollectible Customer Accounts)	(\$7,161,461)	(\$2,230,377)	(\$9,391,838)	
Net Operating Revenues	\$708,984,646	\$220,807,283	\$929,791,929	100.0%
COST OF ENERGY				
Cost of Energy	\$661,638,828	\$77,161,466	\$738,800,294	
Total Cost of Energy	\$661,638,828	\$77,161,466	\$738,800,294	79.5%
Gross Net Position	\$47,345,818	\$143,645,817	\$190,991,635	20.5%
OPERATING EXPENSES				
Professional Services and Consultants				
Data Management	\$10,541,810	\$0	\$10,541,810	
SDG&E Fees	\$2,563,226	\$0	\$2,563,226	
Technical Support	\$1,335,000	(\$45,643)	\$1,289,357	
Legal/Regulatory	\$1,330,000	(\$38,582)	\$1,291,418	
Other Services	\$1,111,000	\$474,311	\$1,585,311	
Total Prof. Svcs. Costs	\$16,881,036	\$390,085	\$17,271,121	1.9%
Personnel Costs				
Salaries	\$6,160,382	(\$314,351)	\$5,846,031	
Benefits (retirement/health)	\$1,274,972	(\$227,479)	\$1,047,494	
Payroll Taxes	\$443,464	(\$47,444)	\$396,020	
Accrued PTO	\$72,681	\$0	\$72,681	
Total Personnel Costs	\$7,951,499	(\$589,273)	\$7,362,227	0.8%
Marketing and Outreach				
Printing	\$2,323,000	\$50,738	\$2,373,738	
Sponsorships/Local Memberships	\$1,199,167	\$4,585	\$1,203,752	
Communications Consultants	\$642,000	(\$25,000)	\$617,000	
Total Mktg and Outreach Costs	\$4,164,167	\$30,322	\$4,194,489	0.5%
General and Administration				
Other G & A	\$2,037,461	(\$703,711)	\$1,333,750	
Cal CCA Dues	\$370,000	\$126	\$370,126	
Rent	\$180,000	\$0	\$180,000	
Insurance	\$3,902	\$2,505	\$6,407	
Total G & A Costs	\$2,591,363	(\$701,080)	\$1,890,283	0.2%
Programs				
Programs	\$1,607,500	(\$332,500)	\$1,275,000	
Programs (Cost-Recovery)	(\$212,500)	\$212,500	\$0	
Total Programs Costs	\$1,395,000	(\$120,000)	\$1,275,000	0.1%
Net Operating Expenses	\$32,983,065	(\$989,945)	\$31,993,120	3.4%
Total Operating Expenses	\$694,621,893	\$76,171,521	\$770,793,414	82.9%
Operating Income (Loss)	\$14,362,753	\$144,635,761	\$158,998,515	17.1%
NON-OPERATING REVENUES (EXPENSES)				
Interest and Related Expenses	\$1,314,922	(\$29,627)	\$1,285,295	
Total Non-Operating Revenues (Expenses)	\$1,314,922	(\$29,627)	\$1,285,295	0.1%
CHANGE IN NET POSITION	\$13,047,831	\$144,665,388	\$157,713,219	17.0%

I. OPERATING REVENUES

SDCP's sole source of revenue currently is from the retail sale of electricity to its customers. Revenue budgeted for FY 2022-23 reflects a full fiscal cycle of retail sales to our commercial and industrial customer base and a portion of retail sales to our residential customer base. Partial revenues from the residential customer base is due to the planned staggered phasing of customer launch dates.

II. OPERATING EXPENSES

- a) ***Cost of Energy*** – Cost of Energy includes all the various services purchased from the power market through our suppliers. This includes purchased energy, capacity, CAISO fees and other miscellaneous power market expenses.
- b) ***Personnel*** – Personnel costs include salaries, payroll taxes, benefits, and excused absence and paid time off for staff. In addition, a contingency is included for items such as expanding the internship program to as well as miscellaneous personnel related costs or additional staffing needs. The recruitment strategy includes the addition of approximately 10 new staff members during the remainder of the FY 2022-23 budget cycle to support the continued growth of SDCP.
- c) ***Professional services and consultants***
 - i) Legal/Regulatory Services – SDCP retains legal counsel to assist with the complex aspects of the regulatory, compliance, power supply contract negotiations as well as its general legal needs. This line item will also allow for the retention of a lobbyist to support SDCP's legislative and regulatory efforts, expected in the latter half of FY 2022-23.
 - ii) Technical Support – SDCP engages consultants to assist with rate setting, policies, joint rate comparisons with the IOU, load analysis, and a scheduling coordinator. After electric power is scheduled for delivery to customers and ultimately consumed by those customers, the actual electric consumption must be trued up against the forecasted and scheduled energy. This true-up occurs through the settlement process. Settlements also entail addressing a number of other market and regulatory requirements.
 - iii) Programs Consultant – Staff are beginning to develop plans for customer energy programs. This effort ranges from solicitation of feedback on programs preferred by residents and businesses to a detailed and complex application to the California Public Utilities Commission for funding. Budget amounts for consulting support and implementation are estimated.

- iv) Broker Fees – SDCP utilizes the services of brokers to assist with energy market trades.
 - v) Other Services – SDCP contracts or plans to contract for IT Services, Audit services (data and financial), Accounting services, and other services as needs. As SDCP monitors the uses of these services to determine whether it is more cost effective or efficient to bring this work in-house.
 - vi) SDG&E Service Fees – Service fees paid to SDG&E consist of a charge of a fixed fee per account per month. The rollout of phases two and three during FY 2022-23 add significant cost compared to FY 2021-22. The fees cover SDG&E's costs associated with meter reading additional data processing and bill coordination as mandated and regulated by the California Public Utilities Commission (CPUC). There are also numerous small fees associated with data requests.
 - vii) Data Management – Broad scope of services that includes all “back office” billing data validation, bill coordination with SDG&E, call center services and billing technical support, customer enrollment database management, move-in/move-out services, customer research for enrollment support, and many support functions related to data reporting.
- d) ***Marketing and Outreach***
- i) Communications Consultants – An important focus of SDCP is ensuring the community is informed about SDCP and that we build professional-level name recognition, trust, and education. This also covers the design of all required notifications sent out to customers, informing them of their enrollment in SDCP, opt-out procedures, rate comparisons, as well as other notices or educational or marketing information.
 - ii) Notices, Mailers, Printing and Sponsorship – In addition to required noticing, SDCP performs outreach to educate the community of the benefits of community choice and to encourage awareness of our mission. This will come in the form of media advertising, sponsorships of community events and organizations, mailers, as well as targeted customer communications.
 - iii) Pilot Member City Grants – Staff have proposed this funding to develop a pilot program in support of our member city climate efforts. The criteria for dispersing of this funding is still in development but is intended to consider efforts to develop and/or implement electrification, decarbonization, and climate action plans.



- e) **General and Administration** – General and Administration costs include leasing office space, industry fees or memberships (e.g., bank fees, CalCCA dues), equipment and software, as well as other general operational costs including Board and Committee expenses, Board stipends, staff travel or professional development, logo gear, and team building.

III. **NON-OPERATING REVENUES (EXPENSES)**

Non-operating revenue represents interest income earned on cash reserves. Non-operating expenses represents interest paid on borrowed funds under the bank credit facility maintained by SDCP used to finance a portion of its operations. Expenses also include other bank related fees (i.e. letter of credit issuance fees, renewal fees, etc.)



SAN DIEGO COMMUNITY POWER Staff Report – Item 10

To: San Diego Community Power Board of Directors

From: Ryan Baron, General Counsel
Nicholaus Norvell, Assistant General Counsel

Subject: Recent Changes in Brown Act Teleconferencing and Format of Future SDCP Meetings

Date: February 23, 2023

RECOMMENDATION

Receive report and provide direction regarding the use of teleconferencing under recent amendments to the Brown Act and general format for public attendance at future meetings (e.g., in-person vs. hybrid).

BACKGROUND

Prior to the COVID-19 pandemic, SDCP Board and committee meetings were held in person pursuant to the provisions of the Ralph M. Brown Act (Brown Act). Teleconferencing was allowed under the Brown Act only if a local agency complied with each of the following requirements: (1) the agenda identified each teleconference location; (2) the agenda was timely posted at each teleconference location; (3) each teleconference location was open and accessible to the public during the meeting; and (4) a quorum of the legislative body participated from within the agency's boundaries. These are generally known as the "Standard Brown Act Teleconferencing Rules."

Due to the declared COVID-19 State of Emergency and recommended social distancing measures, however, Standard Brown Act Teleconferencing Rules were not flexible enough to permit widespread teleconferencing from legislative body members' homes. Instead, from early 2020 through today, SDCP and many other public agencies throughout California have held teleconference meetings pursuant to Executive Orders and Brown Act amendments adopted as part of AB 361 in 2021.

Currently, it is anticipated that the Governor will end the declared COVID-19 State of Emergency after February 28, 2023. If the COVID-19 State of Emergency ends on that date, agencies may only be able to continue using AB 361 for teleconference meetings if: (1) state or local officials continue to impose or recommend measures to promote social distancing; and (2) the agency's legislative body has continued to make the required 30-day renewal findings and continues to do so. Although a small number of agencies may continue to make findings allowing their members to teleconference pursuant to AB 361, we anticipate that the majority of public agencies will, if they have not already, return to in-person public meetings upon the end of the declared COVID-19 State of Emergency.

For SDCP, the anticipated plan to return to in-person meetings is reflected in Resolution No. 2022-20, which sets forth the regular Board meeting schedule for 2023.

Once teleconferencing under AB 361 ends, Board meetings will be required to return to in-person meetings, subject to the Standard Brown Act Teleconferencing Rules or teleconferencing under a new law, AB 2449.

AB 2449 amends the Brown Act to provide a new teleconferencing option. AB 2449 can be used when a member of a legislative body has to attend a meeting remotely due to an emergency or other reasons supported by “just cause.” Under these new rules, a legislative body may hold a hybrid (partial in-person, partial teleconference) meeting without having to comply with the Standard Brown Act Teleconferencing Rules under certain circumstances. These circumstances are:

- ***Just Cause.*** One or more members of the legislative body (but less than a quorum) have notified the body of their need to participate remotely for just cause. Just cause is restricted to: (1) childcare or caregiving needs for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires remote participation; (2) a contagious illness that prevents in-person attendance; (3) a physical or mental disability need; or (4) travel while on official business of the agency or another state or local agency. The legislative body member must notify the legislative body at the earliest opportunity possible, including at the start of a meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the meeting.
- ***Emergency Circumstance.*** One or more members of the legislative body (but less than a quorum) experience an emergency circumstance, which is defined as a physical or family medical emergency that prevents in-person attendance, and the member requests to participate remotely. As part of their request, the member must provide a general description of the circumstances relating to their need to appear remotely; however, they are not required to disclose a medical diagnosis, disability or other confidential medical information. The legislative body must then take action on the member’s request. The member must make their request to participate remotely as soon as possible, and must make a separate request for each meeting in which they seek to participate remotely. If the request does not allow sufficient time to be placed on the posted agenda for the meeting for which the request is made, the legislative body may take action on it at the beginning of the meeting.

Please note that there are limitations on the number of times a member may use AB 2449 to participate remotely. Specifically, a member may not participate remotely for “just cause” for more than two meetings in a calendar year and, in general, may not use AB 2449 to participate remotely for more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year (or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year).



To allow one or more legislative body members to participate remotely under AB 2449, the meeting format and agendas must comply with the following:

- A quorum of the legislative body must meet in-person at a single location within SDCP's boundaries.
- SDCP must use either a two-way audio-visual system or a two-way phone service with live webcasting.
- The agenda must identify a call-in or internet-based access option for the public, along with the in-person meeting location.
- If a disruption to the online meeting occurs, the legislative body may take no further action on agenda items until public access is restored.
- The public must be able to provide comments in real-time. Public comments may not be required to be submitted in advance.
- All votes must be taken by roll call.

In addition, legislative body members participating remotely under AB 2449 must comply with the following requirements during the meeting:

- Before any action is taken, the member(s) must disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.
- The member(s) must participate through both audio and visual technology (cameras on).

ANALYSIS AND DISCUSSION

Staff and legal counsel request the Board's input on the following questions:

1. Does the Board desire for the Board, committees, and/or the CAC to be able to use the Standard Brown Act Teleconferencing Rules or AB 2449 teleconferencing?
2. Does the Board desire for Board, committee and/or CAC meetings to (1) continue to be hybrid for members of the public (to the extent technologically feasible) or (2) be hybrid for the public only if the Board permits AB 2449 teleconferencing and a member of the legislative body is participating remotely under AB 2449?

Based on the direction provided by the Board, we recommend that the Board consider the adoption of a Teleconferencing Policy to ensure that there are clear rules when teleconferencing may/may not be used by members of SDCP legislative bodies and how individuals may submit timely requests or notice so that staff can make necessary arrangements in preparing agendas, etc.



COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

N/A





SAN DIEGO COMMUNITY POWER Staff Report – Item 11

To: San Diego Community Power Board of Directors

From: Karin Burns, Chief Executive Officer

Subject: Updates to Board Compensation and Reimbursement Policy

Date: February 23, 2023

RECOMMENDATION

Adopt Resolution No. 2023-__ renaming the Board Compensation and Reimbursement Policy as the Board and Committee Compensation and Reimbursement Policy, amending the policy to include Board-appointed advisory committees, including the Community Advisory Committee, and making other changes.

BACKGROUND

At the February 24, 2022 Board of Directors meeting, the Board of Directors adopted a Board Compensation and Reimbursement Policy to provide per diem compensation to Directors (including Alternates) for attending SDCP Board meetings and reimbursement for actual and necessary expenses under certain circumstances. The Board has since amended the policy on two occasions to add reimbursement for child care expenses in relation to Directors' attendance at special meetings of the Board of Directors, and to provide per diem compensation for Directors' attendance at meetings of Board committees.

DISCUSSION AND ANALYSIS

Under the current Board Compensation and Reimbursement Policy, Directors are eligible to receive per diem compensation of \$150 for attending meetings of the Board of Directors and meetings of Board committees. The Board's compensation amount is consistent with the amount provided to SANDAG Board members and SDMTS Board members for attendance at meetings of their respective governing bodies.

To date, volunteers serving on SDCP's Community Advisory Committee (CAC) have not received compensation for meeting attendance, and since the CAC's establishment in 2020, meetings of the CAC have generally been held via teleconference pursuant to waivers to certain provisions of the Brown Act and the COVID-19 pandemic. With the anticipated return to in-person meetings under the Brown Act, CAC members will spend additional time and transportation costs to attend CAC meetings. The proposed item would provide per diem compensation to members of Board-appointed advisory committees, including the CAC, and is intended to offset some or all of the additional

costs to attend CAC meetings. If approved, per diem compensation may also help ensure that SDCP is able to continuously attract community members to serve on the CAC.

The proposed resolution would rename the existing Board Compensation and Reimbursement Policy as the “Board and Committee Compensation and Reimbursement Policy” and amend the policy to:

- Authorize per diem compensation of \$100 for members of Board-appointed advisory committees, including the Community Advisory Committee, for attendance at meetings of advisory committees. The proposed compensation amount is consistent with the amount provided to members of SANDAG’s Policy Advisory Committees.
- Limit compensation to four (4) meetings per month, the same as Directors. (In practice, the CAC typically meets one (1) time per month, but may sometimes meet twice under special circumstances or if there is a joint meeting of the Board and CAC.)
- Make CAC Members eligible for child care reimbursement during non-regular CAC meetings, similar to Directors under the policy.
- Add language noting the legal requirement that both Directors and CAC members must receive public agency ethics and sexual harassment prevention training in compliance with Government Code sections 53234 *et seq.* and 53237 *et seq.*
- Clarify that Alternates and Board-appointed committee members may be eligible for reimbursement of reasonable and necessary expenses when performing certain duties on behalf of SDCP if pre-approved by the Board of Directors (e.g., attending conferences or meetings of other governmental bodies on behalf of SDCP).

COMMITTEE REVIEW

None.

FISCAL IMPACT

The Board currently has one Board-appointed advisory committee, the CAC. The CAC meets on an approximately monthly basis and is composed of fourteen (14) members, so the likely financial impact is approximately \$16,800.

ATTACHMENTS

Attachment A: Resolution No. 2023-__ Renaming and Amending the Board Compensation and Reimbursement Policy.

Attachment B: Proposed Renamed and Amended Board and Committee Compensation and Reimbursement Policy



RESOLUTION NO. 2022-__

**A RESOLUTION OF THE BOARD OF DIRECTORS OF SAN DIEGO
COMMUNITY POWER RENAMING THE BOARD COMPENSATION AND
REIMBURSEMENT POLICY AS THE BOARD AND COMMITTEE
COMPENSATION AND REIMBURSEMENT POLICY, AMENDING THE
POLICY TO INCLUDE BOARD-APPOINTED ADVISORY COMMITTEES,
INCLUDING THE COMMUNITY ADVISORY COMMITTEE, AND MAKING
OTHER CHANGES**

A. San Diego Community Power (“SDCP”) is a joint powers agency formed pursuant to the Joint Exercise of Powers Act, Cal. Gov. Code § 6500 *et seq.*, California Public Utilities Code § 366.2, and a Joint Powers Agreement first effective on October 1, 2019 (“JPA Agreement”), as amended from time to time.

B. Section 5.10 of the JPA Agreement provides that “the Board may establish rules, regulations, policies, or procedures to govern any such commissions, boards, or committees and shall determine whether members shall be compensated or entitled to reimbursement for expenses.”

C. Government Code section 53232 *et seq.* provides that, when authorized by statute, local agencies may pay compensation to members of a legislative body for attendance at certain occurrences and to reimburse members of a legislative body for actual and necessary expenses incurred in the performance of official duties, including the activities described therein.

D. Pursuant to Government Code section 6509 and Section 3.4 of the JPA Agreement, SDCP’s powers are subject to the restrictions upon the manner of exercising power possessed by the City of Encinitas, a general law city which is authorized by statute to provide compensation and reimbursement for members of its legislative bodies.

E. On February 4, 2022, the SDCP Board of Directors adopted an initial Board Compensation and Reimbursement Policy effective March 1, 2022, as previously amended.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of San Diego Community Power as follows:

Section 1. The Board of Directors hereby renames the Board Compensation and Reimbursement Policy as the “Board and Committee Compensation and Reimbursement Policy” and amends the policy as provided in Exhibit A, attached hereto and incorporated herein.

Section 2. If any provision of this resolution, the attached policy, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the resolution or policy which can be given effect without the invalid provision or application, and to this end the provisions of this resolution and the policy are severable. The Board of Directors hereby declares that it would have

adopted this resolution and the attached policy irrespective of the invalidity of any particular portion thereof.

Section 3. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED at a meeting of the Board of Directors of San Diego Community Power held on February 23, 2023.

Chair, Board of Directors
San Diego Community Power

ATTEST:

Secretary, Board of Directors
San Diego Community Power



San Diego Community Power

Board and Committee Compensation and Reimbursement Policy

Effective Date: , 2023

Adopted/Amended by Resolution 2023-

PURPOSE

This policy ("Policy") establishes the terms and conditions for members of the Board of Directors and Board-appointed advisory committees to receive per diem compensation and reimbursement of reasonable and necessary expenses when performing their official duties on behalf of SDCP. This Policy is adopted pursuant to Government Code Section 53232 *et seq.* and must be adopted or amended by resolution.

POLICY

1. Per Diem Compensation for the Board of Directors.

a. Directors' Per Diem and Eligible Meetings. Members of the Board of Directors ("Directors") shall be entitled to receive per diem compensation as follows:

i. \$150 per day for attending meetings of the Board of Directors or Board committees, including standing and ad hoc committees.

b. Alternates. An alternate director ("Alternate") shall be entitled to receive per diem compensation where the Alternate attends a meeting in place of the regular Director and may receive reimbursement of expenses on the same terms and conditions as Directors under Section 2. Alternates shall be subject to the terms and conditions applicable to Directors in requesting and receiving per diem compensation or reimbursement under this Policy.

c. Advisory Committee Members' Per Diem and Eligible Meetings. Members of Board-appointed advisory committees ("Advisory Committees"), including the Community Advisory Committee, shall be entitled to receive per diem compensation as follows:

i. \$100 per day for attending meetings of Advisory Committees.

~~e.d.~~ Claim Forms. All per diem requests must be submitted to the Secretary or their designee on a claim form provided by the Secretary within sixty (60) days of the date for which a per diem is requested.

~~d.e.~~ Limitations.

i. Directors and Members of Advisory Committees shall not receive more than four (4) per diem payments in any calendar month.

ii. Directors to whom SDCP would pay a per diem under this Policy shall not receive a per diem if they are otherwise eligible to receive a per diem from their respective appointing agency for attendance at SDCP meetings under this Policy.

2. Reimbursement of Reasonable and Necessary Expenses.

- a. Attendance at Meetings and Events on Behalf of SDCP. Directors and ~~Board appointed~~Advisory Committee Members may receive reimbursement for actual and necessary expenses, which may include but not be limited to, travel, meals, lodging, registration, and other expenses incurred in the performance of official duties, for attendance at:
 - i. Each meeting of other governmental entities and public agencies at which the Director or ~~Committee~~Advisory Committee Member have been designated by the Board of Directors to represent SDCP;
 - ii. A conference or organized educational activity conducted in compliance with Government Code Section 54952.2(c) at which the Director or Advisory Committee Member have been approved by the Board of Directors to attend; and
 - iii. Other additional meetings or activities at which the Director has been designated by the Board of Directors to represent SDCP.
- b. Rates of Reimbursement. Actual and necessary travel, meals, lodging, and other expenses incurred in the performance of official duties as authorized under this Policy shall be reimbursed at the rates established in Internal Revenue Service Publication 463 or any successor publication, except as limited below:
 - i. For mileage reimbursement using a private vehicle, a Director's mileage costs shall not exceed the cost of coach class airfare plus costs of transportation to and from the airport at the point of departure and destination. Mileage reimbursement shall be equal to the standard rate in effect for business miles deduction by the Internal Revenue Service, as such rate is established from time to time.
 - ii. For lodging in connection with a conference or other organized educational activity, lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available at the time of booking. If the group rate is not available, the Director shall use comparable lodging consistent with this Policy.
 - iii. Directors shall use government and group rates offered by a provider of transportation or lodging services for travel and lodging whenever available.
 - iv. If a Director chooses to incur additional costs that are above the rates established under this Policy, or are not otherwise pre-approved by the Board, then the Director may do so at their own expense.
- c. Child Care Expenses During Special Board Meetings. Directors may receive reimbursement for actual and necessary child care expenses incurred during the Director's attendance at any meetings of the Board of Directors other than regular Board meetings. Advisory Committee Members may receive reimbursement for actual and necessary child care expenses incurred during the Advisory Committee Member's attendance at any meetings of the Advisory Committee other than regular monthly meetings. The reimbursement rate for child care expenses shall not exceed \$20 per hour. If a Director or Advisory Committee Member chooses to incur additional costs that are

- above this rate, or are not otherwise pre-approved by the Board, then the Director or Advisory Committee Member may do so at their own expense.
- d. Pre-Approval by Board of Directors. Except for reimbursements authorized under subsection (c), all reimbursements under this Policy shall be approved by the Board of Directors in a public meeting before the expense is incurred. All expenses that do not fall within subsection (b) or (c) the rates provided therein shall be approved by the Board of Directors in a public meeting before the expense is incurred.
 - e. Claim Forms. All expense reimbursement claims must be submitted to the Secretary or their designee within sixty (60) days of incurring the expense on a claim form provided by the Secretary. Claim forms for expense reimbursement shall be accompanied by the receipts documenting each expense. If no receipt is available, a written explanation and other proof of the expenditure (if available) is required.
 - f. Reporting. Directors and Advisory Committee Members shall provide brief reports on attendance at meetings or events subject to reimbursement at the next regular meeting of the Board.
 - f.g. Training Requirements. Directors and Advisory Committee Members eligible to receive per diem compensation or reimbursement of expenses under this Policy shall receive ethics training and sexual harassment prevention training in accordance with Government Code sections 53234 et seq. and 53237 et seq.



SAN DIEGO COMMUNITY POWER Staff Report – Item 12

To: San Diego Community Power Board of Directors

From: Lucas Utouh, Director of Data Analytics and Account Services

Via: Karin Burns, Chief Executive Officer

Subject: Approval of New Rate TOU-ELEC

Date: February 23, 2023

RECOMMENDATION

Approve the new domestic time-of use rate for households with electric vehicles, energy storage or electric heat pumps contained in Attachment A to be effective as of February 1, 2023.

BACKGROUND

Prior to San Diego Community Power's (SDCP) launch and initial enrollment of customers in March 2021, customers received bundled electric service (both generation and delivery) from San Diego Gas & Electric (SDG&E) under a wide variety of rate schedules. As customers transition into SDCP service, they become "un-bundled", effectively splitting the charge between SDG&E for transmission/delivery services, and SDCP for generation services. For ease in customer understanding and comparison to SDG&E service, SDCP mirrors SDG&E rate schedule structure including time-of-use periods.

Following SDCP's Board of Directors' approval of SDCP's comprehensive 2023 rates at the 3% value proposition on 1/23/2023, SDG&E and SDCP residential customers who meet one or more of the following criteria can on a voluntary basis take service under TOU-ELEC as of 1/31/2023. This new rate aims to encourage greenhouse gas ("GHG") reduction by promoting electrification of behind-the-meter technologies and is available to customers who have at least one of the following:

- 1) Require service for charging of a currently registered Motor Vehicle, as defined by the California Motor Vehicle Code, which is: a) a battery electric vehicle (BEV) or plug-in hybrid electric vehicle (PHEV) recharged via a recharging outlet at the customer's premises; or b) a natural gas vehicle (NGV) refueled via a home refueling appliance (HRA) at the customer's premises;
- 2) Have a behind the-meter energy storage device that is interconnected through SDG&E's Electric Rule 21;
- 3) Have an electric heat pump for water heating or climate control.

For SDCP customers wanting to opt-in to this rate, its adoption by the Board of Directors will allow them to realize the benefits of receiving more renewable energy content at the Board approved 3% value proposition in 2023 relative to SDG&E.

ANALYSIS AND DISCUSSION

Understanding the need to remain cost competitive, and the many broader financial pressures our customers face, SDCP's proposed equivalent TOU-ELEC rate will provide customers with an enhanced savings of 3% for our base product, PowerOn, compared to SDG&E's base product while offering a substantially higher renewable energy content.

TOU-ELEC is available to customers who meet the criteria previously described and also is available for those who qualify for the California Alternate Rates for Energy (CARE) program and/or Medical Baseline. As approved by the CPUC, there is a cap of 10,000 customers who may take service on this rate. According to SDG&E, customers that opt-in to TOU-ELEC within its first year of being offered have the option to return to their previous rate schedule prior to the 12-month requirement. The time periods and seasonal articulation associated with this new rate are as follows:

Time Periods:

All time periods listed are applicable to actual "clock" time)

TOU Period – Weekdays	Summer	Winter
On-Peak	4:00 p.m. – 9:00 p.m.	4:00 p.m. – 9:00 p.m.
Off-Peak	6:00 a.m. – 4:00 p.m.; 9:00 p.m. – midnight	6:00 a.m. – 4:00 p.m. Excluding 10:00 a.m.–2:00 p.m.in March and April; 9:00 p.m. - midnight
Super-Off-Peak	Midnight – 6:00 a.m.	Midnight – 6:00 a.m. 10:00 a.m. – 2:00 p.m. in March and April

TOU Period – Weekends and Holidays	Summer	Winter
On-Peak	4:00 p.m. – 9:00 p.m.	4:00 p.m. – 9:00 p.m.
Off-Peak	2:00 p.m. – 4:00 p.m.; 9:00 p.m. – midnight	2:00 p.m. – 4:00 p.m. 9:00 p.m. - midnight
Super-Off-Peak	Midnight – 2:00 p.m.	Midnight – 2:00 p.m.

