

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (A) AUTHORIZING THE CITY MANAGER, OR HER AUTHORIZED DESIGNEE, TO: (1) EXECUTE A SCHEDULING COORDINATOR AGREEMENT AND A METER SERVICE AGREEMENT AND TO NEGOTIATE AND EXECUTE ANY OTHER NECESSARY AGREEMENTS WITH THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR TO ESTABLISH THE CITY OF SAN JOSE AS A SCHEDULING COORDINATOR AND PERFORM OBLIGATIONS AS SCHEDULING COORDINATOR FOR SAN JOSE CLEAN ENERGY; (2) NEGOTIATE AND EXECUTE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR WHOLESALE ENERGY SERVICES WITH THE NORTHERN CALIFORNIA POWER AGENCY, IN COORDINATION WITH THE CITY ATTORNEY'S OFFICE, TO DETAIL THE PAYMENT AND COLLATERAL REQUIREMENTS AND MAKE ANY OTHER CHANGES NEEDED FOR NORTHERN CALIFORNIA POWER AGENCY TO ACT AS THE CITY'S SCHEDULING AGENT, PROVIDED THAT THE AMENDMENT WILL NOT INCREASE THE COST OF NORTHERN CALIFORNIA POWER AGENCY SERVICES OR THE TERM OF THE AGREEMENT; AND (B) REPEALING RESOLUTION NO. 78980

WHEREAS, the City of San José ("City"), as administrator of San José Clean Energy ("SJCE"), is required to obtain or become a Scheduling Coordinator ("SC") with the California Independent System ("CAISO"), the entity that manages the flow of electricity across the California grid and operates the competitive wholesale market in California, to meet ongoing operating requirements as a Community Choice Aggregator; and

WHEREAS, on March 27, 2018, the City Council authorized the City Manager to execute a Professional Services Agreement with the Northern California Power Authority ("NCPA") for wholesale energy services for SJCE and made NCPA the City's SC during an initial start-up period ("NCPA Agreement"); and

WHEREAS, an SC is responsible for the CAISO cost liabilities from transactions in the CAISO's wholesale power market and there are few entities who are willing to operate as an SC for another entity; and

WHEREAS, the NCPA Agreement made the City fully responsible for its CAISO liabilities, included collateral requirements to protect NCPA from such liability, and required the City to become its own SC by March 31, 2019 when NCPA would have become the City's Scheduling Agent, which performs most of the operational requirements an SC, but does not assume any of the financial liabilities; and

WHEREAS, on February 12, 2019, the City Council adopted Resolution No. 78980 that authorized the Director of Community Energy to execute the Scheduling Coordinator Agreement and the Meter Service Agreement with the CAISO allowing SJCE to operate as an SC, and to execute any other necessary agreements with the CAISO to perform its obligations as an SC ("CAISO Agreement"); and

WHEREAS, SJCE then entered into negotiations with the CAISO to become an SC but did not become an SC due to disagreements with the CAISO about the language of the CAISO Agreement, such as the CAISO refusing to accept language limiting liabilities to the SJCE Operating Fund (Municipal Code, Chapter 4.80, Part 63); and

WHEREAS, between October 4, 2019 and September 1, 2021, the City and NCPA entered into three amendments to the NCPA Agreement to enable NCPA to continue acting as SJCE's SC, but NCPA has urged SJCE to become an SC pursuant to the requirements of the original NCPA Agreement; and

WHEREAS, becoming an SC with the CAISO would also allow the City access to unsecured collateral of up to \$50 million; and

WHEREAS, staff recommends that City Council authorize the City Manager to execute the Scheduling Coordinator Agreement, the Meter Service Agreement, and any other agreements as necessary to establish the City as an SC and perform obligations as an SC, without a limitation of the City's liability to the SJCE Operating Fund because the CAISO will not accept limiting the City's liability to the SJCE Operating Fund, and

WHEREAS, the City wishes to repeal Resolution No. 78980 and adopt this new Resolution authorizing the execution of a Scheduling Coordinator Agreement and a Meter Service Agreement with the CAISO, the negotiation and execution of any other necessary agreements with the CAISO to establish the City as an SC and perform obligations as an SC, and the negotiation and execution of an amendment to the NCPA Agreement;

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

- A.) The City Manager, or her authorized designee, is authorized to:
- 1.) Execute a Scheduling Coordinator Agreement, and a Meter Service Agreement and to negotiate and execute any other necessary agreements with the California Independent System Operator to establish the City of San José as a Scheduling Coordinator and perform obligations as Scheduling Coordinator for San José Clean Energy;
 - 2.) Negotiate and execute an amendment to the Professional Services Agreement for Wholesale Energy Services with the Northern California Power Agency, in coordination with the City Attorney's Office, to detail the payment and collateral requirements and make any other changes needed for Northern California Power Agency to act as the City's Scheduling

Agent, provided that the amendment will not increase the cost of Northern California Power Agency services or the term of the agreement; and,

B.) Resolution No. 78980 is hereby repealed.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk