

**BYLAWS OF
SAN DIEGO COMMUNITY POWER**

**ARTICLE I
FORMATION**

San Diego Community Power (“**SDCP**”) was established on October 1, 2019, pursuant to the San Diego Community Power Joint Powers Agreement,¹ as may be amended from time to time (“**JPA Agreement**”). The members of SDCP may be referred to herein individually as a “Member Agency” or collectively as the “Member Agencies.”

**ARTICLE II
GENERAL PROVISIONS**

Section 1. Purpose of SDCP

SDCP was established to procure and/or develop electrical energy for customers in participating jurisdictions, address climate change by reducing energy-related greenhouse gas emissions, promote electrical rate price stability, and foster local economic benefits such as job creation, local energy programs and local power development, and to exercise all other powers common to its Member Agencies that are necessary or appropriate to the accomplishment of these and other purposes, as further specified in the JPA Agreement.

Section 2. Purpose of Bylaws

The JPA Agreement authorizes the Board of Directors to adopt such bylaws, rules and regulations as are necessary or desirable to accomplish the purposes of the JPA Agreement; provided, however, that nothing in the bylaws, rules or regulations shall be inconsistent with the JPA Agreement. By approving these Bylaws, the Board intends to adopt additional procedures concerning basic governance, internal organization, Board committees, and other matters addressed in these Bylaws.

Section 3. Definitions

Unless specifically defined in these Bylaws, all defined terms shall have the same meaning as ascribed to them in the JPA Agreement.

Section 4. Precedence

In the event of any conflict between these Bylaws and the JPA Agreement, the JPA Agreement shall control and these Bylaws shall be amended or clarified to eliminate such conflict.

¹ SDCP was originally established and known as the San Diego Regional Community Choice Energy Authority. The agency’s name and the title of the JPA Agreement were changed by the First Amendment to the JPA Agreement, dated November 21, 2019.

ARTICLE III
BOARD OF DIRECTORS

Section 1. Board of Directors

Having at least five Member Agencies, SDCP is governed by a Board of Directors (“**Board**”) composed of one representative of each of the Member Agencies. The Board shall have all the powers and functions set forth in Sections 3 and 4 of the JPA Agreement. The governing body of each Member Agency shall appoint and designate in writing one regular Director, who shall be authorized to act for and on behalf of such Member Agency. The regular Director shall be a member of the governing body of the appointing Member Agency.

Section 2. Alternates

The governing body of each Member Agency shall also appoint and designate in writing one alternate Director who may vote on matters when the regular Director is absent from a meeting. The alternate is not required to be a member of the governing body of the appointing Member Agency. The alternate Director shall have all the rights and responsibilities of the primary Director when serving in his or her absence; provided, however, that alternate Directors who are not members of the governing body of the appointing Member Agency shall not attend closed session meetings pursuant to Article V, Section 4 of these Bylaws and applicable law. When serving the absence of the primary Director, alternate Directors may vote on matters in committee, chair committees, and fully participate in discussion and debate during meetings.

Section 3. Resignation

A Director may resign at any time by giving written notice to the Board Secretary. The notice of resignation may specify a date on which the resignation will become effective.

Section 4. Vacancy

If at any time a vacancy occurs on the Board, for whatever reason, a replacement shall be appointed by the governing body of the subject Member Agency.

Section 5. Compensation

The Board may adopt by resolution a policy relating to compensation of its Directors.

ARTICLE IV
BOARD OFFICERS AND TERMS OF OFFICE

Section 1. Chair

For each fiscal year, the Board shall elect a Chair from among the Directors. The Chair shall be the presiding officer of all Board meetings and perform other duties as may be imposed by the Board. In the event of a vacancy, the position shall be filled at the next regular meeting of the Board held after such vacancy occurs or as soon as practicable thereafter.

Section 2. Vice Chair

For each fiscal year, the Board shall elect a Vice Chair from among the Directors. The Vice Chair shall preside in the absence of the Chair and perform other duties of the Chair in his or her absence. In the event of a vacancy, the position shall be filled at the next regular meeting of the Board held after such vacancy occurs or as soon as practicable thereafter.

