

**Board of Directors Special Meeting Agenda
July 27, 2023, 1:30 p.m.
City of Oceanside, Council Chamber
300 North Coast Hwy, Oceanside CA 92054**

Members of the public can observe the livestream of the meeting via Zoom by clicking:

<https://us06web.zoom.us/j/81376410530>

or telephonically by dialing:

(253) 215-8782

Meeting ID: 813 7641 0530

CALL TO ORDER

ROLL CALL

PUBLIC COMMENT ON CLOSED SESSION ITEM

Pursuant to Government Code section 54954.3 members of the public are afforded *one minute* to address the legislative body concerning any item that has been described in the special meeting agenda.

To make oral comments please fill out a speaker card and submit it to the Board Secretary. When you are called to speak, please come forward to the podium and state your name.

If you are unable to participate in person and you wish to make a written comment, you may submit a comment prior to the meeting via email to: Secretary@thecleanenergyalliance.org. All written comments will be posted online and become part of the meeting record. To ensure announcement of receipt of your written comments during the meeting, please submit all written comments by 12:00pm prior to the commencement of the meeting. Public comments received in writing will not be read aloud at the meeting.

Closed Session

**Item 1: PUBLIC EMPLOYEE RECRUITMENT: CHIEF EXECUTIVE OFFICER RECRUITMENT UPDATE
PURSUANT TO GOVERNMENT CODE SECTION 54957**

RECONVENE TO OPEN SESSION

GENERAL COUNSEL ANNOUNCEMENT FROM CLOSED

SESSION ADJOURN

**Board of Directors Regular Meeting Agenda
July 27, 2023, 2:00 p.m.
City of Oceanside, Council Chamber
300 North Coast Hwy, Oceanside CA 92054**

Members of the public can observe the livestream of the meeting via Zoom by clicking:

<https://us06web.zoom.us/j/81376410530>

or telephonically by dialing:

(253) 215-8782

Meeting ID: 813 7641 0530

Members of the public can provide public comment in writing or orally in person as follows:

Written Comments: If you are unable to participate in person and you wish to make a comment, you may submit written comments prior to and during the meeting via email to: Secretary@thecleanenergyalliance.org. All written comments will be posted online and become part of the meeting record. To ensure announcement of receipt of your written comments during the meeting, please submit all written comments by 12:00pm prior to the commencement of the meeting. Public comments received in writing will not be read aloud at the meeting.

Oral Comments: Members of the public can address the Board on items on the agenda at the time the item is being addressed or during Public Comments for topics that are not listed on the agenda. Speakers are limited to three (3) minutes each. In conformance with the Brown Act, no Board action can occur on items presented during Public Comment.

To make oral comments please fill out a speaker card and submit it to the Board Secretary. When you are called to speak, please come forward to the podium and state your name. To address the Board regarding an item on the agenda, please fill out a speaker card and submit it to the Board Secretary before the Board Chair announces the item.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

BOARD COMMENTS & ANNOUNCEMENTS

PRESENTATIONS

Recognition of Ty Tosdal, Tosdal APC for Service to Clean Energy Alliance



PUBLIC COMMENT

Members of the public can address the Board on items that are not listed on the agenda. Speakers are limited to three (3) minutes each. In conformance with the Brown Act, no Board action can occur on items presented during Public Comment. If you desire to speak during Public Comment, fill out a speaker card and submit it to the Board Secretary. When you are called to speak, please come forward to the podium and state your name. To address the Board regarding an item on the agenda, please fill out a speaker card and submit it to the Board Secretary before the Board Chair announces the item.

APPROVAL OF MINUTES

May 25, 2023 – Regular Meeting

June 29, 2023 – Special and Regular Meetings

Consent Calendar

Item 1: Clean Energy Alliance Treasurer’s Report for May 2023

RECOMMENDATION

Receive and file Clean Energy Alliance Treasurer’s Report for May 2023.

Item 2: Receive and File Report on Clean Energy Alliance Policies

RECOMMENDATION

Receive and file report on Clean Energy Alliance policies.

Item 3: Consider Approving Agreements with Participate.Energy, LLC, and Tesla, Inc. for Distributed Microgrid Solar + Battery Storage Program

RECOMMENDATION

- 1) Approve Power Purchase Agreement with Participate.Energy, LLC for Distributed Microgrid Solar + Battery Storage Program and authorize the Chief Executive Officer to execute all documents subject to General and Special Counsel approval.
- 2) Approve Program Management Agreement with Participate.Energy, LLC for Distributed Microgrid Solar + Battery Storage Program and authorize the Chief Executive Officer to execute all documents subject to General Counsel approval.
- 3) Approve Program Support Agreement with Participate.Energy, LLC for Distributed Microgrid Solar + Battery Storage Program and authorize the Chief Executive Officer to execute all documents subject to General Counsel approval.
- 4) Approve Framework Distributed Microgrids Program Agreement with Participate.Energy, LLC and Tesla, Inc. for Distributed Microgrid Solar + Battery Storage Program and authorize the Chief Executive Officer to execute all documents subject to General Counsel approval.



- Item 4: Consider Approval of Participation in the Southern California Coalition for the California Energy Commission Equitable Building Decarbonization Program Grant and Authorize Chief Executive Officer to Submit a Commitment Letter**

RECOMMENDATION

Approve participation in the Southern California Coalition for the California Energy Commission Equitable Building Decarbonization Program Grant and authorize the Chief Executive Officer to submit a Commitment Letter.

New Business

- Item 5: Clean Energy Alliance Operational, Administrative and Regulatory Affairs Update**

RECOMMENDATION

Receive Clean Energy Alliance Chief Executive Officer Operational Report and Special Counsel Regulatory Report.

- Item 6: Consider Approving Agreement with Calpine Energy Solutions and Recurve Analytics, Inc. for Summer Peak Load Reduction Pilot Program**

RECOMMENDATION

Approve agreement with Calpine Energy Solutions and Recurve Analytics, Inc. for Summer Peak Load Reduction Pilot Program for an amount not to exceed \$150,000 and authorize the Chief Executive Officer to execute all documents subject to General Counsel approval.

- Item 7: Consider Approval of Memorandum of Understanding Between Clean Energy Alliance, Poseidon Resources LP, and San Diego County Water Authority Regarding Enrollment of Carlsbad Desalination Plant**

RECOMMENDATION

Approve Memorandum of Understanding between Clean Energy Alliance, Poseidon Resources, LP, and San Diego County Water Authority regarding enrollment of Carlsbad Desalination Plant.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

NEXT MEETING: Regular Board Meeting August 31, 2023, City of Oceanside, 300 North Coast Highway, Oceanside, CA 92054

If you are an individual with a disability and need a reasonable modification or accommodation pursuant to the Americans with Disabilities Act (“ADA”), please contact Secretary@thecleanenergyalliance.org prior to the meeting for assistance.

**Clean Energy Alliance - Board of Directors
Regular Meeting Minutes
May 25, 2023, 2:00 p.m.
City of Oceanside, Council Chamber
300 North Coast Hwy, Oceanside CA 92054**

CALL TO ORDER: Chair Druker called to order the regular meeting of the Clean Energy Alliance at 2:00 p.m.

ROLL CALL: Board Members: Bhat-Patel, Melendez, J. Garcia, Becker, Vice Chair Musgrove, Chair Druker Board Member Sanchez arrived at 2:04 p.m.

FLAG SALUTE: Chair Druker led the flag salute.

BOARD COMMENTS & ANNOUNCEMENTS: Chair Druker commented regarding the CalCCA conference and Member Sanchez commented regarding the CEA roll out to the City of Escondido.

PRESENTATIONS: None

PUBLIC COMMENT: Don Christiansen addressed the Board regarding renewable energy options; one written comment received by Alice McNally.

APPROVAL OF MINUTES

March 30, 2023 – Regular Meeting (deferred to next meeting)

Consent Calendar

Item 1: Clean Energy Alliance Treasurer’s Report for February 2023

RECOMMENDATION

Receive and file Clean Energy Alliance Treasurer’s Report for February 2023.

Item 2: Clean Energy Alliance Treasurer’s Report for March 2023

RECOMMENDATION

Receive and file Clean Energy Alliance Treasurer’s Report for March 2023.

Item 3: Consider Approval of Execution of Memorandum of Understanding with Jubilant One Escondido, LLC and Jubilant One San Marcos for Partnership in Applying for US Department of Transportation Charging and Fueling Infrastructure Grant

RECOMMENDATION

Approve execution of Memorandum of Understanding with Jubilant One Escondido and Jubilant One San Marcos for Partnership in applying for US Department of Transportation Charging and Fueling Infrastructure Grant and authorize Chief Executive Officer to sign all documents, subject to General Counsel Approval.

Item 4: Consider Approval of Resolution No. 2023-004 Setting Time and Place for Clean Energy Alliance Regular Board Meetings July 2023 – June 2024

RECOMMENDATION

Approve Resolution No. 2023-004 setting time and place for Clean Energy Alliance Regular Board Meetings July 2023 – June 2024.

Item 5: Clean Energy Alliance Chief Executive Officer Operational Report and Special Counsel Regulatory Report

RECOMMENDATION

Receive Clean Energy Alliance Chief Executive Officer Operational Report and Special Counsel Regulatory Report.

Item 6: Consider Appointment of Tracy Reed to City of Escondido Community Advisory Committee for Term Ending December 31, 2025.

RECOMMENDATION

Appoint Tracy Reed to City of Escondido Community Advisory Committee for term ending December 31, 2025.

PUBLIC COMMENT: Tracy Reed commented on Item 6.

**Motion by Member Sanchez, second by Member Becker, to approve the Consent Calendar.
Motion carried unanimously, 7/0.**

New Business

Item 7: Consider Approval of Agreement with Alliance Resource Consulting for Chief Executive Officer Recruitment and Recruitment Process

RECOMMENDATION

- 1) Approve agreement with Alliance Resource Consulting for Chief Executive Officer Recruitment, for an amount not to exceed \$32,000 and authorize Board Chair to execute all documents, subject to General Counsel Approval.
- 2) Approve Chief Executive Officer Recruitment Process.

Chair Druker introduced the item commenting that the Chief Executive Officer subcommittee received four recruitment proposals and determined that Alliance Resource Consulting was the best fit and introduced Cindy Krebs of Alliance to present the recruitment process and answer questions of the Board. Ms. Krebs joined the meeting via Zoom and gave a brief background on Alliance Resource Consulting and an overview of the recruitment process.

Member Sanchez commented regarding the recruitment process and expressed gratitude to current CEO Boswell for all her work.

Member Melendez inquired regarding the potential of local talent and possible challenges of recruiting nationwide.

Ms. Krebs commented that it is her belief that there are three to four qualified candidates within commute distance that would be interested in the position. In addition, Ms. Krebs indicated that there is a lot of interest in the work and progress being made by CEA and

anticipates strong interest throughout California and throughout the nation. Challenges might include compensation package, time of year, relocation support if needed, and competition.

Chair Druker inquired regarding the method to be used to reach out to potential candidates and Ms. Krebs indicated that Alliance would be conducting an aggressive campaign.

Member Becker inquired regarding possible multiple concurrent CEO recruitments for CCAs, and Ms. Krebs indicated her firm would only recruit for one CCA at a time.

Motion by Member Sanchez, second by Member Becker, to approve the recommendation.

Motion carried unanimously, 7/0.

Item 8: Review Proposed Fiscal Year 2023/24 Budget and Schedule Adoption for June 29, 2023, Regular Clean Energy Alliance Board Meeting

RECOMMENDATION

Review proposed Fiscal Year 2023/24 Budget and Schedule Adoption for June 29, 2023, Regular Clean Energy Alliance Board Meeting.

CEO Barbara Boswell introduced the item and CFO Andy Stern presented the item giving an overview of estimates vs. actuals for current year and the draft budget for FY23/24. CEO Boswell commented that the CAC prioritized three items for recommendation to the Board for consideration, 1) A community solar/feed and tariff program for small scale, local renewable energy projects; 2) A home electrification program whereby customers would voluntarily convert to cleaner energy such as converting cooktop to induction and heat to a heat pump; and 3) the addition of a grant writer. Ms. Boswell noted that the anticipated funding should be available in the budget to address the items should the Board choose to do so after development of such programs.

Board received report; adoption scheduled for June 29.

Member Bhat-Patel exited the meeting at 3:03 pm

Item 9: Consider Approval of Clean Energy Alliance Employee Handbook, Drug and Alcohol Policy and Employee Benefits Policy

RECOMMENDATION

- 1) Approve Clean Energy Alliance Employee Handbook.
- 2) Approve Clean Energy Alliance Drug and Alcohol Policy.
- 3) Approve Clean Energy Alliance Benefits Policy.

CEO Boswell presented the item noting the utilization of current labor laws and existing best practices, the handbook and policies were developed in collaboration with the CFO and general counsel's office and gave details of the proposed benefits package.

Motion by Member Sanchez, second by Member Musgrove, to approve the recommendation.

Motion carried unanimously, 6/0.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS: None.

ADJOURN: Chair Druker adjourned the meeting at 3:09 p.m.

Susan Caputo, MMC
Interim Board Secretary

DRAFT

**Clean Energy Alliance - Board of Directors
Special Meeting Minutes
June 29, 2023, 1:00 p.m.
City of Oceanside, Council Chamber
300 North Coast Hwy, Oceanside CA 92054**

CALL TO ORDER: Chair Druker called to order the special meeting of the Clean Energy Alliance at 1:00 p.m.

ROLL CALL: Board Members: Bhat-Patel, J. Garcia, Becker, Sanchez, Melendez, Vice Chair Musgrove, Chair Druker

PUBLIC COMMENT ON CLOSED SESSION ITEM: None.

Closed Session

Item 1: PUBLIC EMPLOYEE RECRUITMENT: CHIEF EXECUTIVE OFFICER RECRUITMENT UPDATE PURSUANT TO GOVERNMENT CODE SECTION 54957

RECESS TO CLOSED SESSION: 1:02pm

RECONVENE TO OPEN SESSION: 1:45pm

GENERAL COUNSEL ANNOUNCEMENT FROM CLOSED SESSION: General Counsel Johanna Canlas announced that no action was taken in the closed session that was required to be reported.

ADJOURN: Chair Druker adjourned the special meeting at 1:45pm

Susan Caputo, MMC
Interim Board Secretary

Clean Energy Alliance - Board of Directors
Regular Meeting Minutes
June 29, 2023, 2:00 p.m.
City of Oceanside, Council Chamber
300 North Coast Hwy, Oceanside CA 92054

CALL TO ORDER: Chair Druker called to order the regular meeting of the Clean Energy Alliance at 2:00 p.m.

ROLL CALL: Board Members: Bhat-Patel, Melendez, J. Garcia, Becker, Sanchez, Vice Chair Musgrove, Chair Druker

FLAG SALUTE: Vice-Chair Musgrove led the flag salute.