Seasons:

Summer June 1 – October 31

Winter November 1 – May 31

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

Attachment A: SDCP's TOU-ELEC rate Effective February 1, 2023



Rates effective February 1, 2023

CCA Rate Name	Season	Charge Type	Time of Use Period	PowerOn (\$/kWh)	Power100 (\$/kWh)
TOU-ELEC	Summer	Generation - 2020 Vintage	On-Peak	\$0.49576	+ \$0.0075
TOU-ELEC	Summer	Generation - 2020 Vintage	Off-Peak	\$0.14161	+ \$0.0075
TOU-ELEC	Summer	Generation - 2020 Vintage	Super Off-Peak	\$0.09501	+ \$0.0075
TOU-ELEC	Winter	Generation - 2020 Vintage	On-Peak	\$0.26453	+ \$0.0075
TOU-ELEC	Winter	Generation - 2020 Vintage	Off-Peak	\$0.12894	+ \$0.0075
TOU-ELEC	Winter	Generation - 2020 Vintage	Super Off-Peak	\$0.08657	+ \$0.0075

TOU-ELEC	Summer	Generation - 2021 Vintage	On-Peak	\$0.47773	+ \$0.0075
TOU-ELEC	Summer	Generation - 2021 Vintage	Off-Peak	\$0.12358	+ \$0.0075
TOU-ELEC	Summer	Generation - 2021 Vintage	Super Off-Peak	\$0.07698	+ \$0.0075
TOU-ELEC	Winter	Generation - 2021 Vintage	On-Peak	\$0.24650	+ \$0.0075
TOU-ELEC	Winter	Generation - 2021 Vintage	Off-Peak	\$0.11091	+ \$0.0075
TOU-ELEC	Winter	Generation - 2021 Vintage	Super Off-Peak	\$0.06854	+ \$0.0075

TOU-ELEC	Summer	Generation - 2022 Vintage	On-Peak	\$0.45023	+ \$0.0075
TOU-ELEC	Summer	Generation - 2022 Vintage	Off-Peak	\$0.09608	+ \$0.0075
TOU-ELEC	Summer	Generation - 2022 Vintage	Super Off-Peak	\$0.04948	+ \$0.0075
TOU-ELEC	Winter	Generation - 2022 Vintage	On-Peak	\$0.21900	+ \$0.0075
TOU-ELEC	Winter	Generation - 2022 Vintage	Off-Peak	\$0.08341	+ \$0.0075
TOU-ELEC	Winter	Generation - 2022 Vintage	Super Off-Peak	\$0.04104	+ \$0.0075

**Power100 cost = (Usage*PowerOn Rate) + (Usage*Power100 Adder)*

Generation is assessed at \$/kWh

Demand is assessed at \$/kW



SAN DIEGO COMMUNITY POWER Staff Report – Item 13

To: San Diego Community Power Board of Directors

From: Lee Friedman, Senior Manager of Strategic Partnerships

Via: Karin Burns, Chief Executive Officer

Subject: Proposed 2023-2024 Padres Sponsorship Agreement

Date: February 23, 2023

RECOMMENDATION

Approve the proposed Padres Sponsorship Agreement for the 2023 and 2024 seasons.

BACKGROUND

In August 2021, San Diego Community Power (SDCP) entered into a sponsorship agreement with the San Diego Padres (Padres) after several months of negotiation for a half-season sponsorship package. The sponsorship was part of SDCP's larger marketing strategy to improve name recognition, partner with trusted institutions, and increase impressions prior to the Phase 3 Residential Enrollment. In February 2022, based on the positive performance of the 2021 season, San Diego Community Power's Board of Directors approved a full season sponsorship through the 2022 season. During the 2022 season, the Padres announced their commitment to 100% renewable power, opting up Petco Park to Power100 as Power100 Champions, becoming the first National League ballpark powered by 100% renewable energy.

SDCP re-entered into negotiation with the Padres for the 2023 and 2024 seasons in late 2022 and is recommending the Board approve the proposed multi-year sponsorship agreement.

DISCUSSION AND ANALYSIS

SDCP, as part of its broader strategy to build trust, name recognition, and drive engagement, is proposing to enter into a full season sponsorship with the San Diego Padres for 2023 and 2024. With the departure of the San Diego Chargers in 2017, the Padres are the region's sole major market professional sports team. Since 2019 – after the significant signings of Manny Machado, Fernando Tatis Jr., Juan Soto and Xavier Bogaerts, the Padres have re-energized and re-activated their fan base resulting in Petco Park having nearly three million fans in attendance during the Padres regular season in 2022, the second-highest attendance in franchise history.

The Padres were fifth in overall attendance and ranked second as percent of ballpark capacity amongst all MLB teams, and Petco Park was voted as America's No. 1 ballpark in a USA Today poll. Additionally, the Padres are ranked first in the MLB in follower engagement with team-issued social media content in Facebook, Twitter, and Instagram, as well as ranked first in growth of followers for the same social media platforms.

SDCP began its partnership with the Padres in 2021, with its most notable in-game asset being the "Tonight's Lights" feature. This unique asset was developed specifically for SDCP as a part of the 2021 sponsorship agreement and proposed to continue through the 2022 season. At all home night games, SDCP is announced in the stadium during the pre-game show as a "proud power provider" for the Padres' lights, followed by a full video board and LED takeover.

Notably, the terms of the proposed sponsorship agreement include two new assets for San Diego Community Power:

- In-ballpark branding of select escalators promoting Petco Park as being powered by San Diego Community Power.
- A custom branded LED board *San Diego Community Power Energy Meter* "ballpark takeover" feature that will "measure" the loudness of the crowd.

SDCP will bring back several successful elements from the 2022 sponsorship package as well, including the Gameday Giveaway, the ability to host an onsite press conference, and activation kiosks for onsite booting.

For the 2023 and 2024 seasons, SDCP and Padres have negotiated the following terms:

SIGNAGE BENEFITS

- Grandstand/videoboard. SDCP (referred to as "Sponsor") shall receive one (1) half-inning of half season grandstand/videoboard LED signage (Sponsor's logo only) agreed upon Padres Games during the Term. Sponsor shall be responsible, at its sole cost and expense, for the design, production, and preparation of the content, which must be approved in advance by the Padres in its sole and absolute discretion.
- Tonight's Lights. Sponsor shall be included in pre-game messaging on the A-Z Guide and PA announcement at the start of the pre-game show, with LED support highlighting Sponsors as a "Proud Power Provider" during all evening Padres Games during the Term. Parties will mutually agree on announcement copy.
- L-bar branding. Sponsor shall receive nonexclusive L-Bar branding on all televisions, which shall rotate from approximately the time the gates open to the last pitch, in the ballpark for a half season of Padres Games during the Term. Sponsor shall pay all costs associated with branding. All branding must be mutually agreed upon.



- Fixed home plate padding. Sponsor shall receive a fixed sign on padding to the left of the rotational signage behind home plate during one (1) mutually agreed upon Padres game during each year of the Term.
- Ballpark branding. Sponsor shall be included on select ballpark escalators throughout the ballpark during each year of the Term. Branding to be mutually agreed upon. Sponsor shall be responsible, at its sole cost and expense, for the design and preparation of the content, which must be approved in advance by the Padres in its sole and absolute discretion. Padres shall be responsible for the first production and installation of the content and any subsequent necessary or Sponsor requested installations shall be at Sponsor's cost.
- Press conference. During the first year of the term, Sponsor shall prepare a press conference announcing its partnership with the Padres. The Padres shall use commercially reasonable efforts to support and provide a Padres employee for comment.
- Custom feature. Sponsor to be the presenting partner of Energy Meter/Pump Up crowd feature and shall receive logo inclusion on "ballpark takeover" LED boards for approximately five (5) seconds.

PROMOTIONAL BENEFITS

- Giveaway Item. Sponsor shall be the presenting sponsor of a giveaway item ("Giveaway Item") during each year of the Term. Sponsor shall receive name and/or logo placement on the Giveaway Item and all materials promoting the Giveaway Item. Sponsor may include, pending Padres approval, marketing materials.
- Activation Kiosk. Sponsor shall have the opportunity for an on-site activation (approximately 10' x 10' in size) in Gallagher Square during the Padres Game at which the Giveaway Item is distributed. Sponsor shall have the right to produce and distribute brochures and collateral material to fans that visit the activation kiosk at its sole cost and expense. All brochures or other collateral materials disseminated must be approved in advance by the Padres, in its sole and absolute discretion. Sponsor shall be responsible for all staffing of the Activation Kiosk, with staff subject to the Padres approval as well as the rules and regulations for the Padres game day employees. Up to four (4) staff members will be allowed to enter the event, without a ticket, to work at the Activation Kiosk.
- Padres Email. Sponsor shall have the opportunity to include promotional material in one (1) dedicated email blast during each year of the Term. Sponsor shall pay all production costs associated with the promotional piece. All promotional material must be approved in advance by Padres in its sole and absolute discretion
- Direct Mail. Sponsor shall also have the opportunity to announce Sponsor's sponsorship of the Padres in two (2) direct mailings by Sponsor, within the Padres home television territory. Sponsor shall be allowed to include the official Padres logo in these mailings, subject to Padres prior written approval.
- Social Media Posts. Sponsor shall be entitled to one (1) mutually agreed upon post on Padres - controlled Instagram, Facebook or Twitter accounts each year during the Term around Earth Day.



- Community Booth Activation. Sponsor shall have the opportunity for an on-site activation at the main concourse's Community Booth for up to two (2) mutually agreed upon dates during the Term. Up to four (4) staff members will be allowed to enter the event, without a ticket, to work at the activation.
- Health and Wellness Expo. Sponsor shall have the opportunity to activate at the Padres Health and Wellness Expo. Sponsor shall have the right to produce and distribute brochures and collateral materials to employees at its sole cost and expense. All brochures or other collateral materials disseminated must be approved in advance by the Padres, in its sole and absolute discretion. Sponsor shall be responsible for all staffing of the Activation Kiosk, with staff subject to the Padres approval as well as the rules and regulations for the Padres game day employees. Up to four (4) staff members will be allowed to enter the event, without a ticket, to work at the Activation Kiosk. specific to the Giveaway Item in Sponsor's marketing and promotional activities

HOSPITALITY BENEFITS

- Networking Events. Sponsor may receive invitations to select partner networking events throughout the Term, in Padres sole and absolute discretion.
- Ticket Bank. Padres shall provide Sponsor with a five thousand dollar (\$5,000) ticket bank to be used for mutually agreed upon single game tickets or suite tickets during each regular season of the Term. The ticket bank must be used in its entirety during each regular season of the Term. Any unused funds remaining in the ticket bank at the end of the regular season will be forfeited.
- Friar and Pad Squad Appearance. Sponsor shall be entitled to Padres promotional appearance (such as Pad Squad and Friar) at one (1) mutually agreed upon date and location during each year of the Term.
- First Pitch. Sponsor shall be entitled to have one (1) representative throw out the honorary first pitch at one (1) mutually agreed upon Padres Game during each year of the Term.

COMMITTEE REVIEW

None.

FISCAL IMPACT

The total cost of the 2023 Season Sponsorship is \$250,000 and shall be paid in full by April 1st, 2023. The total cost of the 2024 Season Sponsorship is \$260,000 and shall be paid in full by April 1st, 2024

ATTACHMENTS

Attachment A: Proposed 2023 & 2024 Sponsorship Agreement
Attachment B: 2022 Sponsorship Season Metrics Report
Attachment C: Padres Sponsorship General Provisions



SPONSORSHIP AGREEMENT

I. SPONSOR:

Name	San Diego Community Power
Address	PO Box 12716, San Diego CA 92112
Phone	619-550-8373
Email	kburns@sdcommunitypower.org
Attention	Karin Burns, CEO

II. SPONSORSHIP BENEFITS:

In consideration of the timely payment of the fees set forth below, and subject to the terms and conditions of the Agreement, Padres, L.P. (the “Padres”) shall provide Sponsor with the following benefits:

Signage Benefits	<p>Grandstand/Videoboard. Sponsor shall receive one (1) half-inning of half season grandstand/videoboard LED signage (Sponsor’s logo only) agreed upon Padres Games during the Term. Sponsor shall be responsible, at its sole cost and expense, for the design, production, and preparation of the content, which must be approved in advance by the Padres in its sole and absolute discretion.</p> <p>Tonight’s Lights. Sponsor shall be included in pre-game messaging on the A-Z Guide and PA announcement at the start of the pre-game show, with LED support highlighting Sponsors as a Proud Power Provider during all evening Padres Games during the Term. Parties will mutually agree on announcement copy.</p> <p>L-Bar Branding. Sponsor shall receive nonexclusive L-Bar branding on all televisions, which shall rotate from approximately the time the gates open to the last pitch, in the Ballpark for a half season of Padres Games during the Term. Sponsor shall pay all costs associated with branding. All branding must be mutually agreed upon.</p> <p>Fixed Home Plate Padding. Sponsor shall receive a fixed sign on padding to the left of the rotational signage behind home plate during one (1) mutually agreed upon Padres Game during each year of the Term.</p> <p>Ballpark Branding. Sponsor shall be included on select ballpark escalators throughout the Ballpark during each year of the Term. Branding to be mutually agreed upon. Sponsor shall be responsible, at its sole cost and expense, for the design and preparation of the content, which must be approved in advance by the Padres in its sole and absolute discretion. Padres shall be responsible for the first production and installation of the content and any subsequent necessary or Sponsor requested installations shall be at Sponsor’s cost.</p> <p>Press Conference. During the first year of the term, Sponsor shall prepare a press conference announcing its partnership with the Padres. The Padres shall use commercially reasonable efforts to support and provide a Padres employee for comment.</p> <p>Custom Feature. Sponsor to be the presenting partner of Energy Meter/Pump Up crowd feature and shall receive logo inclusion on “ballpark takeover” LED boards for approximately five (5) seconds.</p>
Promotional Benefits	<p>Giveaway Item. Sponsor shall be the presenting sponsor of a giveaway item (“Giveaway Item”) during each year of the Term. Sponsor shall receive name and/or logo placement on the Giveaway Item and all materials promoting the Giveaway Item. Sponsor may include, pending Padres approval, marketing materials specific to the Giveaway Item in Sponsor’s marketing and promotional activities</p>

	<p>Activation Kiosk. Sponsor shall have the opportunity for an on-site activation (approximately 10' x 10' in size) in Gallagher Square during the Padres Game at which the Giveaway Item is distributed. Sponsor shall have the right to produce and distribute brochures and collateral material to fans that visit the activation kiosk at its sole cost and expense. All brochures or other collateral materials disseminated must be approved in advance by the Padres, in its sole and absolute discretion. Sponsor shall be responsible for all staffing of the Activation Kiosk, with staff subject to the Padres approval as well as the rules and regulations for the Padres game day employees. Up to four (4) staff members will be allowed to enter the event, without a ticket, to work at the Activation Kiosk.</p> <p>Padres Email. Sponsor shall have the opportunity to include promotional material in one (1) dedicated email blast during each year of the Term. Sponsor shall pay all production costs associated with the promotional piece. All promotional material must be approved in advance by Padres in its sole and absolute discretion</p> <p>Direct Mail. Sponsor shall also have the opportunity to announce Sponsor's sponsorship of the Padres in two (2) direct mailings by Sponsor, within the Padres home television territory. Sponsor shall be allowed to include the official Padres logo in these mailings, subject to Padres prior written approval.</p> <p>Social Media Posts. Sponsor shall be entitled to one (1) mutually agreed upon post on Padres - controlled Instagram, Facebook or Twitter accounts each year during the Term around Earth Day.</p> <p>Community Booth Activation. Sponsor shall have the opportunity for an on-site activation at the main concourse's Community Booth for up to two (2) mutually agreed upon dates during the Term. Up to four (4) staff members will be allowed to enter the event, without a ticket, to work at the activation.</p> <p>Health and Wellness Expo. Sponsor shall have the opportunity to activate at the Padres Health and Wellness Expo. Sponsor shall have the right to produce and distribute brochures and collateral materials to employees at its sole cost and expense. All brochures or other collateral materials disseminated must be approved in advance by the Padres, in its sole and absolute discretion. Sponsor shall be responsible for all staffing of the Activation Kiosk, with staff subject to the Padres approval as well as the rules and regulations for the Padres game day employees. Up to four (4) staff members will be allowed to enter the event, without a ticket, to work at the Activation Kiosk.</p>
Hospitality Benefits	<p>Networking Events. Sponsor may receive invitations to select partner networking events throughout the Term, in Padres sole and absolute discretion.</p> <p>Ticket Bank. Padres shall provide Sponsor with a five thousand dollar (\$5,000) ticket bank to be used for mutually agreed upon single game tickets or suite tickets during each regular season of the Term. The ticket bank must be used in its entirety during each regular season of the Term. Any unused funds remaining in the ticket bank at the end of the regular season will be forfeited.</p> <p>Friar and Pad Squad Appearance. Sponsor shall be entitled to Padres promotional appearance (such as Pad Squad and Friar) at one (1) mutually agreed upon date and location during each year of the Term.</p> <p>First Pitch. Sponsor shall be entitled to have one (1) representative throw out the honorary first pitch at one (1) mutually agreed upon Padres Game during each year of the Term.</p>

III. TERM:

The term (the “Term”) shall commence on January 1, 2023 and end on October 31, 2024 (unless terminated earlier in accordance with the General Provisions).

IV. ANNUAL PAYMENT(S):

Sponsor shall pay Padres pursuant to the following schedule:

2023 \$250,000 paid to Padres, due on or before April 1, 2023

2024 \$260,000 paid to the Padres, due on or before April 1, 2024

V. GENERAL:

1. The Effective Date is [____], 2023.
2. Each of the signatories to this Agreement represent they are duly authorized representatives of their respective party to this Agreement and fully represent and warrant that they have the actual corporate authority to execute this Agreement on behalf of their respective party.
3. The parties consent to the use of an electronic signature for the purposes of signing this Agreement.
4. Except as otherwise provided herein, all amendments to this Agreement shall be in writing and executed by both parties.
5. **This Agreement (the “Agreement”) consists of (1) this Sponsorship Agreement and (2) the General Provisions, available at www.padres.com/sponsorshipagreement, as may be updated from time to time. Sponsor acknowledges and agrees to be bound by the General Provisions, which are hereby incorporated into this Agreement. In the event of a conflict between the terms of this Sponsorship Agreement and the General Provisions, the terms of the General Provisions shall prevail. Any capitalized term used herein and not otherwise defined herein shall have the meaning set forth in the General Provisions.**

Upon execution by both parties, this Agreement is a binding legal contract.

PADRES, L.P.

SPONSOR

By: _____
Erik Greupner

By: _____
Karin Burns

Its: Chief Executive Officer

Its: Chief Executive Officer

SPONSORSHIP AGREEMENT GENERAL PROVISIONS

This Agreement (the “Agreement”) consists of (1) the Sponsorship Agreement and (2) these General Provisions. In the event of a conflict between the terms of the Sponsorship Agreement and these General Provisions, the terms of these General Provisions shall prevail.

1. **Sponsorship Benefits.** During the Term, for and in consideration of the Payments set forth herein, the Padres, which operates and controls the Major League Baseball (“MLB”) team known as the San Diego Padres (the “Team”), will furnish to Sponsor the Sponsorship Benefits set forth in the Sponsorship Agreement (the “Sponsorship Benefits”), subject to any limitations and conditions imposed by the Office of the Commissioner of Baseball generally or with respect to specific events such as nationally-televised games, World Baseball Classic, All-Star Games, playoff games and World Series Games (“MLB Events”). Any Sponsorship Benefits that are unused by Sponsor in the applicable year of the Term shall expire.
2. **Term.** The Term shall commence and end on the dates set forth in the Sponsorship Agreement, unless terminated earlier in accordance with this Agreement, provided, however, that in no event shall the Term extend beyond the term of the Joint Use and Management Agreement by and between the City of San Diego and Padres, L.P. dated as of February 1, 2000.
3. **Payments.**
 - a. In consideration of the Sponsorship Benefits to be furnished by the Padres to Sponsor, Sponsor shall pay to the Padres the Annual Payments identified in the Sponsorship Agreement on the dates set forth therein. Sponsor shall not set off against any Annual Payment the amount of any Monetary Obligation (defined below) of the Padres to Sponsor.
 - b. Sponsor is responsible for paying the following items directly and shall not deduct from or offset such items against the Annual Payment: (i) any agency fees or commissions Sponsor incurs in connection with the transactions contemplated by this Agreement; or (ii) any tax, fee or levy that any federal, state or local government agency imposes on the transactions contemplated by this Agreement. Sponsor’s obligation in the previous clause excludes income taxes payable by the Padres. Sponsor shall reimburse the Padres for any amount described in the first sentence of this paragraph that the Padres becomes obligated to pay.
 - c. Forms of payment accepted are corporate check, cashier’s check and wire transfer only.
4. **Responsibility for Materials; Advertising Copy.**
 - a. The Padres shall be responsible, at its sole cost and expense, for maintaining the fixed panel structures and (if applicable) the lighting system for the advertising copy in or on any signage to be furnished hereunder (the “Signage”).
 - b. Sponsor shall be responsible, at its sole cost and expense, for: (i) the designing, producing and preparing of all advertising copy and commercial messages to be displayed, published, broadcast, telecast or distributed pursuant to this Agreement in accordance with the deadlines established by the Padres; (ii) furnishing to the Padres the name, brand names, trademarks, service marks, logos or other identification (the “Mark(s)”) of Sponsor, for use in any advertisements or commercial messages to be furnished hereunder; and (iii) maintaining the advertising copy displayed in or on the Signage in good and attractive order, repair and condition throughout the Term, including the cost of painting or repainting the advertising copy displayed on the Signage to the extent necessary in the reasonable judgment of the Padres.
 - c. All advertising copy and commercial messages displayed, published, broadcast, telecast or distributed pursuant to this Agreement, and all characteristics thereof (including without limitation design, layout, elevation, configuration, content, size and color), must be approved in advance by the Padres and, if applicable, MLB. Sponsor acknowledges that the maintenance of the Padres’ reputation and image are paramount. Sponsor agrees that the Padres may withdraw approval granted pursuant to this Section 4(c) if any previously approved advertising copy or commercial messages may bring Sponsor, the Padres or its or their services into public disrepute, contempt, scandal or ridicule, or which provokes, shocks, insults or offends the community, or which injures, or may injure, the success of the Padres.

- d. Sponsor shall have the right to change or modify any advertising copy displayed pursuant to this Agreement, subject to the Padres' right of approval of all proposed changes or modifications (and the timing thereof). Any changes or modifications of advertising copy shall be designed, produced and prepared and, if applicable, erected and installed, at Sponsor's sole cost and expense. Sponsor agrees to provide the Padres with all proposed changes or modifications of advertising copy at least 30 days prior to the proposed date of display thereof.
 - e. The Padres shall have the right to change or modify any Signage in the event it is displayed in an area that is being upgraded or retrofitted. In the event that such an upgrade affects the Signage, the Padres shall be responsible for all costs related to the design, production and preparation of the replacement Signage, subject to Sponsor's approval, which shall not be unreasonably withheld.
5. Display of Signage. All advertising copy to be displayed on Signage shall be displayed on such Signage (and with respect to Signage designed to be illuminated, illuminated during night games) during all regular-season Team home baseball games (each, a "Padres Game") scheduled to be played at the ballpark located on Parcel 1 of Parcel Map No. 19494, in the City of San Diego, County of San Diego, State of California, according to the map thereof filed in the Office of the County Recorder or San Diego County, on May 25, 2004 (the "Ballpark") or as otherwise set forth in the Sponsorship Agreement. The location, size, content and display of all Signage is subject to all applicable laws, including without limitation any applicable sign ordinance, and subject to MLB requirements and conditions, whether applicable generally or with respect to specific events such as MLB Events, and whether applicable to all categories of advertiser or only to certain categories.
6. Use of Trademarks and Service Marks. Sponsor hereby grants to the Padres a limited, royalty free license to display the Sponsor's Marks in any advertisements or commercial messages to be furnished hereunder. Except as expressly provided herein, neither party shall have the right to use, or obtain an interest in, the Marks of the other party or its affiliates without the other party's prior written consent. All advertising or promotional materials displayed, distributed or otherwise used pursuant to this Agreement in conjunction with the Padres' Marks must be approved in advance by the Padres in each case.
7. Indemnity; Insurance; and Assumption of the Risk.
- a. The Padres agrees to indemnify, protect, defend, and hold harmless Sponsor, its affiliates, predecessors and successors, owners, agents, partners, officials, employees and representatives (collectively, the "Sponsor Parties") from and against any and all actions, demands, liabilities, losses, claims, damages, costs or expenses, including without limitation court costs and reasonable attorneys' fees (collectively, the "Claims"), arising from the gross negligence or willful misconduct of the Padres or any of its affiliates, predecessors and successors, owners, agents, partners, officials, employees or representatives in connection with or related to this Agreement. In the event that any Claim is brought against any of Sponsor Parties, then, upon receipt of notification of such Claim, the Padres will assume the defense of such Claim and, upon the request of one or more of Sponsor Parties, will permit such party or parties to participate in the defense, such participation to be at such party's expense. This provision shall survive any cancellation or termination of this Agreement as to activities which occurred while this Agreement was in force.
 - b. Sponsor agrees to indemnify, protect, defend, and hold harmless the Padres, the City of San Diego, the Public Facilities Financing Authority and their respective affiliates, predecessors and successors, owners, agents, partners, officials, employees and representatives (collectively, the "Padres Parties") from and against any and all Claims: (i) for libel, slander, defamation, invasion of privacy, improper trade practices, illegal competition, infringement of trademark, trade name, copyright, licenses or other proprietary rights, or unfair competition, arising from or alleged to arise from the display, publication, broadcast, telecast or distribution of any advertising copy or commercial message furnished by Sponsor Parties, or of Sponsor's Marks furnished by Sponsor Parties; (ii) arising from the use of Sponsor's products or services; or (iii) arising from the negligence or willful misconduct of any of Sponsor Parties. In the event that any Claim is brought against any of the Padres Parties, then, upon receipt of notification of such Claim, Sponsor will assume the defense of such Claim and, upon the request of one or more of the Padres Parties, will permit such party or parties to participate in the defense, such participation to be at such party's expense. This provision shall survive any cancellation or termination of this Agreement as to activities which occurred while this Agreement was in force.

c. Sponsor must obtain, and continuously maintain at its own expense, and require each of its own subcontractors to obtain and maintain, the following insurance policies:

1. Workers' Compensation Insurance (or its equivalent in the country in which it operates) in compliance with state or provincial laws, covering employees, volunteers, temporary workers and leased workers, including Employers' Liability with minimum limits of:

\$1,000,000 Each Accident;
\$1,000,000 Disease - Each Employee;
\$1,000,000 Disease - Policy Limit.

2. An Insurance Services Office (or its equivalent) occurrence based Commercial General Liability Insurance Policy, providing coverage for bodily injury and property damage and personal and advertising injury including contractual liability and products/completed operations liability coverage with minimum limits of:

\$1,000,000 Each Occurrence;
\$2,000,000 General Aggregate;
\$2,000,000 Products/Completed Operations Aggregate.

Products completed/operations insurance shall be maintained for a minimum period of three (3) years after final payment and Sponsor shall continue to provide evidence of such coverage to Owner on an annual basis during the aforementioned period.

3. Automobile Liability Insurance, covering owned, non-owned, leased or hired automobiles, with a minimum combined single limit of \$1,000,000 Each Accident.
4. Media Liability or equivalent Professional Liability Insurance, with a minimum limit of \$10,000,000 Each Claim to cover third-party claims of intellectual property rights infringement including but not limited to infringement of trademark, copyright, trade name, trade dress, slogan, and rights of publicity claims.
5. Umbrella Liability Insurance, in excess of 1, 2 & 3 above, with minimum limits of:

\$25,000,000 Each Occurrence;
\$25,000,000 General Aggregate.

Umbrella policies must follow form of the underlying policies.

All insurance policies must be issued by an admitted insurance carrier with an A.M. Best rating of A-8 or better. Padres and each of its subsidiaries or affiliated entities, any entity which, now or in the future, controls, is controlled by, or is under common control with the Padres, and its and their directors, officers and employees ("Additional Insureds") must be named as additional insureds on the Commercial General Liability, Commercial Automobile Liability, Media Liability and Umbrella Liability Policies. Additional insured coverage shall be extended to include products-completed operations coverage. All liability insurance policies must provide Cross Liability coverage (separation of insureds or severability of interest provisions). The Commercial General Liability policy shall include no third-party-over action exclusions or similar endorsements or limitations. The Commercial General Liability policy shall include no exclusion for communicable disease, including but not limited to COVID-19, coronavirus or other related or similar illnesses or conditions. Sponsor's liability policies shall include no exclusion for claims by employees of any of Sponsor's contractors, subcontractors or independent contractors. Further, coverage for the Additional Insureds shall apply on a primary and non-contributory basis irrespective of any other insurance, whether collectible or not. No policy shall contain a self-insured retention. No policy shall contain a deductible in excess of \$25,000 and any/all deductibles shall be the sole responsibility of the Sponsor and shall not apply to the Padres. All policies shall be endorsed to provide a waiver of subrogation in favor of the Additional Insureds. Sponsor shall provide the Padres with at least 30 days' written notice if any

of the required policies are cancelled or not renewed. Sponsor shall furnish the Padres with certificates of insurance evidencing compliance with all insurance provisions noted above prior to the commencement of the Sponsorship and annually at least 10 days prior to the expiration of each required insurance policy. Sponsor shall provide Padres with copies of its insurance policies and/or endorsements upon request. If any of the required policies are written on a claims made basis, Sponsor shall maintain such coverage for a period of three years after termination of the Agreement and provide evidence of such coverage on an annual basis during the three year period. The insurance requirements set forth will in no way modify, reduce, or limit the indemnification herein made by Sponsor. Any actions, errors or omissions that may invalidate coverage for Sponsor shall not invalidate or prohibit coverage available to the Additional Insureds. Receipt by the Padres of a certificate of insurance, endorsement or policy of insurance which is more restrictive than the contracted for insurance shall not be construed as a waiver or modification of the insurance requirements above or an implied agreement to modify same, nor is any verbal agreement to modify same permissible or binding.

- d. SPONSOR, FOR SPONSOR AND SPONSOR'S GUESTS AND INVITEES, (COLLECTIVELY "SPONSOR'S GUESTS"), ASSUMES ALL RISK OF PERSONAL INJURY TO, OR FOR ANY DAMAGE TO OR ANY LOSS OF PROPERTY OF, SPONSOR OR SPONSOR'S GUESTS, ARISING OUT OF, DURING OR RELATED TO THE SPONSORSHIP BENEFITS OR THEIR USE OF THE SERVICES AND FACILITIES OF THE BALLPARK. NEITHER THE PADRES NOR ANY OF ITS AFFILIATES, INCLUDING WITHOUT LIMITATION, THE PADRES, PADRES GP, LLC, SAN DIEGO BALLPARK FUNDING LLC, AS WELL AS THE CITY OF SAN DIEGO OR THE PUBLIC FACILITIES FINANCING AUTHORITY OF THE CITY OF SAN DIEGO, A CALIFORNIA JOINT POWERS AUTHORITY, SHALL BE LIABLE OR RESPONSIBLE FOR ANY LOSS, DAMAGE OR INJURY TO ANY PERSON OR TO ANY PROPERTY OF SPONSOR OR SPONSOR'S GUESTS IN, ABOUT OR AROUND THE BALLPARK, RESULTING FROM ANY CAUSE WHATSOEVER, UNLESS SUCH LOSS, DAMAGE OR INJURY IS DUE TO THE PADRES' NEGLIGENCE OR WILLFUL MISCONDUCT.
- e. In addition, this Section is an acknowledgement and express assumption of risk and release of liability in any way related to Sponsor or Sponsor's Guests being exposed to or contracting COVID-19 (as defined by the World Health Organization) and any strains, variants, or mutations thereof, the coronavirus that causes COVID-19 and/or any other airborne, aerosolized or surface transmissible communicable and/or infectious diseases, viruses, bacteria or illnesses or the causes thereof (collectively, "Communicable Disease"), during or in connection with the use, performance or exploitation of the Sponsorship Benefits by Sponsor or Sponsor's Guests or their presence at the facilities at the Ballpark. Sponsor acknowledges and expressly assumes the risk that Sponsor or Sponsor's Guests may be exposed to Communicable Disease. Sponsor expressly understands that the risks of exposure to Communicable Disease include contracting Communicable Disease and the associated dangers, medical complications (including death) and physical and mental injuries, both foreseen and unforeseen, that may result from contracting Communicable Disease. Sponsor further acknowledges and understands that Sponsor or Sponsor's Guests' interaction with the Padres' staff, players or any other individuals involved with the use, performance or exploitation of the Sponsorship Benefits by Sponsor or Sponsor's Guests or their presence at the facilities at the Ballpark poses an elevated, inherent risk of being exposed to and contracting Communicable Disease, that it cannot be guaranteed that Sponsor or Sponsor's Guests will not be exposed to Communicable Disease, and that potential exposure to or contraction of Communicable Disease in connection with the use, performance or exploitation of the Sponsorship Benefits by Sponsor or Sponsor's Guests or their presence at the facilities at the Ballpark are risks that cannot be eliminated. If infected with Communicable Disease, Sponsor acknowledges and understands that Sponsor or Sponsor's Guests may subsequently infect others, even if Sponsor or Sponsor's Guests do not experience or display any symptoms.

In connection with the foregoing, Sponsor agrees that Sponsor or Sponsor's Guests will not participate in the use, performance or exploitation of the Sponsorship Benefits or be present at the facilities at the Ballpark if, within 14 days prior (or the number of days according to applicable guidelines), Sponsor or Sponsor's Guests: (i) tested positive or presumptively positive for Communicable Disease or was identified as a potential carrier of Communicable Disease; (ii) experienced any symptoms commonly associated with Communicable Disease, including, without limitation, fever, cough, loss of sense of taste or smell, or shortness of breath; (iii) traveled to a country that is subject to a U.S. State Department Level 4 "Do Not

Travel” Advisory or a CDC Level 3 Travel Health Notice (each, a “Prohibited Country”); and/or (iv) was in direct contact with or the immediate vicinity of any person who is either confirmed or suspected of being infected with Communicable Disease or who has travelled to a Prohibited Country within 14 days (or the number of days according to applicable guidelines) preceding Sponsor or Sponsor’s Guests encounter with such person. Sponsor further agrees that Sponsor or Sponsor’s Guests will submit to any health screening and/or Communicable Disease testing that may be required as a condition of Sponsor or Sponsor’s Guests in connection with the use, performance or exploitation of the Sponsorship Benefits by Sponsor or Sponsor’s Guests or their presence at the facilities at the Ballpark.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, SPONSOR HEREBY WAIVES, RELEASES, FOREVER DISCHARGES, AND COVENANTS NOT TO SUE THE PADRES PARTIES OR THE MLB ENTITIES (THE “RELEASED PARTIES”) FOR, AND THE RELEASED PARTIES SHALL NOT BE RESPONSIBLE FOR, ANY CLAIM, LIABILITY OR DEMAND OF WHATEVER KIND OR NATURE, EITHER IN LAW OR IN EQUITY (INCLUDING, WITHOUT LIMITATION, FOR PERSONAL INJURY, DEATH OR PROPERTY DAMAGE) THAT MAY ARISE IN CONNECTION WITH, OR RELATE IN ANY WAY TO, EXPOSURE TO OR CONTRACTION OF COMMUNICABLE DISEASE BY SPONSOR OR SPONSOR’S GUESTS OR ANY OTHER INDIVIDUAL INFECTED BY SPONSOR OR SPONSOR’S GUESTS, INCLUDING, WITHOUT LIMITATION CLAIMS RESULTING FROM THE NEGLIGENCE OF THE RELEASED PARTIES AND/OR THE INHERENT RISKS ASSOCIATED WITH PARTICIPATION IN THE USE, PERFORMANCE OR EXPLOITATION OF THE SPONSORSHIP BENEFITS BY SPONSOR OR SPONSOR’S GUESTS OR THEIR PRESENCE AT THE FACILITIES AT THE BALLPARK DURING A COMMUNICABLE DISEASE PANDEMIC.

SPONSOR FURTHER ACKNOWLEDGES AND AGREES THAT SPONSOR IS FAMILIAR WITH AND DOES HEREBY WAIVE THE PROVISIONS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE (AND SIMILAR PROVISIONS OF OTHER JURISDICTIONS) WHICH PROVIDES AS FOLLOWS: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

8. Compliance with Rules, Regulations and Policies; Conduct. All use by Sponsor and Sponsor’s Guests of any hospitality benefits granted hereunder shall be subject to the rules, regulations and policies established from time to time by the Padres and/or the Team and may be revoked in the event of the failure of Sponsor or Sponsor’s Guests to comply with such rules, regulations and policies. With respect to any hospitality benefits granted hereunder, Sponsor and Sponsor’s Guests shall maintain proper decorum, comply with all laws, rules and regulations of all governmental authorities, not suffer or permit the continuation of any use or manner of use of the hospitality benefits in violation of any applicable agreements, not create any nuisance, and not take any action which either diminishes hazard insurance coverage for the Ballpark or increases the premium payable for such insurance. Sponsor and Sponsor’s Guests shall be bound by and observe the terms and conditions upon which any admission tickets are issued or sold.
9. Temporary Interruption.
 - a. Except as otherwise provided in this Section 9, there shall be no effect on the obligations of the Padres and Sponsor as a result of a temporary failure properly to provide Sponsorship Benefits pursuant to this Agreement. The provisions of subsections (b) through (f) of this Section 9 shall constitute the sole remedy for the inability of the Padres to provide Sponsorship Benefits for any reason other than intentional breach by the Padres.
 - b. If any portion of the Signage is not properly displayed (including Signage that is damaged or not properly illuminated) during more than six Padres Games in a calendar year for any reason whatsoever, whether within or beyond the reasonable control of the Padres or the Team, including without limitation a work stoppage or temporary unavailability of the Ballpark, the Padres shall have the option, on written notice to Sponsor: (i) to extend the Term beyond its expiration to include the number of events first taking place at the Ballpark after such expiration as may be necessary to make up the number of Padres Games in excess of six such games during which such Signage was not properly displayed; (ii) to provide substitute

sponsorship benefits to Sponsor with a value at least equal to the amount paid for the affected Signage for the Padres Games in excess of six games during which such Signage was not properly displayed; or (iii) to refund to Sponsor a pro-rata portion of that part of the amount paid by Sponsor for the affected Signage, which shall be calculated by multiplying such part of the amount paid for the affected Signage by a fraction, the numerator of which shall be the number of Padres Games during which such Signage was not properly displayed minus six, and the denominator of which shall be eighty-one. All refunds shall be paid within 30 days after the end of the calendar year to which such refund applies. Notwithstanding the foregoing, in the event that any of the Signage Benefits inventory is eliminated from the Ballpark during the Term, the Padres shall provide Sponsor with substitute Signage Benefits of equal or greater value in its sole discretion.

- c. If a promotional program is scheduled to take place pursuant to this Agreement over more than six Padres Games during a calendar year, and more than six of the Padres Games in a calendar year that are part of such promotional program are not played for any reason whatsoever, whether within or beyond the reasonable control of the Padres or the Team, including without limitation a work stoppage or temporary unavailability of the Ballpark, the Padres shall have the option, on written notice to Sponsor: (i) to extend the promotional program to make up for the number of Padres Games in excess of six such games which were not played, either in the season during which the promotional program was scheduled to take place or in the succeeding season; (ii) to provide substitute sponsorship benefits to Sponsor with a value at least equal to the amount paid by Sponsor for that portion of the promotional program missed in excess of six games; or (iii) to refund to Sponsor a pro-rata portion of the amount paid for such promotional program, which shall be calculated by multiplying the amount paid by Sponsor by a fraction, the numerator of which shall be the number of Padres Games not played minus six, and the denominator of which shall be the number of Padres Games that are part of the promotional program for such calendar year. All refunds shall be paid within 30 days after the end of the calendar year to which such refund applies.
 - d. If advertising scheduled to be displayed, published, broadcast, telecast or distributed pursuant to this Agreement is not displayed, published, broadcast, telecast or distributed for any reason whatsoever, whether within or beyond the reasonable control of the Padres or the Team, including without limitation a work stoppage or temporary unavailability of the Ballpark, the Padres shall have the option, on written notice to Sponsor: (i) to provide Sponsor with the missed advertising in alternate magazine issues or broadcast availabilities or, for advertising scheduled to be displayed during Padres Games, in alternate Padres Games; (ii) to provide substitute sponsorship benefits to Sponsor with a value at least equal to the amount paid by Sponsor for the advertising missed; or (iii) to refund to Sponsor a pro-rata portion of the amount paid by Sponsor for the advertising, which shall be calculated by multiplying the amount paid by a fraction, the numerator of which shall be the number of such missed messages, and the denominator of which shall be the number of messages which Sponsor was to receive.
 - e. If any hospitality benefits to be provided pursuant to this Agreement cannot be provided for any reason whatsoever, whether within or beyond the reasonable control of the Padres or the Team, including without limitation a work stoppage or temporary unavailability of the Ballpark, the Padres shall have the option, on written notice to Sponsor: (i) to provide Sponsor with the hospitality benefits at a make-up Padres Game or to extend the hospitality benefit to make up for the number of Padres Games which were not played, either in the season during which the hospitality benefits were scheduled to take place or in the succeeding season; (ii) to provide substitute sponsorship benefits to Sponsor with a value at least equal to the amount paid by Sponsor for the hospitality benefits not received; or (iii) to refund to Sponsor a pro-rata portion of the amount paid by Sponsor for the hospitality benefits.
 - f. In no event shall the aggregate amount of remediation pursuant to subsections (b) through (e) of this Section for any calendar year exceed the Annual Payment made by Sponsor for such calendar year.
10. **Standards.** Sponsor acknowledges that maintenance of Padres' reputation and image is paramount. Sponsor agrees to conduct itself at all times with due regard to public morals and conventions and agrees that neither it nor anyone representing it will: (i) commit any act or do anything that is or shall be an offense involving moral turpitude or is an act which brings or which may bring the Padres or its services into public disrepute, contempt, scandal or ridicule, or which provokes, shocks, insults or offends the community, or which injures, or may injure, the success of the Padres; and (ii) portray the Padres or its services or mission in a false or poor light. If the Padres has a good faith and reasonable belief that Sponsor has violated the terms of this Section, it shall provide Sponsor with reasonably detailed written notice of such alleged violation and Sponsor shall have 10 calendar days

to cure such violation if it is reasonably amenable to cure; provided that if Sponsor does not cure such violation, then the Padres may terminate this Agreement. Upon termination pursuant to this Section, the Padres shall provide a refund to Sponsor of a pro-rata portion of the Annual Payment paid by Sponsor for unused Sponsorship Benefits.

11. Limitation on Damages. The parties agree that neither party shall be liable for, and in no event whatsoever shall damages or other award based on this Agreement or the performance or failure to perform any provision hereof include, any recovery for loss-of-profits, loss-of-business, special, indirect, incidental, consequential or punitive damages.
12. Default.
 - a. “Monetary Obligation” shall mean any obligation that Sponsor may satisfy with the payment of money and includes without limitation: (i) payment of the Annual Payment; (ii) reimbursement Sponsor is required to pay the Padres; and (iii) the payment of interest associated with a Monetary Obligation. “Non-monetary Obligation” shall mean any obligation that is not a Monetary Obligation. If Sponsor fails to pay any Monetary Obligation within 15 days of the date due, that obligation shall bear simple interest at the rate of 10% per year until paid.
 - b. An “Event of Default” shall mean any of the following: (i) Sponsor's failure to pay within 15 days of the date due any Monetary Obligation; (ii) Sponsor's failure to comply with any Non-monetary Obligation of this Agreement within 15 days after the Padres gives notice of such default (iii) any of the following events or occurrences occur concerning Sponsor: (1) if Sponsor is a business organization, Sponsor's existence is terminated by the dissolution, merger or sale of substantially all of its assets; (2) Sponsor makes an assignment of this Agreement in violation of its terms; (3) Sponsor attempts to resell, distribute or otherwise transfer Sponsorship Benefits to any person without obtaining the Padres' prior written consent; (4) a receiver or trustee is appointed to manage Sponsor's assets; (5) there is an assignment of substantially all of Sponsor's assets for the benefit of creditors; (6) Sponsor commences any type bankruptcy proceeding under Title 11 of the United States Code or any successor or other federal or state insolvency law (“Bankruptcy Law”); or (7) the court orders relief against Sponsor in an involuntary case under the Bankruptcy Law.
 - c. The Padres may exercise all of the following remedies if an Event of Default occurs: (i) suspend and/or terminate any or all of Sponsor's rights under this Agreement, including without limitation immediate suspension or termination of all Sponsorship Benefits; and (ii) exercise any further rights and remedies the law allows. Upon the Padres' termination of Sponsor's rights under this Agreement, Sponsor may not recover or offset against the Padres any amount Sponsor has paid or incurred under this Agreement.
13. No Legal Partnership. Notwithstanding colloquial descriptions of Sponsor as a “partner,” nothing herein shall be construed as establishing a legal partnership, joint venture or agency relationship between the Padres and Sponsor or between the Team and Sponsor. Neither the Padres nor the Team has authority to bind or act in any respect on behalf of Sponsor, and Sponsor does not have authority to bind or act in any respect on behalf of the Padres or the Team.
14. Exclusivity. No marketing exclusivity in any category or with respect to any competitors of Sponsor is conferred or implied by this Agreement except to the extent explicitly set forth in the Sponsorship Agreement.
15. Compliance with Laws. This Agreement shall be subject to all federal, state and local laws, regulations and ordinances, either presently in existence or as may be enacted, made or enforced after the effective date of this Agreement, including the regulations and actions of all governmental agencies or commissions.
16. Subservience. Notwithstanding any other provision of this Agreement, this Agreement and the rights, exclusivities and protections granted by the Padres to Sponsor hereunder shall, at the request of MLB, be subject to its review and written approval, and shall in all respects be subordinate to, and shall not prevent the issuance, entering into, or amendment of, any of the following, each as may be issued, entered into or amended from time to time (collectively, the “MLB Documents”): (i) any present or future agreements or arrangements entered into by, or on behalf of, any of the MLB entities and/or any of their respective present or future affiliates, assigns or successors (collectively, the “MLB Entities”), or the MLB Clubs acting collectively, including, without limitation, the Major League Constitution, the Basic Agreement between the MLB Clubs and the MLB Players Association, the Professional Baseball Agreement, the Major League Rules, the Interactive Media Rights Agreement, and each agency agreement and operating guidelines among the MLB Clubs and any MLB Entity; and (ii) the present and

future mandates, rules, regulations, policies, practices, bulletins, by-laws, directives or guidelines issued or adopted by, or on behalf of, the Commissioner of Baseball, the Office of the Commissioner of Baseball or any other MLB Entity. The issuance, entering into, amendment, or implementation of any of the MLB Documents shall be at no cost or liability to any MLB Entity or to any individual or entity related thereto. The territory within which Sponsor is granted rights hereunder is limited to, and nothing herein shall be construed as conferring on Sponsor rights in areas outside of, the Home Television Territory of the Padres, as established and amended from time to time pursuant to the MLB Documents. To the extent Sponsor is granted rights hereunder to or in connection with any Spring Training games: (i) the territory within which Sponsor is granted such rights hereunder is limited to, and nothing herein shall be construed as conferring on Sponsor rights in areas outside of, the "Spring Training Territory" of the Padres, as established and amended from time to time pursuant to the MLB Documents; and (ii) the time period within which Sponsor is granted such rights hereunder is limited to, and nothing herein shall be construed as conferring on Sponsor rights during any time period other than, the time period commencing immediately prior to and concluding immediately after the period in which Spring Training games are played. Except to the extent of any Club IMS Programming (as such term is defined in the MLB Documents) that is permitted to be granted by the Padres to Sponsor pursuant to the Interactive Media Rights Agreement and which is granted to Sponsor hereunder, no rights, exclusivities or obligations involving the Internet or any interactive or on-line media (as defined by the MLB Entities) are conferred by this Agreement, except as are specifically approved in writing by the applicable MLB Entity.

17. Integration. This Agreement is the final, complete and exclusive statement and expression of the agreement among the parties hereto with relation to the subject matter of this Agreement, it being understood that this Agreement embodies the justifiable expectations of sophisticated parties derived from arm's length transaction and that there are no oral representations, understandings or agreements covering the same subject matter as this Agreement. This Agreement supersedes, and cannot be varied, contradicted or supplemented by evidence of any prior or contemporaneous discussions, correspondence, or oral or written agreement of any kind. All exhibits hereto are incorporated herein by reference.
18. Severability. In case any provision of this Agreement shall be invalid, illegal or unenforceable, such provision shall be severed from this Agreement. The validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.
19. Sophistication of Parties. Each party to this Agreement represents that it is a sophisticated commercial party capable of understanding all of the terms of this Agreement, that it has had an opportunity to review this Agreement with its counsel, and that it enters this Agreement with full knowledge of the terms of the Agreement.
20. No Waiver. No delay of or omission in the exercise of any right, power or remedy accruing to any party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of any future exercise of any right, power or remedy.
21. Notices. All notices, demands, consents and approvals that may or are required to be given by any party to another hereunder shall be in writing and shall be deemed to have been fully given by: (i) personal delivery; (ii) when deposited in the United States mail, certified or registered, postage prepaid, and addressed to the party to be notified; or (iii) by electronic mail, if to Sponsor, at the address specified in the Sponsorship Agreement, and if to the Padres, at Petco Park, 100 Park Blvd, San Diego, CA 92101, Attn: General Counsel, or to such other place as the party to be notified may from time to time designate by at least 15 days' notice to the notifying party.
22. Assignment. No party shall assign this Agreement without the prior written approval of the other party; provided, however, that without obtaining such prior written approval: (i) the Padres may assign this Agreement to a transferee of the Padres' MLB franchise, to an affiliate of the Padres or to a lending institution as part of a collateral agreement; and (ii) Sponsor shall not assign this Agreement to any person unless it obtains the Padres' prior written consent which shall not be unreasonably withheld.
23. Jurisdiction and Venue. **EACH PARTY: (I) CONSENTS TO THE JURISDICTION OF THE COURTS OF THE STATE OF CALIFORNIA (OR THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA) FOR ANY ACTION OR PROCEEDING THAT ARISES OUT OF THIS AGREEMENT (WHETHER IN CONTRACT OR TORT); (II) WAIVES ANY RIGHT TO OBJECT TO JURISDICTION OF SUCH COURTS; AND (C) WAIVES ANY RIGHT TO OBJECT TO THE COURT**

HEARING ANY MATTER BASED ON THE GROUNDS OF FORUM NON CONVENIENS OR ANY ANALOGOUS CONCEPT.

24. Electronic Signatures and Counterparts. The parties agree that this Agreement will be considered signed when the signature of a party is delivered by electronic transmission. Such electronic signature shall be treated in all respects as having the same effect as an original signature. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.
25. Amendments. Except as otherwise provided herein, all amendments to this Agreement shall be in writing and executed by both parties.
26. Attorney's Fees. If any Legal Proceeding (defined below) arises out of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, litigation expenses and court costs in addition to any other remedy it may obtain or be awarded. Attorney's fees may include the reasonable value of services rendered to a party by in-house counsel. Litigation expenses shall include investigative and expert witness fees and expenses whether or not such items are otherwise recoverable under general law. "Legal Proceeding" includes but is not limited to any court action or proceeding, private arbitration or mediation, governmental administrative proceeding, or any proceeding required or permitted by MLB Documents.
27. Governing Law. This Agreement shall be interpreted and enforced according to the laws of the State of California without regard to principles of conflict of laws.



SAN DIEGO COMMUNITY POWER Staff Report – Item 14

To: San Diego Community Power Board of Directors

From: Lee Friedman, Senior Manager of Strategic Partnerships

Via: Karin Burns, Chief Executive Officer

Subject: Proposed 2023-2024 San Diego Wave Sponsorship Agreement

Date: February 23, 2023

RECOMMENDATION

Approve the proposed San Diego Wave Sponsorship Agreement for the 2023 and 2024 seasons.

BACKGROUND

In July 2022, San Diego Community Power (SDCP) entered into a partial season sponsorship with the San Diego Wave FC (SD Wave) for their inaugural season. SD Wave is San Diego's premier women's soccer team, and is captained by Alex Morgan, one of the most celebrated soccer players in the United States. The sponsorship was part of SDCP's larger marketing strategy to improve name recognition and reach a new and diverse audience.

Based on positive performance of the partial 2022 season, SDCP re-entered into negotiations with SD Wave for the 2023 and 2024 seasons in late 2022 and is recommending the Board approve the multi-year sponsorship agreement.

DISCUSSION AND ANALYSIS

SDCP, as part of its broader strategy to build trust, name recognition, and drive engagement, is proposing to enter into a full season sponsorship with the SD Wave for 2023 and 2024. As San Diego's premier women's soccer team, SD Wave held its inaugural season last year and made it all the way to the National Women's Soccer League Semi-Finals. With an already impressive and growing fan base, SD Wave signed a multi-year deal to play at the new Snapdragon Stadium and finished out their 2022 season in Snapdragon, averaging over 25,000 in attendance.

During the final game of the regular season, the SD Wave announced they would be opting up their commercial offices to Power100, becoming a Power100 Champion. At an on-field ceremony, our leadership team was joined by the CEO of the SD Wave, Jill Ellis, for a "flip-the-switch" ceremony.



Unique to the 2023 season, the SD Wave season will coincide with the Women's World Cup – which will undoubtedly bring additional attention to the SD Wave, as several members of the SD Wave team are likely to play in the World Cup.

Notably, the terms of the proposed sponsorship agreement include two new assets for San Diego Community Power:

- A player appearance for a future SDCP event.
- The ability to develop a community focused match promotion around the theme of sustainability.

SDCP will bring back several successful elements from the 2022 sponsorship package as well, including the ability to cobrand a promotional item, on-site boothing for SD Wave Fan Fest, and inclusion in an SD Wave newsletter.

For the 2023 and 2024 seasons, SDCP and the SD Wave have negotiated the following terms:

Player Appearances: Sponsor shall receive one (1) player appearance in the San Diego market each Contract Year of the Agreement not to exceed regulations set forth by the current CBA.

MATCH DAY ACTIVATION

Match Day Fan Fest Activation: Sponsor shall receive right to activate a 10x10 booth to drive brand awareness & fan engagement at a minimum of three (3) regular season home match Fan Fests during each Contract Year of the Term.

Game Day Concourse Activation: Sponsor shall receive right to activate a 10x10 booth to drive brand awareness & fan engagement at a maximum of three (3) regular season home matches on the stadium concourse, during each Contract Year of the Term.

Community Program: Sponsor shall have the opportunity to activate a match promotion between San Diego Wave FC & other in-market sports properties around the theme of sustainability. Activation to be approved by Club and agreed upon no later than May 1 of each Contract Year of the Term.

Promotional Egress Item: Sponsor will receive the right to cobrand a promotional egress item for one (1) Wave FC home match each Contract Year of the Term. Item to be mutually agreed upon by Club and Sponsor, minimum quantity of 10,000 units and will be at the sole cost of the Sponsor.



SIGNAGE

Digital Field Board Rotations: Subject to Section 2.E., sponsor will receive one (1) digital exposure package on the digital field board in the Stadium during each San Diego Wave FC pre/regular/post-season home match each Contract Year during the Term. Each exposure package will include two (2) :15-second pre-game exposure, two (2) :15-second in-game exposure, and two (2) :15-second post-game exposure during each home game. It is the Sponsor's responsibility to provide high resolution files and the applicable advertising spots in the appropriate format. The rotation schedule will be determined by Club.

Inner Bowl LED Ribbon Board: Sponsor will receive one (1) minute of rotating digital exposures on the inner bowl LED ribbon board in the Stadium during each San Diego Wave FC preseason, regular season home games each Contract Year during the Term. It is the Sponsor's responsibility to provide high resolution files and the applicable advertising spots in the appropriate format. The rotation schedule will be determined by Club.

DIGITAL MEDIA

Run of Site Banner Ad: Sponsor will receive one (1) run of site banner advertisement on Team website each Contract Year during the Term. It is Sponsor's responsibility to provide high resolution files in the appropriate format.

San Diego Wave FC Newsletter: Sponsor will receive one (1) placement in one (1) newsletter email blast sent to the San Diego Wave FC email database during each Contract Year during the Term. It is the Sponsor's responsibility to provide high resolution files in the appropriate format.

RIGHTS: TRADEMARKS AND LOGOS

San Diego Wave FC Trademarks – Club: Subject to and in accordance with the terms and conditions to be set forth in the Sponsorship Agreement, Club will grant to Sponsor the non-exclusive (except with regard to the Category), non-assignable and non-transferable, revocable, royalty-free limited right to use San Diego Wave FC Trademarks in the Territory in approved advertising and promotional materials throughout the Term.

Use of Designation - Club: Sponsor will receive the exclusive right to use the following designation in the Territory in approved advertising and promotional materials: "Official Renewable Energy Partner of San Diego Wave FC."

COMMITTEE REVIEW

None.



FISCAL IMPACT

The total cost of the 2023 Season Sponsorship is \$130,000 and shall be paid in full by April 1, 2023. The total cost of the 2024 Season Sponsorship is \$150,000 and shall be paid in full by April 1, 2024

ATTACHMENTS

Attachment A: Proposed 2023 & 2024 Sponsorship Agreement

Attachment B: 2022 Sponsorship Season Metrics Report





SAN DIEGO WAVE FC
9130 W. Sunset Blvd.
Los Angeles, CA 90069

2023 LOCAL SPONSORSHIP AGREEMENT

This document, including the Exhibit(s) attached hereto, dated, February 1, 2023, sets forth the terms of a binding sponsorship agreement ("Agreement") for the San Diego Wave Fútbol Club ("Club") in the Club's local marketing territory by and between San Diego Wave Fútbol Club ("Club Operator" or "Licensor") and the person/entity named below ("Sponsor"):

Sponsor: **San Diego Community Power**

Sponsor Commercial Category (e.g., Products/Services/Retail Operations):

Renewable Energy

Term (Start & End Dates): **February 1, 2023 - December 31, 2024**

Total Amount of Consideration (monetary and/or trade):

2023: **\$130,000**

2024 (if applicable):

\$150,000

2025 (if applicable):

Sponsor Representative: **Karin Burns**

Sponsor's Address: **P.O. Box 12716 San Diego, CA 92112**

Telephone: **619-550-8373**

E-Mail: kburns@sdcommunitypower.org

By signing below, Licensor and Sponsor agree that this Agreement constitutes the entire agreement of the parties and the provisions hereof supersede, and may not be contradicted, modified or supplemented by, evidence of any prior or contemporaneous agreements or understandings relating to the same subject matter, whether written or oral.

San Diego Wave Fútbol Club:

Agreed By: _____ Date: _____

Print Name: _____ Title: _____

SPONSOR:

Agreed By: _____ Date: _____

Print Name: _____ Title: _____

SPONSOR:

Agreed By: _____ Date: _____

Print Name: _____ Title: _____

PURSUANT TO SECTION 10.E. OF THIS AGREEMENT

APPROVED BY:

National Women's Soccer League, LLC

Agreed By: _____ Date: _____

Print Name: _____ Title: _____

RECITALS

WHEREAS Licensor operates the San Diego Wave Fútbol Club, a soccer club in the NWSL;

WHEREAS NWSL has appointed Licensor to serve as its exclusive agent with authority to license commercial affiliations within Licensor's local marketing territory, including the right to license the use of the Club Marks and certain Player Likenesses in conjunction with such local commercial affiliations, all subject to NWSL approval;

WHEREAS Licensor and Sponsor desire to enter into an agreement whereby Licensor (1) grants to Sponsor certain Rights in connection with the Club, Games and (if applicable) Local Game Broadcasts and (2) (if applicable) licenses Sponsor to use the Club Marks and/or Player Likenesses in connection with the advertising and promotion of certain of Sponsor's Products/Services/Retail Operations in accordance with the terms and conditions of this Agreement; and

WHEREAS Licensor and Sponsor desire to enter into this Agreement to mutually promote the success of Sponsor, Club, and NWSL.

NOW THEREFORE, in consideration of the mutual promises set forth herein and for good and valuable consideration receipt of which is hereby acknowledged, Licensor and Sponsor agree as follows:

1. **DEFINITIONS.** Capitalized terms used herein shall have the following definitions:

"Advertising Materials" shall mean any and all (i) promotional, advertising, packaging, collateral or other display materials, (ii) media, (iii) promotions, (iv) advertising and promotional concepts, (including but not limited to slogans, campaigns or programs) or (v) any other creative or product created or prepared by or on behalf of Sponsor or any authorized third-party that bear any of the Club Marks and are used in connection with Sponsor's Products/Services/Retail Operations or in furtherance of any Pass-Through Rights, in the Sponsor Commercial Category. Without limiting the generality of the foregoing, such materials may include without limitation television, radio, print, outdoor, industrial and point-of-sale materials as well as any materials used in connection with the Digital Platforms.

"Affiliate" shall mean an entity that controls, is controlled by, or is under common control with a party now known or becomes known hereafter in the future during the Term.

"Agreement" shall have the meaning set forth on the first page hereof.

"Announcements" shall have the meaning set forth in Section 6.C. of this Agreement.

"Appearances" shall have the meaning set forth in Section 6.G. of this Agreement.

"Applicable Laws" shall mean regulations, governmental rules and standards (including those guidelines, codes and standards of any applicable recognized self-regulatory body or industry association).

"Claim" or **"Claims"** shall have the meaning set forth in Section 8.A. of this Agreement.

"Club" shall mean the San Diego Wave Fútbol Club, a soccer club in NWSL.

"Club Marks" shall mean the official trade name, symbol(s), logo(s) and mascot (whether registered or not), if any, of Club, as may be developed by, or on behalf of, Club, and/or other trademarks or copyrights owned and/or used by NWSL and Licensor, but specifically excluding the NWSL Marks.

"Club Operator" or **"Licensor"** shall have the meaning set forth on the first page of this Agreement.

"Commercial Sponsors" shall mean all NWSL sponsors, NWSL suppliers, Club sponsors, Club suppliers or other entities granted a license to use the NWSL Marks and/or Club Marks or other commercial identification rights in connection with (and approved by) the League.

"Commercial Spots" shall have the meaning set forth in Section 6.E. of this Agreement.

"Digital Platforms" shall mean any and all Club-owned, -operated and/or -branded digital platforms including, but not limited to, official websites, social media platforms (e.g., Twitter, Instagram, Facebook, Snapchat, TikTok, Pinterest, and Tumblr) as well as pages or microsites on platforms such as YouTube.

"Designation(s)" shall have the meaning set forth in Section 2.B. of this Agreement.

"Event of Force Majeure" shall have the meaning set forth in Section 12.I.i. of this Agreement.

"Games" shall mean regular season games played by the first team of Club. Games, whether or not they include Club, shall explicitly exclude (i) NWSL All-Star Game (if held) and NWSL post-season games, including the semifinals and NWSL Championship, (ii) any tournaments or international games promoted by NWSL, (iii) any "friendly" games played between Club and an international team promoted by Club or NWSL; and (iv) any tournaments promoted or organized by the U.S. Soccer Federation, CONCACAF, any other confederation, or FIFA, or any other organizing body.

"Home Games" shall mean Games played by the Club at the Stadium.

"Indemnified Party" shall have the meaning set forth in Section 8.C. of this Agreement.

"Indemnifying Party" shall have the meaning set forth in Section 8.C. of this Agreement.

“League Rules” means, collectively, (i) the collective bargaining agreement between the NWSL and the NWSL Players Association (ii) the Third Amended and Restated Limited Liability Company Agreement between NWSL and its Members (including any successor documents), (iii) the NWSL Team Operating Agreement and any other agreement between any club operator and any NWSL entity, (iv) each of the rules, regulations, memoranda, resolutions, policies, procedures, interpretations and directives of the NWSL, (v) all agreements between NWSL and any player, (vi) the collective bargaining agreement between the U.S. Soccer Federation and the U.S. Women’s National Team Players Association as it relates to players in NWSL, (vii) any telecast, media or similar agreement(s) for the broadcast of NWSL games, and (viii) any other agreements and arrangements to which NWSL is (or after the date hereof may become) subject or by which NWSL or its assets are (or after the date hereof may become) bound, in each case, as they may be adopted, amended or modified from time to time, and including any interpretation thereof or thereunder by the NWSL staff.

“Licensor” shall have the meaning set forth on the first page of this Agreement.

“Local Game Broadcasts” shall mean the local television and/or radio broadcast of the Games within the Territory, specifically excluding any National Game Broadcasts.

“Loss” or “Losses” shall have the meaning set forth in Section 8.A. of this Agreement.

“NWSL” or “League” shall mean National Women’s Soccer League, LLC, the Division 1 outdoor professional soccer league organized and promoted in the United States.

“NWSL Indemnified Parties” shall have the meaning set forth in Section 8.A. of this Agreement

“NWSL Marks” shall mean the official trade names, symbol(s)/logo(s), and mascots (whether registered or not), if any, of the League or any NWSL club as may be developed by, or on behalf of, NWSL or the applicable NWSL club, and/or other trademarks or copyrights owned and/or used by NWSL, excluding the Club Marks.

“NWSL Work Stoppage” shall have the meaning set forth in Section 12.I.ii. of this Agreement.

“National Game Broadcasts” shall mean the national television, global exclusive streaming, and/or national radio broadcast of the Games by any NWSL national broadcast partner.

“Official Premium Supplier” shall mean a company which has been granted a license by NWSL to produce Premiums with the Club Marks.

“Pass-Through Rights” shall mean the inclusion of Third-Party Marks by Sponsor on or in connection with Advertising Materials (e.g., if such third-party is a retailer of Sponsor’s Products/Services/Retail Operations) as approved by Licensor in accordance with Section 2.C. of this Agreement.

“Player Likenesses” shall mean, collectively, the names, nicknames, pictures, or images (whether still, motion, video, digital, or television), voices, signatures, facsimile

signatures, caricatures, reputation, goodwill, persona, any aspect of the right of privacy, personality or publicity or other likenesses of players who have entered into an agreement to play in NWSL.

“Premiums” shall mean those items of merchandise which: (a) bear Sponsor Marks together with any of the Club Marks; and (b) are given away free of charge or sold at a subsidized price for promotional purposes or advertising of Sponsor’s Products/Services/Retail Operations.

“Print Advertising” shall have the meaning set forth in Section 6.F. of this Agreement.

“Products/Services/Retail Operations” shall mean the products, services or retail operations sold, provided or operated by Sponsor that fall within the Sponsor Commercial Category.

“Promotions” shall have the meaning set forth in Section 6.H. of this Agreement.

“Rights” shall mean all rights and benefits granted to Sponsor pursuant to this Agreement.

“Rule of Four” shall have the meaning set forth in Section 4.A. of this Agreement.

“Signs” shall have the meaning set forth in Section 6.C. of this Agreement.

“Sponsor” shall have the meaning set forth on the first page of this Agreement.

“Sponsor Commercial Category” shall have the meaning set forth on the first page of this Agreement.

“Sponsor Marks” shall mean any trade names, trademarks, service marks, logos, symbols, or other copyrighted or proprietary identifications (whether registered or not) of Sponsor or Sponsor’s Products/Services/Retail Operations.

“Sponsor Materials” shall have the meaning set forth in Section 6.A. of this Agreement.

“Sponsor Parties” shall have the meaning set forth in Section 9.A. of this Agreement.

“Sponsor Representative” shall have the meaning set forth on the first page of this Agreement.

“Stadium” shall mean the facility at which the Club plays its Home Games.

“Style Guide” shall mean the manual or digital asset management system which sets forth the graphic standards for the Club Marks, as may be amended from time to time by the League.

“Term” shall have the meaning set forth in Section 10.A. of this Agreement.

“Term Sheet” shall mean all material terms and conditions agreed to by and between Licensor and Sponsor as set forth in the attached Exhibit(s) and made a part hereof this Agreement.

“Territory” shall mean the geographic area that is within a seventy-five (75) mile radius of the Stadium, with the sole exception of the Internet, which is inherently worldwide; provided that any use of the Advertising Materials and/or

exercise of any other Rights granted to Sponsor herein via the Internet must be targeted to consumers in the Territory, and Sponsor shall have no rights to use the Club Marks on its owned or operated websites, unless geo-gated to the Territory.

“Third-Party Marks” shall mean the applicable trade names, trademarks, service marks, logos, symbols, or other copyrighted or proprietary identifiers of a third-party, as approved by Licensor in accordance with Section 2.C. of this Agreement.

“Tickets” shall have the meaning set forth in Section 6.D. of this Agreement.

“Unavailable Benefits” shall have the meaning set forth in Section 10.G. of this Agreement.

2. **GRANT OF RIGHTS.** Licensor hereby grants to Sponsor for the Term of this Agreement, and Sponsor hereby accepts, the non-exclusive (except as otherwise set forth herein), non-transferable, non-sublicensable limited right to exploit the Rights set forth in the Term Sheet in connection with the Club, Games and Local Game Broadcasts (if applicable).

A. Club Marks.

i. Subject to the terms of this Agreement, Licensor hereby grants to Sponsor for the Term of this Agreement and Sponsor hereby accepts, the non-exclusive (except as otherwise set forth herein), non-transferable, non-sublicensable and limited right to use the Club Marks in the Territory solely in Advertising Materials in connection with the advertising, promotion and corporate marketing of Sponsor’s Products/Services/Retail Operations in the Sponsor Commercial Category. Use of the Club Marks must at all times comply with the requirements set forth in Section 3 and the Style Guide.

ii. Section 2.A.i shall be limited as follows:

a. Sponsor shall not have the right to manufacture, distribute and/or sell any products or merchandise (including the packaging of any products or merchandise) bearing the Club Marks. This prohibition does not apply to Premiums, but, rather, is intended to prohibit the creation of Club-branded licensed products or merchandise.

b. Sponsor shall not have the right to sublicense its right to use the Club Marks.

B. Designations. Sponsor shall have the right to use the designations, if any, set forth in the Term Sheet (collectively, the “Designations”). Sponsor acknowledges and agrees that, without the prior written approval of Licensor, Sponsor shall not use any other Designations in connection with Club, League or any other club in the League.

C. Pass-Through Rights to Third-Parties. Sponsor may exercise Pass-Through Rights in accordance with the following terms:

i. Sponsor’s plan to exercise Pass-Through Rights must be submitted to Licensor for prior written

approval. Such plan must include all relevant terms and conditions, including, but not limited to, the timing, promotional offering, and applicable third-party.

ii. Licensor may approve or disapprove the exercise of Pass-Through Rights in its sole and absolute discretion and on a case-by-case basis.

iii. In any event, no exercise of Pass-Through Rights may include a third-party that is a competitor to a current exclusive Commercial Sponsor.

iv. Sponsor may not “pass-through” any other Rights, except for Tickets (if applicable).

v. Once Licensor approves the exercise of Pass-Through Rights, Sponsor shall submit any and all Advertising Materials for approval by Licensor in its sole discretion on a case-by-case basis.

vi. As a general rule, the use of Advertising Materials in connection with Pass-Through Rights shall adhere to the following:

a. The prominence of Third-Party Marks in type, logo and placement shall be no greater than the prominence of Sponsor Marks. In addition, the Third-Party Marks will not be used in a manner which implies a relationship between the third-party and Club, the League or any other club in the League.

b. Promotional significance of third-party incorporation must be valid and apparent. Third-Party Marks (including but not limited to distributors, suppliers, member institutions, and subsidiaries) must be justified, directly relevant to the promotion, distribution or sales of Sponsor’s Products/Services/Retail Operations, and used only to the minimum extent necessary (e.g., to indicate where the Sponsor products are available or where a promotion is occurring).

c. All Advertising Materials that include any Third-Party Marks must also include Sponsor Marks and its Designation(s) (e.g., “Official Sponsor of Club”), if any.

vii. Licensor will not be held liable for any Claims or Losses as and when incurred arising out of, incident to, or in relation to any third-party’s exercise of Pass-Through Rights as permitted hereunder.

D. Premiums. If granted in the Term Sheet, Sponsor shall have the right to use the Club Marks on Premiums in the Territory in accordance with Section 3 of this Agreement.

E. Limitations to Exclusivity. To the extent Sponsor is granted exclusivity in the Sponsor Commercial Category, Sponsor acknowledges and agrees that the following limitations to such exclusivity shall not constitute a violation of Sponsor’s exclusivity under this Agreement:

i. Advertising Inventory. Unless otherwise specifically set forth in the Term Sheet, Licensor’s or Club’s broadcast partners may sell television, radio, Digital

Platform, and print advertising inventory to competitors in the Sponsor Commercial Category without violating applicable Sponsor's exclusivity, if any, so long as Licensor does not grant any right to use the Club Marks to such competitor (except as set forth in Section 2.E.ii. below).

ii. NWSL Commercial Sponsors. NWSL has the right to enter into a national sponsorship agreement with a third-party in the Sponsor Commercial Category. As part of such an agreement, NWSL may grant rights to collective use of the marks of NWSL clubs, including the Club Marks, as well as rights to Player Likenesses, including Club players. In addition, NWSL may grant NWSL Commercial Sponsors the right to pass-through sponsorship rights to third-party retailers (e.g., mass merchant, grocery, convenience, drug stores, big box, soccer specialty stores, etc.), including a third-party in the Sponsor Commercial Category.

iii. National Game Broadcasts. If League has a NWSL Commercial Sponsor in the Sponsor Commercial Category, then during National Game Broadcasts (a) Sponsor may not receive any rights in the field-of-play (e.g., those areas typically seen within television camera-view such as field boards, Stadium's field-level retaining wall, sideline areas, etc.) and (b) the NWSL Commercial Sponsor in the Sponsor Commercial Category may receive exclusive rights in the field-of-play.

iv. Stadium Signage. Sponsor acknowledges and agrees that Licensor does not control all signage and other rights at the Stadium, and the existence of signage and other rights at the Stadium of Competitors in the Sponsor Commercial Category (so long as such rights shall have been granted by the entity that controls the signage and other rights at the Stadium and not by Licensor and so long as such rights do not include any permanent signage of Sponsor's Competitors during or with respect to any Home Game at the Stadium) shall not constitute a violation of Sponsor's exclusivity under this Agreement.

F. All Other Rights Reserved. Any and all rights not specifically granted to Sponsor hereunder are reserved by Licensor. Without limiting the generality of the foregoing, any and all Advertising Materials in furtherance of or in connection with this Agreement, in any manner and in any medium, whether or not adopted or utilized by Sponsor in the exercise of its Rights, shall be the sole and exclusive property of Licensor, as the case may be.

3. SPONSOR'S USE OF CLUB MARKS. To the extent Sponsor is granted any right to utilize the Club Marks as set forth in Section 2.A. of this Agreement, such rights shall be subject to the following terms, conditions and procedures:

A. Conditions to Use of Club Marks.

i. Proprietary Symbols. All uses of the Club Marks by Sponsor shall contain appropriate legends, markings and/or notices (including appropriate copyright and/or trademark designation) as required by Licensor in the Style Guide or otherwise, to give appropriate notice to the consuming public of NWSL's right, title and interest in or to the Club Marks.

ii. Rights to Club Marks. Sponsor shall not acquire any proprietary or other right, title or interest in or to the Club Marks, any mark containing the Club Marks or any goodwill associated with the Club Marks. Any use of the Club Marks by Sponsor will inure to the benefit of Licensor and NWSL and Sponsor is aware that the Club Marks have acquired a secondary meaning in the mind of the purchasing public. Without limiting the generality of the foregoing, Sponsor agrees that should Sponsor create any Advertising Materials, Premiums, Promotions, Signs, Announcements, Commercial Spots, Print Advertising or other proprietary elements incorporating the Club Marks in connection with the exercise of any Rights, the same shall belong solely to Licensor to the extent that the foregoing includes any Club Marks. At the request of Licensor, Sponsor shall execute and deliver to Licensor, any documents or instruments required to implement or give full effect to the foregoing provision. Sponsor shall not, during the Term or thereafter, challenge the property rights of Licensor in and to the Club Marks, or attack the validity of Licensor's rights to grant the license granted hereunder.

B. Quality Control.

i. General. All materials bearing the Club Marks shall be high-quality (as reasonably determined by Licensor) and the nature, quality and manner of manufacture and distribution of all materials bearing the Club Marks, as well as all other uses of Club Marks by Sponsor permitted hereunder, shall be subject to the control and prior approval of Licensor, as provided herein.

ii. Submission of Materials. Prior to the production of any items bearing any of the Club Marks, Sponsor shall, at its own cost and expense, submit to Licensor for written approval all such items at each stage of development (e.g., concepts, designs, sketches, proofs, storyboards, scripts, renderings, drafts, mock ups, prototypes, samples). All use of the Club Marks shall conform to the provisions of this Agreement and the Style Guide at all times. For the avoidance of doubt, no material or item shall be used or released to the public until such written approval has been granted.

iii. Approval. Licensor shall notify Sponsor of its approval or rejection of any submission for approval within ten (10) business days following receipt of any such submission. In the event that any item submitted to Licensor shall not have been approved, disapproved or otherwise commented upon within ten (10) business days after receipt thereof by Licensor, then Sponsor shall have the right to so notify Licensor of such fact in writing. In the event that Licensor fails to then approve, disapprove or otherwise comment upon the submissions within five (5) business days after receipt by it of such notification, any items so submitted by Sponsor shall be deemed to have been approved.

iv. Withdrawal of Approval. Licensor shall have the right, in its sole and absolute discretion, to withdraw approval with respect to any item bearing the Club Marks which was previously approved if the quality of such item ceases to be acceptable to Licensor due to deviation from such previously approved samples or upon the happening of

some event which compromises or reflects unfavorably upon the good name, goodwill, reputation and/or image of Club or League or any of their respective Affiliates or which might jeopardize or limit NWSL's right, title or interest in or to the Club Marks. If at any time approval with respect to an item is withdrawn as provided in the immediately preceding sentence, Sponsor shall immediately cease all use of the Club Marks on or in connection with such item and shall remove such item from public sale and distribution.

v. Additional Samples. Upon request of Licensor or NWSL, Sponsor shall provide, at no cost to Licensor or NWSL, a reasonable number of specimens of such items for Licensor's or NWSL's use or for the purpose of obtaining trademark or other property right protection of the Club Marks.

C. Premiums. Sponsor may distribute Premiums only in accordance with the provisions set forth below.

i. Approval by Licensor. The type of Premiums to be distributed by Sponsor must be approved in writing in advance by Licensor. Licensor shall have the right to withhold its approval of such Premiums in its sole and absolute discretion.

ii. Premium Production. Any Premiums to be distributed by Sponsor must be produced by an Official Premium Supplier. To the extent that no Official Premium Supplier is able to meet Sponsor's reasonable specifications (which shall be required of all other potential manufacturers) as to the type, quantity or delivery time of such Premium, then Sponsor may order such Premium from an outside manufacturer provided such outside manufacturer executes a one-time license agreement with NWSL. With respect to any apparel Premiums, Sponsor shall have the obligation to consider a bid from Nike on such Premiums, but shall have no obligation to accept Nike's bid. However, in no case may Sponsor grant the right to a Nike competitor to produce an apparel Premium.

iii. Limitations. In order to ensure that the promotion of the Sponsor's Products/Services/Retail Operations is the exclusive purpose of Sponsor's use of Premiums, the Premiums shall be given away or sold only in close connection with the sale or promotion of Sponsor's Products/Services/Retail Operations, subject to Licensor's approval on a case-by-case basis.

D. NWSL Warranty. NWSL agrees that it will not introduce into the Style Guide any Club Mark against which it knows of a bona fide infringement claim. Other than as set forth in Section 11, neither NWSL nor Licensor makes any agreements, covenants, representations or warranties relating to the Club Marks.

E. Approval of Items Not Bearing Club Marks. Licensor shall also have the right to approve all items distributed or displayed at Home Games that do not bear the Club Marks. A sample or rendering of each such item shall be submitted to Licensor at Sponsor's cost or expense. Such approval shall be granted or denied as set forth in Section 3.B.

4. SPONSOR'S USE OF PLAYER LIKENESSES.

If Sponsor is granted the right to use any Player Likenesses, and with prior written approval, each such use shall be subject to the collective bargaining agreement between the NWSL and the NWSL Players Association and the following terms and conditions:

A. Rule of Four. Any use of Player Likenesses must include a minimum of four (4) players used both equally and collectively (the "Rule of Four"). Under the Rule of Four, Sponsor shall have the right to use Player Likenesses of approved Club players in the Territory provided that the photograph(s), rendering, or video footage includes either (i) a group of four (4) or more Club players, in uniform, appearing together, or (ii) a Club player's Player Likeness appearing with three (3) or more other Club Player Likenesses, all in uniform, as part of a series, set, collectible or as part of a sequential product (e.g., trading cards, posters, pins, etc.) all with equal representation, in any given application

If fewer than four (4) Club players are used, Sponsor will be responsible for securing the rights to use each individual Player Likeness. Sponsor must provide documentation to League that it has secured such rights.

However, if a Club player has an endorsement agreement with a conflicting sponsor, Sponsor may only use such Club player's Player Likeness in groups of six (6) or more Club players, in uniform.

B. Player Likeness Rule Exceptions. Certain Club players may have additional limitations on the use of their Player Likenesses. When such a Club player's Player Likeness is proposed to be used under the Agreement, such additional limitations will be discussed and applied as required in the League's absolute and sole discretion.

C. General Rules on Player Likeness Use. When utilizing Player Likenesses, Sponsor must show all players in the current Club uniform, unaltered. All uses of Player Likenesses must be approved in advance by Club.

5. CLUB'S USE OF SPONSOR MARKS.

A. Sponsor hereby grants to Licensor, during the Term, at no charge, a non-exclusive and royalty-free right and license to use the Sponsor Marks in conjunction with advertising, marketing, promotion, and exploitation of Club in any and all forms of media whether now known or hereafter developed. Sponsor shall have the right to approve in advance any materials to be used by Licensor displaying Sponsor Marks, such approval not to be unreasonably withheld. Notwithstanding the above, in the event that Licensor uses Sponsor Marks for the sole purpose of acknowledging Sponsor's status as an official sponsor/partner of Club, Licensor shall not have to submit such materials to Sponsor for prior written approval, provided that Licensor adheres to the guidelines regarding use of the Sponsor Marks provided to Licensor by Sponsor. Licensor shall not acquire any proprietary or other right, title or interest in or to the Sponsor Marks or any goodwill associated with Sponsor Marks.

B. Nothing in this Agreement shall preclude the appearance of Sponsor Marks in connection with any Sponsor Material in photographs and video footage (including, without limitation, Local Game Broadcasts and/or National Game Broadcasts) in perpetuity when used for any reason in any and all forms of media whether now known or hereafter developed.

6. OTHER RIGHTS OF SPONSOR. Sponsor shall receive the Rights and assume the obligations set forth in the Term Sheet in the Territory with respect to Club. Such Rights are subject to the provisions of this Agreement and, to the extent not specifically addressed in the Term Sheet, the following:

A. Activation Approvals. The form, content, presentation and exercise of all Rights (including, without limitation, Signs, Announcements, Commercial Spots, Print Advertising, Appearances, Promotions, Digital Platforms, Premiums, or any other Advertising Materials (collectively, “Sponsor Materials”)) shall be subject to: (i) the approval of Licensor; (ii) the League Rules (as applicable); (iii) the rules, regulations and policies governing the operation of or applicable to the Stadium; and (iv) all Applicable Laws having jurisdiction over or applicable to the exercise of any Rights or Sponsor Materials related thereto, in each of (ii), (iii) and (iv) above, as they exist at the time any such Right is exercised. In the event that the approval of Licensor is required pursuant to this Agreement, Licensor agrees to provide written notice to Sponsor of its approval or disapproval in a timely manner pursuant to Section 3. Notwithstanding the foregoing, it shall be Sponsor’s sole responsibility to ensure that all Sponsor Materials prepared by or on behalf of Sponsor in connection with the exercise of the Rights comply with all Applicable Laws. Licensor’s review of any Sponsor Material is undertaken on the basis that Sponsor has cleared such Sponsor Materials for compliance with Applicable Laws and, as such, Licensor’s review and subsequent approval of any Sponsor Material shall not imply a representation or belief on behalf of Licensor that such Sponsor Material complies with Applicable Laws.

B. Activation Costs. Unless expressly provided to the contrary in the Term Sheet, Sponsor shall be responsible for all costs associated with the activation of its Rights. Such costs include, but are not limited to, creative and production costs of all Sponsor Materials, labor costs incurred in executing any Rights (including labor costs associated with the installation, removal and maintenance of any Sponsor Material), cleaning or debris removal costs associated with any Premium giveaway, extraordinary utility charges, the cost of food and beverages ordered by Sponsor at the Stadium in conjunction with the exercise of any Rights (including costs of any in-suite catering) and customary event day operating costs incurred by the Stadium as part of any Stadium use by Sponsor.

C. On-Site Recognition. If Sponsor is granted any on-site recognition on or within the Stadium as part of its Rights, such as signs, banners, kiosks, media backdrop, booths, tables or field boards (collectively, “Signs”) or public address, matrix board or other game day announcements (collectively, “Announcements”), (i) subject to the limitations

set forth in Section 2.E.iii., such Signs shall be displayed and such Announcements shall be broadcast, published, distributed, displayed and/or communicated only during Home Games, (ii) the size and location of such Signs and the duration of such Announcements shall be reasonably determined by Licensor in accordance with League Rules, (iii) such Signs shall be furnished at the sole cost and expense of Sponsor, and (iv) the design and content of such Signs and Announcements shall require the prior written approval of Licensor.

D. Tickets and Other Items. If Sponsor is entitled to receive any tickets (VIP, premium, season, group, block, reserve or other), hospitality, coupons, merchandise or other items, or suite or parking passes (collectively, “Tickets”) as part of its Rights, such Tickets (i) may not be resold, (ii) shall be valid only for Home Games during the Term and (iii) shall be subject to availability (except “season” Tickets or Tickets for specifically designated Home Game dates). Sponsor agrees to comply with the terms and conditions printed on any Tickets. To the extent Sponsor is entitled to receive any other items from Licensor, (e.g., balls, jerseys or t-shirts, etc.) such items may not be resold. Discount coupons may only be redeemed at Stadium’s box office or by mail properly addressed to Licensor. In addition, all costs and expenses attributable to in-suite catering shall be borne by Sponsor.

E. Commercial Spots. If Sponsor is granted broadcast commercial spots as part of its Rights, including, without limitation, scoreboard and other in-stadium video board spots (collectively, “Commercial Spots”), written copy for such Commercial Spots shall be delivered at least ten (10) business days prior to the date of air and shall require the prior approval of Licensor in accordance with Section 3. Unless otherwise specified in the Term Sheet, the duration of each such Commercial Spots shall be limited to thirty seconds (:30). Sponsor shall pay, and be responsible for, all costs and expenses attributable to the production of such Commercial Spots.

F. Print Advertising. If Sponsor is entitled to any print advertising, as part of its Rights, including, without limitation, in flyers, posters, newsletters, Game programs or Club media guides (collectively, “Print Advertising”), on or prior to the date specified by Licensor, Sponsor shall furnish, and pay all costs associated therewith, to Licensor camera ready black and white (or color, if applicable) artwork for such Print Advertising for Licensor’s prior written approval in accordance with Section 3.

G. Appearances. If Sponsor is entitled to Club player/mascot appearances or participation in events or clinics (collectively, “Appearances”) as part of its Rights, such Appearances shall be subject to player/mascot availability, shall not exceed three (3) hours in duration and shall be conducted in accordance with the policies and procedures established by Licensor. Licensor shall determine which player(s) shall participate in the Appearances. The payment of all costs and expenses attributable to any Appearance (including, without limitation, reasonable travel expenses) shall be borne by Sponsor unless otherwise set forth in the Term Sheet.

H. Sponsor Activities. If Sponsor is entitled to conduct campaigns, promotions, tournaments, contests, sweepstakes, giveaways or any other activities in conjunction with or related to the Club (collectively, "Promotions") as part of its Rights, such Promotions shall require the prior written approval of the Licensor and all costs and expenses attributable thereto shall be borne by Sponsor. For contests and sweepstakes conducted by Sponsor, such costs and expenses may include legal fees to review contest or sweepstakes rules and regulations as well as third-party management of such contest or sweepstakes.

I. Digital Platforms. If Sponsor is granted any Rights (i) on or related to the Club's Digital Platforms or (ii) to use Club Marks on Sponsor's Digital Platforms, the activation of any such Rights shall require the prior written approval of Licensor and all costs and expenses attributable thereto shall be borne by Sponsor. The exercise of the Rights in connection with Club's and/or Sponsor's Digital Platforms must be promotional in nature and may not include any rights for Sponsor to use any Club content (e.g., Game footage).

J. Miscellaneous. To the extent that Licensor or Sponsor are granted any Rights in the Term Sheet, the date, time, location or other specifics of which are not specified in the Term Sheet, such Rights shall be subject to the provisions of this Agreement and, if not fully addressed in this Agreement, such Rights shall be subject to the mutual agreement of Licensor and Sponsor.

7. CONSIDERATION. Subject to the provisions in Section 10, as consideration for the Rights granted to Sponsor in this Agreement, Sponsor agrees to pay the amounts under the payment terms and to provide the in-kind consideration, if any, to Licensor as set forth on the first page of this Agreement and/or in the Term Sheet. All payments shall be net of all applicable taxes or other deductions. Late payments shall be a material breach of this Agreement and shall be subject to the maximum monthly service charge permitted by law, in addition to all other rights and remedies available to Licensor. In the event goods, merchandise or other items are to be provided by Sponsor, Licensor reserves the right to return any or all defective items within thirty (30) days of receipt thereof for a refund of the full value thereof or for replacement items, at Licensor's option.

8. INDEMNIFICATION.

A. Indemnification by Sponsor. Sponsor shall indemnify, defend and hold harmless Club, Licensor, NWSL, the Stadium owner, the Stadium operator, and each of their respective operators, owners, officers, directors, managers, elected officials, Affiliates, members, shareholders, agents, representatives and employees ("NWSL Indemnified Parties") from any and all threatened or actual third-party claims of any kind based upon any theory of law or liability whatsoever (each a "Claim" and collectively, "Claims"), and all losses, damages, settlements, judgments, investigations, liabilities, charges, costs and expenses (including, without limitation, reasonable legal fees and expenses) (each a "Loss" and collectively, "Losses") as and when incurred arising out of, incident to or in relation to:

i. the misrepresentation, or breach of any representation, warranty, obligation, covenant, or other term or condition of this Agreement by Sponsor;

ii. the unauthorized or infringing use, or allegation of the same, by Sponsor of any patent, process, trade secret, copyright, trademark or publicity right or other similar property rights (other than Claims solely arising out of or resulting from the use of the Club Marks in the Territory in accordance with this Agreement);

iii. any infringing use, or allegation of such use, by Licensor of Sponsor Marks (provided that Licensor's use of Sponsor Marks is in accordance with and as permitted under the terms of this Agreement);

iv. any Sponsor Materials (including any Claims of unfair, deceptive or fraudulent advertising);

v. any alleged defects (design, manufacturing, handling or other) or inherent dangers in Sponsor's Products/Services/Retail Operations or Premiums or the use thereof; or

vi. any negligent act or omission or the willful misconduct of Sponsor, or any of its officers, owners, directors, members, agents, representatives, shareholders, subsidiaries and employees with respect to the subject matter of this Agreement.

B. Indemnification by Licensor. Licensor shall indemnify, defend and hold harmless Sponsor and its officers, directors, members, partners, employees and agents, from and against and in respect of any and all Claims and Losses, as and when incurred arising out, incident to or in relation to:

i. the misrepresentation, or breach of any representation, warranty, obligation, covenant, or other term or condition of this Agreement by Licensor;

ii. any infringing use, or allegation of such use, by Sponsor of Club Marks (provided that Sponsor's use of Club Marks is in accordance with and as permitted under the terms of this Agreement); or

iii. any negligent act or omission or the willful misconduct of Licensor and any of its officers, owners, directors, agents, representatives, members, shareholders, subsidiaries and employees with respect to the subject matter of this Agreement.

C. Procedures for Indemnification. The party seeking indemnification under this Agreement ("Indemnified Party") shall give prompt notice to the other party ("Indemnifying Party") of any Claim or Loss for which it intends to seek indemnification. The Indemnifying Party shall have the right to participate in and, at Indemnifying Party's option, to control any defense, compromise, litigation, settlement or other resolution or disposition of such Claim or Loss. In no event shall the Indemnifying Party enter into any settlement of any Claim or Loss that imposes financial obligations or restrictions on the Indemnified Party or constituting an admission of guilt or wrongdoing by the Indemnified Party without the prior written approval of the

Indemnified Party. Termination of this Agreement shall not affect the continuing obligations of each of the parties as indemnitors hereunder.

D. LIMITATION OF LIABILITY. EXCEPT FOR THE INDEMNITY OBLIGATIONS SET FORTH IN THIS AGREEMENT, ANY CONFIDENTIALITY OBLIGATIONS OR ANY CLAIMS OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS UNDER OR RELATING TO THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR FOR LOSS OF REVENUE OR PROFIT IN CONNECTION WITH THE PERFORMANCE OR FAILURE TO PERFORM THIS AGREEMENT REGARDLESS OF WHETHER SUCH LIABILITY ARISES FROM BREACH OF CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY. FOR THE AVOIDANCE OF DOUBT, THE FOREGOING SHALL NOT IN ANY WAY LIMIT EITHER PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER, I.E., WITH RESPECT TO THIRD PARTY CLAIMS.

9. INSURANCE.

A. General Requirements of Sponsor's Insurance.

Sponsor shall maintain the following insurance coverage throughout this Agreement, and Sponsor shall cause its Affiliates, subcontractors, vendors, agents and other hired parties ("Sponsor Parties") to comply with these insurance requirements. Sponsor shall provide certificate(s) of insurance as evidence of such insurance coverage at least ten (10) days prior to commencement of the operations contemplated in this Agreement and prior to policy expiration. Sponsor waives, and Sponsor shall cause its Sponsor Parties to waive, all subrogation and recovery rights in favor of NWSL Indemnified Parties. Additionally, Sponsor's insurance policies shall waive, or be endorsed to waive, rights of recovery by subrogation, regardless of negligence, in favor of the NWSL Indemnified Parties and such waivers shall survive the termination and/or expiration of this Agreement. Such policies shall (i) be primary to NWSL Indemnified Parties' insurance, and not call for contribution from NWSL Indemnified Parties' insurance; (ii) be provided by reputable insurers authorized to do business in the jurisdiction in which this Agreement will be performed, with current AM Best ratings of not less than A-VIII; and (iii) provide limits no less than as indicated, which may be provided through primary and umbrella policies, which shall follow the form of the underlying insurance.

B. Insurance Required of All Sponsors.

i. General Liability. Sponsor shall purchase and maintain commercial general liability insurance written on an occurrence basis, and such coverage shall be no less broad than the most recent version of ISO CG 00 01. No amending or exclusionary endorsements material to Sponsor's obligations in this Agreement may be attached. If Premiums, products or merchandise will be provided to third-parties, products / completed operations coverage shall be maintained for three (3) years after the expiration or termination of this Agreement. The NWSL Indemnified

Parties shall be named as additional insureds for ongoing operations on forms no less broad than CG 20 26 and, if applicable, for completed operations, CG 20 37, and products (CG 20 15 and/or CG 20 35 and/or a manuscript endorsement suitable to the exposures). Limits shall not be less than the following:

\$5,000,000 each occurrence
\$5,000,000 personal/advertising injury
\$5,000,000 products/completed operations aggregate
\$5,000,000 general aggregate per project, location or event.

ii. Workers Compensation & Employers Liability.

Sponsor shall purchase and maintain statutory workers' compensation coverage compliant with the jurisdiction in which this Agreement will be performed, and with any jurisdictions in which workers are residents, or through which they may travel in the course of this Agreement. Employers liability limits shall not be less than the following:

\$1,000,000 each accident
\$1,000,000 by disease-policy limit
\$1,000,000 by disease-each employee

C. Insurance Required of Certain Sponsors. Any other applicable insurance requirements are set forth in Exhibit B attached hereto.

D. Additional Insured. Sponsor's General Liability, Automobile (if required), Liquor Liability (if required), and umbrella/excess policies shall include NWSL Indemnified Parties as additional insureds.

E. Certificates of Insurance. In addition to the coverages required through this section, Sponsor's certificates shall state that the insurance is primary and noncontributory to any insurance of the NWSL Indemnified Parties, the additional insured status of the NWSL Indemnified Parties and that the Licensor shall be given thirty (30) days' notice of cancellation.

10. TERM, TERMINATION, BREACH.

A. Term. This Agreement shall become effective as of the date and year first written above and shall remain in effect through the end date as set forth on the first page of this Agreement ("Term"), unless sooner terminated pursuant to the provisions of this Agreement.

B. Termination.

i. Breach. If either party or any officer, employee, agent, representative, sublicensee or manufacturer of either party materially breaches any of its obligations under this Agreement or under any other agreement with the other party, and if such breach is not cured by the breaching party before the earlier of (x) fifteen (15) days after the non-breaching party sends written notice of such breach to the breaching party and (y) with respect to the breach of an agreement other than this Agreement, the

applicable grace period under such other agreement, then the non-breaching party shall have the right to terminate this Agreement effective immediately.

ii. Bankruptcy. Either party may terminate this Agreement effective immediately upon the occurrence of one or more of the following events with respect to the other: (x) there is a cessation of operations or the institution against such party of a bankruptcy proceeding, dissolution, liquidation or the appointment of a trustee or a receiver or (y) such party makes an assignment for the benefit of creditors or admits in writing that it is unable to pay its debts as they become due.

iii. Termination by Licensor. Notwithstanding anything to the contrary in Section 10.B.i., in the event that Licensor enters into a (i) Stadium naming rights agreement or (ii) Club jersey sponsorship agreement with any entity other than Sponsor in the Sponsor Commercial Category then Licensor shall have the right to terminate this Agreement by giving thirty (30) days written notice to Sponsor. In the event of such termination, Licensor shall reimburse Sponsor the consideration paid in advance by Sponsor, if any, for the value of Sponsor's undelivered Rights. This reimbursement of consideration shall be Sponsor's sole and exclusive remedy for such termination.

C. Termination by League. In the event that League (i) enters into an exclusive sponsorship agreement (including exclusive League and Club rights) at any time before the end of the Term of this Agreement with any entity other than Sponsor in the Sponsor Commercial Category, or (ii) League does not release the Sponsor Commercial Category for Club sponsorship sale, then NWSL and/or Licensor shall have the right to terminate this Agreement either (x) upon expiration of the current League season, or (y) immediately if prior to the start of the League season. In the event of such termination, Licensor shall reimburse Sponsor the consideration paid in advance by Sponsor, if any, for the value of Sponsor's undelivered Rights. This reimbursement of consideration shall be Sponsor's sole and exclusive remedy for such termination.

D. Effect of Termination. Termination of this Agreement as provided herein shall be without prejudice to any other rights or remedies which the terminating party may have. In the event that Licensor terminates this Agreement, all Rights granted to Sponsor hereunder shall immediately revert to Licensor and Sponsor shall immediately and permanently cease all use of the Club Marks.

E. League Approval. Sponsor acknowledges that Licensor will submit this Agreement for review by NWSL and agrees that all of Licensor's obligations to Sponsor under this Agreement are subject to and conditioned upon NWSL's written acceptance and approval of this Agreement in accordance with the provisions set forth below.

i. As a condition to such NWSL approval, the League may require certain language relating to the League, including but not limited to ownership of NWSL Marks or Club Marks and use of Game footage, be included in this Agreement. Sponsor agrees that so long as such language is generally applicable to sponsorship rights granted by clubs

that are members of the League or otherwise does not materially adversely affect the rights and obligations of Sponsor as compared to other Commercial Sponsors set forth herein, this Agreement shall be amended to include such language.

ii. In the event Licensor is unable to obtain written acceptance and approval from NWSL, Licensor may terminate this Agreement by giving written notice of termination to Sponsor, which termination shall be effective upon the giving of such notice. If, by the end of ninety (90) days following the date of execution of this Agreement by both parties, Licensor has neither notified Sponsor that NWSL has accepted and approved this Agreement nor provided notice of termination, Sponsor may submit a written notice of termination to Licensor, which termination shall be effective fourteen (14) days after Licensor's receipt of such notice unless, prior to the effective date of termination, Licensor notifies Sponsor that it has received NWSL's acceptance and approval of this Agreement, in which case the termination will not be effective and the Agreement will remain effective and in force. In the event the Agreement is terminated by either party pursuant to this provision, Licensor will refund to Sponsor any amounts previously paid by Sponsor to Licensor pursuant to this Agreement; provided, however, that Licensor shall be entitled to retain the value of services already provided or other performance of its obligations under the Agreement by Licensor up to and including the date of termination.

F. Equitable Relief. Each party acknowledges and agrees that in the event of a breach or threatened breach by the other party of any provision in this Agreement relating to the Club Marks or Sponsor Marks, as applicable, the damage to the non-breaching party may be irreparable and extremely difficult to estimate, making any remedy at law or in damages inadequate and, accordingly, the non-breaching party shall be entitled to seek injunctive relief against the breaching party in such event in addition to any other relief (including damages) available to the non-breaching party.

G. Make-Goods. Except as set forth in Section 12.L, in the event that Licensor's compliance with any provision or provisions of this Agreement is prohibited, limited or otherwise restricted under the terms of any other agreement, including without limitation, any broadcast agreement or any agreement in respect of the Stadium or to the extent that it may become impossible, undesirable or impracticable for Licensor to provide one or more benefits hereunder in accordance herewith ("Unavailable Benefits"), Licensor shall not be required to comply with such provision or provisions of this Agreement or otherwise provide such Unavailable Benefits and such noncompliance/failure shall not be deemed to be a breach of this Agreement by Licensor. However, with respect to any such Unavailable Benefit, the parties will consult in good faith regarding a substitute benefit having promotional value not materially less than that of the Unavailable Benefit (such value to be determined by good faith negotiation and agreement by the parties).

11. REPRESENTATIONS AND WARRANTIES. Each party hereto represents and warrants to the other as follows:

A. It has the full power and authority to enter into this Agreement and to perform its obligations hereunder.

B. Its execution and delivery of and its performance under this Agreement have been duly authorized by all necessary corporate, limited liability company or other action (as applicable), and, to its knowledge, have not, do not and will not materially conflict with, violate, result in a breach or default of or otherwise materially adversely affect any rights of any third person or entity, whether now existing or hereafter arising or occurring.

C. This Agreement is a legal, valid and binding obligation of it, enforceable against it in accordance with its terms.

D. No litigation or pending or, to its knowledge, threatened claims or litigation exist which do or would reasonably be expected to materially adversely affect its ability to fully perform its obligations hereunder.

E. The exercise of the Rights pursuant to this Agreement shall be subject to all Applicable Laws, regulations and decrees in the countries within which such Rights are to be exercised (including, without limitation, all applicable local, state, regional and national laws). All uses of the Club Marks by Sponsor shall comply with all Applicable Laws.

F. It has or shall obtain all licenses, agreements, permits, waivers, releases, registrations, approvals and/or authorizations required in connection with this Agreement and that such licenses, agreements, permits, waivers, releases, registrations, approvals and/or authorizations will be valid and sufficient for the performance of its obligations hereunder.

G. The non-owning/non-licensing party's use of the Club Marks or Sponsor Marks, as applicable, as approved by the granting party, will not infringe or violate the rights of any third-party and will not give rise to any payment obligation on the part of the using party to any third-party.

12. MISCELLANEOUS.

A. League Rules. This Agreement and all Rights granted to Sponsor under this Agreement are subject and subordinate to and limited by the League Rules as they may exist from time to time. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the provisions of any League Rule, such League Rule shall govern.

B. Standard Player Agreement/Collective Bargaining Agreement. The Rights granted to Sponsor in this Agreement including the Term Sheet are subject to the terms and conditions of the collective bargaining agreement between the NWSL and the NWSL Players' Association, the Standard Player Agreement between the NWSL and player, and/or the Collective Bargaining Agreement between the U.S. Soccer Federation and the U.S. Women's National Team Players' Association.

C. Survival. The provisions of Sections 3.A.ii., 5.B., 8, 9, 10.E., 12.C., 12.F., 12.K and 12.L of this

Agreement shall survive expiration or earlier termination of this Agreement.

D. Conflict. In the event that any provisions of this Agreement contradict, modify, supplement or are otherwise different from any provisions in the Term Sheet, the provisions of this Agreement shall govern and shall modify, supplement and supersede such provisions in the Term Sheet in every such instance unless this Agreement specifically provides otherwise.

E. Assignment; Successors and Assigns; Amendment. Except to an Affiliate that conducts Sponsor's Products/Services/Retail Operations, is at least as creditworthy as Sponsor and agrees in writing to be bound by the terms hereof, Sponsor shall not assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily, involuntarily by change of control or by operation of law, any rights or obligations under this Agreement, without the prior written consent of Licensor. Licensor may assign, including without limitation to NWSL, any rights or obligations under this Agreement without the prior written consent of Sponsor. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and permitted assigns. This Agreement may not be amended, modified or supplemented except by a written instrument duly executed by each of Licensor, Sponsor and NWSL.

F. Confidentiality. Except as required by law or mutually agreed upon by the parties, neither party shall publicly disclose or publicize in any manner any of the specific terms of this Agreement, including, without limitation, the amount of consideration, at any time, or any Confidential Information of the other party. As used herein, "Confidential Information" means all information owned or lawfully controlled by the party disclosing such information (the "Disclosing Party") that not only is not generally known to the public but that also is of a technical, business or other proprietary nature (including, without limitation, trade secrets, know-how, customer lists, business plans, terms of this Agreement and financial information), which is disclosed to the other party (the "Receiving Party"), so long as the Disclosing Party has identified such material/information as being proprietary and/or confidential or which, by the nature of the circumstances surrounding the disclosure, the Receiving Party should reasonably know is proprietary and confidential. Confidential Information does not include any information that (i) is or becomes publicly available without breach of this Agreement; (ii) was known to the Receiving Party at the time of its receipt from the Disclosing Party; (iii) is rightfully received from a third party who did not acquire or disclose such information by a wrongful or tortious act; (iv) is independently developed by the Receiving Party without reference to any Confidential Information; or (v) is inherently non-distinctive or non-proprietary in nature.

G. No Joint Venture or Partnership. This Agreement shall not create a joint venture, partnership, principal-agent, employer-employee or similar relationship between Licensor and Sponsor or between League and Sponsor.

H. Severability; Waiver. If any provisions of this Agreement or any portions thereof are found to be invalid, illegal or unenforceable, the other provisions of this Agreement or portions thereof shall remain in full force and effect. Any failure of Licensor or Sponsor to comply with any provision of this Agreement may only be waived expressly in a written instrument duly executed by each of Licensor and Sponsor.

I. Force Majeure. None of the parties shall be in breach of this Agreement if the performance by that party of any of its obligations hereunder is prevented or preempted because of acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, epidemics, pandemics, the elements, strikes or labor disputes or any cause beyond the applicable party's reasonable control (each, an "Event of Force Majeure"), for such period of time as such event continues, provided that the party prevented from performing uses all reasonable efforts to perform such obligation once such event has ceased. However, in no event shall any act or omission by or on the part of any party, or any inability on the part of any party hereunder to pay any amount owing hereunder, constitute or be deemed to be considered any event beyond the reasonable control of such party.

J. Selection Process. Sponsor acknowledges that its selection to enter into a relationship with Licensor is not based on the results of any quality comparison between Sponsor's Products/Services/Retail Operations and other competitive products/services/retail operations. Sponsor agrees that it shall not represent otherwise.

K. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflicts of laws principles.

L. Jurisdiction. Any action or proceeding seeking to enforce any provision of, or based on any rights arising out of, this Agreement may be brought against either of the parties in the courts of the State of California, or, if it has or can acquire jurisdiction in the United States District Court for the California, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. Process in any action or proceeding referred to in the preceding sentence may be served on either party anywhere in the world.

M. Notices. All notices, approvals, consents and/or payments to the Licensor shall be in writing and given

by (i) personal service (which, for the purposes hereof, shall include courier/overnight delivery) or (ii) by certified mail to:

San Diego Wave Fútbol Club
12544 High Bluff Dr.
San Diego, CA 92130
Attention: Michelle Gulino
Email: mgulino@wavefc.com

With a copy to:
National Women's Soccer League, LLC
800 W Huron St., Floor 4W
Chicago, IL 60642
Attention: Deputy General Counsel
Email: asalsberg@nwslsoccer.com

All notices, approvals, and/or consents to be given to Sponsor shall be in writing and be given by (i) personal service (which, for the purposes hereof, shall include courier/overnight delivery) or (ii) by certified mail to the Sponsor Representative set forth on the first page of this Agreement.

N. Counterparts. This Agreement may be executed in any number of counterparts; each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same agreement. Any signature page of this Agreement may be detached from any counterpart without impairing the legal effect of any signatures thereon and may be attached to another counterpart, identical in form thereto, but having attached to it one or more additional signature pages. PDF or facsimile signatures shall have the same effect as original signatures.

O. Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto and the provisions hereof supersede, and may not be contradicted, modified or supplemented by, evidence of any prior or contemporaneous agreements or understandings relating to the same subject matter, whether written or oral.

P. Headings. The headings of the sections of this Agreement are for reference purposes only and shall not constitute a part hereof or affect the meaning or interpretation of this Agreement.

EXHIBIT A

Sponsorship Benefits

Subject to the terms of the Agreement, Club will provide Sponsor the Sponsorship Benefits set forth below, which constitute all of the Sponsorship Benefits to which Sponsor will be entitled. Unless otherwise specified, all capitalized terms used in this Exhibit B will have the meanings ascribed to them in the Agreement. Furthermore, fulfillment of the Sponsorship Benefits or related use thereof, shall be at all times subject to the approval provision set forth in Section 3.B. of the Agreement.

APPEARANCES

- **Player Appearances:** Sponsor shall receive one (1) player appearance in the San Diego market each Contract Year of the Agreement not to exceed regulations set forth by the current CBA.

MATCH DAY ACTIVATION

- **Match Day Fan Fest Activation:** Sponsor shall receive right to activate a 10x10 booth to drive brand awareness & fan engagement at a minimum of three (3) regular season home match Fan Fests during each Contract Year of the Term.
- **Game Day Concourse Activation:** Sponsor shall receive right to activate a 10x10 booth to drive brand awareness & fan engagement at a maximum of three (3) regular season home matches on the stadium concourse, during each Contract Year of the Term.
- **Community Program:** Sponsor shall have the opportunity to activate a match promotion between San Diego Wave FC & other in-market sports properties around the theme of sustainability. Activation to be approved by Club and agreed upon no later than May 1 of each Contract Year of the Term.
- **Promotional Egress Item:** Sponsor will receive the right to cobrand a promotional egress item for one (1) Wave FC home match each Contract Year of the Term. Item to be mutually agreed upon by Club and Sponsor, minimum quantity of 10,000 units and will be at the sole cost of the Sponsor.

SIGNAGE (Snapdragon Stadium)

- **Digital Field Board Rotations:** Subject to Section 2.E., sponsor will receive one (1) digital exposure package on the digital field board in the Stadium during each San Diego Wave FC pre/regular/post-season home match each Contract Year during the Term. Each exposure package will include two (2) :15-second pre-game exposure, two (2) :15 -second in-game exposure, and two (2) :15 -second post-game exposure during each home game. It is the Sponsor's responsibility to provide high resolution files and the applicable advertising spots in the appropriate format. The rotation schedule will be determined by Club.
- **Inner Bowl LED Ribbon Board:** Sponsor will receive one (1) minute of rotating digital exposures on the inner bowl LED ribbon board in the Stadium during each San Diego Wave FC preseason, regular season home games each Contract Year during the Term. It is the Sponsor's responsibility to provide high resolution files and the applicable advertising spots in the appropriate format. The rotation schedule will be determined by Club.

DIGITAL MEDIA

- **Digital Media:**
 - **Run of Site Banner Ad:** Sponsor will receive one (1) run of site banner advertisement on Team website each Contract Year during the Term. It is Sponsor's responsibility to provide high resolution files in the appropriate format.
 - **San Diego Wave FC Newsletter:** Sponsor will receive one (1) placement in one (1) newsletter email blast sent to the San Diego Wave FC email database during each Contract Year during the Term. It is the Sponsor's responsibility to provide high resolution files in the appropriate format.

RIGHTS: TRADEMARKS AND LOGOS

- **San Diego Wave FC Trademarks – Club:** Subject to and in accordance with the terms and conditions to be set forth in the Sponsorship Agreement, Club will grant to Sponsor the non-exclusive (except with regard to the Category), non-assignable and non-transferable, revocable, royalty-free limited right to use San Diego Wave FC Trademarks in the Territory in approved advertising and promotional materials throughout the Term.
- **Category:** Renewable Energy
- **Use of Designation - Club:** Sponsor will receive the exclusive right to use the following designation in the Territory in approved advertising and promotional materials: "Official Renewable Energy Partner of San Diego Wave FC."

EXHIBIT B

Fee schedule

Pursuant to the Agreement and in accordance with the terms and conditions set forth therein, Sponsor shall pay the Fee in accordance with the payment schedule below.

Contract Year	Contract Year Dates	Payment Amount	Payment Due Date
Year 1	February 1, 2023 – December 31, 2023	\$130,000	April 1, 2023
Year 2	January 1, 2023 – December 31, 2024	\$150,000	April 1, 2024

EXHIBIT C

1. **Automobile.** If at any time during this Agreement Sponsor or any Sponsor Parties shall have or operate on or in the vicinity of any NWSL Indemnified Parties' property any automobile, truck or vehicle, Sponsor shall purchase or cause to be purchased and maintain automobile liability insurance covering all owned (if any), non-owned and hired automobiles. The NWSL Indemnified Parties shall be named as additional insureds. The limit shall not be less than \$1,000,000 each accident.

2. **Media Liability.** If at any time during this Agreement Sponsor is granted the right to produce signage, commercials or any other type of marketplace advertising, Sponsor shall purchase and maintain media liability insurance appropriate for the operations contemplated in this Agreement, including but not limited to defamation, invasion of privacy, copyright infringement and plagiarism. If coverage is written on a claims-made basis, any retroactive date shall be no later than the effective date of the Agreement; and continuous coverage shall be maintained or an extended discovery period exercised for three (3) years beginning from the time that the Agreement is terminated. Sponsor shall submit either (i) renewal insurance certificates to evidence coverage is being maintained throughout the three (3) year period; or (ii) a three (3) year extended reporting period endorsement. Limits shall not be less than the following:

- \$5,000,000 per claim
- \$5,000,000 annual aggregate

3. Cyber Liability. If at any time during this Agreement Sponsor or any of Sponsor Parties is granted the right to collect or transmit personally identifiable information, Sponsor shall purchase or cause to be purchased and maintain cyber liability insurance appropriate for the operations contemplated in this Agreement, including but not limited to the following:

- Personally identifiable or confidential info loss/disclosure
- Federal, state, foreign or local privacy policy/law violation fines and penalties
- Notification, credit monitoring and forensics costs
- Victim's financial loss, general and special damages
- Extortion costs

If coverage is written on a claims-made basis, any retroactive date shall be no later than the effective date of the Agreement; and continuous coverage shall be maintained or an extended discovery period exercised for three (3) years beginning from the time that the Agreement is terminated. Limits shall not be less than the following:

- \$5,000,000 per claim
- \$5,000,000 annual aggregate

4. Liquor Liability. If at any time during this Agreement Sponsor or any of Sponsor Parties manufactures, distributes, sells, serves or furnishes alcoholic beverages, Sponsor shall purchase or cause to be purchased and maintain liquor liability which shall include NWSL Indemnified Parties as additional insureds. The coverage form shall be no less broad than ISO CG 00 33, and no exclusionary endorsements material to Sponsor's obligations may be attached. Limits shall not be less than the following:

- \$5,000,000 each common cause
- \$5,000,000 aggregate

5. Umbrella / Excess Liability. In order to satisfy minimum limits required under this Agreement, Sponsor may purchase follow-form umbrella/excess liability coverage.



SAN DIEGO COMMUNITY POWER Staff Report – Item 15

To: San Diego Community Power Board of Directors
From: Lee Friedman, Senior Manager of Strategic Partnerships
Via: Karin Burns, Chief Executive Officer
Subject: Proposed 2023 San Diego Loyal Sponsorship Agreement
Date: February 23, 2023

RECOMMENDATION

Approve the proposed San Diego Loyal Sponsorship Agreement for the 2023 season.

BACKGROUND

In late 2021, San Diego Community Power (SDCP) began negotiating with the San Diego Loyal Soccer Club (SD Loyal) for a 2022 season Sponsorship. SD Loyal is San Diego's premier men's soccer team and is partially owned by former USA professional soccer player Landon Donovan. The sponsorship was part of SDCP's larger marketing strategy to improve name recognition and reach a new and diverse audience.

Based on positive performance of the partial 2022 season, SDCP re-entered into negotiations with SD Loyal for the 2023 season in late 2022 and is recommending the Board approve this single year sponsorship.

DISCUSSION AND ANALYSIS

SDCP, as part of its broader strategy to build trust, name recognition, and drive engagement, is proposing to enter into a full season sponsorship with the SD Loyal for the 2023 season.