Section 3. Election of Chair and Vice Chair

An annual meeting of the Board shall be held in July of each year or as soon thereafter as possible to elect the Chair and Vice Chair of SDCP.

Section 4. Terms of Office

The terms of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms.

**ARTICLE V
MEETINGS**

Section 1. Regular Meetings

The Board shall hold at least four regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour, and place of each regular meeting shall be fixed annually by resolution of the Board.

Section 2. Special and Emergency Meetings

Special and emergency meetings of the Board may be called in accordance with the provisions of Government Code sections 54956 and 54956.5, respectively.

Section 3. Open Meetings

All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code § 54950 *et seq.*). Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law.

Section 4. Attendance of Alternates in Closed Session

Pursuant to Government Code section 54956.96(a)(2), the SDCP Board hereby authorizes an alternate Director who is also a member of the governing body of a Member Agency, and is attending a properly noticed SDCP Board meeting in the absence of the regular Director, to attend a closed session held during such meeting. Pursuant to section 54956.96(a)(2), alternate Directors who are not a member of the governing body of a Member Agency may not attend a closed session meeting of SDCP.

Section 5. Preparation of Agendas

The Chief Executive Officer or a designee shall prepare the agenda for each Board meeting. Agenda items will be generated by the need to conduct SDCP's business in a timely manner. The Chief Executive Officer shall review with the Board Chair, or the Vice-Chair in the absence of the Chair, the agenda for regular meetings of the Board.

Section 6. Addition of Agenda Items Before a Meeting

Board Members may add a “**Board Member Initiated Agenda Item**” to a future meeting agenda. Board Member Initiated Items are prepared by the requesting Board Member and require no staff time. Board Member Initiated Items must be submitted to the Chief Executive Officer at least ten (10) days prior to the next Board meeting.

In addition, items may be added to a future Board meeting agenda in the following ways:

- A. The Chair provides an express oral direction to the Chief Executive Officer during a Board meeting. If a Board Member disagrees with the Chair’s direction, the Board Member may make a motion regarding the addition of the item without discussion of the substance of the item.
- B. For items requiring staff time, an item shall be added by motion without discussion of the substance of the item.
- C. Requests from members of the audience, after being authorized to speak, may be added to a future agenda by a Board Member as a Board Member Initiated Agenda Item, as discussed above. If the item requires staff time, the item may be added only by motion without discussion of the substance of the item.
- D. The Chair or a majority of the Board may refer items to a committee for further review.

Section 7. Modification of Agenda Order; Addition of Items During a Meeting

The order of items on the agenda may be modified by the Chair if there is no objection, or by a motion and majority vote of the Board. No action or discussion may be undertaken on any item not appearing on the posted agenda, except as allowed under the Brown Act.

Section 8. Consent Calendar

The consent calendar shall consist of items which appear to be routine or ministerial in nature on which no Board discussion will be required. Before adopting the consent calendar, the Chair will ask Board Members whether anyone wishes to move a matter from the consent calendar to the regular agenda. Members of the public may also request to move a matter from the consent calendar to the regular agenda. The Board will then proceed with consideration of the remaining consent calendar. The consent calendar will be acted upon in one motion without discussion. Items pulled from the consent calendar will be considered immediately following adoption of the remaining consent calendar, and staff reports will only be given if requested by the Board Member who pulled them.

Section 9. Public Comments

Agendas of regular meetings shall provide an opportunity for members of the public to address the Board on any item within the jurisdiction of SDCP which are not on the agenda. Generally, speakers shall be limited to three (3) minutes each, with 30 minutes being provided for non-agenda public comments. If the number of speakers is estimated to exceed the 30-minute period, the Chair may, in his or her discretion, reduce the time allotted to each speaker, extend

the period for non-agenda public comment, or continue the remaining comments to the end of the agenda. For public comments on agenda items, the Chair may reduce the time allotted to each speaker in his or her discretion.