BOARD COMMENTS & ANNOUNCEMENTS: Member Melendez wished all a happy 4th of July. Chair Druker commented regarding the Borders Committee meeting of San Diego Association of Governments (SANDAG) and the presentation by the Native American tribes in San Diego County. Chair Druker noted that the California Energy Commission awarded a grant to fund a micro grid to provide power to the tribes and commented that if excess power was available CEA may wish to purchase; and commented on the grant received by the North County Transit District to provide for clean energy buses.

PRESENTATIONS: CEO Barbara Boswell introduced Adam Pierce, Director, Customer Pricing from San Diego Gas & Electric who gave a presentation on the Proposed Flat Rate Delivery Charges.

Board comments and questions included: What incentive is there to conserve energy; the differential in the proposed program's base family of four and actual family structures and the feasibility to obtain more accurate information to put the structure in place; how the application will impact and disincentivize those with solar.

CEO Boswell provided an update on the Community Advisory Committee June 1, 2023, Regular Meeting noting the subcommittee reports that identified top concerns and initiatives such as the creation of programs such as a community solar feed and tariff program to provide solar for mobile home parks; identifying City owned properties that might be good for expansion of EV charging infrastructure, and the availability of a California Energy Commission grant to bring EV charging infrastructure to multi-family housing.

PUBLIC COMMENT: Addressing the Board was CAC Member Paige DeCino regarding the electric grid ability to handle additional loads expected from electrifying communities and the need to address renewables such as geothermal and other energy storage options; Bob Gelleskie regarding solar energy and micro grids; Don Christiansen regarding the proposed transmission line from Anza Borrego to the coast and solar power; and Dr. Phil Watts regarding the SDGE proposed flat rate delivery charges.

Member Sanchez exited the meeting at 2:30 pm

APPROVAL OF MINUTES

March 30, 2023 – Regular Meeting

Motion by Vice Chair Musgrove, second by Member Bhat-Patel, to approve the minutes of March 30, 2023, regular meeting.

Motion approved unanimously, 6/0.

Consent Calendar

Item 1: Clean Energy Alliance Treasurer’s Report for April 2023

RECOMMENDATION

Receive and file Clean Energy Alliance Treasurer’s Report for April 2023.

Item 2: Consider Approval of Bayshore Consulting Group, Inc. Agreement for Chief Executive Officer, CCA Operations Consultant and Board Secretary for an amount not to exceed \$300,000 effective July 1, 2023, to June 30, 2024

RECOMMENDATION

Approve Bayshore Consulting Group, Inc. agreement for Chief Executive Officer, CCA Operations Consultant and Board Secretary for an amount not to exceed \$300,000, effective July 1, 2023, to June 30, 2024, and authorize the Board Chair to execute all documents, subject to General Counsel approval.

Item 3: Consider Amendment of Energy Risk Management Policy Updating Delegation of Authority

RECOMMENDATION

Approve amendment of Energy Risk Management Policy updating delegation of authority.

Item 4: Declare Community Advisory Committee Vacancy for the City of Solana Beach for Term Ending December 31, 2024

RECOMMENDATION

Declare Community Advisory Committee Vacancy for the City of Solana Beach, one appointee for term through December 2024, and direct application period to be open July 1 – July 31, 2023, and return with recommendation for appointment August 31, 2023.

Item 5: Consider Approval of Execution of Memorandum of Understanding with the Center for Community Energy for Submitting an Application to the California Energy Commission’s Grant GFO 22-614 Reliable, Equitable and Accessible Charging for Multi-family Housing 2.0 (REACH 2.0)

RECOMMENDATION

Approve execution of Memorandum of Understanding with the Center for Community Energy for submitting an application to the California Energy Commission’s grant GFO 22-614 Reliable, Equitable and Accessible Charging for Multi-family Housing 2.0 (REACH 2.0) and authorize the Chief Executive Officer to execute all documents, subject to General Counsel approval.

Item 6: Consider Approval of Agreement with Keyes and Fox for Regulatory Attorney Services Effective July 1, 2023, through June 30, 2027, for an annual amount not to exceed \$400,000 annually in the first year.

RECOMMENDATION

Approve agreement with Keyes and Fox for Regulatory Attorney Services effective July 1, 2023, through June 30, 2027, for an annual amount not to exceed \$400,000 for the first year, and authorize Chief Executive Officer to execute all documents, subject to General Counsel approval.

**Motion by Member Bhat-Patel, second by Member Becker, to approve the Consent Calendar.
Motion carried unanimously, 6/0.**

New Business

Item 7: Receive Clean Energy Alliance Chief Executive Officer Operational Report and Special Counsel Regulatory Report

RECOMMENDATION

Receive Clean Energy Alliance Chief Executive Officer Operational Report and Special Counsel Regulatory Report.

CEO Boswell deferred presentation to the written report included in the agenda packet and commented that this meeting would be the final CEA meeting for Regulatory Counsel Ty Tosdal and expressed gratitude and accolades to Mr. Tosdal for all the work and accomplishments for CEA and Community Choice Aggregate programs.

Regulatory Counsel Tosdal expressed gratitude to the Board and CEO Boswell for the opportunity, noting the different CCA programs he and Ms. Boswell have worked on over the years. Mr. Tosdal updated the Board on the California Public Utilities Commission items including Resource Adequacy commenting that the Proposed Decision holds CCA eligibility to expand depends on compliance with resource adequacy requirements in the prior two calendar years and that any violation will disqualify a CCA from expanding into new territories. Counsel Tosdal noted that CalCCA criticized the Proposed Decision commenting that it exceeds the Commission's jurisdiction, is not supported by law or substantial evidence and is an abuse of discretion. Other CCAs commented as well; regarding the Provider of Last Resort Amended Scoping Memo that was issued on June 19 cancels hearings and revises the procedural schedule with the Proposed Decision scheduled for October 2023; regarding the Draft Resolution E-5277: Westside Canal Energy Storage Project, this resolution approves SDG&E's request to count the project toward midterm reliability requirements and that protests were raised related to PCIA cost recovery, CPUC approved SDG&E's request in Draft Resolution E-5277; and regarding Clean Energy Financing: Proposed Decision issued on June 9, 2023, in Clean Energy Financing proceeding approves with subsequent modification and declines to adopt CCA proposals.

CEA Board received and filed report.

Item 8: Consider Adoption of Resolution No. 2023 - 005 Establishing Fiscal Year 2023/24 Budget

RECOMMENDATION

Adopt Resolution No. 2023-005 Establishing Fiscal Year 2023/24 Budget.

CFO Andy Stern presented the Proposed FY 2023/2024 Budget for approval.

Motion by Vice Chair Musgrove, second by Member Becker, to approve the recommendation adopting Resolution No. 2023-005 establishing FY 2023/24 Budget.

Motion carried unanimously, 6/0.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS: None

NEXT MEETING: Regular Board Meeting July 27, 2023, City of Oceanside, 300 North Coast Highway, Oceanside, CA 92054

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS: None.

ADJOURN: Chair Druker adjourned the meeting at 3:05 p.m.

Susan Caputo, MMC
Interim Board Secretary

DRAFT

Staff Report

DATE: July 27, 2023

TO: Clean Energy Alliance Board of Directors

FROM: Andy Stern, Interim Chief Financial Officer/Treasurer

ITEM 1: Clean Energy Alliance Treasurer's Report

RECOMMENDATION

Receive and File Clean Energy Alliance (CEA) Interim Treasurer's Report for May 2023.

BACKGROUND AND DISCUSSION

This report provides the Board with the following financial information through May 31, 2023:

- Statement of Financial Position (Unaudited and preliminary) – Reports assets, liabilities, and financial position of the CEA as of May 31, 2023.
- Statement of Revenues, Expenses and Changes in Net Position (Unaudited and preliminary) for the twelve months ended May 31, 2023.
- Budget to Actuals Comparison Schedule (Unaudited and preliminary) – Reports actual revenues and expenditures compared to the annual amended budget as of May 31, 2023.
- List of Payments Issued – Reports payments issued for May 2023.

As of May 31, 2023, liabilities represent invoices and estimated accruals for energy and services received but not yet paid. The noncurrent liabilities relate to debt with JPMorgan as well as amounts due to the member cities of Carlsbad, Del Mar and Solana Beach. CEA is currently making interest only payments on the debt from JPMorgan. The amounts due to the member agency were for start-up costs and services provided to CEA for the period December 2019 to June 2020. These invoices are scheduled to be paid three years from the time CEA is operational.

CLEAN ENERGY ALLIANCE
STATEMENT OF NET POSITION
As of May 31, 2023

ASSETS

Current assets

Cash and cash equivalents	\$ 5,721,620
Accounts receivable, net of allowance	7,359,001
Accrued revenue	7,059,106
Other receivables	244,629
Prepaid expenses	4,144,720
Deposits	<u>54,000</u>
Total current assets	24,583,076

Noncurrent assets

Restricted cash	87,000
Deposits	<u>1,115,000</u>
Total noncurrent assets	<u>1,202,000</u>
Total assets	<u>25,785,076</u>

LIABILITIES

Current liabilities

Accrued cost of electricity	13,756,757
Accounts payable	424,377
Other accrued liabilities	249,884
Security deposits - energy suppliers	496,150
Interest payable	150,444
Bank note payable	<u>5,000,000</u>
Total current liabilities	<u>20,077,612</u>

Noncurrent liabilities

Due to member agencies	504,017
Bank note payable	<u>17,950,000</u>
Total noncurrent liabilities	<u>18,454,017</u>
Total liabilities	<u>38,531,629</u>

NET POSITION

Unrestricted (deficit)	<u>(12,746,553)</u>
Total net position	<u>\$ (12,746,553)</u>

These financial statements do not contain note disclosures, have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them.

CLEAN ENERGY ALLIANCE
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
Eleven Months ended May 31, 2023

OPERATING REVENUES

Electricity sales, net \$ 69,231,111

OPERATING EXPENSES

Cost of electricity 74,834,530

Contract services 2,490,581

Other operating expenses 161,203

Total operating expenses 77,486,314

Operating income (loss) (8,255,203)

NONOPERATING REVENUES (EXPENSES)

Grant income - CAPP 279,489

Interest income 40,538

Interest expense (1,037,382)

Nonoperating revenues (expenses), net (717,355)

CHANGE IN NET POSITION

(8,972,558)

Net position at beginning of period (3,773,995)

Net position at end of period \$ (12,746,553)

These financial statements do not contain note disclosures, have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them.

BUDGET TO ACTUALS COMPARISON SCHEDULE

At its June 30, 2022, board meeting, the CEA Board approved the Fiscal Year (FY) 2022/23 budget approving \$76,745,240 in total operating and nonoperating expenses. In February 2023, the CEA Board approved a budget amendment that increased overall expenditures by \$14,165,749. For the year-to-date, \$78,524,000 has been expended. Revenues for the year-to-date reached \$69,231,000. The overall change in net position (ignoring loan proceeds) for the year-to-date was a decrease of \$8,973,000.

The Budget to Actuals Comparison Schedules as of May 31, 2023, is shown on the next page.

CLEAN ENERGY ALLIANCE
BUDGETARY COMPARISON SCHEDULE
Eleven Months ended May 31, 2023

	AMENDED ANNUAL BUDGET	YEAR-TO- DATE ACTUAL	AMENDED BUDGET REMAINING
Operating Revenues			
Energy Sales	\$ 96,825,523	69,231,111	\$ 27,594,412
Total Operating Revenue	96,825,523	69,231,111	27,594,412
Operating Expenses			
Power Supply	86,635,982	74,834,530	11,801,452
Data Manager / Call Center	1,151,180	913,515	237,665
Staffing/Consultants	382,900	270,464	112,436
Legal Services	335,000	285,716	49,284
Professional Services	1,002,100	842,289	159,811
Audit Services	10,000	8,900	1,100
Software & Licenses	18,800	15,819	2,981
Membership Dues	121,000	123,463	(2,463)
Printing	55,000	64,123	(9,123)
Postage	80,000	92,470	(12,470)
Advertising	15,000	13,107	1,893
Travel Expenses	3,500	8,602	(5,102)
Office Rent	1,080	1,332	(252)
Insurance	30,000	9,764	20,236
Bank Fees	4,000	2,220	1,780
Total Operating Expenses	89,845,542	77,486,314	12,359,228
Operating Income (Loss)	6,979,981	(8,255,203)	15,235,184
Non-Operating Revenues (Expenses)			
Grant Income - CAPP	-	279,489	(279,489)
Interest Income	50,000	40,538	9,462
Interest Expense	(1,065,447)	(1,037,382)	(28,065)
Total Non-Operating Revenues (Expenses)	(1,015,447)	(717,355)	(298,092)
Net Increase (Decrease) in Available Fund Balance	\$ 5,964,534	\$ (8,972,558)	\$ 14,937,092

These financial statements do not contain note disclosures, have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them.

LIST OF PAYMENTS ISSUED

The report on the following page provides the detail of payments issued by CEA for May 2023. All payments were within approved budget.

**Clean Energy Alliance
PAYMENTS ISSUED DURING MAY 2023**

<u>Date</u>	<u>Type</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
05/01/2023	Wire	Elk Hills Power, LLC	July -2023 - Per WSPP Resource Capacity Confirmation	690,000.00
05/01/2023	Wire	JPMorgan	April 2023 - Interests Payment	124,567.56
05/01/2023	Wire	THE ENERGY AUTHORITY	April 2023 - CAISO Weekly Settlement	41,282.60
05/02/2023	ACH/CK	The Coast News Group	CNI AD	300.00
05/02/2023	ACH/CK	USPS	May 2023 - Postage Payment - Mailer's Mailing Date	156.42
05/03/2023	Wire	JPMorgan	STANDBY LC COMM - ELK HILLS POWER, LLC -	4,468.75
05/03/2023	ACH/CK	Keyes & Fox LLP	March 2023 - Professional Services	10,943.00
05/03/2023	ACH/CK	Lupa Affairs Llc	March 2023 - Professional Service	1,837.50
05/04/2023	ACH/CK	Neyenesch Printers	Letters Mailing	2,711.60
05/04/2023	ACH/CK	USPS	May 2023 - Postage Payment - Mailer's Mailing Date	370.98
05/08/2023	Wire	SAAVI ENERGY SOLUTIONS	August 2023 - RA	105,000.00
05/08/2023	Wire	SAAVI ENERGY SOLUTIONS	August 2023 - RA	618,750.00
05/08/2023	Wire	THE ENERGY AUTHORITY	April 2023 - CAISO Weekly Settlement	19,130.24
05/09/2023	ACH/CK	USPS	May 2023 - Postage Payment - Mailer's Mailing Date	1,409.80
05/10/2023	Wire	DYNEGY	Capacity Purchases - July 2023	220,000.00
05/11/2023	ACH/CK	Tripepi, Smith & Associates	April 2023 - Communications and Marketing Service	12,649.83
05/12/2023	ACH/CK	Maher Accountancy	April 2023 and May 2023 Accounting, cash disbursements	19,000.00
05/15/2023	ACH/CK	USPS	May 2023 - Postage Payment - Mailer's Mailing Date	393.24
05/16/2023	ACH/CK	USPS	May 2023 - Postage Payment - Mailer's Mailing Date	3,812.18
05/16/2023	ACH/CK	USPS	May 2023 - Postage Payment - Mailer's Mailing Date	2,539.09
05/17/2023	ACH/CK	Braun Blaising Smith Wynne	March 2023 - Professional Services - General Matters and Joint CCA	1,188.57
05/18/2023	ACH/CK	Neyenesch Printers	Phase 3.1 Enrollment Letter & Move Notice Mailing 4/26/23	573.16
05/18/2023	ACH/CK	Neyenesch Printers	Phase 3.1 En#3 Letter 5/2/23	391.28
05/19/2023	ACH/CK	USPS	May 2023 - Postage Payment - Mailer's Mailing Date	599.88
05/22/2023	Wire	SDG&E	Apr 2023 REC Sales	446,675.64
05/22/2023	Wire	SDG&E	Apr-23 Resource Adequacy Sales	63,601.20
05/22/2023	Wire	SDG&E	Apr-23 Resource Adequacy Sales	108,765.00
05/22/2023	Wire	SEMPRA	April 2023 - Capacity Purchases	517,400.00
05/23/2023	Wire	Grade 6 Oil LLC	BILLING PERIOD - April 2023 RA	76,635.00
05/25/2023	Wire	Powerex	Transactions for the Period of May 2023	143,541.67
05/25/2023	Wire	Resi Station LLC	Proxy Demand Response CEA April 2023	3,780.00
05/25/2023	ACH/CK	Tosdal APC	March 2023 - Regulatory Services	10,259.00
05/25/2023	ACH/CK	USPS	May 2023 - Postage Payment - Mailer's Mailing Date	8,640.12
05/25/2023	ACH/CK	USPS	June 2023 - Postage Payment - Mailer's Mailing Date	572.92
05/25/2023	ACH/CK	USPS	May 2023 - Postage Payment - Mailer's Mailing Date	330.77
05/26/2023	ACH/CK	Keyes & Fox LLP	April 2023 - Professional Services	3,938.75
05/26/2023	ACH/CK	Neyenesch Printers	Move Notice Mailing 5/9	8,319.06
05/26/2023	ACH/CK	Nixon Peabody LLP	March - April 2023 - JP Morgan Credit - work on the Third Amendment	11,978.42
05/26/2023	ACH/CK	Pacific Energy Advisors, Inc	April 2023 - Technical Consulting Advisors	23,600.00
05/26/2023	ACH/CK	San Elijo Life	Banner Advertisement for a 12-month contract at \$100 per month.	100.00
05/26/2023	ACH/CK	The Bayshore Consulting Group	April 2023 - CEO, Clerk Services & Reimbursable Expenses	14,044.20
05/26/2023	ACH/CK	Tripepi, Smith & Associates	March & April 2023 - Communications and Marketing Service	21,577.43
05/26/2023	ACH/CK	Z NEMS	NEMs Payouts	12,910.43
05/30/2023	ACH/CK	THE ENERGY AUTHORITY	April 2023 - Resource Management Monthly Fees	11,700.00
05/30/2023	ACH/CK	USPS	May 2023 - Postage Payment - Mailer's Mailing Date	537.13
Total for Operating Account				3,370,982.42
05/23/2023	Lockbox	Exelon Generation	March 2023 - Power Purchase	732,111.06
05/23/2023	Lockbox	Morgan Stanley Capital Group	April 2023 - Energy Purchase	2,090,097.60
05/23/2023	Lockbox	Shell Oil North America	April 2023 - Capacity March 2023 - Energy Purchases	850,653.46
Total for Lockbox Account				3,672,862.12



Staff Report

DATE: July 27, 2023
TO: Clean Energy Alliance Board of Directors
FROM: Barbara Boswell, Chief Executive Officer
ITEM 2: Receive and File Report on Clean Energy Alliance Adopted Policies

RECOMMENDATION

Receive and file report on Clean Energy Alliance adopted Policies.

BACKGROUND AND DISCUSSION

Clean Energy Alliance adopts policies to guide its operational practices and procedures and to ensure compliance with applicable laws and regulatory compliance. CEA posts its policies to its website for public access and can be found at www.TheCleanEnergyAlliance.org/key-documents/.

As laws and best practices change, staff reviews its current policy and brings updated policies to the CEA Board for approval as needed.

The following is a list of CEA's adopted policies:

POLICY TITLE	DESCRIPTION	EFFECTIVE/UPDATE DATE
Bid Evaluation Criteria Policy	Establishes a process for comparing bids to select the best offer to achieve CEA's goals	October 15, 2020
Chair and Vice Chair Term Limits	Clarify the terms of Board Chair and Vice Chair	October 20, 2022
Check Handling Policy	Establishes a standard operating procedure and guideline for handling returned and stale dated checks	August 25, 2022
Collections Policy	Establishes a delinquent account, collections and write off policy	February 20, 2020
Conflict of Interest Code	Establishes CEA's Conflict of Interest Code	September 22, 2022

POLICY TITLE	DESCRIPTION	EFFECTIVE/UPDATE DATE
Debt Management Policy	Establishes a comprehensive guideline for issuance and management of debt issued by CEA	January 21, 2021
Drug and Alcohol Policy	Establishes CEA's Drug and Alcohol Policy	May 25, 2023
Energy Risk Management Policy	Establishes policies and procedures related to power supply procurement	June 29, 2023
Employee Handbook	Establishes employee related policies and procedures	May 25, 2023
Financial Reserve Policy	Establishes CEA's financial reserve goals	July 16, 2020
Inclusive and Sustainable Workforce Policy	Establishes a policy that guides procurement and contracts	August 20, 2020
Legislative and Regulatory Policy Platform	Guides CEA Board and staff in their advocacy efforts and engagement on policy matters	January 26, 2023
New Member Addition Policy	Establishes guidelines for adding new members	May 27, 2021
Non-Energy Procurement Policy	Establishes non-energy solicitation and procurement practices	July 16, 2020
Privacy and Confidentiality Policy	Establishes guidelines for handling confidential customer information	February 20, 2020
Protection of Confidential Information	Establishes a policy to protect confidential customer information	February 20, 2020
Records Retention Schedule	Establishes procedures related to retention of CEA's documents	October 15, 2020
Social Media Policy	Establishes protocol for best practices when engaging with the public on social media	January 21, 2021
Ticket and Pass Distribution Policy	Establishes policy related to distribution of complimentary tickets or passes	June 30, 2022
Travel and Expense Reimbursement Policy	Provides guidance on travel and expense reimbursement	February 20, 2020

POLICY TITLE	DESCRIPTION	EFFECTIVE/UPDATE DATE
Unsolicited Proposals Policy	Establishes a process for submission of unsolicited proposals	July 16, 2020

FISCAL IMPACT

There is no fiscal impact by this action.

ATTACHMENTS

None



Staff Report

DATE: July 27, 2023

TO: Clean Energy Alliance Board of Directors

FROM: Barbara Boswell, Chief Executive Officer

ITEM 3: Consider Approval of Agreements with Participate.Energy, LLC and Tesla, Inc. for Distributed Microgrid Solar + Battery Storage Program

RECOMMENDATION

- 1) Approve Power Purchase Agreement with Participate.Energy, LLC for Distributed Microgrid Solar + Battery Storage Program and authorize the Chief Executive Officer to execute all documents subject to General and Special Counsel approval.
- 2) Approve Program Management Agreement with Participate.Energy, LLC for Distributed Microgrid Solar + Battery Storage Program and authorize the Chief Executive Officer to execute all documents subject to General Counsel approval.
- 3) Approve Program Support Agreement with Participate.Energy, LLC for Distributed Microgrid Solar + Battery Storage Program and authorize the Chief Executive Officer to execute all documents subject to General Counsel approval.
- 4) Approve Framework Distributed Microgrids Program Agreement with Participate.Energy and Tesla, Inc. for Distributed Microgrid Solar + Battery Storage Program and authorize the Chief Executive Officer to execute all documents subject to General Counsel approval.

BACKGROUND AND DISCUSSION

At its February 23, 2023 Regular Meeting, the Clean Energy Alliance (CEA) Board received a presentation on the Participate.Energy and Tesla, Inc. Distributed Microgrids program and directed staff to return to the Board with the required documents to establish the program within CEA's service territory.

The Distributed Microgrid Solar + Battery Storage Program (Program) offers CEA's customers access to solar and battery storage systems with no down payment and no credit check. Customers do not buy the system, they enter into an agreement to purchase the solar power and services based on a new rate that CEA will establish. The benefit to CEA's customers is that they have the same control and usage of the battery as customers who purchase these types of systems, save on energy costs due to the avoided transmission and delivery charges when using the solar energy and energy from the battery storage system, and have access to solar and battery storage systems when they may not otherwise have access.

CEA purchases the electricity generated by the solar system and charges customers for the electricity. Unlike the traditional solar model, CEA has the benefit of claiming the renewable energy generation as part of its renewable energy portfolio.

Under the terms of the agreements, Participate.Energy develops, finances and owns the solar and battery storage systems, Tesla, Inc. installs, operates and maintains the systems under an agreement with Participate.Energy and CEA purchases the energy generated and sells the energy to the customer, as well as marketing the program to its residential customers.

There are four agreements that CEA executes to establish the Program:

- **Power Purchase Agreement** – establishes the terms, conditions, and price for CEA’s purchase of the solar energy and provides the rights for CEA to claim the renewable attributes of the energy;
- **Program Management Agreement** – establishes CEA’s responsibilities to market the program to CEA’s customers and encourage participation in the Distributed Microgrids Program, for which CEA will be compensated by Participate.Energy;
- **Program Support Agreement** – establishes CEA’s responsibilities to provide program support for the systems, for which CEA will be compensated by Participate.Energy;
- **Framework Distributed Microgrids Program Agreement** – establishes the terms and conditions on which CEA will market and offer the Program, Tesla, Inc’s. product and product installation support of the system, and Participate.Energy program funding responsibilities.

Next steps include:

- Development of program marketing strategy including name, logo, and materials
- Update to Community Advisory Committee
- Roll-Out of program to CEA customers

FISCAL IMPACT

Funding for the energy purchase through the Power Purchase Agreement are included in the Energy Supply line item of the adopted Fiscal Year 2023/24 budget.

ATTACHMENTS

None

Staff Report

DATE: July 27, 2023

TO: Clean Energy Alliance Board of Directors

FROM: Barbara Boswell, Chief Executive Officer

ITEM 4: Consider Approval of Participation in the Southern California Coalition for the California Energy Commission Equitable Building Decarbonization Program Grant and Authorize the Chief Executive Officer to Submit a Commitment Letter

RECOMMENDATION

Approve participation in the Southern California Coalition for the California Energy Commission Equitable Building Decarbonization Program Grant and authorize the Chief Executive Officer to submit a commitment letter.

BACKGROUND AND DISCUSSION

The California Energy Commission will be opening a grant application this summer for their Equitable Building Decarbonization Program (EBD) to advance equity within vulnerable communities by assisting residential customers reduce greenhouse gas emissions from their homes and advance energy equity. The program will also encourage resilience to extreme heat, indoor air-quality improvements, energy affordability, grid reliability and local workforce opportunities.

\$783M is available through the grant, with 58% available for the Southern California region. The State desires to administer the program separately in the Northern, Central and Southern California regions, with one administrator in each region. The Southern California Coalition (SCC), led by County of Los Angeles through the Southern California Regional Energy Network, plans to submit an application as the administrator for the EBD in Southern California.

The types of measures that are eligible under the EBD include:

- Heating and Cooling
 - Heat pump for space heating and cooling
 - Duct testing/sealing
 - Occupant-controlled smart thermostat
 - Ceiling fan or whole-house fan
- Water Heating
 - Heat pump water heaters
 - Efficient-flow showerheads and faucets
- Cooking
 - Induction range or cooktop

- Laundry
 - Heat pump or electric resistance clothes dryer
- Lighting
 - LED Bulbs and fixtures
- Building Envelope
 - Air sealing and insulation
- Electrical
 - Wiring and panel/capacity upsizing
- Remediation and Safety
 - Additional necessary construction to make space for decarbonization measures
 - Repair damage or leaks associated with roof and/or building envelope
 - Galvanized pipe, lead paint, asbestos, and/or mold remediation
 - Smoke and carbon monoxide detector installation
 - Other work required to bring property up to code

For HVAC and/or water heating replacement; must electrify minimum two of four (HVAC, Water Heating, Cooking, Clothes Drying).

As a partner in the SCC, CEA eligible customers would have access to the building decarbonization program funds. As a partner, the EBD would be co-branded with CEA and SCC, CEA would receive funds for all marketing, education and outreach activities, workforce education and training resources would be provided to develop local skilled workers and CEA would have a seat on the advisory group that will be provided on-going performance progress reports. CEA would work with local community-based organizations for EBD marketing, education, and outreach. No match funds from CEA are required.

Other partners considering participating include Southern California Community Choice Aggregators, Inland Regional Energy Network in Western Riverside, San Gabriel Valley Council of Governments, South Bay Cities COG, and Western Riverside COG.

To participate in SCC, CEA has been asked to provide a Commitment Letter by August 7.

FISCAL IMPACT

CEA would receive funds through the EBD to support marketing, outreach, and education efforts. No match is required from CEA.

ATTACHMENTS

None



Staff Report

DATE: July 27, 2023
TO: Clean Energy Alliance Board of Directors
FROM: Barbara Boswell, Chief Executive Officer
ITEM 5: Clean Energy Alliance Operational, Administrative and Regulatory Affairs Update

RECOMMENDATION

- 1) Receive and File Operational and Administrative Update Report from Chief Executive Officer.
- 2) Receive Community Choice Aggregation Regulatory Affairs Report from Special Counsel.

BACKGROUND AND DISCUSSION

This report provides an update to the Clean Energy Alliance (CEA) Board regarding the status of operational, administrative, and regulatory affairs activities.

OPERATIONAL UPDATE

Expansion of Clean Energy Alliance

The enrollment of non-Net Energy Metering (NEM) accounts in Escondido and San Marcos has been completed. NEM accounts (customers with rooftop solar) will be enrolled throughout the year effective on the accounts normal NEM annual true-up. The opt-outs below reflect NEM enrollment activity for April & May. The following table summarizes the status of opt-outs and opt-ups for customers in Escondido and San Marcos through June 30, 2023.

STAT	ESCONDIDO	SAN MARCOS	BOTH CITIES
Total Eligible Customers	58,099	38,162	96,261
Opt-Outs	1,824	1,248	3,072
Opt-Out Percentage	3.14%	3.27%	3.19%

Activities related to the service expansion to Oceanside and Vista, scheduled for April 2024, will begin in January 2024.

