

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (1) INCREASING THE AUTHORITY GRANTED TO THE DIRECTOR OF COMMUNITY ENERGY OR HER DESIGNEE TO NEGOTIATE AND EXECUTE CONTRACTS FOR POWER SUPPLY AND RESOURCE ADEQUACY, INCLUDING BUT NOT LIMITED TO LONG-TERM POWER PURCHASE AGREEMENTS, SUBJECT TO THE ENERGY RISK MANAGEMENT POLICY, THE APPROPRIATION OF FUNDS, AND RISK OVERSIGHT COMMITTEE APPROVAL OF ALL CONTRACTS WITH A DURATION OF FIVE YEARS OR MORE; (2) AUTHORIZING THE DIRECTOR OF COMMUNITY ENERGY OR HER DESIGNEE, IN CONSULTATION WITH THE CITY ATTORNEY'S OFFICE, TO NEGOTIATE AND EXECUTE CONSULTANT AND COST-SHARING AGREEMENTS WITH CALIFORNIA COMMUNITY POWER AND OTHER COMMUNITY CHOICE AGGREGATORS, IN AN AMOUNT NOT TO EXCEED A TOTAL OF \$320,000 PER YEAR IN AGGREGATE, TO CONDUCT NECESSARY ACTIVITIES TO IDENTIFY, EVALUATE, AND DEVELOP POTENTIAL CALIFORNIA COMMUNITY POWER ENERGY PROGRAMS AND PROJECTS; AND (3) AUTHORIZING THE DIRECTOR OF COMMUNITY ENERGY OR HER DESIGNEE TO NEGOTIATE AND EXECUTE EXCLUSIVITY AGREEMENTS WITH SHORTLISTED BIDDERS IN SAN JOSE CLEAN ENERGY COMPETITIVE POWER PROCUREMENT PROCESSES

WHEREAS, Section 26.50.020 of the Municipal Code states that the City may enter into contracts to procure power products for a term up to twenty-five (25) years; and

WHEREAS, Section 26.50.050 of the Municipal Code requires the Director of the Community Energy Department ("CED") to submit an Energy Risk Management Policy to City Council and on May 1, 2018, the City Council approved the Energy Risk Management Policy; and

WHEREAS, the Energy Risk Management Policy created a Risk Oversight Committee ("ROC") responsible for overseeing compliance with the policy; and

WHEREAS, the Energy Risk Management Policy and associated Energy Risk Management Regulations set forth a risk control structure and procurement requirements that apply to San José Clean Energy (“SJCE”) procurement activities and establish requirements for the competitive procurement of power products; and

WHEREAS, on April 7, 2020, City Council increased the authority granted to the Director of Community Energy (“Director”) or her designee for the procurement of (1) power supply products, other than Resource Adequacy products, by \$393,300,000, from \$690,000,000 to an amount not to exceed \$1,083,300,000 in aggregate, in Calendar Years 2020 through 2026; and (2) Resource Adequacy products by \$76,200,000 from \$461,800,000 to \$538,000,000 in aggregate in calendar years 2021 through 2043; and

WHEREAS, on August 25, 2020, City Council increased the authority granted to the Director or her designee for the procurement of (1) long-term renewable energy by \$500,000,000 for a total not to exceed amount of \$1,500,000,000 in aggregate in calendar years 2024 through 2043; and (2) short- and medium-term power supply products, other than Resource Adequacy (“RA”) products, by \$212,000,000 to an amount not to exceed \$275,000,000 in aggregate in calendar years 2024 through 2032; and

WHEREAS, on January 5, 2021, City Council authorized joining California Community Power (“CC Power”) to facilitate activities with other Community Choice Aggregators (“CCAs”) to explore, solicit, develop and contract for power projects and programs through CC Power; and

WHEREAS, on May 11, 2021, City Council adopted a resolution (1) amending SJCE’s GreenSource default product beginning May 15, 2021 by increasing its renewable energy content to 55% and its rates to 8% above Pacific Gas and Electric Company’s

(“PG&E”) generation rates, after accounting for the Franchise Fee Surcharge and the Power Charge Indifference Adjustment (“PICA”); provided that, SJCE’s 100% renewable energy TotalGreen product will continue to be 0.5 to 1 cent per kWh higher than GreenSource; and (2) establishing a third product called GreenValue, with rates set at parity to PG&E generation rates, after accounting for the Franchise Fee Surcharge and the PCIA; and

WHEREAS, SJCE assesses the additional procurement authority needed to meet applicable City and state requirements and to undertake prudent power procurement each year; and

WHEREAS, procurement of power supply products and RA will (1) use authorized Edison Electric Institute (“EEI”) and Western System Power Pool (“WSPP”) agreements, as applicable; (2) include the key terms listed in Attachment 3 to the staff memorandum for long-term Power Purchase Agreements for new renewable projects; (3) include the key terms listed in Attachment 4 to the staff memorandum for long-term RA and dispatch agreements; and (4) will be negotiated in consultation with the City Attorney’s Office; and