Section 10. Order and Procedure at Meetings

All meetings of the Board shall be conducted in an orderly manner designed to expedite the business of the Board in accordance with applicable law, the JPA Agreement, and these Bylaws. Except as otherwise provided in these Bylaws, Robert’s Rules of Order will be used as a guide to resolve questions of parliamentary procedures. The General Counsel shall serve as the Parliamentarian.

Section 11. Rules of Debate and Decorum

Debate upon all matters pending before the Board shall be under the supervision of the Chair and conducted in such a manner as to expedite the business of the Board. Every Board Member desiring to speak shall so indicate by using the “request to speak” button, if available, or otherwise address the Chair. Upon recognition by the Chair, the Board Member shall confine remarks to the item under consideration. A Board Member, once recognized, shall not be interrupted when speaking unless it is to call the Board Member to order. If a Board Member while speaking is called to order, the Board Member shall cease speaking until the question of order is determined.

ARTICLE VI
QUORUM AND VOTING

Section 1. Quorum

A simple majority of the Directors shall constitute a quorum. No actions may be taken by the Board without a quorum of the Directors present. If a Member Agency fails to be represented by a Director or alternate Director in more than one meeting in a 12-month period, the Board may take action by publicly noticing the Member Agency that they are at risk of lack of representation within SDCP.

Section 2. Equal Vote

In general, except when Special Voting is expressly required, Board action shall require votes of a majority of the total number of the Directors of the Board. All votes taken pursuant to this provision shall be referred to as an “**Equal Vote.**” The consequence of a tie vote shall generally be “no action” taken. Notwithstanding the foregoing, an Equal Vote may be subject to a “**Voting Shares Vote.**”

Section 3. Voting Shares Vote

- A. At the same meeting at which an Equal Vote action was taken, three or more Directors shall have the right to request and have conducted a “Voting Shares Vote” to reconsider that action. Approval of a proposed action by a Voting Shares Vote to reconsider an Equal Vote action shall require the affirmative vote of Directors representing a two-

thirds supermajority (66.7%) of the "Voting Shares" cast. The formula and process for allocating Voting Shares is set forth in the JPA Agreement. If a Voting Shares Vote for reconsideration fails, the legal effect is to affirm the Equal Vote with respect to which the Voting Shares Vote was taken. If the Voting Shares Vote succeeds, the legal effect is to nullify the Equal Vote with respect to which the Voting Shares Vote was taken. If the underlying Equal Vote was a tie, the Voting Shares Vote replaces that tie vote. No action may be taken solely by a Voting Shares Vote without first having taken an Equal Vote.

- B. The formula for a Voting Shares Vote shall be determined pursuant to Section 4.11.3 of the JPA Agreement.

Section 4. Special Voting

Except as provided below, matters that require Special Voting shall require 72 hours' notice prior to any regular or special meeting.

- A. A two-thirds vote of the appointed Directors (or such greater vote as required by State law) shall be required to take any of the following actions:
 - 1. Issue bonds or other forms of debt;
 - 2. Adding or removing Member Agencies;
 - 3. Amending or terminating the JPA Agreement or adopting or amending these Bylaws. At least 30 days' advance notice shall be provided to each Member Agency as provided in Article X of these Bylaws. The Authority shall also provide prompt written notice to all Member Agencies of the action taken and enclose the adopted or modified document(s); and
- B. A three-fourths vote shall be required to initiate any action for eminent domain.
- C. Matters requiring Special Voting shall not be subject to Voting Shares Voting.