Advocacy Activities Related to AB 1373 – Energy

AB1373, sponsored by Assembly Member Eduardo Garcia, included language that would impact a Community Choice Aggregation (CCA) entity's procurement autonomy and controlling costs, a key benefit of establishing a CCA. CalCCA, the professional CCA association, of which CEA is a member,

launched an effort to lobby for amendments that would address the concerns of the CCA community. Those efforts were successful in addressing many of the concerns, and CalCCA has taken a neutral position based on those amendments.

CEA has been working with San Diego Community Power (SDCP) and Orange County Power Authority (OCPA) to lobby for amendments to the bill to address the remaining concerns. These concerns include language related to additional penalties for not meeting Resource Adequacy requirements, due to the impact to customers. Additional concerns relate to central procurement authority that may result in Investor-Owned Utilities having an expanded role in procuring resources.

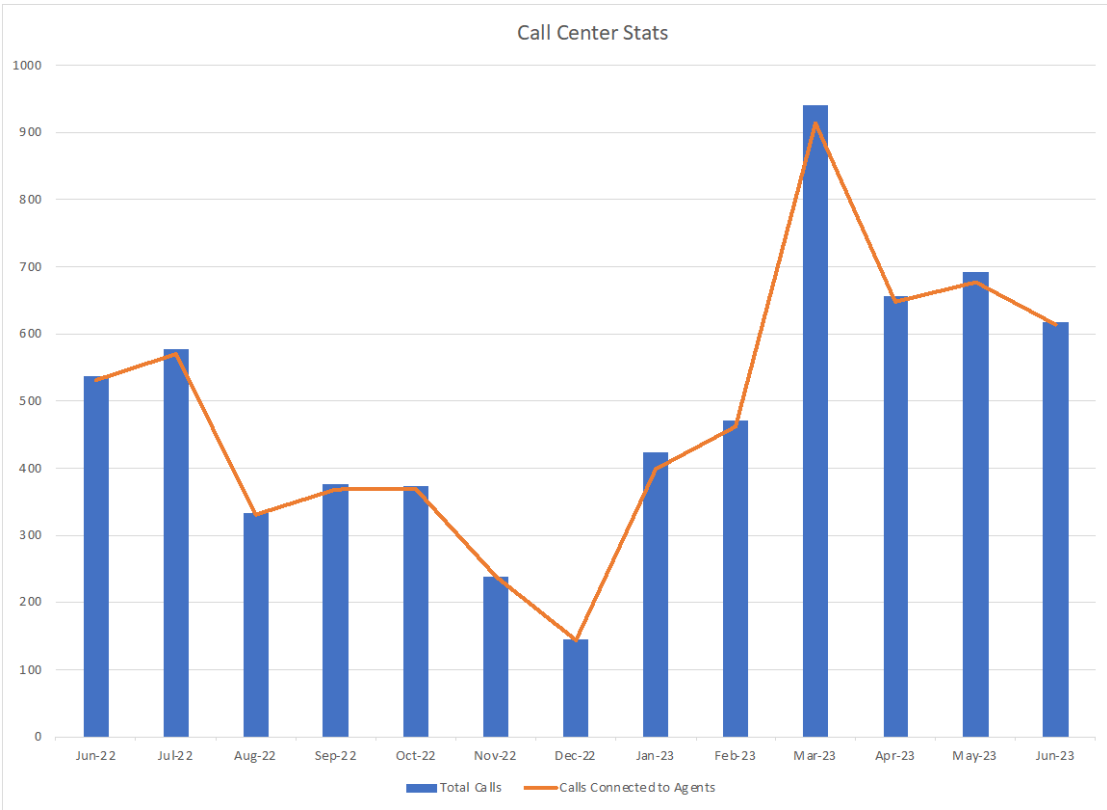
CEA and SDCP has met with elected officials to express our concerns and will continue to meet with elected officials to advocate for amendments. The legislature is currently on recess until August 14, 2023, and the bill was not heard by the policy committee prior to deadline (7/14). There remains a risk the bill could still be heard, in that the bill contains an urgency clause.

Risk Oversight Committee

Pursuant to CEA's Energy Risk Management Policy, the Risk Oversight Committee met June 1, 2023. The Committee reviewed CEA's recent procurement activity, current portfolio positions and future procurement targets, and portfolio mark to market and counterparty exposure. The Committee confirmed that CEA is in compliance with its Energy Risk Management Policy. The next meeting of the Committee is scheduled for September 7, 2023.

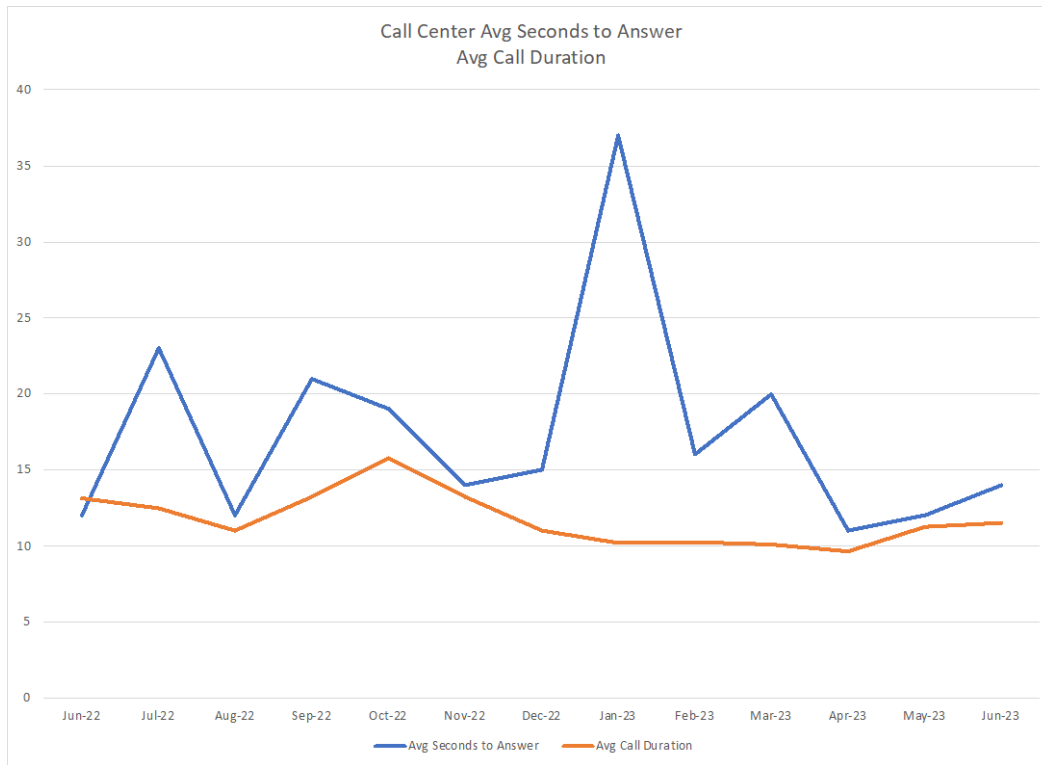
Call Center Activity

The charts below reflect customer activity through June 30, 2023:



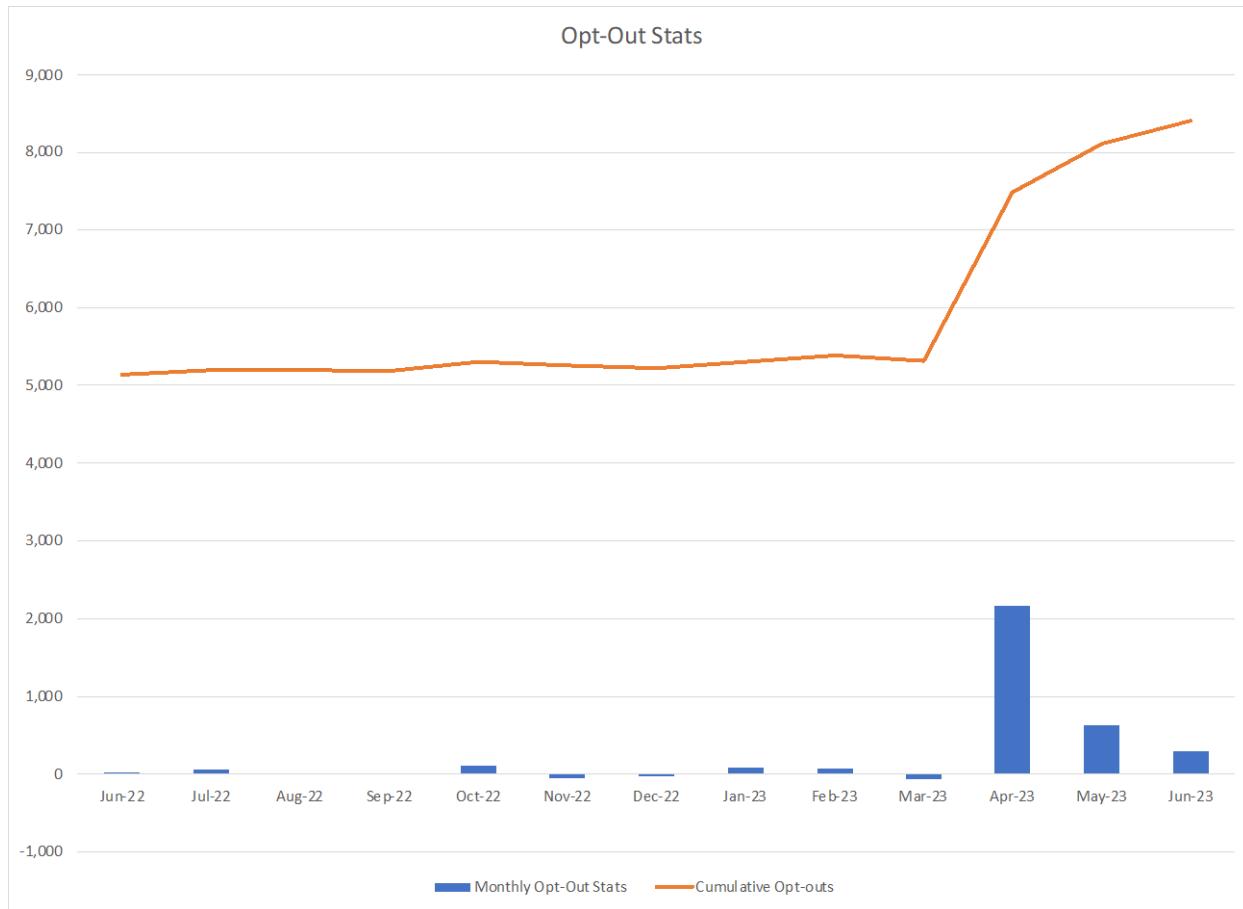
As expected, calls to the call center peaked in March due to the noticing related to the Escondido and San Marcos service launch and have dropped off since that peak.

The following chart reflects call center average seconds to answer and average call duration:



Average time to answer during June was 14 seconds and duration of calls averaged about 11 minutes.

The following chart reflects the monthly and cumulative opt-outs through June 30, 2023, for CEA. The statistics reflect all 5 cities combined.



CEA’s participation is approximately 95%, with monthly opt out activity decreased from the prior two months.

The following chart reflects enrollments in CEA’s power supply products:

POWER SUPPLY PRODUCT	MAY 2023	JUNE 2023	Net Change
Clean Impact – 50% Renewable	373	393	+ 20
Clean Impact Plus - 75% Carbon Free	152,341	152,104	-237
Green Impact – 100% Renewable	511	543	+ 32
TOTAL ACCOUNTS	153,225	153,040	-185

Department of Transportation Charging and Fueling Infrastructure Grant Program in Partnership with Jubilant One Escondido, LLC and Jubilant One San Marcos, LLC

On June 12, 2023, CEA submitted the application to the Department of Transportation for the Charging and Fueling Infrastructure Grant Program. The grant application proposes to install 30 EV Chargers in San Marcos and another 30 EV Charges in Escondido for a total project cost of \$7,524,650. The grant

would provide 80% funding, in the amount of \$6,019,720 with the 20% match (\$1,504,930) being provided by Jubilant.

If successful, CEA expects to receive the of award in November 2023, and approval in March 2024.

Contracts \$50,000 - \$100,000 entered into by Chief Executive Officer

VENDOR	DESCRIPTION	AMOUNT
None		

REGULATORY UPDATE

CEA’s regulatory attorney, Tim Lindl, Keyes & Fox, will provide an update to the Board on current regulatory activities (Attachment A).

FISCAL IMPACT

There is no fiscal impact by this action.

ATTACHMENTS

Attachment A – Keyes & Fox Regulatory Update Report

Clean Energy Alliance

Regulatory Monitoring Report

To: Clean Energy Alliance (CEA) Board of Directors

From: Tim Lindl, Partner, Keyes & Fox LLP
Jacob Schlesinger, Partner, Keyes & Fox LLP
Jason Hoyle, Principal Analyst, EQ Research, LLC

Subject: Monthly Regulatory Update

Date: July 21, 2023

Keyes & Fox LLP and EQ Research LLC are pleased to provide CEA's Board of Directors with this informational memo describing key California regulatory and compliance-related updates from the California Public Utilities Commission (CPUC) over the past month.

RA Rulemaking (2023-2024)

- **Background:** This proceeding considers resource adequacy (RA) requirements for load-serving entities (LSEs) and introduced the Central Procurement Entity (CPE) in an attempt to ensure grid reliability and sufficient capacity. The proceeding is now closed.
- **Recent Developments:** On July 5, the CPUC issued [D.23-06-029](#) that adopts Local Capacity Requirements for 2024 - 2026, Flexible Capacity Requirements for 2024, and, most importantly, makes changes to the Resource Adequacy program scoped as Phase 3 of the Implementation Track. Those changes include modifying the planning reserve margin for 2024 and 2025 and modifying the demand response counting requirements, and closes the proceeding. The Decision contains several key provisions regarding limitations on CCA expansions of territory that may be imposed for RA deficiencies, including:
 - Adoption of a 1% RA deficiency threshold for limits on CCA expansion;
 - The ability to cure a year-ahead RA deficiency via a month-ahead showing;
 - RA deficiencies accrued after the date of the decision will be used to calculate the potential expansion pause period;
 - The first year-ahead deficiencies to be applied will be the 2024 year-ahead RA filing due on October 31, and the first month-ahead deficiency to be applied will be the September 2023 month-ahead RA filing; and
 - Substantive month-ahead and year-ahead system RA deficiencies will apply to the expansion rule. The following violations will not count towards the expansion requirement: (1) A month-ahead or year-ahead system RA deficiency that is less than 1 percent of the LSE's system RA requirements. (2) "Specified violations," (i.e., failure to submit a filing or required data in a timely manner) as adopted in Resolutions [E-4017](#) and [E-4195](#) and modified in [D.11-06-022](#).
- **Analysis:** Expansion plans will be delayed for CCAs with an RA deficiency in excess of 1% of LSE requirements beginning with the 2024 year-ahead RA filing due on October 31, and the September 2023 month-ahead RA filing.
- **Next Steps:** The Decision closed the proceeding. The next RA docket is expected to be opened within the next few months. The revised "slice-of-day" RA system will begin with 2024 test-year filings in late 2024
- **Additional Information:** [D.23-06-029](#) (July 5, 2023); [D.23-04-010](#) on Reform Track Phase 2 (Apr. 7, 2023); [D.22-12-028](#) (Dec. 19, 2022); [Amended Scoping Memo and Ruling](#) (Sep. 2, 2022); Docket No. [R.21-10-002](#).

Provider of Last Resort Rulemaking

- **Background:** A Provider of Last Resort (POLR) is the LSE that has the obligation to serve all customers. Phase 1 of this proceeding will address POLR service requirements, cost recovery, and options to maintain GHG emission reductions in the event of an unplanned customer migration to the POLR. Phase 2 will build on Phase 1 to set the requirements and application process for non-IOU entities to serve as the POLR. Phase 3 will address specific issues not resolved in Phase 1 or 2.
- **Recent Developments:** Opening briefs were filed on July 10. In its brief, SDG&E proposed the following:
 - Designating the IOU POLR be the default permanent service provider in the event of a mass involuntary return of CCA customers;

- Providing an option for the IOU POLR to request a short-term waiver of RA and RPS compliance requirements;
- Revising the reentry fee and Financial Security Requirements (FSR) methodology to use the PCIA Market Price Benchmarks (MPBs) to value the RA and RPS components;
- Establishing an FSR minimum set at the higher of calculated administrative costs or \$147,000;
- Limiting use of surety bonds for the FSR; and
- A requirement for all CCAs to register with third-party credit rating agencies (e.g., Moody's, Standard & Poor's) to obtain a credit rating.
- **Analysis:** The FSR and POLR requirements represent a potentially substantial cost or cash flow burden on CCAs, the extent and timing of which is unknown at present. CCA financial health could be a significant determining factor in the level of costs or other burdens imposed on CCAs by the POLR and FSR requirements.
- **Next Steps:** Reply briefs are due **July 31**. A proposed decision on FSR calculations is expected in October 2023.
- **Additional Information:** SDG&E [Opening Brief](#) (July 10, 2023); [Amended Scoping Ruling and Memo](#) (June 19, 2023); [Joint Case Management Statement – Appendix](#) (May 26, 2023); ALJ [email Ruling](#) (Mar. 17, 2023); [ALJ Ruling](#) and [Staff Proposal](#) (Jan. 6, 2023); [Scoping Memo and Ruling](#) (Sep. 16, 2021); [OIR](#) (Mar. 25, 2021); Docket No. [R.21-03-011](#).

Resolution E-5277

- **Background:** This Resolution addresses SDG&E's request to count the utility-owned Westside Canal Energy Storage Project (Westside Canal) towards its midterm reliability procurement requirements pursuant to Decision D.21-06-035 and modify the project's cost recovery mechanism. The Project was originally procured to meet summer reliability procurement targets pursuant to D.21-12-015.
- **Recent Developments:** On July 13, the CPUC approved Resolution E-5277, finding the following:
 - SDG&E's midterm reliability procurement requirement, with the Commission's Energy Division's acceptance of Advice Letter 3967-E, is 82.7 MW online by August 1, 2023; 247.6 MW online by June 1, 2024; 62.3 MW online by June 1, 2025; and 82.7 MW of long lead time resources by 2026.
 - SDG&E's proposed changes in cost recovery methodology in Advice Letter 4182-E comply with the Commission's prior direction in D.21-06-035, D.21-12-015, and Resolution E-5259 for purposes of applying the Westside Canal Energy Storage Project toward its midterm reliability requirements.
 - As of August 1, 2023, the costs associated with 66 MW (64 MW NQC) of the Westside Canal Energy Storage Project approved in Resolution E-5193 will be recovered from applicable customers, which includes bundled service customers and departing load customers with 2021 vintage cost responsibility, through SDG&E's Portfolio Allocation Balancing Account. Beginning January 1, 2024, the costs associated with the remaining 65 MW (59 MW NQC) of the Westside Canal Energy Storage Project will be recovered in the same manner.
- **Analysis:** N/A
- **Next Steps:** N/A
- **Additional Information:** [Resolution E-5277](#) (July 13, 2023); SDG&E [AL 4182-E](#) (March 22, 2023).

Clean Energy Financing

- **Background:** This rulemaking examines options to assist electricity and natural gas customers with investments in residential and commercial buildings and at industrial and agricultural sites designed to decrease energy use, reduce greenhouse gas (GHG) emissions, and/or produce clean energy to support customers' on-site needs.
- **Recent Developments:** The [Proposed Decision](#) on clean energy financing proposals was held over from the July 13 CPUC meeting to the August 10 meeting.
- **Analysis:** A standardized format for clean energy financing proposals will expedite the program review and approval process and increase customer access to new financing mechanisms for customer-sited projects and improvements.
- **Next Steps:** Additional guidance regarding a subsequent phase of the proceeding is expected in a forthcoming decision.
- **Additional Information:** [Proposed Decision](#) (Jun. 9, 2023); [D.23-03-011](#) (Mar. 16, 2023); [Amended Scoping Ruling](#) (Nov. 19, 2021); Assigned Commissioner's [Scoping Ruling](#) (Mar. 5, 2021); [OIR](#) (Sep. 4, 2020); Docket No. [R.20-08-022](#).



Staff Report

DATE: July 27, 2023

TO: Clean Energy Alliance Board of Directors

FROM: Barbara Boswell, Chief Executive Officer

ITEM 6: Consider Approving Agreement with Calpine Energy Solutions and Recurve Analytics, Inc for Clean Energy Alliance Summer Peak Load Reduction Pilot Program

RECOMMENDATION

Approve agreement with Calpine Energy Solutions and Recurve Analytics, Inc. for Clean Energy Alliance Summer Peak Load Reduction Pilot Program for an amount not to exceed \$150,000 and authorize the Chief Executive Officer to sign all documents, subject to General Counsel approval.

BACKGROUND AND DISCUSSION

Calpine Energy Solutions (Calpine) has partnered with Recurve Analytics, Inc. (Recurve) to offer the Summer Peak Load Reduction Pilot Program (Program) utilizing their FLEXmarket program platform.

The Summer Peak Load Reduction Program will offer eligible Clean Energy Alliance (CEA) non-residential customers energy efficiency projects that result in energy savings at no cost to the customer. CEA would pay the installer for the energy efficiency project through verified load reduction savings. If no savings are achieved no payment is required.

Through the FLEXmarket program platform, Recurve has identified installers (Aggregators) that can efficiently identify eligible non-residential customers and the energy efficiency project that has the highest potential for generating peak load reduction. The Program will target customers that the Aggregators can install the project before September 2023 with the goal to reduce peak loads during September heat events. The reduced peak load will not only reduce costs in the near term but will also reduce the peak load that CEA's Resource Adequacy requirements are based on.

To support the Pilot Program Calpine has committed to contribute \$50,000, staff recommends allocating \$150,000 for a total program budget of \$200,000. The funds for CEA's allocation will come from Energy Supply budget, avoided costs.

Staff will work with the Recurve and Calpine team to identify eligible customers in each of the operational member cities.

FISCAL IMPACT

Funds for CEA's \$150,000 allocation will come from Fiscal Year 2023/24 approved energy supply budget.

ATTACHMENTS

Draft Agreement between Clean Energy Alliance, Calpine Energy Solutions and Recurve Analytics, Inc.

**AGREEMENT BETWEEN
CLEAN ENERGY ALLIANCE,
RECURVE ANALYTICS, INC. AND
CALPINE ENERGY SOLUTIONS, LLC**

This Agreement is entered into this [REDACTED] day of [REDACTED], 2023, by and between Clean Energy Alliance, a California joint powers authority, hereinafter called "CEA", on the one hand and Calpine Energy Solutions, LLC, a California limited liability company, hereinafter called "Calpine," and Recurve Analytics, Inc., a Delaware corporation, hereinafter called "Recurve", on the other hand with respect to the following recitals. Each party listed above may be referred to individually as a "Party," and collectively as the "Parties." Calpine and Recurve are referred to collectively herein as "Contractor."

Whereas, pursuant to Section 6508 of the Joint Exercise of Powers Act, CEA may contract with independent contractors for the furnishing of services to or for CEA; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of administering its FLEXmarket Program (the "Program") for CEA with third party project implementers (each, an "Aggregator" and collectively the "Aggregators") who have developed portfolios of Projects.

Whereas, Contractor seeks to provide, and warrants that it is qualified and competent to render, the services described in this Agreement.

Now, therefore, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, it is hereby agreed by the Parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement fully by this reference:

Exhibit A—Summer Peak Load Reduction Pilot Program Scope of Services

Exhibit B—Definitions

2. Scope of Services

In consideration of the payments set forth in this Agreement and in Exhibit A, Contractor shall perform services (collectively, the "Services") for CEA in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A. Contractors obligations hereunder are joint and several.

3. Payments

a. In consideration of the Services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, CEA shall make payment to Contractor based on the rates and in the manner specified in Exhibit A. If CEA reasonably determines that the quantity or quality of the work performed is unacceptable, then CEA reserves the right to withhold the proportional payment attributable to such unacceptable work, and provide written notice to Contractor and an opportunity to cure, consistent with this Agreement. In no event shall CEA's total fiscal obligation under this Agreement exceed \$150,000 ("Maximum Total Price"). For the avoidance of doubt, Contractor shall have no obligation to provide out-of-scope work until such time as such work is authorized in writing and the Maximum Total Price is adjusted by mutual agreement. In the event that CEA makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by CEA at the time of contract termination or expiration. Unless otherwise indicated in Exhibit A, Contractor shall invoice CEA monthly for all payments related to Services performed during the previous month. Payments shall be due within thirty (30) days after the date of invoice. All payments must be made in U.S. dollars.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2023, through November 30, 2024. At its own election, CEA may renew this Agreement for an additional two-year term, referred to herein as the "Renewal Term") by providing written notice to Contractor on or before October 1, 2024.

5. Termination; Availability of Funds

- a. Termination Due to Unavailability of Funds. CEA may terminate this Agreement, or a portion of the Services, based upon the unavailability of Federal, State, or CEA funds by providing written notice to Contractor as soon as is reasonably possible after CEA learns of said unavailability of funding. Contractor shall be under no obligation to provide services for which funds are unavailable.
- b. Termination for Default. Either CEA or Contractor may terminate this Agreement if any one of the following events (each a "Default") occurs with respect to the other Party: (i) with respect to CEA, CEA fails to pay amounts due hereunder and such failure continues for twenty-one (21) Business Days after written notice from Contractor; (ii) a Party violates any ordinance, regulation or other law which applies to its performance herein or defaults in the observance or performance by a Party of any such Party's material covenants or obligations under this Agreement (other than a default in a payment obligation) and such default continues uncured for ten (10) Business Days after written notice is given to such Party, PROVIDED, HOWEVER, that for such events that require more than ten (10) calendar days, to cure, then such Party shall have such additional time as may reasonably be required to effect such cure PROVIDED, that such Party diligently and continuously pursues such cure to conclusion within thirty (30) calendar days; or; (iii) any Party makes an assignment for the benefit of creditors or files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or has such a petition filed against it or otherwise becomes bankrupt or insolvent (however evidenced) or is unable to pay its debts as they fall due.
- c. Termination for Convenience. Any Party hereto may terminate this Agreement for any reason by giving sixty (60) calendar days' written notice to the other Party. Notice of termination shall be by written notice to the other Party and shall be sent by email to the email address listed herein with a copy by regular U.S. Mail postage pre-paid the same day.
- d. Termination due to Regulatory Action. In the event that the CPUC (i) directs CEA to discontinue the FLEXmarket Services or (ii) removes all or substantially all of the approved funding for this Agreement (in each case, a "Regulatory Action"), then CEA may terminate the Services upon not less than thirty (30) days prior written notice to Contractor or the effective date of the Regulatory Action, whichever is shorter. CEA will use commercially reasonable efforts to ensure all portions of the Services and funding thereof are approved by the CPUC and shall as soon as practical notify Contractor in writing if CEA receives notice of a Regulatory Action.
- e. Effect of Termination. Upon the expiration or termination of this Agreement: (i) Contractor shall bring the Services to an orderly conclusion as directed by CEA; and (ii) any and all payment obligations of CEA under this Agreement will become due immediately, including accrued interest. For the sake of clarity, CEA understands that measured performance payments are paid out over 12 months based on metered performance and in the event of termination, all measured performance payments that are outstanding will be paid out based on expected performance as calculated by Recurve. Upon such expiration or termination, and upon request of CEA, Contractor shall reasonably cooperate with CEA to ensure a prompt and efficient transfer of all data documents and other materials to a new service provider in a manner such as to minimize the impact of expiration or termination on CEA's customers. CEA agrees to pay Contractor compensation for services performed in connection of such transfer, to the extent not contemplated in the Agreement. In the event of termination not the fault of Contractor, Contractor shall be paid for all Services performed to the date of termination in accordance with the terms of this Agreement. Notwithstanding anything contained in this Section, in no event shall CEA be liable for lost or anticipated profits or overhead on uncompleted portions of the Services. Contractor shall not enter into any agreement, commitments or subcontracts that would incur significant cancellation or termination costs without prior written approval of CEA, and such prior written approval shall be a condition precedent to the payment of any cancellation or termination charges by CEA under this Section. Also, as a condition precedent to the payment of any cancellation or termination charges by CEA under this Section, Contractor shall have delivered to LSE any and all reports, drawings, documents and deliverables prepared for CEA before the effective date of such cancellation or termination.
- f. This Agreement shall be subject to changes, modifications, or termination by order or directive of

the CPUC. The CPUC may from time to time issue an order or directive relating to or affecting any aspect of this Agreement or the entire Agreement, in which case, CEA shall have the right to change, modify or terminate this Agreement in any manner to be consistent with such CPUC order or directive.

6. Contract Materials

At the end of this Agreement, or in the event of termination, CEA data and any reports, and other written materials specifically prepared for CEA (collectively referred to as "contract materials") shall be promptly delivered to CEA. For the avoidance of doubt, Contractor's intellectual property, including but not limited to Contractor's internal systems, know-how, programs and work product shall remain the exclusive property of Contractor, and, with regard to any reports prepared specifically for CEA, CEA shall have a perpetual, non-exclusive, royalty free (exclusive of payments made under this Agreement) license to use any such reports on an "as is" basis thereafter. Contractor shall otherwise retain any and all rights to the intellectual property used, developed, or created by Contractor in its performance of this Agreement.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of CEA and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of CEA employees. CEA agrees and understands that Contractor may provide the same or similar services to other parties. The manner and means of conducting the work are under the control of Contractor as an independent contractor and in pursuit of Contractor's independent calling, except to the extent that they are limited by statute, rule or regulation or the express terms of this Agreement. The Contractor has and shall retain the right to exercise full control and supervision of all persons assisting the Contractor in the performance of the services required by this Agreement, CEA only being concerned with the finished results of the work being performed. No civil service status or other right of employment will be acquired by virtue of Contractor's services. None of the benefits provided by CEA to its employees, including but not limited to, employer-paid payroll taxes, Social Security, retirement benefits, health benefits, unemployment insurance, workers' compensation plans, vacation and sick leave, nor any other benefits are available from CEA to Contractor, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, or other purposes normally associated with an employer-employee relationship from any fees due Contractor. Payments of the above items, if required, are the responsibility of Contractor. It is the intent of the Parties that neither Contractor nor its officers, employees or agents are to be considered employees of CEA, whether "common law" or otherwise, and Contractor shall indemnify, defend and hold CEA harmless from any such obligations related to its officers, employees and agents.

8. Indemnification

- a. General Indemnification. Contractor shall defend, indemnify, hold harmless and release CEA, and CEA's officers, agents, and employees, from and against any and all liabilities, actions, claims, damages, disabilities, or expenses that may be asserted by any person or entity, to the extent resulting from the breach by Contractor Parties of any material term of this Agreement, and/or the Contractor's negligence or willful misconduct, and/or gross negligence in connection with the performance of this Agreement, but excluding liabilities, actions, claims, damages, disabilities, or expenses to the extent arising from (i) CEA's breach of any material term of this Agreement, or CEA's negligence, gross negligence or willful misconduct in connection with the performance of this Agreement and/or (ii) the negligence, gross negligence or willful misconduct of any other person or entity, provided, however, that Contractor's obligations shall be deemed to include the negligence, gross negligence or willful misconduct of Contractor Parties. This provision shall apply to the fullest extent permitted by law. "Contractor Parties" shall mean any person or entity under Contractor's direction and control, including Contractor's employees, subcontractors, as well as Contractor's Affiliates and assignees.

- b. CEA shall promptly notify Contractor in writing about the claim or action for which it seeks indemnification and provide Contractor with reasonable information and assistance to enable Contractor to defend such claim or action. Contractor shall not settle any indemnified claim or disclose the terms of any such settlement, without CEA's prior written consent, which may not be unreasonably withheld, conditioned or delayed.
- c. The indemnity obligation set forth in this Section 8 shall survive termination of this Agreement with respect to any matters arising prior to such termination.

9. CEA Data

a. Ownership. CEA's data ("CEA Data," which shall also be known and treated by Contractor as Confidential Information) shall include, but not be limited to: information collected, used, processed, stored, or generated as the result of the use of the Services, including, without limitation, service agreement numbers and account numbers; meter and other identification numbers; account numbers; billing information (including rate schedule, baseline zone, CARE participation, end use code (heat source) service voltage, medical baseline, meter cycle, bill cycle, balanced payment plan and other plans); payment / deposit status; number of units; and other similar information specific to CEA Customers individually or in the aggregate. CEA Data also shall include, as between the Parties, any information that identifies an individual ("PII"), such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements listed herein. Contractor does not expect to collect PII, but to the extent that it does, it will treat PII confidentially in accordance with the confidentiality and data security provisions of this Agreement. Except where subject to a third party's intellectual property rights, all CEA Data is and shall remain the sole and exclusive property of CEA and all right, title, and interest in the same belongs to CEA. This Section shall survive the termination or expiration of this Agreement.

b. Contractor Use of CEA Data. Contractor is provided a limited license to access CEA Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display CEA Data only to the extent necessary in the providing of the Services. Contractor shall: (a) keep and maintain CEA Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Agreement and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose CEA Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Agreement, and applicable law; (c) allow access to CEA Data only to those employees of Contractor who are directly involved with and responsible for providing the Services; and, (d) not use, sell, rent, transfer, distribute, or otherwise disclose or make available CEA Data for Contractor's own purposes or for the benefit of anyone other than CEA without CEA's prior written consent. This Section shall survive the termination or expiration of this Agreement.

c. Litigation Hold Letter. In the event CEA gives Contractor written notice of a "Litigation Hold," then as to all data identified in such notice, Contractor shall, at no additional cost to CEA, preserve all such data pending receipt of further direction from CEA.

d. Backup and Recovery of CEA Data. As a part of the Services, Contractor is responsible for maintaining a backup of CEA Data and for an orderly and timely recovery of such data in the event that the Services may be interrupted, as set forth in Exhibit A.

e. Loss or Unauthorized Access to Data. In the event of any act, error or omission, negligence, misconduct, or breach that permits any unauthorized access to, or that compromises or is suspected to compromise the security, confidentiality, or integrity of CEA Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of CEA Data, Contractor shall, as applicable: (a) notify CEA as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with CEA in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by CEA; (c) at CEA's sole election, (i) notify the affected individuals as soon as practicable but no later than is required to comply with applicable law including, but not limited to, the provisions of California Civil Code Section 1798.82, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or, (€i) reimburse CEA for any costs in notifying the affected individuals; (d) provide third-party credit and identity monitoring

services to each of the affected individuals for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twelve (12) months following the date of notification to such individuals;€) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Company's obligations of indemnification as further described in this Agreement, indemnify, defend, and hold harmless CEA for any and all Claims (as defined herein), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from CEA in connection with the occurrence; (g) be responsible for recreating lost CEA Data in the manner and on the schedule set by CEA without charge to CEA; and, (h) provide to CEA a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. This Section shall survive the termination or expiration of this Agreement.

10. Confidentiality

The Parties acknowledge that each Party may be exposed to or acquire communication or data of the other Party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section shall survive the termination or expiration of this Agreement.

a. Meaning of Confidential Information. For the purposes of this Agreement, the term "Confidential Information" shall mean all information and documentation of a Party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such Party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing Party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing Party. The term "Confidential Information" does not include any information or documentation that was: (a) already in the possession of the receiving Party without an obligation of confidentiality; (b) developed independently by the receiving Party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (c) obtained from a source other than the disclosing Party without an obligation of confidentiality; or, (d) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving Party). For purposes of this Agreement, in all cases and for all matters, CEA Data shall be deemed to be Confidential Information.

b. Obligation of Confidentiality. The Parties agree to hold all Confidential Information in confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a Party who have a need to know in connection with this Agreement or to use such Confidential Information for any purposes whatsoever other than the performance of this Agreement, or as required by law. The Parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential.

c. Cooperation to Prevent Disclosure of Confidential Information. Each Party shall use commercially reasonable efforts (in accordance with all applicable law) to assist the other Party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each Party shall advise the other Party immediately in the event either Party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and each Party will cooperate with the other Party in seeking injunctive or other equitable relief against any such person. It is understood that CEA is subject to the California Public Records Act (Gov. Code § 6250 *et seq.*). If a request under the California Public Records Act is made to view Contractor's Confidential Information, CEA shall notify Contractor of the request and the date that such records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain a court order enjoining that disclosure, CEA will release the requested information on the date specified. Notwithstanding the foregoing, CEA shall not disclose records it determines to be confidential and exempt from disclosure under the California Public Records Act. Nothing in the foregoing shall be

construed or deemed to be a waiver by Contractor of any and all remedies it may have under the California Public Records Act or other applicable law.

d. Remedies for Breach of Obligation of Confidentiality. Each Party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other Party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a Party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of CEA, at the sole election of CEA, the immediate termination, without liability to CEA, of this Agreement.

e. Surrender of Confidential Information upon Termination. Upon termination or expiration of this Agreement, each Party shall, within five (5) calendar days from the date of termination, return to the other Party any and all Confidential Information received from the other Party, or created or received by a Party on behalf of the other Party, which is in such Party's possession, custody, or control; provided, however, that Contractor shall return CEA Data to CEA following the timeframe and procedure described further in this Agreement. Should Contractor or CEA determine that the return of any CEA Data or non-CEA Data Confidential Information is not feasible, Contractor shall destroy the data comprising such Confidential Information, and shall certify the same in writing within five (5) business days from the date of termination to the other Party.

f. Notwithstanding anything in the foregoing to the contrary, however, Contractor is not prohibited from conducting its business with potential customers in CEA's territory, either due to a business opportunity already known to Contractor as of the date of this Agreement or made known to Contractor in the ordinary course of Contractor's business other than the Services under this Agreement. For the avoidance of doubt, any information, including but not limited to customer names, usage, data, etc., that Contractor receives from a third party in the ordinary course of Contractor's business other than performance of the Services under this Agreement, shall not be deemed to be confidential information as between CEA and Contractor, for purposes of this Agreement, even if it is the same or similar information such as would be confidential information pursuant to this Agreement.

11. Data Security

a. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described herein, Contractor shall be responsible for establishing, maintaining, and providing a written description to CEA of, a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the CEA Data; (b) protect against anticipated threats or hazards to the security or integrity of the CEA Data; (c) protect against unauthorized disclosure, access to, or use of the CEA Data; (d) ensure the proper disposal of CEA Data; and, (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case shall the safeguards of Contractor's data privacy and information security program used to protect CEA Data be less stringent than the safeguards used by Contractor for its own data.

b. Annual Audit. Calpine shall conduct or cause to be conducted an annual Service Organization Controls (SOC)-1 Type 2 audit or similar audit of rigor and scope of the services it provides to CEA and provide to CEA the findings of such audit that relate to CEA's operations.

c. CPUC Compliance. Contractor shall, to the extent applicable, comply with the consumer protections concerning subsequent disclosure and use set forth in Attachment B to California Public Utilities Commission (CPUC) Decision No. 12-08-045.

d. Injunction, Specific Performance or Such Other Relief. Contractor acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to CEA and/or CEA Customers, the amount of which may be difficult to assess. Accordingly, Contractor hereby confirms that the CEA shall be entitled to apply to a court of competent jurisdiction or the CPUC for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by Contractor or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the CEA, in law or equity.

12. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party, (other than (a) an Affiliate of Contractor, or (b) the right to receive payment hereunder in connection with Contractor's credit facilities) or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of CEA, which shall not be unreasonably withheld, conditioned or delayed. Any such assignment or subcontract without CEA's prior written consent shall give CEA the right to automatically and immediately terminate this Agreement without penalty or advance notice, provided, however, that all moneys due and payable to, or that become due to, Contractor, shall not be deemed a "penalty" for purposes of this sentence. "Affiliate" shall mean any person or entity that controls, is controlled by, or is under common control with Contractor.

13. Representations and Warranties

On the Effective Date and the date of entering into any addendum or amendment, each Party represents and warrants to the other Party that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is authorized to do business in California; (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement and each addendum; (iii) the execution, delivery and performance of this Agreement and each addendum are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it; (iv) this Agreement, each addendum, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject to any equitable defenses); (v) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt, and (vi), in the case of Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services.

14. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Article has been obtained and such insurance has been approved by CEA, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish CEA with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. Contractor shall provide written notice within a reasonable time period not to exceed thirty (30) days to CEA of any pending cancellation or material change in the limits of liability.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured

against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

Commercial General Liability

Commercial General Liability Insurance Policy ("CGL"). Policy shall include coverage at least as broad as set forth in Insurance Services Office (herein "ISO") Commercial General Liability coverage. (Occurrence Form CG 0001) with policy limits not less than the following:

\$1,000,000 each occurrence (combined single limit);

\$2,000,000 general aggregate.

Motor Vehicle Liability Insurance... \$1,000,000

(To be checked if motor vehicle used in performing services)

Professional Liability \$1,000,000

(To be checked if Contractor is a licensed professional)

- d. CEA and its officers, agents, employees, and servants shall be included as additional insured on any such policies of insurance, but only to the extent of the liabilities assumed by Contractor under this Agreement, which shall also contain a provision that (a) the insurance afforded thereby to CEA and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the CEA or its officers, agents, employees, and servants have other

insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, CEA, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

15. CEA Obligations

During the term of this Agreement and in addition to CEA's other obligations under this Agreement, CEA agrees to:

- a. Promptly upon request from Contractor, provide Contractor all pertinent data and records necessary for Contractor's delivery of the Services within reasonable expectations and practical limitations.
- b. Regularly and on a timely basis according to a schedule to be worked out between the Parties, provide data for Contractor's use in calculating CEA's payments to Aggregators under applicable Flexibility Purchase Agreements (FPAs) and CEA-specific terms and conditions, which will be furnished and/or developed as part of the Program Plans.
- c. Pay undisputed and verified invoiced amounts to Aggregators within 30 days of receiving invoices and supporting documentation from Contractor.

16. Budget

CEA shall allocate \$150,000 towards the program budget. Additionally, Calpine shall provide an additional \$50,000 for a total program budget of \$200,000.

17. Billing, Energy Use, and Program Tracking Data

- a. Contractor shall comply with and timely cooperate with all CPUC directives, activities, and requests regarding the Program and Project evaluation, measurement, and verification ("EM&V"). For the avoidance of doubt, it is the responsibility of Contractor to be aware of all CPUC requirements applicable to the Services.
- b. Contractor shall make available to CEA upon demand, detailed descriptions of the Program, data tracking systems, baseline conditions, and participant data, including financial assistance amounts.
- c. Contractor shall make available to CEA any revisions to Recurve's program theory and logic model ("PTLM") and results from its quality assurance procedures, and comply with all CEA's EM&V requirements, including reporting of progress and evaluation metrics.
- d. Contractor are required to attest that the information and data provided to CEA and Aggregators is accurate. In the event of an error or errors in the data, Contractor understands and acknowledges a duty to correct upon discovery of that error, in the time periods specified in Exhibit A, sections 2.b.iii, 3d, 4.a.i, and 4.b.i as attached hereto.

18. Coordination With Other Program Participants

Contractor shall coordinate with other Program participants, including investor-owned utilities and local government agencies authorized by the CPUC to implement CPUC-directed energy efficient programs, administering energy efficiency and/or demand response programs in the same geographic area as CEA to avoid using CPUC Energy Efficiency funds more than once for a project. The CPUC may develop further rules related to coordination between Program participants in the same geographic area as other CPUC programs, and any participant is required to comply with such rules.

19. Compliance With Laws

Each Party shall be responsible for compliance with all laws and regulations applicable to the Services being provided under this Agreement. If either Party's activities hereunder become subject to law or regulation of any kind, which renders the activity illegal, unenforceable, or which imposes additional costs on such Party for which the Parties cannot mutually agree upon an acceptable price modification, then such Party shall at such time have the right to terminate this Agreement upon written notice to the other Party with respect to the illegal, unenforceable, or uneconomic provisions only; the remaining provisions of this Agreement will remain in full force and effect. Any such termination shall not constitute a basis for termination for cause as defined in Section 5 above.

20. Controlling Law; Venue

This Agreement, and the rights and duties of the Parties arising hereunder, shall be governed by and construed in accordance with the laws of the State of California, without giving effect to any choice of law rules that may require the application of the laws of another jurisdiction.

21. Waiver

No waiver by either Party of any right or obligation hereunder, including in respect to any Default by the other Party, shall be considered a waiver of any future right or obligation, whether of a similar or different character. Any waiver shall be in writing and signed by the Party against whom enforcement is sought.

22. Governmental Entity

CEA shall not claim immunity on the grounds of sovereignty or similar grounds from enforcement of this Agreement. Except as provided in Article 5 above, CEA's failure to obtain any necessary budgetary approvals, appropriations, or funding for its obligations under this Agreement shall not excuse CEA's performance hereunder.

23. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of CEA, to:

Clean Energy Alliance
5857 Owens Ave, 3rd Floor
Carlsbad, CA 92008
Attn: Chief Executive Officer
Email: ceo@thecleanenergyalliance.org

In the case of Contractor, to:

Calpine Energy Solutions, LLC
Attn: Legal Dept.
401 West A Street, Suite 500
San Diego, CA 92101
609-684-8251 (phone)
617-684-9350 (fax)

And

Recurve Analytics, Inc.
Attn: Matt Golden
364 Ridgewood Ave
Mill Valley, CA 94941

24. No Recourse Against CEA's Member Agencies

Contractor acknowledges and agrees that CEA is a Joint Powers Authority, which is a public agency separate and distinct from its member agencies. All debts, liabilities, or obligations undertaken by CEA in connection with this Agreement are undertaken solely by CEA and are not debts, liabilities, or obligations of its member agencies. Contractor waives any recourse against CEA's member agencies.

25. Force Majeure

A Party shall be excused from performance under this Agreement and shall not be considered in default with respect to any obligation hereunder (other than obligations to pay money), if, and to the extent, in whole or in part, its failure of, or delay in, performance is due to a Force Majeure Event; provided, however, that all of the following conditions are satisfied: (a) such claiming Party gives written notice and full particulars of such Force Majeure Event to the other Party within thirty (30) days after the occurrence of the event relied on, (b) such notice shall estimate the expected duration and probable impact on the performance of such Party's obligations hereunder, (c) such affected Party shall continue to furnish timely regular reports with respect thereto during the continuation of the delay in the affected Party's performance, (d) the suspension of such obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure Event, (e) no obligation or liability of either Party which became due or arose before the occurrence of the event causing the suspension of performance shall be excused as a result of the occurrence; (f) the affected Party shall exercise all commercially reasonable efforts to mitigate or limit the interference, impairment and losses to the other Party by promptly taking appropriate and sufficient corrective action; (g) when the affected Party is able to resume performance of the affected obligations under this Agreement, the affected Party shall give the other Party written notice to that effect, and (h) the affected Party promptly shall resume performance under this Agreement. The term "Force Majeure Event" means the occurrence of any event beyond the reasonable control and without the fault or negligence of the Party affected that results in the failure or delay by such Party of some performance under this Agreement, in full or part, including but not limited to the following: drought, flood, earthquake, storm, fire, volcanic eruption, lightning, epidemic/pandemic, war, pests, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a governmental authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include lack of financial resources, material cost increases in commodities or labor, or other economic conditions.

26. Limitation on Damages

FOR ANY BREACH OF THIS AGREEMENT, DAMAGES SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, AND SUCH DIRECT, ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR DAMAGES, AND ALL OTHER DAMAGES ARE WAIVED. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF A PARTY'S PERFORMANCE OF THIS AGREEMENT, INCLUDING LOST PROFITS OR BUSINESS INTERRUPTION DAMAGES, WHETHER BASED ON STATUTE, CONTRACT, TORT, UNDER ANY INDEMNITY (EXCEPT AS EXPRESSLY PROVIDED BELOW) OR OTHERWISE, WITHOUT REGARD TO CAUSE OR THE NEGLIGENCE OF ANY PARTY, WHETHER SOLE, JOINT, ACTIVE OR PASSIVE, AND EACH PARTY HEREBY RELEASES THE OTHER PARTY FROM ANY SUCH LIABILITY, EVEN IF DURING THE TERM HEREOF IT ADVISES THE OTHER OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. IN NO EVENT SHALL EITHER PARTY'S MAXIMUM LIABILITY TO THE OTHER UNDER THIS AGREEMENT EXCEED THE GREATER OF (A) THE AMOUNT OF THE FEES PAID TO CONTRACTOR BY CEA FOR THE SERVICES PROVIDED HEREUNDER OR (B) ONE HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (US \$150,000.00). THIS SECTION 26 SHALL APPLY TO THE EXTENT PERMITTED BY LAW.

THE FOREGOING LIMITATIONS SHALL NOT APPLY TO ANY THIRD PARTY CLAIMS OR LIABILITIES ARISING FROM A BREACH OF THE CONFIDENTIALITY AND DATA SECURITY PROVISIONS OF SECTIONS 10 AND 11 OF THIS AGREEMENT NOR TO THIRD PARTY CLAIMS OR LIABILITIES UNDER THE INDEMNITY PROVISIONS OF SECTION 8.

27. No Third Party Beneficiaries

This Agreement is intended for the benefit of the Parties hereto and is not intended and shall not be construed as conferring any interest or rights with respect to or in connection hereto, except as otherwise expressly provide for herein.

28. Signatory Authority

The individual(s) executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF and in agreement with this Agreement's terms, the Parties, by their duly authorized representatives, affix their respective signatures:

CLEAN ENERGY ALLIANCE

CALPINE ENERGY SOLUTIONS, LLC

By: _____

Barbara Boswell, CEO

By: _____

Sean Falmer, President

Date: _____

Date: _____

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

RECURVE ANALYTICS, INC.

By: _____
Matthew Golden, CEO, Secretary, CFO

Date: _____

Exhibit A: Summer Peak Load Reduction Pilot Program Scope of Services

Scope of Work

1. CALPINE ENERGY SOLUTIONS and RECURVE shall jointly manage the Program utilizing the FLEXmarket Services described in this Exhibit A.
2. CALPINE ENERGY SOLUTIONS and RECURVE shall provide third-party Program management by:
 - a. Contracting with Aggregators who will develop projects or portfolios of projects pursuant to the terms of the FPA and LSE-specific Terms and Conditions.
 - b. Being responsible for managing operational Program functions, including but not limited to:
 - i. Recruiting and qualifying Aggregators, including by ensuring the requirements set forth in the FPA and Program Plans are met, and Aggregators (and any applicable subcontractors thereto) will deliver projects under the requirements of the Programs. LSE shall have the option to participate in early meetings with aggregator(s) who have indicated interest, are participating, or planning to participate in LSE's FLEXmarket program.
 - ii. Collecting and storing all project and programmatic data, including but not limited to project costs, predicted Energy Savings ("Energy Savings") defined as the annual/first year reduction in kWh or therms (if applicable over the baseline year, credited to a specific intervention or set of interventions at a Participating Customer's facility), measure lists, and enrollment dates. Updates to this programmatic data are to be made and shared with LSE on a monthly basis. Contractor has a duty to inform LSE about any known instances of data being improperly collected or stored, and any data shared that is later known to be incorrect, within five (5) business days of confirmation. Contractor has a duty to correct and resubmit this information to LSE within ten (10) business days. LSE recognizes that the IOU regularly corrects usage data and such corrections from the IOU will not constitute prior data being deemed incorrect.
 1. Aggregator-provided documentation for each project shall include the following:
 - a. List of measures installed;
 - b. Total Participating Customer cost of installing or implementing the measure(s);
 - c. Customer rebate or cost share, if any
 - d. Anticipated Energy Savings for the Project (as they are defined and calculated in the Rulebook);
 - e. The Anchor Measure;
 - f. An EUL of the measure(s) installed;
 - g. Documents establishing the Scope of Work and Final Invoice for each project; and
 - h. Data Authorization Documentation for each customer/project, as necessary;
 - iii. Implementing the scope described herein for the Program, including Aggregators and Participating Customer eligibility rules, access to incentive budgets, as defined by the Implementation Plan and Measurement & Verification ("M&V") plan.
 - iv. Developing program plans that include details on projects and measures to be collected from aggregators and provided to LSE in a form approved by the LSE;
 - v. Recommending quality assurance ("QA") requirements for LSE to implement;
 - vi. Accepting enrollment of eligible Participating Customers in the Programs, aggregating a portfolio of projects for each participating Aggregator and one portfolio (a combination of all Aggregator portfolios) for each Program, calculating Program energy savings for each Aggregator, and collecting all necessary data for FLEXmarket infrastructure as defined by the Implementation Plan;
 - vii. Implementing a process to approve predicted grid value of first-year Normalized Meter Energy Consumption (NMEC) savings provided by projects, which approval process shall be described in the applicable section of LSE's IP;
 - viii. Adhering to LSE branding and marketing requirements, as provided by LSE, when utilizing LSE's image and likeness for materials created for direct customer engagement, and

- consistently seeking and incorporating LSE feedback and guidance pertaining to customer relationship management in alignment with the program delivery.
- c. Managing the allocation of incentive budgets among the Participating Aggregators in accordance with the pilot budget. Contractor will create a FLEXmarket dashboard that tracks budget metrics such as budget reservations associated with projects, budget payable to Aggregators, budget paid to Aggregators to date, and remaining available budget, updated monthly, within three months of program launch.
 - d. Sharing the following programmatic data including but not limited to project costs, predicted Energy Savings (“Energy Savings” defined as the annual/first-year reduction in kWh or therms (if applicable) over the baseline year, credited to a specific intervention or set of interventions at a Participating Customer’s facility), measure lists, and enrollment dates.
 - e. Generate and validate Aggregator payment invoices and provide to LSEs on a quarterly basis.
3. CALPINE ENERGY SOLUTIONS and RECURVE shall provide Program administrative support by:
- a. Contractor shall inform LSE about any known instances of forecast data being improperly collected or stored, and any data shared that is later known to be incorrect, within five (5) business days of confirmation. Contractor has a duty to correct this information and resubmit to LSE within ten (10) business days. LSE recognizes that the IOU regularly updates usage data and such updates to the data will not constitute the prior data being incorrect.
 - b. Providing LSE with standard Program M&V Reports, generated within one month of the close of each program year, which will demonstrate verifiable consistency with the Program’s M&V Plan;
 - c. Contractor shall inform LSE about any known instances of M&V data being improperly collected or stored, and any data shared that is later known to be incorrect, within five (5) business days of confirmation. Contractor has a duty to correct this information and resubmit to LSE within ten (10) business days. LSE recognizes that the IOU regularly updates usage data and such updates to the data will not constitute the prior usage data being incorrect
 - d. Supporting LSE EM&V studies or program evaluations by collecting and submitting project, Participating Customer, and program-level data;
 - i. Specifically, by providing good faith support and coordination with other Program Administrators that offer or intend to offer population-level NMEC programs within LSE’s service area or adjacent service areas;
 - e. Providing Quality Assurance by providing the following documents and information to LSE:
 - i. Baseline annual consumption amounts for each project, if defined in IP;
 - ii. Anticipated Energy Savings and/or Flexibility Impacts;
 - iii. Technology measures or other energy efficiency improvements and/or flexibility strategies identified for installation, dependent on aggregator communication.
4. Program Scope Assumptions and Understandings:
- a. CALPINE ENERGY SOLUTIONS is not a party to the FPAs with Aggregators.
 - b. LSE is not a party to the FPAs with the Aggregators.
 - c. RECURVE is authorized to modify the form of FPA used with specific Aggregators, including modification to any FPA exhibit, with prior written approval from LSE.
 - d. RECURVE is authorized to modify the form of LSE Program Terms and Conditions and LSE NDA only upon LSE’s prior written consent to any such modification.
 - e. LSE is authorized to review each Measurement and Verification Plan (M&V Plan), Quality Assurance Plan (QA Plan) and Operation and Maintenance Plan (O&M Plan). Modification of any M&V Plan that includes payment terms shall require LSE’s prior written consent.
 - f. Unless otherwise agreed to in writing by both Parties, LSE shall be responsible for issuing payments to Aggregators for undisputed invoiced amounts.
 - g. All necessary Aggregator and Participating Customer data to be collected shall be outlined in the IP.
 - h. Energy savings and population-level NMEC rules are defined by the Rulebook.
 - i. Updated or new versions of the Rulebook shall apply to this Amendment and be used by LSE, CALPINE ENERGY SOLUTIONS, and RECURVE once released.

Pricing

For FLEXmarket Services provided under this Amendment, LSE shall pay CALPINE ENERGY SOLUTIONS in accordance with the amount(s) and schedule as specified below:

Pricing Schedule

Line Item	Price
FLEXmarket Program Management	25% of Measured Program Value

1. Invoices for the above Line Items:
 - a. Invoices: CALPINE ENERGY SOLUTIONS shall bill LSE by written invoice (“Invoice”) for 25% of the Measured Program Value of all load-shifting projects and energy efficiency projects that were in the Active Measurement Period during the previous quarter. Active projects will be defined by project completion, further defined in the FLEXmarket IP, and evidenced by receipt of the final invoice, as provided by the Aggregator to the Customer.
 - b. Measured Program Value of each installed project (“Program Value”) creating an “enrollment summary” that will be delivered to CALPINE ENERGY SOLUTIONS for communication to LSE on a quarterly basis. Program value mirrors the calculation of “net benefits” as defined by the CPUC.
 - c. LSE shall pay undisputed quarterly Invoice amounts equaling 25% of the Measured Program Value for all energy efficiency projects in the Active Measurement Period in the previous quarter.
 - d. LSE shall pay undisputed annual Invoice amounts equaling 25% of the Measured Program Value for all load shifting projects in the Active Measurement Period.

2. Fee Assumptions and Understandings:
 - a. The Anticipated Energy Savings for the Project, the Anchor Measure load shape, and EUL are the “Key Inputs” required to calculate the monetary benefits of an energy efficiency project using the CPUC’s Avoided Cost Calculator.
 - b. The values of the Avoided Cost Calculator are in the public domain and have been incorporated into a pricing tool developed by RECURVE. Modified Avoided Cost Calculator values, reflecting the values used for the California Market Access Program, adjusted for climate zone, will be used to determine the value of the project and thus determine the payment due to CALPINE ENERGY SOLUTIONS.
 - c. Additional details on required project documentation may be included in the IPs as confirmed in writing by LSE, RECURVE and CALPINE ENERGY SOLUTIONS.

Exhibit B

DEFINITIONS

The following definitions apply to the Agreement:

“Active Measurement Period” for load shifting projects shall be defined as the measurement period stated in the FLEXmarket Implementation Plans (IP). If a project is enrolled during the Active Measurement Period, that project’s Active Measurement Period starts on the enrollment date and ends on the corresponding end date of the given year.

“Advice Letter” - A document submitted to the California Public Utilities Commission requesting a review of Load Serving Entity’s (“LSE”) request to propose a new program, product, or service.

“Aggregator” - Participant in the FLEXmarket Program providing technology and services to end customers (taking service from the Load Serving Entity (“LSE”) with project submittals to the FLEXmarket Program for payment of incentives by LSEs under the Program.

“Anchor Measure” - Refers to the primary energy efficiency measure submitted in a Project. The Anchor Measure sets the EUL which will be the basis of the total grid value delivered by a Project.

“California Public Utilities Commission” (CPUC) - Regulatory agency that regulates public and private utilities, Community Choice Aggregators, and Regional Energy Networks in the state of California. The CPUC sets the rules and regulations for energy efficiency programs and is the entity to whom the FLEXmarket Program will need to provide Claimed Savings.

“Contractor” - Recurve Analytics, Inc. (“Recurve”) and Calpine Energy Solutions, LLC (“Calpine”), collectively.

“Effective Useful Life” (EUL) - Estimated lifespan of a demand flexibility measure used in the calculation of FLEXmarket incentives as defined by the LSE and RECURVE.

“Flexibility Purchase Agreement” (FPA) – Agreement between RECURVE and Aggregator that defines the methods and protocols that allow the Aggregator to get paid by LSEs for increasing demand flexibility (such as energy efficiency, demand response, and electrification) (“Demand Flexibility”) in existing buildings across a portfolio of customers submitted to the FLEXmarket Program.

“Load Serving Entity (LSE)” - Secures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers. In this case, the specific Load Serving Entity (LSEs) referred to is Clean Energy Alliance (CEA).

“Measurement and Verification Plan” (M&V Plan) - Plan which outlines the rules and process in which energy savings will be calculated and claimed within this program. This plan is governed by the requirements of the CPUC population-level components of the NMEC Rulebook v.2. All NMEC approaches are based on pre- and post-intervention energy usage data observed at the meter for each project and each aggregator’s portfolio.

“Measured Program Value” for energy efficiency and load shifting projects shall be defined as the total system benefits as calculated by Recurve and verified by LSE in accordance with the FLEXmarket Implementation Plans (IP).

“Normalized Metered Energy Consumption” (NMEC) - Meter-based approach to quantifying energy savings.

“Participating Customer” - LSE customer who is the recipient and end user of prescribed demand flexibility measure(s) delivered by a participating Aggregator.

“Parties” – Clean Energy Alliance (CEA or LSE), Recurve Analytics, Inc. (“Recurve”) and Calpine Energy Solutions, LLC (“Calpine”), collectively; LSE, Recurve and Calpine may also be referred to individually as a “Party.”

"Project(s)" - refers to a program submission containing a pre-set list of customer, cost, and measure information to be/that has been installed by an Aggregator to achieve energy savings for a single customer within the FLEXmarket Program. Projects shall follow the eligibility and enrollment process defined in the IP.

"Total Incentive Payment" - Total payments made to all Aggregators from an LSE participating in the FLEXmarket Program.



Staff Report

DATE: July 27, 2023

TO: Clean Energy Alliance Board of Directors

FROM: Barbara Boswell, Chief Executive Officer

ITEM 7: Consider Approval of Memorandum of Understanding between Clean Energy Alliance, Poseidon Resources, LP and San Diego County Water Authority Regarding Enrollment of Carlsbad Desalination Plant

RECOMMENDATION.

Approve Memorandum of Understanding between Clean Energy Alliance, Poseidon Resources, LP, and San Diego County Water Authority regarding enrollment of Carlsbad Desalination Plant and authorize the Chief Executive Officer to sign all documents, subject to General Counsel approval.

BACKGROUND AND DISCUSSION

The Carlsbad Desalination Plant (Plant) is owned by Poseidon Resources (Channelside) LP and located in the City of Carlsbad. It is the largest desalination plant in the United States, delivering nearly 50 million gallons of desalinated water to San Diego County, about one-third of all water generated in the County. San Diego County Water Authority (SDCWA) and Channelside have executed a Water Purchase Agreement that, among other things, gives SDCWA decision making authority regarding electric provider for Channelside to SDCWA.

During early 2021, as part of Clean Energy Alliance's (CEA) customer outreach, CEA staff held several meetings with SDCWA regarding consideration of CEA serving the Channelside account. Channelside is the single largest consumer of electricity in the City of Carlsbad. After careful consideration by both SDCWA and CEA, SDCWA decided to opt-out prior to CEA commencing service in the City of Carlsbad.

CEA and SDCWA have continued to meet to discuss opportunities for CEA to serve the electric needs of Channelside, and through those meetings, the concept of CEA serving Channelside under a new CEA program offering has emerged.

Serving the Channelside Account is in alignment with CEA's goals and priorities because it will result in reducing greenhouse gas emissions in the City of Carlsbad through CEA's higher renewable energy content.

The high energy usage by Channelside presents risks of service to CEA that is not present with serving other customers, driven by the normal opt-out rights CEA customers have. CEA and SDCWA have worked cooperatively over the course of several months to develop the recommended Memorandum of Understanding (MOU) before the Board that minimizes the risk exposure to CEA through a unique new program offering (Wholesale Market Access Tariff).

Key conditions of the MOU include:

- CEA will create and propose a new Wholesale Market Access Tariff (W-MAT) to serve Channelside
 - CEA will manage an energy portfolio specific to Channelside's load
 - The portfolio will include meeting CEA's Resource Adequacy and Renewable Portfolio Standards requirements
 - CEA will utilize best practices related to a conventional energy hedging strategy to minimize, to the extent commercially reasonable, market cost exposure to SDCWA and Channelside
 - SDCWA will consider opting up to City of Carlsbad's default energy supply, Clean Impact Plus, 75% Carbon Free
- SDCWA will work with CEA in developing a strategy that addresses financial risk to CEA and its customers related to serving the Channelside Account.
- CEA and SDCWA will develop a strategy to address credit requirements that energy suppliers may request for energy transactions in the Channelside Energy Portfolio
- CEA and SDCWA will work together in meeting with SDG&E to reach agreement for procurement of Resource Adequacy and Renewable Energy to meet requirements related to serving Channelside
- Channelside will be billed for energy usage based on the actual cost of the Channelside Energy Portfolio plus and Administrative Fee that will recover a proportionate share of the administrative and overhead costs paid by all CEA customers plus incremental costs unique to or arising from CEA's service of the Channelside Account
- CEA will develop a Positive Enrollment Form that provides the terms and conditions of enrollment, including:
 - Establishing an enrollment date no earlier than January 2025
 - Identifying an appropriate opt-out notice period
 - Enrolls the Channelside Account into the new W-MAT Program
 - Assigns the 2024 Power Charge Indifference Adjustment Vintage to the Channelside Account based on an enrollment date in the first half of 2025
- CEA and SDCWA will enter into good faith negotiations for a power purchase agreement for energy produced by SDCWA's Rancho Peñasquitos Pressure Control and Hydroelectric Facility
- Includes a timeline of key milestones to be met by CEA, SDCWA and Channelside

Upon execution of the MOU by CEA, SDCWA and Channelside, staff of all three organizations will begin working in good faith to meet their obligations to move forward with the enrollment of Channelside with CEA.

FISCAL IMPACT

There is no fiscal impact of approval of the MOU. Rates associated with the W-MAT tariff will be proposed with the new program that will be brought before the Board at a future meeting.

ATTACHMENTS

Draft Memorandum of Understanding Between Clean Energy Alliance, Poseidon Resources, LP and San Diego County Water Authority Regarding Enrollment of Carlsbad Desalination Plant

Memorandum of Understanding
Between Clean Energy Alliance, Poseidon Resources (Channelside) LP, and San Diego County Water Authority
Regarding Enrollment of Carlsbad Desalination Plant Account *1911 9

This Memorandum of Understanding (MOU) is dated as of July 27, 2023 (Effective Date) and entered into by and between Clean Energy Alliance, a California independent joint powers authority (CEA), at 5857 Owens Avenue, 3rd Floor, Carlsbad, CA 92008, Poseidon Resources (Channelside) LP, a Delaware limited partnership, at 5780 Fleet Street, Suite 140, Carlsbad, CA 92008, and San Diego County Water Authority (SDCWA), a County Water Authority, at 4677 Overland Ave, San Diego, CA 92123.

RECITALS

WHEREAS, CEA became the default energy provider for the City of Carlsbad in May 2021;

WHEREAS, Carlsbad Desalination Plant is currently owned by Poseidon Resources LP (Channelside) and is located in the City of Carlsbad;

WHEREAS, pursuant to that certain Water Purchase Agreement dated December 20, 2012 (WPA) between Channelside and SDCWA, SDCWA has the sole authority and discretion to make decisions with respect to the Carlsbad Desalination Plant electricity supplier (Channelside Account) until the expiration of that Water Purchase Agreement in December 2045, at which time the Channelside Desalination Plant transfers to SDCWA;

WHEREAS, the parties agree that should this MOU create any obligations for Channelside that exceed, conflict with, or contravene contractual obligations set forth in the WPA between Channelside and SDCWA, the WPA will prevail and Channelside's obligations will be limited thereto;

WHEREAS, the Channelside Account opted out of enrollment prior May 2021, and has never been served by CEA;

WHEREAS, CEA and SDCWA have entered into discussions regarding CEA serving the Channelside Account; and

WHEREAS, the Channelside Account has certain energy needs unlike the customers in any of CEA's current tariffs.

NOW, THEREFORE, CEA, Channelside, and SDCWA enter into this MOU for the purpose of memorializing the conditions for enrollment of the Poseidon Account and agree as follows:

1. CEA will create and propose to the CEA Board for consideration no later than October 2023, a new Wholesale Market Access Tariff (W-MAT) to serve the Channelside Account with the following attributes:
 - 1.1 Through the W-MAT program, CEA will manage an energy portfolio specific to the Channelside Account's load.
 - 1.2 CEA will manage the portfolio cooperatively with SDCWA with the priorities to:
 - a. Meet CEA's regulatory procurement requirements for
 - i. Resource Adequacy (RA), and
 - ii. Renewable Portfolio Standards (RPS), both Short-Term and Long-Term;
 - b. Utilize best practices for conventional energy hedging strategy to minimize, to the extent commercially reasonable, market cost exposure to the SDCWA and Channelside; and
 - c. Meet the minimum state RPS requirements with consideration to meet City of Carlsbad's default energy supply (currently Clean Impact Plus 75% Carbon Free).
 - 1.3 SDCWA will work with CEA in developing a strategy that addresses financial risk to CEA and its customers related to serving the Channelside Account under the W-MAT program. In connection with this, Channelside will be subject to creditworthiness review and may be required to provide additional credit support.
 - 1.4 CEA and SDCWA will develop a strategy to address credit requirements that energy suppliers may request for energy transactions in the Channelside Energy Portfolio.
 - 1.5 CEA and SDCWA will work together in meeting with SDG&E to reach agreement for procurement of Resource Adequacy and Renewable Energy to meet needs related to serving the Channelside Account.
 - 1.6 Channelside will be billed based on the actual cost of the Channelside Energy Portfolio.
 - 1.7 CEA will charge Channelside an Administrative Fee for the program that will recover a proportionate share of the administrative and overhead costs paid by all CEA customers plus incremental costs unique to or arising from CEA's service of the Channelside Account.
2. CEA will create and propose to the CEA Board for consideration no later than October 2023 a Positive Enrollment Form that will provide the following terms and conditions of enrollment:
 - 2.1 Establishes the enrollment date for the Channelside Account, which will be no earlier than January 2025;
 - 2.2 Identify an appropriate opt-out notice period to address the risk exposure to CEA related to energy supply contracts in the Channelside Energy Portfolio;

- 2.3 Enrolls the Channelside Account under the W-MAT program; and
 - 2.4 Assigns the 2024 Power Charge Indifference Adjustment (PCIA) Vintage to the Channelside Account by SDG&E based on a January 2025 enrollment.
3. CEA and SDCWA will enter into good faith negotiations for a power purchase agreement from SDCWA's Rancho Peñasquitos Pressure Control and Hydroelectric Facility to assist in supplying the Channelside Energy Portfolio and meeting CEA's energy goals and the renewable energy procurement requirements related to serving the Channelside Account.
 4. CEA, SDCWA, and Channelside will strive to meet the following timeline for key milestones:

Date	Action	CEA Action	SDCWA Action	Channelside Action
June-July 2023	Develop MOU – Channelside Enrollment & Wholesale Market Access Tariff (W-MAT)	X	X	X
June 30, 2023	Draft MOU to SDCWA	X		
July 14, 2023	Joint meeting with Poseidon	X	X	X
July 27, 2023	MOU to CEA Board for Approval	X		
July-August 2023	SDCWA and Channelside execute MOU		X	X
July-August 2023	Develop W-MAT specific terms & conditions	X	X	
August 25, 2023	Confirm with SDG&E that Special Conditions Contract will not affect enrollment with CEA		X	
August 25, 2023	CEA to provide an Administrative Fee estimate	X		
August – September 2023	PPA negotiations Rancho Hydro generation w/SDCWA	X	X	
October 26, 2023	CEA Board Actions: Consider W-MAT Program; PPA for Rancho Hydro; Channelside Positive Enrollment Agreement; W-MAT Service Agreement	X		
November 16, 2023	SDCWA Board Actions: Consider PPA for Rancho		X	

Date	Action	CEA Action	SDCWA Action	Channelside Action
	Hydro; W-MAT Service Agreement			
November 2023	Execute Rancho Hydro PPA; Execute W-MAT Service Agreement	X	X	
November 2023	Execute Positive Enrollment Agreement	X		X
Jan – Oct 2024	Discussions with SDG&E re: Poseidon departure & bilateral RA/RPS opportunities	X	X	
January – December 2024	Solicitations for Energy Hedge/RA/RPS	X	X	
April 2024	CEA files Year Ahead RA Forecast to include Channelside	X		
July 2024	CEA Receives 2025 RA Allocation	X		
October 2024	RA Contracting complete	X		
January 2025	Channelside Account Enrolls	X	X	

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties to this MOU through their duly authorized representatives have executed this MOU as of the Effective Date.

SAN DIEGO COUNTY WATER AUTHORITY

CLEAN ENERGY ALLIANCE,
a Joint Powers Authority

By: _____
Name: Dan Denham
Title: Acting General Manager

By: _____
Name: Barbara Boswell
Title: Chief Executive Officer

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Name: Michael McDonnell
Title: Assistant General Counsel

By: _____
Name: Johanna N. Canlas
Title: General Counsel

ATTEST:

By: _____
Name: Susan Caputo, MMC
Title: Interim Board Secretary

Poseidon Resources (Channelside) LP
By: Poseidon Resources Channelside GP, Inc.,
a Delaware corporation
Its: General Partner

By: _____
Gregory J. Amparano, Interim CEO

By: _____
Michelle Peters, Secretary

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____