With San Diego rumored as one the next expansion cities for Major League Soccer (MLS), the SD Loyal may be acquired prior to the 2024 season – significantly boosting its marketability, fanbase, and resources.

Notably, the terms of the proposed sponsorship agreement include two new assets for San Diego Community Power:



- Presenting Partner of the 18/86 Initiative, which celebrates the 18 cities and 86 neighborhoods of the San Diego region – specifically their unique cultural and historical identities.
- SD Loyal will produce a one- to two-minute brand video for SDCP highlighting clean power and community investment.

SDCP will bring back several successful elements from the 2022 sponsorship package as well, including SDCP as presenting partner for “Power Corner Kicks” and in-stadium signage.

For the 2023 season, SDCP and SD Loyal have negotiated the following terms:

DESIGNATION

- Official Power Company of the San Diego Loyal
- Use of SDLSC marks within San Diego County upon the terms and subject to the conditions described in Section 2 of the above agreement.

SPECIAL PROMOTIONS

- Presenting Partner – 18-86 Initiative. During the Term, SDLSC shall designate Sponsor as the presenting sponsor of SDLSC’s “18-86” initiative (a proprietary program created and being implemented by SDLSC to acknowledge each city and unincorporated region within the greater San Diego, California area).

BROADCAST & DIGITAL MEDIA EXPOSURE

- One (1) minute (:15-:30 intervals) of broadcast-visible LED ribbon board advertising & messaging at the Stadium during the Club’s regular season home games
 - Sponsor can revise and update messaging throughout season
 - Sponsor can create Spanish and English versions
 - Advertising content is subject to approval by SDLSC; Sponsor to provide to SDLSC advertising content in an airing-ready format
- Presenting Rights, one (1) SDLSC in-game moment for all local television broadcasts (English language) during such portion of the Club’s regular season home games that are televised by SDLSC
 - “Corner Kicks presented by San Diego Community Power.”
 - Opportunity to connect a charitable component (i.e., \$6.19 per corner kick, separate investment)
- Presenting partner for two (2) select local television broadcast (English language) in 2023 (i.e., San Diego Loyal vs. Phoenix Rising presented by San Diego Community Power)
 - Logo inclusion and mentions on all broadcast and digital assets leading up to matchday



- One (1) interval of Five (5) minutes of branding exposure for Sponsor consisting of the appearance of Sponsor's primary logo as a 'clock-wrap' next to the time/score bug in each local television broadcasts (English language) during such portion of the Club's regular season home games that are televised by SDLSC
- Sponsor logo inclusion in the partner section on SDLSC's official website

IN-VENUE INTEGRATION

- Fixed signage placement advertising Sponsor for all the Club's regular season home matches
 - One (1) 3'x20' Sign location placement behind goal
 - One (1) 3'x20' Sign location placement along North Wall
- Opportunity for Sponsor representatives to be on-site during mutually agreed upon, five (5) SD Loyal regular season home matches with placement in location designated by SDLSC of 10x10 table for distribution of Sponsor information.

HOSPITALITY

- A ticket bank consisting of an aggregate of Fifty (50) single-game admission tickets to the Club's regular season home games for use by Sponsor's employees, clients, and special guests.
- One (1) opportunity per season for six (6) guests to attend a team practice

ADDITIONAL SUPPORT & ENHANCEMENTS

- SD Loyal to produce SDCP brand video during 2023 season
 - 1–2-minute video to be repurposed in to :15-:30 spots
 - Highlighting aspects of SDCP including but not limited to clean power, highlights of partnership with SDLSC, community focus, non-profit status and other aspects of SDCP brand
- Discounts of up to 20% (as determined by SDLSC) off the regular retail price of SDLSC regular season home game admission tickets and Club merchandise for Sponsor's employees and clients
- Invitations to all business networking and Corporate Partnership events hosted by SDLSC
- Introduction to all SDLSC corporate and community partners
- Sponsor integration in specific community initiatives produced and executed by San Diego Loyal
 - i.e., Leal Sin Muros, volunteer events, etc.

COMMITTEE REVIEW

None.

FISCAL IMPACT

Although this sponsorship agreement is within the signing purview of the Chief Executive Officer, SDCP is bringing this item to the full Board of Directors for approval along with



the San Diego Padres and San Diego Wave sponsorship agreements to show the full impact and diversity of sponsorships for the upcoming 2023 professional sport season. The total cost of the 2023 Season Sponsorship is \$100,000 with \$50,000 due net 30 days from contract execution and the final \$50,000 paid in full no later than May 31, 2023.

ATTACHMENTS

Attachment A: Proposed 2023 Sponsorship Agreement

Attachment B: 2022 Sponsorship Season Metrics Report





February 9, 2023

San Diego Community Power
PO Box 12716
San Diego, CA 92112
Attention: Karin Burns, CEO

Re: San Diego Community Power/San Diego Loyal SC; 2023 Sponsorship

Dear Karin:

This agreement (the “**Agreement**”) describes the terms and conditions under which San Diego Loyal Soccer Club, LLC, a Delaware limited liability company, dba San Diego Loyal SC (“**SDLSC**”), the owner of a USL Championship (the “**USL**”) men’s outdoor professional soccer club based in San Diego, California (the “**Club**”), and San Diego Community Power, a California joint powers agency (“**Sponsor**”), are willing to enter into and be bound by a sponsorship arrangement relating to various aspects of the Club’s 2023 USL season (the “**Season**”), the home games of which will be played at a location selected by SDLSC within the greater San Diego, California area (as applicable, the “**Location**”).

The sponsorship consists of certain advertising rights and other benefits, all as more particularly described in Exhibit A attached hereto and by this reference incorporated herein, and all of which are granted by SDLSC to Sponsor subject to any applicable rules and regulations of the USL and to any applicable laws in effect from time to time during the Term (as hereinafter defined). The parties hereto hereby expressly acknowledge and agree that it is their mutual intention that this Agreement shall constitute the creation of a legally binding contract between Sponsor and the SDLSC upon the terms set forth in such Exhibit A and in the following paragraphs of this Agreement.

1. The effective date of this Agreement shall be February 9, 2023 (the “**Effective Date**”). The term of this Agreement shall commence on the Effective Date and, unless sooner terminated as provided in this Agreement, shall expire concurrently with the end of the last ‘home’ USL game (regular season or playoff) played by the Club during the Season (“**Term**”). Notwithstanding anything to the contrary contained in the foregoing, either SDLSC or Sponsor shall have the right at any time to terminate this Agreement, without prejudice to any other legal rights, claims, or causes of action to which such terminating party may be entitled, (a) upon a material breach by the other party in performance of any of its obligations under this Agreement, which breach is not cured within fifteen (15) calendar days’ following written notice of such breach to the breaching party; or (b) if it is discovered that any of the representations or warranties made by the other party in this Agreement are untrue or inaccurate in any material respect.

2. All marks, logos, trademarks, copyrighted and copyrightable materials of SDLSC, or similar, legally protected or protectable works of SDLSC (the “**SDLSC Intellectual Property**”) that are supplied by SDLSC to Sponsor at all times shall belong to and remain the sole property of SDLSC, and Sponsor shall not have or acquire any right to copy, reproduce, publish or use the SDLSC Intellectual Property except if and as expressly approved in writing by SDLSC (which approval may be granted or withheld by SDLSC in its sole and absolute discretion). Any approval by SDLSC pursuant to the foregoing shall

constitute the grant of a limited, revocable license and right to use the SDLSC Intellectual Property solely during the Term for the specific purposes of this Agreement. All marks, logos, trademarks, copyrighted and copyrightable materials, or similar, legally protected or protectable works of Sponsor or its affiliates that are supplied by Sponsor to SDLSC (the “**Sponsor Intellectual Property**”) at all times shall belong to and remain the sole property of Sponsor, and SDLSC shall not have or acquire any right to copy, reproduce, publish or use the Sponsor Intellectual Property except in connection with the specific purposes of this Agreement. Upon the expiration or earlier termination of the Term, Sponsor’s use of the SDLSC Intellectual Property, and SDLSC’s use of the Sponsor Intellectual Property, shall immediately cease and Sponsor shall return the SDLSC Intellectual Property, and all copies thereof, to SDLSC, and SDLSC shall return the Sponsor Intellectual Property, and all copies thereof, to Sponsor, or destroy the same, as soon as possible, and in no event, any later than twenty (20) calendar days from the date of such expiration or termination.

3. Mutual Indemnification.

a. Sponsor shall indemnify, defend and hold harmless SDLSC, its affiliates (including, without limitation, SDLSC Personnel Group, LLC) and their respective managers, members, officers, employees, agents, contractors, successors and assigns, and each of them, from and against any and all claims, demands, causes of action, actions, suits, liabilities, losses, judgments, damages, penalties, costs or expenses (including reasonable attorneys’ fees and costs), whether consequential, direct or indirect, foreseeable or not foreseeable, punitive or otherwise (collectively “**Claims**”), that result from, arise out of or relate to: (a) any breach by Sponsor of any of covenant, representation or warranty made by Sponsor in this Agreement; (b) Sponsor’s proportionate share of harm caused by its negligence or intentional misconduct during the course of this Agreement; (c) the content or subject matter of promotions or advertisements made by or on behalf of Sponsor (and approved by Sponsor) pursuant to this Agreement; (d) SDLSC’s use of any Sponsor Intellectual Property pursuant to this Agreement to the extent the indemnified matter involves the infringement of such Sponsor Intellectual Property on the intellectual property rights of any third party; or (e) Sponsor’s use of any SDLSC Intellectual Property to the extent not approved by SDLSC pursuant to this Agreement. The provisions of this Paragraph 3(a) shall survive the expiration or earlier termination of this Agreement.

b. SDLSC shall indemnify, defend and hold harmless Sponsor and its officials, members, officers, employees, agents, contractors, successors and assigns, and each of them, from and against any and all Claims, that result from, arise out of or relate to: (a) any breach by SDLSC of any of covenant, representation or warranty made by SDLSC in this Agreement; (b) SDLSC’s proportionate share of harm caused by its negligence or intentional misconduct during the course of this Agreement; (c) Sponsor’s use of any SDLSC Intellectual Property pursuant to this Agreement to the extent the indemnified matter involves the infringement of such SDLSC Intellectual Property on the intellectual property rights of any third party; or (d) SDLSC’s use of any Sponsor Intellectual Property to the extent not approved by Sponsor pursuant to this Agreement. The provisions of this Paragraph 3(b) shall survive the expiration or earlier termination of this Agreement.

4. Given various impacts of the ongoing COVID-19 pandemic, the parties acknowledge that the Season may not be played in full, that there is no guarantee of how many of the Club’s games in the Season will be played, cancelled, or rescheduled, and that it is possible that all or a portion of the Club’s “home” games in the Season may be played without any fans permitted to be in attendance at the Location. Despite the uncertainties relating to such matters, Sponsor is willing to enter into this Agreement, provided that SDLSC agrees to engage with Sponsor to work out an accommodation on the basis set forth below in this paragraph relative to any sponsorship benefits that Sponsor does not receive during the Season because of COVID-19 related impacts. In the event that any of the Club’s

regular season “home” games during the Season are cancelled (and not rescheduled to be played) during the term of this Agreement, or are played without any fans permitted to be in attendance at the Location, Sponsor’s sole and exclusive remedy shall be a reasonable accommodation provided by SDLSC to Sponsor relative to the number of such games cancelled and/or number of games played without any fans in attendance at the Location and taking into account the sponsorship elements (in-stadium advertising, hospitality, etc.) that Sponsor does not receive under the terms of this Agreement as a result of such impacts. SDLSC and Sponsor shall negotiate in good faith and reasonably to determine the nature of such accommodation, which may consist of, by way of example only, appropriate “make good” advertising or promotion(s) or a proportional extension of the term of this Agreement without payment of any additional fee. Sponsor and SDLSC hereby acknowledge and agree that, except as expressly provided in this paragraph, SDLSC shall not be responsible or liable to Sponsor for the cancellation or postponement of, or the inability to schedule or host, any soccer game or other activity (or for the lack of fans in attendance at the same), by reason of COVID-19, other pandemic/epidemic, strike, lockout, rules or regulations of any of professional soccer authorities, failure of electric power or other utilities, natural disaster, inclement weather, restrictive governmental laws or regulations enacted or promulgated subsequent to the date of this letter agreement, other action or decree of any governmental authority with appropriate jurisdiction, vandalism, riots, insurrections, wars, or any other reason outside the reasonable control of SDLSC.

5. Each of Sponsor and SDLSC agree that, except as otherwise required by any applicable law, a valid order of a court or governmental or regulatory agency of competent jurisdiction, or disclosures to its officers, employees, members/owners or prospective members/owners, and advisors (including legal, financial and accounting advisors) (each a “Permitted Disclosure”), this Agreement and its terms and conditions shall be deemed confidential and shall not be disclosed without the prior written consent (from a duly authorized representative) of the other party hereto, which consent shall not be unreasonably withheld. Each of SDLSC and Sponsor further agree that should a breach of such provision occur, the damages may be uncertain or unquantifiable, and that the non-breaching party may enjoin the breaching party to prevent additional disclosure. SDLSC expressly acknowledges that Sponsor, as local public agency operating under the laws of the State of California, is subject to the requirements of the California Public Records Act (Cal. Gov. Code § 6250, *et seq.*) (“CPRA”) and that records of Sponsor, including this Agreement, may be subject disclosure thereunder. Neither party shall have any liability to the other party for Permitted Disclosures, including but not limited to Permitted Disclosures made pursuant to the CPRA. The foregoing provisions shall survive the termination of this Agreement.

6. Each of Sponsor and SDLSC agree that this Agreement shall be construed in accordance the internal laws of the State of California without giving effect to any conflicts of law rules of such State, and that the Superior Court of the State of California in and for the County of San Diego, and the associated federal and appellate courts, shall have exclusive jurisdiction to hear and decide any dispute, controversy or litigation regarding the enforceability or validity of this Agreement or any portion hereof. The language in all parts of this Agreement shall in all cases be construed simply according to its fair meaning and not strictly against either SDLSC or Sponsor.

7. Each of Sponsor and SDLSC, with respect to itself only, represents and warrants to the other, that: (a) it has the right, power, legal capacity and authority to enter into and perform its obligations under this agreement, (b) the execution, delivery and performance by it of its obligations under this Agreement, and the consummation by it of the transactions contemplated hereunder, have been duly authorized by all necessary corporate or similar action on its part, and (c) the terms and provisions of the covenants by it under this Agreement constitute valid and legally binding obligations of it enforceable against it in accordance with their respective terms, except to the extent abrogated or limited by bankruptcy, insolvency or other laws affecting creditor’s rights generally.

8. This Agreement contains the entire understanding of SDLSC and Sponsor with respect to the subject matter hereof, and it supersedes all prior or contemporaneous written or oral agreements and understandings between the parties hereto pertaining to any such matter. Every provision of this Agreement is intended to be severable and if any provision hereof is declared by a court of competent jurisdiction to be illegal or unenforceable such illegality or invalidity shall not affect the balance of the terms and provisions hereof. No provision of this Agreement may be amended, modified or supplemented or added to except by an agreement in writing, expressly stating that such agreement is an amendment of this Agreement, signed by a duly authorized representative of each party to this Agreement. If either party commences an action against the other to interpret or enforce any of the terms of this Agreement or because of the breach by the other party of any of the terms hereof, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, whether or not the action is prosecuted to a final judgment. Neither party shall have any right to assign or transfer any of its rights, or to delegate any of its obligations, under this Agreement to any person or entity without the prior written consent of the other party hereto, which consent shall not unreasonably be withheld. Any attempted assignment without such consent shall be invalid and void. This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument with the same effect as if all parties had signed the same signature page. Time is of the essence for each and every provision of this Agreement.

9. SDLSC and Sponsor are independent contractors with respect to each other, and the parties shall represent themselves as such in all respects. Except as otherwise may be specifically provided for in this Agreement, no party is the agent of the other and no party may bind the other in any way. Nothing contained in this Agreement is to be considered or construed by the parties or by any third party as creating the relationship of principal and agent, partnership or joint venture, employer-employee or to create any association between the SDLSC or the SDLSC's members, officers, directors, employees, players, coaches, agents, representatives, or affiliates and Sponsor or Sponsor's officers, directors, employees, agents, representatives or affiliates.

10. All notices required or permitted in this Agreement shall be in writing and shall be deemed duly given when personally delivered, sent by overnight mail, or sent by certified mail, postage prepaid, return receipt requested. Notices delivered personally or by overnight mail shall be deemed communicated as of the date of receipt. Notices delivered by certified mail shall be deemed communicated three (3) days after the date when deposited in the mail. Notices as required hereunder shall be addressed to the parties as follows:

To SDLSC: San Diego Loyal Soccer Club, LLC
655 Camino de la Reina
San Diego, California, 92108
Attn: Andrew Vassiliadis
Matthew R. Re, Esq.

To Sponsor: San Diego Community Power
PO Box Suite 12716
San Diego, CA 92112
Attention: Karin Burns

SIGNATURES ON FOLLOWING PAGE

If the terms herein meet with your approval, please signify your agreement with the foregoing by signing this Agreement below where indicated and returning it to me. We look forward to implementation of the sponsorship!

SDLSC:

SPONSOR:

SAN DIEGO LOYAL SOCCER CLUB, LLC,
a Delaware limited liability company

SAN DIEGO COMMUNITY POWER,
a California joint powers agency

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____



San Diego Loyal SC/ San Diego Community Power 2023 Sponsorship Elements

1. **Pre-Game/In-Game/Post-Game/Community/Hospitality Sponsorship Elements**

- **DESIGNATION**

- Official Power Company of the San Diego Loyal
- Use of SDLSC marks within San Diego County upon the terms and subject to the conditions described in Section 2 of the above agreement.

- **SPECIAL PROMOTIONS**

- Presenting Partner – 18-86 Initiative. During the Term, SDLSC shall designate Sponsor as the presenting sponsor of SDLSC’s “18-86” initiative (a proprietary program created and being implemented by SDLSC to acknowledge each city and unincorporated region within the greater San Diego, California area), by means of recognizing Sponsor as such at or in each of the following: (i) marketing collateral originated and published and/or distributed by SDLSC in relation to such initiative; (ii) the campaign featuring an applicable city or unincorporated region during the week in advance of a Regular Season Home Game at which such city or unincorporated region will be highlighted; (iii) any Club traveling training session conducted by SDLSC in a city or unincorporated region within the greater San Diego, California area that will be so highlighted; (iv) any charitable contribution undertaking facilitated by SDLSC and Sponsor relative to a charitable organization located within a city or unincorporated region within the greater San Diego, California area that will be so highlighted (such as, by way of example only, the Oceanside Boys and Girls Club); (v) any special community event hosted by SDLSC within a city or unincorporated region within the greater San Diego, California area that will be so highlighted (such as, by way of example only, a movie night or pickup soccer game); and (vi) any in-Stadium entertainment or promotion recognizing a city or unincorporated region within the greater San Diego, California area that will be so highlighted (such as, by way of example only, a halftime performance).

- **BROADCAST & DIGITAL MEDIA EXPOSURE**

- One (1) minute (:15-:30 intervals) of broadcast-visible LED ribbon board advertising & messaging at the Stadium during the Club’s regular season home games
 - Sponsor can revise and update messaging throughout season
 - Sponsor can create Spanish and English versions
 - Advertising content is subject to approval by SDLSC; Sponsor to provide to SDLSC advertising content in an airing-ready format

- Presenting Rights, one (1) SDLSC in-game moment for all local television broadcasts (English language) during such portion of the Club's regular season home games that are televised by SDLSC
 - i.e., "Corner Kicks presented by San Diego Community Power."
 - Opportunity to connect a charitable component (i.e., \$6.19 per corner kick, separate investment)
- Presenting partner for two (2) select local television broadcast (English language) in 2023 (i.e., San Diego Loyal vs. Phoenix Rising presented by San Diego Community Power)
 - Logo inclusion and mentions on all broadcast and digital assets leading up to matchday
- One (1) interval of Five (5) minutes of branding exposure for Sponsor consisting of the appearance of Sponsor's primary logo as a 'clock-wrap' next to the time/score bug in each local television broadcasts (English language) during such portion of the Club's regular season home games that are televised by SDLSC
- Sponsor logo inclusion in the partner section on SDLSC's official website
- **IN-VENUE INTEGRATION**
 - Fixed signage placement advertising Sponsor for all the Club's regular season home matches
 - One (1) 3'x20' Sign location placement behind goal
 - One (1) 3'x20' Sign location placement along North Wall
 - Opportunity for Sponsor representatives to be on-site during mutually agreed upon, five (5) SD Loyal regular season home matches with placement in location designated by SDLSC of 10x10 table for distribution of Sponsor information.
- **HOSPITALITY**
 - A ticket bank consisting of an aggregate of Fifty (50) single-game admission tickets to the Club's regular season home games for use by Sponsor's employees, clients, and special guests. The outstanding balance of such ticket bank may be redeemed and applied by Sponsor at any time and from time to time during the Season for the acquisition of single-game admission tickets to such regular season home games use of the ticket bank is subject to single-game ticket availability for an applicable game as determined by SDLSC; seat locations to be determined by SDLSC; tickets from the ticket bank are not to be made available by Sponsor for resale or redistribution).
 - One (1) opportunity per season for six (6) guests to attend a team practice
- **ADDITIONAL SUPPORT & ENHANCEMENTS**
 - SD Loyal to produce SDCP brand video during 2023 season
 - 1–2-minute video to be repurposed in to :15-:30 spots
 - Highlighting aspects of SDCP including but not limited to clean power, highlights of partnership with SDLSC, community focus, non-profit status and other aspects of SDCP brand
 - Discounts of up to 20% (as determined by SDLSC) off the regular retail price of SDLSC

regular season home game admission tickets and Club merchandise
for Sponsor's employees and clients

- Invitations to all business networking and Corporate Partnership events hosted by SDLSC
- Introduction to all SDLSC corporate and community partners
- Sponsor integration in specific community initiatives produced and executed by San Diego Loyal
 - i.e., Leal Sin Muros, volunteer events, etc.

2. **Sponsorship Fees and Payment Terms**

- **TERM**

- All of the Club's official 2023 USL Championship regular season games, as well as any non-league exhibition (i.e., friendly) games; official 2023 USL Championship post-season playoff games, if any, are not included

- **INVESTMENT**

- 2023 Season - \$100,000

- **PAYMENT SCHEDULE**

- March - \$50,000 – Net 30 from contract execution
- May - \$50,000 - No later than May 31, 2023



SAN DIEGO COMMUNITY POWER Staff Report – Item 16

To: San Diego Community Power Board of Directors

From: Laura Fernandez, Director of Regulatory & Legislative Affairs

Via: Karin Burns, Chief Executive Officer

Subject: Approval of the Policy Platform

Date: February 23, 2023

RECOMMENDATIONS

Approve the Policy Platform.

BACKGROUND

San Diego Community Power's (SDCP) Policy Platform (Platform) serves as a guide to the SDCP Board of Directors, SDCP staff, and SDCP advocates in their efforts and engagement on policy matters of interest to SDCP. The Platform allows both Board members and staff to pursue actions at the local, regional, state, and federal legislative and regulatory levels in a consistent manner and with the understanding that they are pursuing actions in the best interest of the organization and its mission, its member agencies, and its customers. The Platform enables the organization to move swiftly to respond to issues before Legislature and Executive Branch agencies including the California Public Utilities Commission (CPUC), the California Energy Commission (CEC), California Independent System Operator (CAISO), and the California Air Resources Board (CARB) so that SDCP's views can be heard on important matters in a timely fashion. This Platform is applicable to statewide referenda, grant funding opportunities, and local ballot initiatives. The Platform is also applicable to opportunities arising out of recent federal legislation, including the Inflation Reduction Act as well as the Infrastructure Investment and Jobs Act. The Platform provides guidance to the Chief Executive Officer on support or oppose positions that should be taken on legislative matters identified by the SDCP Director of Regulatory and Legislative Affairs and the California Community Choice Association (CalCCA) Board of Directors.

ANALYSIS AND DISCUSSION

The Platform was originally approved by the Board on March 24, 2022. The Platform was amended by the Board on November 17, 2022. The Platform is now being updated to reflect that it is intended to guide policy decisions at the legislature as well as administrative agencies at both the state and federal level. The Platform has also been

updated to address recent federal legislation. Additionally, the language in the Platform regarding Resource Adequacy has been updated and amended to reflect current issues in that policy area. Language regarding supporting policies that ensure a just transition of workers into the non-fossil fuel, clean energy economy has also been added. Language regarding financial stability of CCAs as well as language regarding provider of last resort discussions has also been added. Other amendments address policies around improved indoor air quality in the context of home energy upgrades. Finally, a section regarding Rate Affordability and Modernization has been added.

COMMITTEE REVIEW

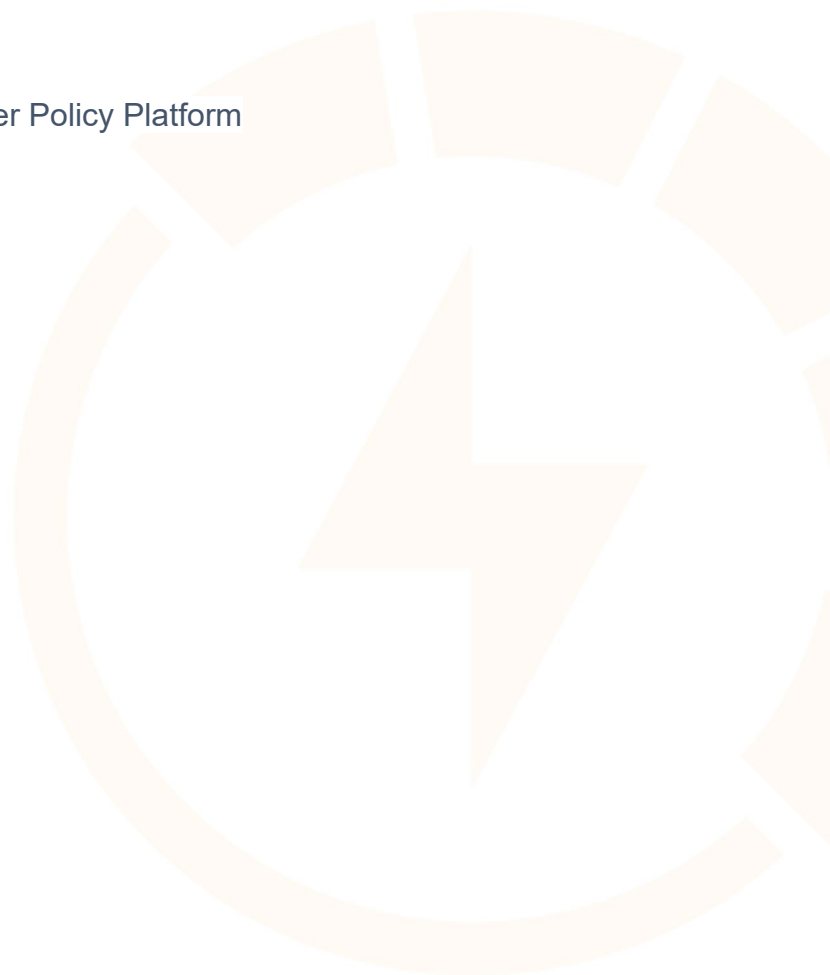
The Community Advisory Committee was asked to review the Platform and provide any requested revisions in February 2023. Certain additions were made in response to feedback that was provided directly via email to the Director of Regulatory and Legislative Affairs.

FISCAL IMPACT

N/A

ATTACHMENTS

Attachment A: San Diego Community Power Policy Platform





San Diego Community Power Policy Platform

Overview and Purpose

San Diego Community Power's (SDCP) Policy Platform (Platform) serves as a guide to the SDCP Board of Directors, SDCP staff, and SDCP advocates in their efforts and engagement on policy matters of interest to SDCP. The Platform allows both Board members and staff to pursue actions at the local, regional, state, and federal legislative and regulatory levels in a consistent manner and with the understanding that they are pursuing actions in the best interest of the organization and its mission, its member agencies, and its customers. The Platform enables the organization to move swiftly to respond to issues before Legislature and Executive Branch agencies including the California Public Utilities Commission (CPUC), the California Energy Commission (CEC), California Independent System Operator (CAISO), and the California Air Resources Board (CARB) so that SDCP's views can be heard on important matters in a timely fashion. This Platform is applicable to statewide referenda, grant funding opportunities, and local ballot initiatives. The Platform is also applicable to opportunities arising out of recent federal legislation, including the Inflation Reduction Act as well as the Infrastructure Investment and Jobs Act. The Platform provides guidance to the Chief Executive Officer on support or oppose positions that should be taken on legislative matters identified by the SDCP Director of Regulatory and Legislative Affairs and the California Community Choice Association (CalCCA) Board of Directors.

The Platform outlines the legislative and regulatory priorities and stances of SDCP with the intent to inform customers, representatives, and policymakers on the myriad of public policies that intersect with SDCP's priorities, programs, and services.

SDCP has three major policy priorities:

1. Accelerating Deep Decarbonization,
2. Promoting Local Development, and
3. Stabilizing Community Choice.

SDCP support of policies will be contingent upon that legislation or regulation adhering to these priorities as well as SDCP's organizational goals and priorities. Moreover, SDCP supports any and all policies that will preserve or enhance the ability of SDCP to promote these priorities at the local level.

Any questions regarding this Platform can be directed to Laura Fernandez, Director of Regulatory and Legislative Affairs, at lfernandez@sdcommunitypower.org.

General Policy Principles

SDCP has three general policy principles. These priorities serve as the foundation for all actions SDCP will take, including the lobbying and public comment for policies that promote those same guiding priorities. Public policy encompasses a myriad of subject and topic areas. However, as these policies intersect at the local level, they have the



ability to impact SDCP revenues, programs, and/or administrative discretion and control. SDCP will support policies that accelerate deep decarbonization, promote local development, stabilize community choice, or any combination thereof. If a given policy does not meet these criteria, SDCP will oppose, support with amendments, or in some cases take no stance on that policy or legislation. The General Policy Principles for SDCP are:

Accelerating Deep Decarbonization

- Support the creation or expansion of federal, state, and local policies, programs and funding that enable SDCP to provide 100% renewable energy by 2035 or sooner to customers within its service area as well as contribute to the State's efforts to reduce greenhouse gas emissions, including through building electrification and transportation electrification.
- Oppose any legislation, policies, programs, referenda, unfunded mandates and budgets that would have an adverse impact on SDCP's ability to advance decarbonization through its procurement, programs, projects, and services.

Promoting Local Development

- Support any legislation, policy, funding, referenda, and budgets that enhance community choice energy providers' ability to invest in local clean energy, distributed energy resources, grid resiliency, zero-emission transportation, all while promoting equity in the communities that it serves.
- Oppose any legislation, policy, funding, referenda, and budgets that limit or undermine SDCP's ability to invest in local clean energy, distributed energy resources, zero-emission transportation, all while promoting equity in the communities that it serves.

Stabilizing Community Choice

- Support any legislation, policies, funding, referenda, and budgets that maintain or improve the stability of community choice energy providers by ensuring regulatory structure is equitable and enables Community Choice Aggregators (CCAs) to meet their mission and goals. Maintaining local decision-making authority, including rate-setting authority and procurement of energy, is a key pillar for this stability.
- Oppose any legislation, policies, funding, referenda, and budgets that undermine or circumvent CCAs and impede the ability of SDCP to achieve its mission and goals or its value proposition.

The list of policy positions below is by no means exhaustive. In addition to the general policy principles detailed above, SDCP takes the following more specific public policy positions:

I. Governance and Authority

- a. Oppose legislation and regulation that limits the local decision-making authority for CCAs, including rate-setting authority and procurement of energy and capacity to serve their customers.

- b. Oppose legislation and regulation that limits SDCP's ability to effectively serve its customers.
- c. Support legislation and regulations that makes it easier for other cities and counties that are not served by a publicly owned utility to form a CCA, become members of SDCP or other CCAs, and oppose legislation and regulation that restricts that ability.

II. Deep Decarbonization

- a. Advocate for and support legislative and regulatory efforts to accelerate deep decarbonization of the energy sector, transportation and the built environment.
- b. Advocate for and support legislative and regulatory efforts to support and expand access to transportation and building electrification.
- c. Advocate for and support policy efforts to ensure flexibility in program design so that local data and local needs directly inform program offerings.
- d. Support state funding for electric vehicle infrastructure programs.
- e. Advocate for and support legislative and regulatory efforts to provide incentives to support communities of concern achieving deep decarbonization.

III. Environmental Justice

- a. Support legislation and regulation that supports the ability of communities of concern in the SDCP service area to have affordable, reliable and clean energy.
- b. Support legislation and regulation that strengthens the resilience of vulnerable communities to the impacts of climate change.
- c. Support legislation and regulation that enables all communities, including emerging and historically marginalized communities in California, to participate in deep decarbonization efforts.
- d. Support legislation and regulation that would take into account the concept of social cost of carbon.
- e. Support legislation and initiatives that would reduce local air pollution, reduce other negative local impacts associated with energy production, and boost adoption of distributed energy resources within communities of concern.
- f. Oppose legislation and initiatives that have the potential to disproportionately and negatively impact communities of concern.

IV. Environmental Sustainability

- a. Support legislation and initiatives that increase funding for the creation of sustainable and stable energy supply infrastructure.
- b. Support legislation and initiatives that encourage the conservation of energy resources as well as the development of dynamic load-shifting capabilities.
- c. Support legislation and funding for renewable and advanced energy technology that increase efficient consumption.
- d. Support legislation and funding for pilot energy and resource efficiency programs.
- e. Support legislation and initiatives with the goal of reducing and mitigating the effects of climate change and building local resiliency.



V. Investor-Owned Utility (IOU) Charges and Exit Fees - Power Charge Indifference Adjustment (PCIA)

- a. Support efforts that seek to eliminate exit fees including the PCIA or wind down exit fees within a reasonable time frame.
- b. Support efforts to minimize the cost of the PCIA generally and minimize its impact on SDCP's rates.
- c. Support CalCCA efforts to increase the transparency of IOU electricity contracts that provide the basis for PCIA charges.
- d. Support legislation that would bring stability to the PCIA and/or provide new mechanisms for CCAs to securitize PCIA charges.
- e. Support legislation that advances ratepayer equity.
- f. Oppose legislation that would increase or expand exit fees on CCA customers.

VI. Resource Adequacy

- a. Support legislation and regulation to address shortfalls in the Resource Adequacy market including transmission constraints, interconnection or project delays, and minimizing market power.
- b. Oppose legislation and regulation that would supplant CCAs' procurement authority for Resource Adequacy or impose compliance penalties not grounded in market realities.
- c. Support reform of the CPUC Resource Adequacy program to allow for stability in the resource adequacy value of existing resources and allow for departing load to access existing resources at fair market value.
- d. Advocate for and support efforts to remove barriers to demand response, microgrids and behind the meter resources to provide Resource Adequacy.

VII. Nonbypassable Charges

- a. Oppose legislation and regulation that restricts or limits SDCP's ability to procure its own energy products to meet state policy goals.
- b. Support legislation that promotes a level playing field between CCAs and other market participants.
- c. Support legislation that enhances the flexibility of CCA programs to support statewide procurement policy and develop and expand programs, local options, and rate design to support SDCP's community and customers.

VIII. Community Resilience

- a. Advocate for and support funding for programs implemented by CCAs and their member jurisdictions to increase community resilience to wildfires, public safety power shutoff (PSPS) events and other potential service disruptions.
- b. Support legislation and regulation that reduces barriers to microgrid development by CCAs.
- c. Oppose legislation and regulation that would enable IOUs to be the only developer of microgrids.
- d. Support legislation and regulation that increases development of community-level resources and distributed energy resources that increase resilience and reduce the need for new transmission and distribution infrastructure.



IX. Local Economic Development

- a. Support legislation and regulation that is consistent with SDCP's commitment to an inclusive and sustainable workforce.
- b. Support legislation and regulation that enhances opportunities for CCAs to promote local economic development through locally designed programs that meet the unique needs of their member agencies, communities, and customers.
- c. Support efforts to enhance development of local and regional sources of renewable energy.
- d. Support policies that ensure a just transition of workers into the non-fossil fuel, clean energy economy.
- e. Support legislation and regulation that enables CCAs to collaborate with their member jurisdictions on local energy resources and projects to advance environmental objectives.
- f. Advocate for and support efforts to direct federal funding to CCAs to deliver local energy resources and projects, as appropriate.

X. California Energy Market Structure

- a. Oppose legislation that expands direct access or the ability or economic incentives for electric service providers to selectively recruit CCA or IOU customers.
- b. Support legislation that would create renewable content and environmental standards for electric service providers to match the products offered by CCAs.
- c. Support legislation that changes California's market structures towards innovative models that reduce costs of energy service and support the expansion of carbon-free resources.
- d. Support legislation that advocates for equitable and timely data access/sharing between the IOUs, CCAs and other LSEs to support accurate and timely load forecasts, which aid in overall statewide grid reliability and resiliency efforts.

XI. Finance

- a. Support legislation that enhances the financial standing of CCAs and their ability to receive a positive credit rating.
- b. Oppose legislation that reduces or removes the tax-exempt status of municipal bonds.
- c. Oppose any legislation that would divert CCA revenues to the State or other governmental entities.
- d. Oppose policies that inequitably transfer risk from IOUs to CCAs, including within the implementation of the provider of last resort framework.
- e. Oppose legislation that disrupts or impairs the ability of CCAs to maintain or achieve financial stability.

XII. Educational, Neighborhood and Social Services

- a. Support legislation that aids or helps to fund SDCP to provide energy support services, education, and opportunities for reducing energy costs to people who are low-income, seniors, veterans, and/or people with disabilities.



- b. Support legislation and initiatives that increase funding for energy efficiency, demand response, solar plus storage, and transportation electrification programs, and energy literacy services.
- c. Support policies that would result in improved indoor air quality. For example, policies that would require or encourage appropriate ventilation be added when efficiency improvements, such as weatherproofing, insulation and double pane windows are installed.

XIII. Rate Affordability and Modernization

- a. Support legislative and regulatory efforts to promote affordable rates for all Californians while ensuring ratepayer equity and maintaining CCA ratemaking autonomy.
- b. Support policies that enhance CCA timely access to quality billing data to enable demand flexibility initiatives and innovative rate design.
- c. Oppose policy mandates that violate CCA ratemaking autonomy or impose fixed fees within the generation component of rates.
- d. Oppose policies that would result in increasing utility customer delivery rates rather than utilizing alternative state or federal funding to accomplish stated policy goals.



SAN DIEGO COMMUNITY POWER Staff Report – Item 18

To: San Diego Community Power Board of Directors

From: Colin Santulli, Director of Programs
Nelson Lomeli, Program Manager
Alyson Scurlock, Program Associate

Via: Karin Burns, Chief Executive Officer

Subject: Community Power Plan Update

Date: February 23, 2023

RECOMMENDATION

Receive and file an update on the Community Power Plan (CPP).

BACKGROUND

The CPP is a five-year strategic plan for the organization's customer energy programs. It provides SDCP with a plan to successfully deliver programs that, per the Joint Powers Authority Agreement, are centered on economic, environmental, and social equity. The CPP strives to ensure that SDCP's programs best serve the needs of our customers, member agencies, and local communities, and support regional sustainability efforts.

Between May and November 2022, SDCP staff conducted a community needs assessment to provide insight on the values, needs, and priorities of SDCP's customers and stakeholders. Details about the initial community needs assessment methods and findings can be found in the September 22, 2022 Board of Directors (Board) meeting staff report ([Agenda Item 11](#)) and an overview of the community needs survey and its findings can be found in the December 15, 2022 Board meeting staff report ([Agenda Item 7](#)).

In Q4 2022, the CPP project team completed a program market assessment and developed a program prioritization framework tool. Details about the high-level program strategy that was informed by the tool, available funding sources, and other implementation considerations can be found in the January 23, 2023 Board meeting staff report ([Agenda Item 13](#)).

DISCUSSION

At the January 2023 Board meeting, SDCP staff presented a program type phasing strategy based on short-term (FY23/24 – FY24/25), mid-term (FY25/26 – FY26/27), and long-term (FY27/28+) tranches. The input received from the Community Advisory

Committee (CAC) and the Board was used to categorize the recommended program types (described below).

Communities of Concern Program Commitment

Since its inception, SDCP has committed to supporting customers that live in Communities of Concern. SDCP defines Communities of Concern as communities within census tracts that score in the top 25% of the State's CalEnviroScreen tool and any other census tracts or areas identified by member agencies. The cities of San Diego and Chula Vista have identified Communities of Concern through their Climate Equity Index reports. If other member agencies went through the process of identifying additional census tracts in their jurisdictions as Communities of Concern, SDCP would recognize those designations under the umbrella of Communities of Concern.

Member agencies may choose to identify Communities of Concern at their discretion. SDCP does not prescribe any specific methods for member agencies to identify Communities of Concern in their jurisdictions nor will SDCP identify Communities of Concern for member agencies. SDCP is exploring opportunities to provide support to member agencies that need additional resources to undertake the effort to identify Communities of Concern.

During the community needs assessment engagement, SDCP staff learned that a large portion of customers have not participated in energy programs and are therefore not receiving the benefits of these programs. To support the equitable distribution of the benefits of customer energy programs, SDCP staff are proposing to commit 50% of future non-administrative program budgets toward incentives for customers in Communities of Concern. Additionally, SDCP is committed to centering Communities of Concern in program design to break down barriers to enable participation by all customers.

SDCP staff recognize that if a program is externally funded, there may be additional requirements regarding where and to which customer segments those funds are allocated. In these situations, SDCP staff will follow requirements from the funding agency while making every effort possible to honor the commitments to Communities of Concern proposed in the CPP.

Recommended Program Types

Utilizing the input received during the community needs assessment, the programs from the market assessment, and the scores from the program prioritization framework tool, four short-term program types and eight mid-term program types are recommended as options for implementation by SDCP.

Implementation of programs will largely be determined by funding considerations and other market developments. Given that it is better to develop a small number of well-designed and impactful programs rather than trying to do everything, SDCP staff should be deliberate about which of the recommended program types to focus on, for which market sectors/customer types, and in which order. The recommended list of program types is meant to provide flexible guidance for SDCP to deploy a transformative suite of



customer energy programs over time that we know will meet community and organizational needs and priorities.

The CPP outlines the phase, priorities addressed, and recommended market sectors/customer types for each program type. Additionally, a description is provided for each program type as well as benefits, design considerations, and funding considerations.

Short-Term Program Types (FY23/24 – FY24/25)

The following short-term program types are recommended because they address an immediate need identified in the community needs assessment and can be launched quickly with available funding and/or with a manageable amount of SDCP's revenues.

1. **Customer Energy Awareness and Education** program types generally teach customers about how their energy bill works, how usage impacts costs, the benefits of clean energy, and how to participate in the clean energy transition.
2. **Application Assistance** program types help customers apply for existing programs or otherwise make it easier for customers to participate in existing programs.
3. **Green Tariffs (*Disadvantaged Communities Green Tariff and Community Solar Green Tariff*)** bring the benefits of solar and provide a bill discount to income-qualified residential customers in under-resourced communities who have barriers to installing or are unable to install solar on their roof.
4. **Pilot Programs** are small-scale, short-duration projects (6-18 months) that can test out innovative program concepts and delivery mechanisms, as well provide useful information to SDCP and stakeholders, such as data on program design and technology acceptance.

Mid-Term Program Types (FY25/26 – FY26/27)

The following mid-term program types are recommended because they address a community and organizational priority but require more time for external funding to be secured, more significant investments from SDCP's revenues to be allocated, and/or for their design and implementation to happen. These programs are organized alphabetically.

1. **Building Electrification: Appliance** program types encourage the adoption of electric appliances to achieve building electrification.
2. **Building Electrification: Heat Pump Technology** program types encourage the installation of electric heat pumps for space heating, cooling, and water heating in buildings.
3. **Distributed Energy Resources: Energy Storage System** program types support the installation of onsite energy storage systems to be paired with renewable energy resources (such as onsite solar).



4. **Distributed Energy Resources: Demand Response** program types incentivize customers to reduce their electricity use via behavioral changes or smart devices when energy demand on the grid is at its peak.
5. **Energy Efficiency** program types promote a wide range of strategies that can reduce the amount of energy buildings use.
6. **Transportation Electrification: Infrastructure** program types support the deployment of electric vehicle charging stations and related technologies (e.g., *Vehicle-to-Grid*) to enable transportation electrification.
7. **Transportation Electrification: Light-Duty Vehicle** program types support customers in the transition from fossil-fuel powered cars to electric cars.
8. **Transportation Electrification: Medium- and Heavy-Duty Vehicle** program types encourage the transition from fossil-fuel powered commercial vehicles to electric alternatives.

Long-Term Program Types (FY27/28+)

Because the CPP has a five-year timespan, it is primarily focused on short- and mid-term program types. Long-term program types will require more complex program design and development, are dependent on SDCP being more established, and/or support emerging clean energy technologies. During the long-term, SDCP will continue to learn from and improve existing programs and strengthen relationships with its partners and communities. During this phase, SDCP will be better positioned to deliver more complex and involved customer incentive types (e.g., *on-bill financing*), unique rate structures, and support emerging emission-reducing technologies (e.g., *industrial equipment electrification*).

Next Steps

SDCP staff anticipate releasing a draft CPP that includes the above program types for a 30-day public review and comment period in early March 2023. The public draft will be made available in English, Spanish, and Filipino (Tagalog). During this time, the CPP project team will re-engage with the community, stakeholders, and CAC to solicit feedback on the draft CPP.

After incorporating input from the public review and comment period, SDCP staff will seek feedback on the draft CPP from the Board at the Board Strategic Planning Session in April 2023. This will allow for an in-depth, detailed discussion of the recommended program types and their associated design and funding considerations. SDCP staff anticipate presenting the final CPP for adoption consideration at the May 2023 Board meeting.

COMMITTEE REVIEW

The CAC is an active member of the CPP project and has a standing agenda item to receive ongoing CPP updates. SDCP staff presented and discussed the draft program types with the CAC at their February 2023 meeting. The CAC provided input on design considerations for many of the program types. Overall, the CAC was supportive of the

recommended program types and provided suggestions such as working with multi-family building owners to encourage installation of electric vehicle charging infrastructure, providing a list of vetted contractors, providing incentives to help with grid resilience, and considering ventilation within energy efficiency upgrades. Additional feedback included working with member agencies to make future programs as seamless as possible.

The CAC was supportive of the proposed 50% commitment of future program's non-administrative budgets being allocated to Communities of Concern. CAC members made comments about increasing the commitment above 50%. They were supportive of SDCP staff's approach to center Communities of Concern in program design to make it easy for all to participate in programs.

FISCAL IMPACT

None. Funding for the development of the CPP primarily comes from Calpine as part of their Data Management Agreement. Fiscal commitments from SDCP for development activities are factored into the FY22-23 budget.

ATTACHMENTS

None.





SAN DIEGO COMMUNITY POWER Staff Report – Item 19

To: San Diego Community Power Board of Directors

From: Colin Santulli, Director of Programs
Sheena Tran, Senior Program Manager

Via: Karin Burns, Chief Executive Officer

Subject: Regional Energy Network (REN) Progress Update

Date: February 23, 2023

RECOMMENDATION

Receive and file an update on Regional Energy Network (REN) progress.

BACKGROUND

One of the Programs Team's FY 2023 annual priorities is to lead initial steps in a regional effort to develop a Regional Energy Network (REN) in San Diego. The approval of a REN in San Diego by the California Public Utilities Commission (CPUC) would allow access to energy efficiency programming for SDCP's customers, and potentially others in the region.

The CPUC introduced the concept of RENs in 2012 in Decision (D.)12-05-015 as a way to involve local governments more directly in administering energy efficiency programs. RENs were defined as "pilot" programs and were meant to supplement the existing energy efficiency portfolio offered by the investor-owned utilities (IOUs) (i.e., Pacific Gas & Electric (PG&E), Southern California Edison (SCE), Southern California Gas Company (SCG), and San Diego Gas & Electric (SDG&E)).

The CPUC approved two RENs (Southern California Regional Energy Network (SoCalREN) and Bay Area Regional Energy Network (BayREN)) in its 2013-2014 Portfolio Guidance Decision. Tri-County REN (3C-REN) was approved in 2018 and Inland REN (I-REN) was approved most recently in 2021. Rural REN (RREN) is led by 6 members of the Rural Hard-to-Reach (RHTR) Working Group and upon approval will offer programs in rural areas of California in PG&E and SCG service territories.

In 2019, the CPUC authorized the continued operation of existing RENs and invited new REN proposals as business plans to be filed with the Commission. It was also stated that, "the existing RENs have been in place long enough and have shown value to warrant removal of the "pilot" designation from RENs. RENs should continue to be monitored and evaluated according to the success of their programs and as evaluated periodically, but

should no longer face uncertainty about whether RENs as a concept will continue to be considered by the Commission.”

SDCP staff presented and introduced the topic of a REN in San Diego at the May 26, 2022, Board meeting as an option to access CPUC funding for customer energy programs. SDCP staff presented and identified forming a REN as one of the FY 22-23 Programs Department priorities during the New Board Orientation meeting on January 18, 2023.

ANALYSIS AND DISCUSSION

REN Value

A significant administrative effort will be needed to develop and provide ongoing administration of a REN, however, there are significant funding opportunities with the appropriate justification. The funding range could vary from other REN budgets given a robust planning effort, through the Business Plan development, will be required to identify proposed programs specific to the region. However, a simple extrapolation of per capita budgets of the existing RENs indicates that a REN serving San Diego County could have an approximate budget of \$6.5M to \$19M per year, depending on the proposed programs. Another value of pursuing formation of a REN is that RENs do not have a cost-effectiveness requirement (although they are encouraged to manage their programs with an eye toward long-term cost-effectiveness and are required to file benefit-cost ratios and savings targets).






Outside of additional, flexible program funding, stakeholders across the state have expressed the value of RENs in many ways that are aligned with SDCP’s mission and strategic goals, including:

- *RENs are expressly focused on hard-to-reach markets that would otherwise be left behind. Finally, RENs bring regional, coordinated, and locally-responsive resources to bear on integrated issues such as water conservation, climate adaptation, and greenhouse gas emissions reduction. – Rising Sun*
- *RENs have played and can continue to play a critical role in California’s energy efficiency market by providing services where the utilities cannot or will not. The utilities will not seek innovation because the perceived risk of delivering non-cost-effective outcomes outweighs the benefits of exploring new programs. Thus, RENs can be more experimental and can reach communities that are inherently less cost-effective to serve. – Rural Hard to Reach*
- *RENs are more suitable to pursuing longer-term goals, advancing equity, and reaping benefits that require deeper, persistent engagements. - LGSEC*

Existing RENs

The following table describes the governance structures, territories, and budgets for the existing and proposed RENs.



	SoCalREN	BayREN	3C-REN	I-REN	RREN
Governance	Administered by LA County	Administered by the Association of Bay Area Governments (ABAG) ABAG is part regional planning agency and part local government service provider.	Led by County of Ventura for Counties of San Luis Obispo, Santa Barbara, and Ventura	Coalition of 3 councils of governments: led by Western Riverside Council of Governments (WRCOG), Coachella Valley Association of Governments (CVAG), San Bernardino Council of Governments (SBCOG)	6 members of RHTR WG: led by Redwood Coast Energy Authority (RCEA), Association of Monterey Bay Area Governments (AMBAG), County of San Luis Obispo (SLO), San Joaquin Valley Clean Energy Organization (SJVCEO), High Sierra Energy Foundation (HSEF), Sierra Business Council (SBC)
Type	local government; 1 county	Association of local governments	local governments; 3 counties	3 COGs and each a JPA	RCEA and AMBAG are JPAs; RCEA is a CCA; SLO a PA of 3CREN; HSEF, SJVCEO and SBC are non-profits
Approved	2012	2012	2018	2021	Pending Approval
IOU Service Territory	SCE, SCG	PGE	SCE, SCG, PGE	SCE, SCG	PGE, SCG, SCE
# Counties	12	9	3	2	31
# Cities	220	101	25	52	115
Service Area (Sq. Miles)	50,000	6,907	7,877	27,263	78,249
Population	20mm	7.7mm	1.5mm	4.5mm	7mm
Overlapping Territory	SCE, SCG, 3C-REN, I-REN, RREN	PGE, MCE	SCE, SCG, PGE, SoCalREN	SCE, SCG, SoCalREN	PGE, SCG, SCE, 3C-REN, SoCalREN
Budget Approved (2023)	\$23,918,937	\$26,682,993	\$12,681,304	\$10,204,704	N/A
Savings goal (2023)	Net kWh: 10,231,910 Gross kWh: 13,805,689	Net kWh: 11,953,764 Gross kWh: 12,803,965	Net kWh: 3,117,922 Gross kWh: 3,588,126	Net kWh: 1,263,268 Gross kWh: 1,329,896	N/A
Budget Requested (2024-27)	\$217,000,000	\$161,776,637	\$71,367,489	\$44,758,334	\$84,209,480
Service Territory Map					



Energy Efficiency Programs offered by RENs

The energy efficiency programs offered by the RENs vary and are designed to meet the needs of its region while filling gaps and focusing on hard-to-reach customers. REN programs are intended to be complementary to IOU administered programs and coordination is required among Program Administrators to avoid customer confusion. The program sectors can include residential, commercial, public, finance, codes and standards, and workforce education & training. Existing RENs offer a wide variety of programs.

SoCalREN programs include:

- A residential sector Multifamily Program available to property owners providing comprehensive solutions and financial incentives
- A residential sector Kits for Kids program available to third and fourth grade students offering a \$1,000 incentive to each classroom that meets participation requirements from students installing energy-saving measures from their take-home energy efficiency kits
- A public sector program Energy Efficiency Project Delivery Program providing public agencies with customized energy efficiency technical assistance services so they can implement energy efficiency projects
- A workforce education and training (WE&T) sector program called Green Path Careers assisting opportunity youth to obtain an industry recognized certification through the Building Performance Institute (BPI) and paid work experience

BayREN programs include:

- A residential sector Green Labeling program providing Assessors training on the Department of Energy's Home Energy Score (HES) and a rebate for each subsequent HES project.
- A commercial sector Small and Medium Business (SMB) program assisting businesses with energy efficiency projects.

3C-REN programs include:

- A codes and standards sector program called Energy Code Connect providing trainings, forums and technical code support for public and private sector building professionals.
- A residential sector Home Energy Savings program providing energy efficiency upgrades and services to residents

REN Business Plan Requirements

The CPUC considers approval of new and renewed REN business plans based on the following criteria:

1. Activities that utilities cannot or do not intend to undertake. The rationale for this should be obvious – if a REN can deliver a service to the market that the utilities cannot, it should be considered.

2. Pilot activities where there is no current utility program offering, and where there is potential for scalability to a broader geographic reach, if successful. In this case, the concept would be to test program delivery that is different or unique, for potential to be scaled up to a statewide approach delivered either by RENs and/or by utilities in the future.
3. Pilot activities in hard-to-reach markets, whether or not there is a current utility program that may overlap. These activities may or may not be intended to be scalable to a larger area. The rationale is that hard-to-reach markets (including multi-family and low- to moderate-income residential, as well as small commercial) need all the help they can get to achieve successful energy efficiency savings. A piloted approach may work well in a particular geographic region because of its specific characteristics, or it may be appropriate for a wider delivery by RENs and/or utilities elsewhere.

The REN motion to the Commission must also contain:

- A description of its new and unique value to contribute to California's energy, climate, and/or equity goals.
- A description of its proposed governance structure.
- A "letter of commitment to cooperate" from each existing program administrator with whom the new REN's proposed activities will overlap.
- A written summary of feedback received from the California Energy Efficiency Coordinating Committee (CAEECC) meeting and any other stakeholder input, along with the response or changes that were made as a result of the input.
- A proposed set of energy savings targets.
- A proposed set of goals and metrics.
- An estimate of benefits and costs according to the Total Resource Cost and Program Administrator Cost tests.

Status Update

SDCP released a Request for Proposals (RFP) on January 17, 2023, for professional services to support the development of a Business Plan Application to be submitted to the CPUC. Responses to bidder questions are available on the SDCP solicitations page and proposals are due on March 14, 2023.

The scope of work includes Business Plan development, provide CPUC support, Data and Market Analysis, and CAEECC stakeholder support.

Next Steps

As immediate next steps, SDCP staff will hold regional discussions to determine the San Diego REN governance structure. As stated in the CPUC Decision (D.) 19-12-021, "[CPUC] will require that new RENs represent at least two local government entities within their governance structure, though one local government entity may propose to take the lead, at least initially. This is intended to effectuate our preference that RENs be at least somewhat regional in nature. In addition, we will require that new RENs ... include a



detailed description of their governance structure and how they will operate as a regional entity to deliver the programs.”

Over the next six months, SDCP will have ongoing coordination with SDG&E, develop a process for stakeholder feedback on the REN business plan and portfolio plan, review responses to the RFP and begin drafting the business plan application. Staff anticipates the business plan will be developed to submit to the CPUC by the end of calendar year 2023 with a funding request beginning in 2024.

COMMITTEE REVIEW

The CAC will be an active member of the REN development efforts and updates will be provided on an ongoing basis. SDCP staff discussed the REN formation in a CAC Executive Ad-Hoc Committee meeting in December 2022 and provided an update on the REN progress to the CAC at their February 2023 meeting.

FISCAL IMPACT

Fiscal commitments from SDCP for REN Business Application development activities are factored into the FY22-23 budget.

ATTACHMENTS

None.





SAN DIEGO COMMUNITY POWER Staff Report – Item 20

To: San Diego Community Power Board of Directors
From: Victoria Abrenica, Public Outreach Associate
Via: Karin Burns, Chief Executive Officer
Subject: Receive Quarterly Report from the Community Advisory Committee
Date: February 23, 2023

RECOMMENDATION

Receive and file quarterly report from the San Diego Community Power Community Advisory Committee (CAC).

BACKGROUND

According to Section 5.10.3 of the SDCP Joint Powers Authority (JPA) Agreement:

The Board shall establish a Community Advisory Committee comprised of non-Board members. The primary purpose of the Community Advisory Committee shall be to advise the Board of Directors and provide for a venue for ongoing citizen support and engagement in the strategic direction, goals, and programs of the Authority.

At the direction of the Chair of the San Diego Community Power (SDCP) Board of Directors, the CAC, via staff, shall provide quarterly updates during the regular meetings of the Board of Directors on a quarterly basis. The last quarterly update was provided on [October 27, 2022](#).

ANALYSIS AND DISCUSSION

At the October 27, 2022, regular meeting of the Board of Directors, staff presented a recap of the CAC's activities for the months of July, August, and September. This next update provides recaps for the months of October, November, December, and January, as demonstrated below. It should be noted that due to the ongoing activities on the development of the Community Power Plan (CPP) the committee requested the CPP to be added as a standing item to provide ongoing updates and receive feedback on the process.

- October: The group reviewed and provided recommendations to the board on the amended CAC Operating Guidelines. The CAC received an update from the Fiscal Year 2022-2023 Work Plan Ad-Hoc Committee. The group provided Community-Based Guidance into the California Public Utilities Commission

(CPUC) High Distributed Energy Resources (DER) Proceeding. Jen Lebron, Director of Public Affairs and Lucas Utouh, Director of Data Analytics and Accounts Services, provided updates on public relations and back-office operations. They focused on the latest events SDCP had attended and planning to attend, as well as the latest opt-up, opt-out, and opt-down metrics. Nelson Lomeli, Program Manager, provided an update on the status of the Community Power Plan.

- November: The group reviewed and provided recommendations to the board on the CAC Fiscal Year 2022-2023 Work Plan. The CAC reviewed and provided input on the Rate Development Policy. Jen Lebron, Director of Public Affairs and Lucas Utouh, Director of Data Analytics and Accounts Services, provided updates on public relations and back-office operations. They focused on Phase 4 Enrollment, the latest events SDCP had attended and planning to attend, as well as the latest opt-up, opt-out, and opt-down metrics. Nelson Lomeli, Program Manager, provided an update on the status of the Community Power Plan.
- December: No CAC meeting was held.
- January: Nelson Lomeli, Program Manager, provided an update on the status of the Community Power Plan. Alyson Scurlock, Program Associate, provided an update on SDCP's Community Clean Energy Innovation Grants. The committee received an update on the Rate Setting Process from, Director of Data Analytics & Account Services and Tim Manglicmot, Finance Manager. Jen Lebron, Director of Public Affairs, Victoria Abrenica, Public Outreach Associate, and Lucas Utouh, Director of Data Analytics and Accounts Services, provided updates on public relations and back-office operations. They focused on Phase 4 Enrollment, the latest events SDCP had attended and planning to attend, as well as the latest opt-up, opt-out, and opt-down metrics.

Staff will return to the Board at the start of the second quarter of the year, which will take place in April, to report on first quarter activities.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

Attachment A: October 13, 2022, CAC Meeting Agenda

Attachment B: November 10, 2022, CAC Meeting Agenda

Attachment C: January 13, 2023 CAC Meeting Agenda





AGENDA

Regular Meeting of Community Advisory Committee San Diego Community Power (SDCP)

October 13, 2022

1:00 p.m.

The meeting will proceed as a teleconference meeting in compliance with waivers to certain provisions of the Brown Act provided for under Government Code section 54953(e)(1)(A), in relation to the COVID-19 State of Emergency and recommended social distancing measures. There will be no location for in-person attendance. In compliance with the Brown Act, SDCP is providing alternatives to in-person attendance for viewing and participating in the meeting. Further details are below.

Note: Any member of the public may provide comments to the Community Advisory Committee (CAC) on any agenda item. When providing comments to the CAC, it is requested that you provide your name and city of residence for the record. Commenters are requested to address their comments to the CAC as a whole through the Chair. Comments may be provided in one of the following manners:

1. Providing Oral Comments During Meeting. To provide comments during the meeting, join the Zoom meeting by computer, mobile phone, or dial-in number. On Zoom video conference by computer or mobile phone, use the "Raise Hand" feature. This will notify the moderator that you wish to speak during a specific item on the agenda or during non-agenda Public Comment. Members of the public will not be shown on video but will be able to speak when called upon. If joining the meeting using the Zoom dial-in number, you can raise your hand by pressing *9. Comments will be limited to three (3) minutes.
2. Written Comments. Written public comments must be submitted prior to the start of the meeting by using this ([web form](#)). Please indicate a specific agenda item when submitting your comment. All written comments received prior to the meeting will be provided to the CAC members in writing. In the discretion of the Chair, the first ten (10) submitted comments shall be stated into the record of the meeting. Comments read at the meeting will be limited to the first 400 words. Comments received after the start of the meeting will be collected, sent to the CAC members in writing, and be part of the public record.

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Teleconference Meeting Webinar

<https://zoom.us/j/93647500600>

Telephone (Audio Only)

(669) 900-6833 or (253) 215-8782 | Webinar ID: 936 4750 0600

1. **Welcome**
2. **Roll Call**
3. **Public Comment for Items Not on the Agenda**
4. **Items to be Withdrawn, or Reordered on the Agenda**

REGULAR AGENDA

5. **Review and Provide Recommendation to the Board on the Amended CAC Operating Guidelines**
6. **Receive Update from the Fiscal Year 2022-2023 Work Plan Ad-Hoc Committee**
7. **Provide Community-Based Guidance into the California Public Utilities Commission (CPUC) High Distributed Energy Resources (DER) Proceeding**
8. **Receive Update on Public Relations and Back-Office Operations**
9. **Receive Update on the Community Power Plan**
10. **Standing Item: Discussion of Potential Agenda Items for Board of Directors Meetings**
11. **Committee Member Announcements**
Committee Members may briefly provide information to other members and the public. There is to be no discussion or action taken on comments made by Committee Members unless authorized by law.
12. **Adjournment**

Availability of Committee Documents

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AGENDA

Regular Meeting of Community Advisory Committee San Diego Community Power (SDCP)

November 10, 2022

1:00 p.m.

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REGULAR AGENDA

5. **Review and Provide Recommendation to the Board on the CAC Fiscal Year 2022-2023 Work Plan**
6. **Review and Provide Input on the Rate Development Policy**
7. **Receive Update on Public Relations and Back-Office Operations**
8. **Standing Item: Update on the Community Power Plan**
9. **Standing Item: Discussion of Potential Agenda Items for Board of Directors Meetings**
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AGENDA

Regular Meeting of Community Advisory Committee San Diego Community Power (SDCP)

January 13, 2023

1:00 p.m.

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4. **Items to be Withdrawn, or Reordered on the Agenda**

REGULAR AGENDA

5. **Receive Update on the Community Power Plan**
6. **Receive Update on SDCP's Community Clean Energy Innovation Grants**
7. **Discuss SDCP's Rate Setting Process**
8. **Receive Update on Public Relations and Back-Office Operations**
9. **Standing Item: Discussion of Potential Agenda Items for Board of Directors Meetings**
10. **Committee Member Announcements**
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GLOSSARY OF TERMS

AB – Assembly Bill - An Assembly Bill is a piece of legislation that is introduced in the Assembly. In other words, the Assembly, rather than the Senate, is the house of origin in the legislature for the legislation. In California, it is common for legislation to be referred to by its house of origin number (such as, AB 32) even once it becomes law.

AL – Advice Letter - An Advice Letter is a request by a CPUC jurisdictional entity for Commission approval, authorization, or other relief.

ALJ – Administrative Law Judge - ALJs preside over CPUC cases to develop the evidentiary record and draft proposed decisions for Commission action.

ARB – Air Resources Board - The California Air Resources Board (CARB or ARB) is the "clean air agency" in the government of California. CARB is charged with protecting the public from the harmful effects of air pollution and developing programs and actions to fight climate change.

AReM – Alliance for Retail Energy Markets - a not for profit corporation that advocates for continued development of successful customer choice in retail energy markets and provides a focused voice for competitive energy retailers and their customers in selected public policy forums on the state level. AREM represented direct access providers such as Constellation NewEnergy and Direct Energy.

BayREN – Bay Area Regional Energy Network - BayREN offers region-wide energy programs, services and resources to members of the public by promoting energy efficient buildings, reducing carbon emissions and building government capacity.

CAISO – California Independent System Operator - a non-profit independent system operator that oversees the operation of the California bulk electric power system, transmission lines and electricity market generated and transmitted by its members (~80% of California's electric flow). Its stated mission is to "operate the grid reliably and efficiently, provide fair and open transmission access, promote environmental stewardship and facilitate effective markets and promote infrastructure development." CAISO is regulated by FERC and governed by a five-member governing board appointed by the governor.

CALCCA – California Community Choice Association - Association made up of Community Choice Aggregation (CCA) groups which represents the interests of California's community choice electricity providers.

CALSEIA – California Solar Energy Industries - CALSEIA represents more than 200 companies doing solar-related business in California, including manufacturers, distributors, installation contractors, consultants, and educators. Members' annual dues support professional staff and a lobbyist who represent the common interests of California's solar industry at the Legislature, Governor's Office, and state and local agencies.

CALSLA – California City County Street Light Association - statewide association representing cities, counties and towns before the CPUC that is committed to maintaining fair and equitable street light electric rates and facilities charges, and disseminating street light related information.

CAM – Cost Allocation Mechanism - the cost recovery mechanism to cover procurement costs incurred in serving the central procurement function.

CARB – California Air Resources Board – The CARB is charged with protecting the public from the harmful effects of air pollution and developing programs and actions to fight climate change in California.

CARE – California Alternative Rates for Energy - A State program for low-income households that provides a 30% discount on monthly energy bills and a 20% discount on natural gas bills. CARE is funded through a rate surcharge paid by all other utility customers.

CBE – Communities for a Better Environment - environmental justice organization that was founded in 1978. The mission of CBE is to build people's power in California's communities of color and low-income communities to achieve environmental health and justice by preventing and reducing pollution and building green, healthy and sustainable communities and environments.

CCA – Community Choice Aggregator - A community choice aggregator, sometimes referred to as community choice aggregation, allows local governments to procure power on behalf of their residents, businesses, and municipal accounts from an alternative supplier while still receiving transmission and distribution service from their existing utility provider. CCAs are an attractive option for communities that want more local control over their electricity sources, more green power than is offered by the default utility, and/or lower electricity prices. By aggregating demand, communities gain leverage to negotiate better rates with competitive suppliers and choose greener power sources.

CCSF – City and County of San Francisco - The City and County of San Francisco often engage in joint advocacy before the CPUC. San Francisco operates CleanPowerSF, a CCA.

CEC – California Energy Commission - the primary energy policy and planning agency for California, whose core responsibilities include advancing state energy policy, achieving energy efficiency, investing in energy innovation, developing renewable energy, transforming transportation, overseeing energy infrastructure and preparing for energy emergencies.

CEE – Coalition for Energy Efficiency - non-profit comprised of US and Canadian energy efficiency administrators working together to accelerate the development and availability of energy efficient products and services.

CLECA – California Large Energy Consumers Association - an organization of large, high load factor industrial customers located throughout the state; the members are in the cement, steel, industrial gas, pipeline, beverage, cold storage, food packaging, and mining industries, and share the fact that electricity costs comprise a significant portion of their costs of production. Some members are bundled customers, others are Direct Access (DA) customers, and some are served by Community Choice Aggregators (CCAs); a few members have onsite renewable generation.

CPUC – California Public Utility Commission - state agency that regulates privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies, in addition to authorizing video franchises.



C&I – Commercial and Industrial – Business customers. C&I customers generally consume much higher volumes of electricity and gas. Many utilities segment their C&I customers by energy consumption (small, medium and large).

CP – Compliance Period – Time period to become RPS compliant, set by the CPUC (California Public Utilities Commission)

DA – Direct Access – An option that allows eligible customers to purchase their electricity directly from third party providers known as Electric Service Providers (ESP).

DA Cap – the maximum amount of electric usage that may be allocated to Direct Access customers in California, or more specifically, within an Investor-Owned Utility service territory.

DACC – Direct Access Customer Coalition a regulatory advocacy group comprised of educational, governmental, commercial and industrial customers that utilize direct access for all or a portion of their electrical energy requirements

DA Lottery – a random drawing by which DA waitlist customers become eligible to enroll in DA service under the currently-applicable Direct Access Cap.

DA Waitlist – customers that have officially registered their interest in becoming a DA customer but are not yet able to enroll in service because of DA cap limitations.

DAC – Disadvantaged Community - Disadvantaged communities refers to the areas throughout California which most suffer from a combination of economic, health, and environmental burdens. These burdens include poverty, high unemployment, air and water pollution, presence of hazardous wastes as well as high incidence of asthma and heart disease. One way that the state identifies these areas is by collecting and analyzing information from communities all over the state. CalEnviroScreen, an analytical tool created by the California Environmental Protection Agency (CalEPA), combines different types of census tract-specific information into a score to determine which communities are the most burdened or "disadvantaged."

DASR – Direct Access Service Request – Request submitted by C&I customers to become direct access eligible.

Demand - The rate at which electric energy is delivered to or by a system or part of a system, generally expressed in kilowatts (kW), megawatts (MW), or gigawatts (GW), at a given instant or averaged over any designated interval of time. Demand should not be confused with Load or Energy.

DER – Distributed Energy Resource – A small-scale physical or virtual asset (e.g. EV charger, smart thermostat, behind-the-meter solar/storage, energy efficiency) that operates locally and is connected to a larger power grid at the distribution level.

Distribution - The delivery of electricity to the retail customer's home or business through low voltage distribution lines.

DLAP – Default Load Aggregation Point – In the CAISO's electricity optimization model, DLAP is the node at which all bids for demand should be submitted and settled.



DR – Demand Response - An opportunity for consumers to play a significant role in the operation of the electric grid by reducing or shifting their electricity usage during peak periods in response to time-based rates or other forms of financial incentives.

DRP – Distributed Resource Plans - plans that are required by statute that are intended to identify optimal locations for the deployment of distributed resources.

DWR – Department of Water Resources – DWR manages California’s water resources, systems, and infrastructure in a responsible, sustainable way.

ECR – Enhanced Community Renewable - An IOU program that reflects the "Community Solar" model of renewable energy purchasing. Customers sign up to purchase a portion of a local solar project directly from a Developer at a level that meets at least 25% of their monthly electricity demand, but up to 100%. The customer will pay the Developer for the subscribed output, and receive a credit on their utility bill that reflects their enrollment level.

ED – Energy Division - The CPUC's Energy Division develops and administers energy policy and programs to serve the public interest, advise the Commission, and ensure compliance with the Commission decisions and statutory mandates.

EE – Energy Efficiency- the use of less energy to perform the same task or produce the same result. Energy-efficient homes and buildings use less energy to heat, cool, and run appliances and electronics, and energy-efficient manufacturing facilities use less energy.

ELCC – Effective Load Carrying Capacity – The additional load met by an incremental generator while maintaining the same level of system reliability. For solar and wind resources the ELCC is the amount of capacity which can be counted for Resource Adequacy purposes.

EPIC – Electric Program Investment Charge – The EPIC program was created by the CPUC to support investments in clean energy technologies that provide benefits to the electricity ratepayers of PG&E, San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE)

ERRA – Energy Resource Recovery Account – ERRA proceedings are used to determine fuel and purchased power costs which can be recovered in rates. The utilities do not earn a rate of return on these costs, and only recover actual costs. The costs are forecast for the year ahead. If the actual costs are lower than forecast, then the utility gives money back, and vice versa.

ES – Energy Storage - the capture of energy produced at one time for use at a later time to reduce imbalances between energy demand and energy production.

ESA – Energy Storage Agreement - means a battery services contract, a capacity contract, demand response contract or similar agreement.

ESP – Energy Service Provider - An energy entity that provides service to a retail or end-use customer.

EV – Electric Vehicle - a vehicle that uses one or more electric motors for propulsion.

FCR – Flexible Capacity Requirements - “Flexible capacity need” is defined as the quantity of resources needed by the CAISO to manage grid reliability during the greatest three-hour continuous ramp in each month. Resources will be considered as “flexible capacity” if they can sustain or increase output, or reduce ramping needs, during the hours of “flexible need.” “FCR”



means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions.

GHG – Greenhouse gas - water vapor, carbon dioxide, tropospheric ozone, nitrous oxide, methane, and chlorofluorocarbons (CFCs). A gas that causes the atmosphere to trap heat radiating from the earth. The most common GHG is Carbon Dioxide, though Methane and others have this effect as well.

GRC – General Rate Case – Proceedings used to address the costs of operating and maintaining the utility system and the allocation of those costs among customer classes. For California's three large IOUs, the GRCs are parsed into two phases. Phase I of a GRC determines the total amount the utility is authorized to collect, while Phase II determines the share of the cost each customer class is responsible and the rate schedules for each class. Each large electric utility files a GRC application every three years for review by the Public Advocates Office and interested parties and approval by the CPUC.

GTSR – Green Tariff Shared Renewables - The GTSR program enables customers to receive 50 to 100 percent of their electricity demand from renewable sources. The GTSR program has two components: the Green Tariff (GT) component and the Enhanced Community Renewables (ECR) component. Through GT, a customer may pay the difference between their current generation charge and the cost of procuring 50 to 100 percent renewables. With ECR, a customer agrees to purchase a share of a community renewable (typically solar) project directly from a developer, and in exchange will receive a credit from their utility for the customer's avoided generation procurement.

GWh – Gigawatt-hour - The unit of energy equal to that expended in one hour at a rate of one billion watts. One GWh equals 1,000 megawatt-hours.

ICA – Integration Capacity Analysis - The enhanced integrated capacity and locational net benefit analysis quantifies the capability of the system to integrate Distributed Energy Resources (DERs) within the distribution system. Results are dependent on the most limiting element of the various power system criteria such as thermal ratings, power quality, system protection limits and safety standards of existing equipment.

IDER – Integrated Distributed Energy Resources – A CPUC proceeding that aims to more effectively coordinate the integration of demand-side resources in order to better meet customer and grid needs, while enabling California to attain its greenhouse gas reduction goals.

IDSMD – Integrated Demand-Side Management - an approach that joins together all the resources utilities have at their disposal to plan, generate and supply electricity in the most efficient manner possible.

IEP – Independent Energy Producers – California's oldest and leading nonprofit trade association, representing the interest of developers and operators of independent energy facilities and independent power marketers.

IMD – Independent Marketing Division - Under state law, IOUs are prohibited from lobbying or marketing on community choice unless the IOU forms an independent marketing division funded by shareholders rather than ratepayers. SDG&E' and its parent company Sempra were permitted by the CPUC to create such an independent marketing division, which allowed SDG&E to lobby against plans to create a CCA program.

IOU – Investor-Owned Utility – A private electricity and natural gas provider, such as SDG&E, PG&E or SCE, which are the three largest IOUs in California.



IRP – Integrated Resource Plan – A plan which outlines an electric utility’s resource needs in order to meet expected electricity demand long-term.

kW – Kilowatt – Measure of power where power (watts) = voltage (volts) x amperage (amps) and 1 kW = 1000 watts

kWh – Kilowatt-hour – This is a measure of consumption. It is the amount of electricity that is used over some period of time, typically a one-month period for billing purposes. Customers are charged a rate per kWh of electricity used.

LCE – Lancaster Choice Energy - the CCA that serves the City of Lancaster, California.

LCFS – Low Carbon Fuel Standard – A CARB program designed to encourage the use of cleaner low-carbon fuels in California, encourage the production of those fuels, and therefore, reduce greenhouse gas emissions.

LCR – Local (RA) Capacity Requirements – The amount of Resource Adequacy capacity required to be demonstrated in a specific location or zone.

LMP – Locational Marginal Price – Each generator unit and load pocket is assigned a node in the CAISO optimization model. The model will assign a LMP to the node in both the day-ahead and real time market as it balances the system using the least cost. The LMP is comprised of three components: the marginal cost of energy, congestion and losses. The LMP is used to financially settle transactions in the CAISO.

LNBA – Locational Net Benefits Analysis - a cost-benefit analysis of distributed resources that incorporates location-specific net benefits to the electric grid.

Load - An end use device or customer that receives power from an energy delivery system. Load should not be confused with Demand, which is the measure of power that a load receives or requires. See Demand.

LSE – Load-serving Entity – Entities that have been granted authority by state, local law or regulation to serve their own load directly through wholesale energy purchases and have chosen to exercise that authority.

LTPP – Long-Term Procurement Rulemaking - This is an “umbrella” proceeding to consider, in an integrated fashion, all of the Commission’s electric procurement policies and programs.

MCE – Marin Clean Energy - the first CCA in California that began serving customers in 2010. They serve customers in Contra Costa, Marin, Napa and Solano counties in Northern California.

MEO – Marketing Education and Outreach - a term generally used to describe various strategies to inform customers, such as to motivate consumers to take action on energy efficiency or conservation measures and change their behavior.

MW – Megawatt – measure of power. A megawatt equals 1,000 kilowatts or 1 million watts.

MWH – Megawatt-hour – measure of energy

NAESCO – National Association of Energy Service Companies - – an advocacy and accreditation organization for energy service companies (ESCOs). Energy Service Companies



contract with private and public sector energy users to provide cost-effective energy efficiency retrofits across a wide spectrum of client facilities.

NBC – Non-Bypassable Charge - fees that are paid on every kilowatt-hour of electricity that is consumed from the grid. These charges can be used to fund things like energy assistance programs for low-income households and energy efficiency programs. These charges apply even if customers buy grid-supplied power from an outside power company such as a CCA.

NDA – Non-Disclosure Agreement - a contract by which one or more parties agree not to disclose confidential information that they have shared with each other.

NEM – Net Energy Metering – A program in which solar customers receive credit for excess electricity generated by solar panels.

NRDC – Natural Resources Defense Council - non-profit international environmental advocacy group.

NP-15 – North Path 15 – NP-15 is a CAISO pricing zone usually used to approximate wholesale electricity prices in northern California in PG&E's service territory.

OIR – Order Instituting Rulemaking - A procedural document that is issued by the CPUC to start a formal proceeding. A draft OIR is issued for comment by interested parties and made final by vote of the five Commissioners of the CPUC.

OSC – Order to Show Cause - order requiring an individual or entity to explain, justify, or prove something.

ORA – Office of Ratepayer Advocates - the independent consumer advocate within the CPUC, now called Public Advocates office.

PA – Program Administrator (for EE Business Plans) IOUs and local government agencies authorized to implement CPUC-directed Energy Efficiency programs.

PCE – Peninsula Clean Energy Authority - CCA serving San Mateo County and all 20 of its cities and towns as well as the City of Los Banos.

PCC1 – RPS Portfolio Content Category 1 – Bundled renewables where the energy and REC are dynamically scheduled into a California Balancing Authority (CBA) such as the CAISO. Also known as "in-state" renewables.

PCC2 – RPS Portfolio Content Category 2 – Bundled renewables where the energy and REC are from out-of-state and not dynamically scheduled to a CBA.

PCC3 – RPS Portfolio Content Category 3 – Unbundled REC

PCIA or "exit fee" - Power Charge Indifference Adjustment (PCIA) is an "exit fee" based on stranded costs of utility generation set by the California Public Utilities Commission. It is calculated annually and assessed to customers of CCAs and paid to the IOU that lost those customers as a result of the formation of a CCA.

PCL – Power Content Label – A user-friendly way of displaying information to California consumers about the energy resources used to generate the electricity they sell, as required by AB 162 (Statute of 2009) and Senate Bill 1305 (Statutes of 1997).



PD – Proposed Decision – A procedural document in a CPUC Rulemaking that is formally commented on by parties to the proceeding. A PD is a precursor to a final Decision voted on by the five Commissioners of the CPUC.

PG&E – Pacific Gas & Electric - the IOU that serves 16 million people over a 70,000 square mile service area in Northern California.

PHC – Prehearing Conference - CPUC hearing to discuss the scope of a proceeding among other matters. Interested stakeholders can request party status during these.

Pnode – Pricing Node – In the CAISO optimization model, it is a point where a physical injection or withdrawal of energy is modeled and for which a LMP is calculated.

PPA – Power Purchase Agreement – A contract used to purchase the energy, capacity and attributes from a renewable resource project.

PRP – Priority Review Project - transportation electrification pilot projects approved by the CPUC pursuant to SB 350.

PRRR – Progress on Residential Rate Reform – Pursuant to a CPUC decision, the IOUs must submit to the CPUC and parties periodic updates on the progress of their efforts to assist customers with residential rate design changes related to rate reform, including tier collapse and transition to a default time of use rate.

PUC – Public Utilities Code - California statute that contains 33 Divisions, and the range of topics within this Code includes natural gas restructuring, private energy producers, telecommunication services, and specific municipal utility districts and transit authorities. Primary statute for governance of utilities as well as CCAs in California.

PURPA – Public Utilities Regulatory Policy Act - federal statute passed by Congress to encourage fuel diversity via alternative energy sources and to introduce competition into the electric sector. It was meant to promote energy conservation (reduce demand) and promote greater use of domestic energy and renewable energy (increase supply). The law was created in response to the 1973 energy crisis.

RA – Resource Adequacy - Under its Resource Adequacy (RA) program, the California Public Utilities Commission (CPUC) requires load-serving entities—both independently owned utilities and electric service providers—to demonstrate in both monthly and annual filings that they have purchased capacity commitments of no less than 115% of their peak loads.

RAM – Renewables Auction Mechanism - a procurement program the Investor-owned Utilities (IOUs) may use to procure RPS eligible generation. The IOUs may use RAM to satisfy authorized procurement needs, for example, system Resource Adequacy needs, local Resource Adequacy needs, RPS needs, reliability needs, Local Capacity Requirements, Green Tariff Shared Renewables needs, and any need arising from Commission or legislative mandates.

RE – Renewable Energy - Energy from a source that is not depleted when used, such as wind or solar power.

REC - Renewable Energy Certificate - A REC is the property right to the environmental benefits associated with generating renewable electricity. For instance, homeowners who generate solar



electricity are credited with 1 solar REC for every MWh of electricity they produce. Utilities obligated to fulfill an RPS requirement can purchase these RECs on the open market.

RES-BCT – Renewables Energy Self-Generation Bill Credit Transfer - This program enables local governments and universities to share generation credits from a system located on one government-owned property with billing accounts at other government-owned properties. The system size limit under RES-BCT is 5 MW, and bill credits are applied at the generation-only portion of a customer's retail rate.

RFO – Request for Offers a competitive procurement process used by organizations to solicit the submission of proposals from interested parties in response to a scope of services.

RPS - Renewable Portfolio Standard - Law that requires CA utilities and other load serving entities (including CCAs) to provide an escalating percentage of CA qualified renewable power (culminating at 33% by 2020) in their annual energy portfolio.

SB – Senate Bill - a piece of legislation that is introduced in the Senate. In other words, the Senate, rather than the Assembly, is the house of origin in the legislature for the legislation.

SCE – Southern California Edison - the large IOU that serves the Los Angeles and Orange County area.

SCP – Sonoma Clean Power Authority - CCA serving Sonoma County and surrounding areas in Northern California.

SDG&E – San Diego Gas & Electric - the IOU that serves San Diego county, they own the infrastructure that delivers SDCP energy to customers.

SGIP – Self-Generation Incentive Program – A program which provides incentives to support existing, new, and emerging distributed energy resources (storage, wind turbines, waste heat to power technologies, etc.)

SUE – Super User Electric - electric surcharge that's intended to penalize consumers for excessive energy use.

SVCE – Silicon Valley Clean Energy - CCA serving Silicon Valley Area.

TCR EPS Protocol – The Climate Registry Electric Power Sector Protocol – Online tools and resources provided by The Climate Registry to assist organizations to measure, report, and reduce carbon emissions.

TE – Transportation Electrification - For the transportation sector, electrification means replacing fossil fuels with electricity as the means of powering light-duty vehicles, medium- and heavy-duty trucks, and buses. The primary goal is to reduce greenhouse gas (GHG) emissions and, ultimately, contribute to mitigating the effects of climate change on the planet.

Time-of-Use (TOU) Rates — The pricing of delivered electricity based on the estimated cost of electricity during a particular time-block. Time-of-use rates are usually divided into three or four time-blocks per 24 hour period (on-peak, mid-peak, off-peak and sometimes super off-peak) and by seasons of the year (summer and winter). Real time pricing differs from TOU rates in that it is based on actual (as opposed to forecasted) prices that may fluctuate many times a day and are weather sensitive, rather than varying with a fixed schedule.



TM – Tree Mortality - refers to the death of forest trees and provides a measure of forest health. In the context of energy, the CPUC is tasked with utilizing its authority to extend contracts and take actions to authorize new contracts on bioenergy facilities that receive feedstock from high hazard zones.

TURN – The Utility Reform Network - A ratepayer advocacy group charged with ensuring that California IOUs implement just and reasonable rates.

Unbundled RECs - Renewable energy certificates that verify a purchase of a MWH unit of renewable power where the actual power and the certificate are “unbundled” and sold to different buyers.

VPP – Virtual Power Plant – A cloud-based network that leverages an aggregation of distributed energy resources (DERs) to shift energy demand or provide services to the grid. For example, thousands of EV chargers could charge at a slower speed and hundreds of home batteries could discharge to the grid during a demand peak to significantly reduce the procurement of traditional supply resources.

VAMO – Voluntary Allocation, Market Offer - the process for SDG&E to allocate a proportional share of their renewable portfolio to SDCP and other LSEs within the service territory.