ARTICLE VII
POLICY REGARDING CONFIDENTIAL INFORMATION
DISCLOSED DURING CLOSED SESSIONS

Information obtained during closed sessions of the Board shall be confidential. Notwithstanding, under certain circumstances, it may be necessary and appropriate for Directors to divulge certain confidential information obtained in closed sessions to representatives of their Member Agencies as authorized by law. Therefore, these Bylaws adopt the policy set forth in California Government Code section 54956.96, which authorizes the disclosure of confidential closed session information that has direct financial or liability implications for that Member Agency as follows:

- A. A Director or alternate Director who is also a member of the governing body of a Member Agency may disclose information obtained in an SDCP closed session that has direct financial or liability implications for that Member Agency to the following individuals:
 - 1. Legal counsel of that Member Agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that Member Agency; and
 - 2. Other members of the governing body of the Member Agency present in a closed session of that Member Agency.
- B. The governing body of the Member Agency may, upon the advice of its legal counsel, conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of SDCP pursuant to this Article.

ARTICLE VIII
BOARD COMMITTEES

Section 1. Committees

As further provided in the JPA Agreement, the Board may establish advisory commissions, boards, and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, related to energy programs, and the provisions of the JPA Agreement.

The Finance and Risk Management Committee is a “Standing Committee” of the Board, and the Executive Committee, if established, shall also be a Standing Committee. Other committees composed of Board members with continuing subject matter jurisdiction, or having a meeting schedule fixed by charter, ordinance, resolution, or formal action of the Board, shall also be Standing Committees of the Board.

Section 2. Appointment to Standing Committees

For Standing Committees, the Chair shall nominate committee members, subject to approval by a majority vote of the Board. If the Board fails to approve the Chair’s nomination(s) to a Standing Committee, the Board may entertain a motion for the appointment of committee members.

Section 3. Committee Voting

Action by a committee on all matters shall require an affirmative vote of a majority of the members of the committee who are present at the meeting.

Section 4. Alternate Directors in Standing Committees

In the event a member of a Standing Committee is unavailable to attend a duly noticed meeting of that committee, the alternate Director representing the same Member Agency as the absent Director may attend and, if applicable, vote in the committee meeting in place of the absent

Director. The alternate Director may also chair the committee and fully participate in discussion and debate during meetings. Notwithstanding the above, this section shall not apply to the Executive Committee or as provided in Article V, Section 4 of these Bylaws.

Section 5. Removal of Committee Members

The Board may remove a committee member from a committee, with or without cause, by a majority vote of the Board.

Section 6. Ad Hoc Committees

The Board may establish temporary ad hoc advisory committees that: (a) are composed of less than a quorum of the Board, (b) have no continuing subject matter jurisdiction, and (c) have no meeting schedule fixed by charter, ordinance, resolution, or formal action of the Board. The Chair shall appoint the members of such ad hoc committees.

ARTICLE IX
CHIEF EXECUTIVE OFFICER

The Chief Executive Officer shall be responsible for the day-to-day operation and management of SDCP and the CCA Program. The Chief Executive Officer may exercise all powers of the Authority, except those powers specifically reserved to the Board under the JPA Agreement (including, but not limited to, those powers reserved in Section 4.6, Specific Responsibilities of the Board) or these Bylaws, or those powers which by law must be exercised by the Board.

ARTICLE X
PROCEDURES FOR AMENDING JPA AGREEMENT AND BYLAWS

Section 1. General Requirements

Under Section 4.12.2 of the JPA Agreement, the Board may adopt amendments to the JPA Agreement and these Bylaws by a two-thirds vote following 30 days' advance written notice to the Member Agencies. This Article provides further procedures concerning SDCP's consideration and approval of amendments to the JPA Agreement and these Bylaws.

Section 2. Initial Consideration; Notice to Member Agencies

The Board shall consider proposed amendments to the JPA Agreement or these Bylaws at an open and public meeting of the Board. Following such consideration, the Board may, by majority vote, direct the Chief Executive Officer to provide written notice of the proposed amendment(s) to the Member Agencies in any manner permitted under Section 9.4 of the JPA Agreement.

Section 3. Adoption of Amendments

At a Board meeting held at least 30 days after such notices have been provided, the Board may consider adoption of the proposed amendment(s) to the JPA Agreement or these Bylaws, which shall require a two-thirds vote of the Board. The Authority shall provide prompt written notice to all Member Agencies of the action taken and enclose the adopted or modified document(s).