WHEREAS, SJCE seeks to increase the Director’s authority to procure power supply products, other than RA, to an amount not to exceed \$2,671,700,000 in aggregate for calendar years 2021 through 2043, which is an increase of \$298,000,000 from the previously authorized \$2,373,700,000 for this period; and

WHEREAS, the additional procurement authority for power supply products, other than RA, would allow SJCE to meet the following Energy Risk Management Policy and Regulations’ forward procurement guidelines: (1) 115 percent of SJCE’s anticipated power needs in 2021; (2) 110 percent of SJCE’s anticipated power needs in 2022; (3) 90 percent of SJCE’s anticipated power needs in 2023; (4) 80 percent of SJCE’s

anticipated power needs in 2024; and (5) 40 percent of SJCE's anticipated power needs in 2033 through 2043, including priority products like three to ten year shaped and dispatchable energy contracts, which provide different amounts of power at different times of the day in order to better fill in gaps between SJCE's load and power procured from particular renewable projects; and

WHEREAS, the additional procurement authority for power supply products, other than RA, would allow SJCE to procure additional green products to meet the state minimum Renewable Portfolio Standard ("RPS"), remain on track with its 2020 Integrated Resource Plan ("IRP"), and achieve the goals of the new rate products approved by Council on May 11, 2021, by procuring such products either as renewable energy credits or pursuant to long-term Power Purchase Agreements ("PPAs") with particular projects; and

WHEREAS, SJCE seeks to increase the Director's authority to procure RA, including but not limited to long duration storage, to an amount not to exceed \$798,000,000 in aggregate for calendar years 2021 through 2043, which is an increase of \$310,000,000 from the previously authorized \$488,000,000 for this period; and

WHEREAS, the CPUC requires load serving entities ("LSEs") to procure sufficient RA and applies penalties on LSEs that fail to procure the required amount and/or types of RA; and

WHEREAS, on February 22, 2021, a CPUC Administrative Law Judge issued a Ruling seeking feedback on proposed Mid-Term Reliability Analysis and Proposed Procurement Requirements, recommending that the CPUC order the procurement of 7,500 MW of new RA to come online 2023 through 2025, including long-duration (eight hours or longer) storage ("LDS") projects and geothermal generation, and SJCE expects this ruling will create a large, incremental RA procurement requirement; and

WHEREAS, the additional procurement authority for RA would allow SJCE to comply with its current RA requirements, update pricing assumptions and align them with increasing market prices, reflect more stringent CPUC RA requirements, and avoid increasing CPUC penalty amounts; and

WHEREAS, on October 15, 2020, a group of eight CCAs released a request for offers (“RFO”) for stand-alone long duration storage and received a robust response of over 100 offers; and

WHEREAS, on January 5, 2021, Council approved SJCE membership in CC Power; and

WHEREAS, the CC Power governing documents provide for membership dues to cover general and administrative costs and SJCE has authority to pay for general and administrative costs pursuant to Council’s approval of the CC Power’s agreement; and

WHEREAS, SJCE is requesting authority for the Director or her designee to negotiate and execute agreements to fund project and program exploration and development activities, provided that such agreements shall not exceed a total aggregate amount of \$320,000 per year; and

WHEREAS, SJCE also requests City Council to authorize the Director to negotiate and execute cost sharing agreements for project/program exploration, solicitation and contract negotiation activities with CC Power and interested member CCAs, and EAs related to power contracts;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The City Council hereby increases the authority granted to the Director of Community Energy or her designee to negotiate and execute contracts, including but not limited to long-term Power Purchase Agreements, subject to the Energy Risk Management Policy, the appropriation of funds, and Risk Oversight Committee approval of all contracts with a duration of five years or more for the procurement of:
 - a) Power supply products, other than Resource Adequacy products, including but not limited to renewable projects and shaped or dispatchable power products, by \$298,000,000 from \$2,373,700,000 to an amount not to exceed \$2,671,700,000 in aggregate in Calendar Years 2021 through 2043, and
 - b) Resource Adequacy including but not limited to storage projects combined with dispatchable power, by \$310,000,000 from \$488,000,000 to an amount not to exceed \$798,000,000 in aggregate in Calendar Years 2021 through 2043.

2. The Director of Community Energy or her designee, is hereby authorized, in consultation with the City Attorney's Office, to negotiate and execute consultant and cost-sharing agreements with California Community Power and other Community Choice Aggregators, in an amount not to exceed a total of \$320,000 per year in aggregate, to conduct necessary activities to identify, evaluate, and negotiate potential California Community Power energy programs and projects, including but not limited to: (a) issuing requests for information and request for proposals, (b) evaluating bids submitted through competitive solicitations, (c) negotiating contracts with selected bidders, and (d) related activities.

3. The Director of Community Energy or her designee is hereby authorized to negotiate and execute exclusivity agreements with shortlisted bidders in San José Clean Energy competitive power procurement processes.

ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk