



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Lori Mitchell

**SUBJECT:** SEE BELOW

**DATE:** September 12, 2018

Approved

*D. D. S. L.*

Date

*9/13/18*

## REPLACEMENT

**SUBJECT: RENEWABLE POWER CONTRACTS FOR SAN JOSE CLEAN ENERGY**

### REASON FOR REPLACEMENT

The initial Council memo is being replaced due to a regulatory matter under consideration at the California Public Utilities Commission ("CPUC"). San José Clean Energy ("SJCE") is recommending proceeding with procuring a limited quantity of renewable energy supplies to continue to stay on track to launch Phase II in March of 2019.

### RECOMMENDATION

Adopt a resolution authorizing the Director of Community Energy or her designee to negotiate and execute contracts for Calendar Year 2019 for Renewable Energy, and Renewable Energy Credits ("RECs"), to meet San José Clean Energy's minimum compliance obligations pursuant to the California Renewable Portfolio Standard ("RPS") using the Edison Electric Institute ("EEI") Agreement or the Western Systems Power Pool ("WSPP") Agreement in an amount not to exceed \$32,000,000 in aggregate. Such procurement shall be subject to the Risk Management Policy and Regulations approved by City Council on May 1, 2018.

### OUTCOME

Approving the execution of renewable energy supplies to meet San José Clean Energy's minimum RPS compliance obligations will enable SJCE to continue to make progress on launching Phase II in March 2019.

September 12, 2018

**Subject: Renewable Power Contracts for San José Clean Energy**

Page 2

## **BACKGROUND**

At the August 29, 2017 City Council meeting, the City Council approved the SJCE Implementation Plan discussing the funding strategy to obtain power supply contracts, established the SJCE Operating Fund, and approved the establishment of various revenue estimates and expenditure appropriations for City departments, including the Community Energy Department, to facilitate the initial operations of SJCE. On January 30, 2018, the City Council approved revisions to the launch schedules, reducing the number of launches from three to two. Phase I launch (city accounts) began September 1, 2018 and Phase II (residential and commercial accounts) has been set to begin on March 1, 2019.

On February 27, 2018, the City Council approved the Professional Services Agreement for Data Management and Customer Call Center Services with Calpine Energy Solutions, LLC for SJCE for a period of two years from the date of execution. On March 27, 2018, the City Council approved the Scheduling Coordinator, Portfolio Management, and Optimization Service Agreement with Northern California Power Authority. On May 1, 2018, the City Council approved the Risk Management Policy for the supply contracts entered into by the City.

On June 12, 2018 the City Council adopted a resolution authorizing the Director of Community Energy to negotiate and execute energy supply contracts for Phase I using the WSPP Agreement in an amount not to exceed \$3,000,000 in aggregate, approved initial electric generation rates for Phase I, and approved 2017-2018 budget adjustments to fund these energy supply contracts in the San José Clean Energy Fund. During the June 12, 2018 update to the City Council, staff noted that the next steps to successfully launch Phase II in March included the approval of energy supply contracts for Phase II (residential and commercial accounts).

On August 14, 2018, City Council authorized the Director of Community Energy or her designee to enter into Resource Adequacy contracts for November 2018 through December of 2019, using the Western System Power Pool and Edison Electric Institute agreements in an amount not to exceed \$35,000,000, subject to approval of the Risk Oversight Committee for contracts over \$1,000,000. Staff is in the process of procuring Resource Adequacy ("RA") for November 2018 through December 2019. Resource Adequacy is a product that, by law, utilities, and Community Choice Aggregation ("CCA"s) must build or purchase to ensure there are sufficient generators available at all times to maintain in the reliability of the electric system.

Staff indicated that they would return to City Council in the fall of 2018 with recommendations to approve and execute subsequent contracts for additional power contracts to continue Phase I service and begin service for Phase II. Staff indicated that after contracts were executed, staff would propose Phase II rates and a base portfolio composition.

## ANALYSIS

Staff recommends executing renewable energy contracts for calendar year 2019 using either the EEI form agreement or the WSPP form agreement described below. The Director is also requesting authority to modify the form agreements in consultation with the City Attorney whenever the parties deem it necessary, appropriate, and beneficial for the City for each transaction.

In August of 2018, staff issued a solicitation for Renewable Energy, Renewable Energy Credits and GHG-free energy and attributes<sup>1</sup> for January 2019 through December 2019. Staff planned to seek Council authorization to negotiate and execute all energy supplies needed to launch Phase II in 2019 with a not to exceed value of \$200 million. The original memorandum for this agenda item, dated September 6, 2018, recommended that approach. ***Due to the regulatory matters described in more detail below; SJCE is recommending proceeding with procurement of a limited quantity of renewable energy supplies in order to prudently manage risk and still continue to stay on track to launch Phase II in March of 2019.***

Staff recommends entering into agreements to procure renewable energy sufficient to meet SJCE's state law obligations under the Renewable Portfolio Standard and in an amount not to exceed \$32 million. Staff also intends to proceed with securing the Resource Adequacy supplies that Council previously authorized, which are expected to total \$33 million. ***These initial supply contracts will total \$65 million or about 30% of the power supplies that SJCE will need to procure before the launch of Phase II in March of 2019.***

### Power Charge Indifference Adjustment ("PCIA").

The California Public Utilities Commission is considering changes to the Power Charge Indifference Adjustment. On August 1, 2018, the assigned administrative law judge at the CPUC issued a proposed decision ("PD") that included a balance of measures that maintain the PCIA exit fee at reasonable levels while transitioning to a long-term solution intended to reduce costs for all customers, which will be designed during a second phase of the proceeding. On August 15, 2018, CPUC Commissioner Carla Peterman issued an alternate proposed decision ("APD") that significantly shifted the balance in the favor of the Investor Owned Utilities (e.g. Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric). The APD increases the exit fees by as much as 25%. It also removed key elements from the initial PD that ensured the necessary balance and stability while the CPUC completes the second phase of the proceeding. These changes include: (1) the removal of changes to rebalance how utility-owned generation costs are allocated consistent with State Law, and (2) the elimination of stabilizing measures like near term caps on exit fee increases.

---

<sup>1</sup> Energy that is generated without producing GHG emissions.

The impact on each Community Choice Aggregation program varies, however all CCAs agree implementing this decision will have serious impacts on all utility customers. The APD undermines the City’s ability to meet our local Climate Smart San José goals and the State’s long term environmental policy goals. The APD would drive changes in CCA’s business models that would prevent San José Clean Energy from achieving its objectives. It will likely prevent CCAs from exceeding renewable portfolio targets, supporting new long-term renewable contracts in California, and offering innovative customer programs to reduce greenhouse gas emissions, and invest in local development.

CCAs, elected officials, and community advocates are providing extensive feedback to the CPUC and the CPUC may revise the APD to limit the adverse impact on CCAs. The CPUC initially planned to vote on the proposed decision or the alternate proposed decision on September 13, 2018. On September 7, 2018, CPUC Commissioner Carla Peterman announced that they will delay the vote until September 27, 2018. However, the vote may be extended further into the fall as the CPUC considers additional comments on the proceeding.

Given this new timeline, staff recommends proceeding with procurement of a limited quantity of Resource Adequacy and Renewable Energy supplies. These products will be aggressively sought after by other CCAs that are launching or expanding in 2019. A delay in buying products necessary to meet state law now could limit the Department’s ability to procure cost-effective supplies in the future. A delay in procurement also may result in the need to delay the Phase II launch until additional products become available at reasonable prices in the market. In the event a significant regulatory change renders these RA and RPS supplies unnecessary for SJCE, SJCE would sell excess supply in the market to recoup all or some of the value for the City.

Executing contracts for renewable supplies needed to meet state law requirements for 2019 will allow SJCE to use the bid information we received in August to procure lower cost renewable supplies. This information will also be used to develop products to be offered by SJCE in 2019, and for corresponding Phase II rates. SJCE intends to bring these matters to Council in the fall of 2018. Table 1 below summarizes the projected cost of the initial energy supplies and the projected cost of all the energy supplies that will be required to launch Phase II in 2019. These costs will be paid from revenues that San Jose Clean Energy receives when it launches service to residential and commercial customers in 2019.

**Table 1 – Projected Initial Energy Costs to Serve SJCE Customers Jan. 2019 - Dec. 2019**

<b>Energy Cost</b>	<b>January – December 2019</b>
<b>Renewable Energy (33%)</b>	<b>\$32,000,000</b>
Resource Adequacy	\$33,000,000*
<b>Total Cost of RA and Initial Renewable Supplies</b>	<b>\$65,000,000</b>
Additional Supplies required to launch in Phase II	\$170,000,000
Projected Cost of Energy Supplies needed in 2019	\$235,000,000

\*Council approved up to \$35 million on August 14, 2018.

The City is also currently negotiating a credit facility with Barclays Bank to support procurement of energy supplies. The Barclays Bank Credit Facility along with customer revenues will provide adequate working capital to cover energy procurement costs. The Barclays Bank Credit Facility will also provide collateral required by Sellers.

Staff does not seek any additional appropriations, credit facilities, or commercial paper to support these transactions. The standard payment terms in the WSPP and EEI agreements provide for monthly payment to suppliers by the 20<sup>th</sup> day of the month following service (subject to timely invoicing). Typically, San José Clean Energy will receive payment from its customers forty-five (45) days after the end of the service month. The Barclay's credit agreement will provide a bridge in the early months of operating the Department to ensure timely payment for these supplies. Over time, the Department will work to build an operating reserve to cover these payments.

### **EVALUATION AND FOLLOW-UP**

Staff will continue to engage with the California Public Utilities Commission on the PCIA exit fee issue and will update Council on the decision and impacts to San Jose Clean Energy. Staff will also continue to work on items to support service to Phase I customers, as well as to support the launch in March 2019 for Phase II.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the September 18, 2018 City Council meeting.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

### **COMMISSION RECOMMENDATION/INPUT**

There is no commission recommendation or input associated with this action.

**FISCAL/POLICY ALIGNMENT**

The recommended actions support the City’s 2017 Green Vision (Goals 2 and 3) and the Envision San Jose 2040 General Plan (Goal MS-2 and Appendix 8: GHG Reduction Strategy).

**COST SUMMARY/IMPLICATIONS**

The following table summarizes the cost of initial energy supplies for Phases I (city accounts) and for legally required RA and renewable energy in Phase II (residential and commercial accounts).

	<b>Time Frame</b>	<b>Amount</b>
Phase I – Energy Supply	9/1/18 – 1/31/19*	\$3,000,000**
Phase I – Resource Adequacy	11/1/18 – 2/28/19*	\$275,000***
<b>Total – Phase I</b>		<b>\$3,275,000</b>
Phase II – Renewable Energy Supply	3/1/19 – 12/31/19	\$32,000,000
Phase II – Resource Adequacy	3/1/19 – 12/31/19	\$33,000,000***
<b>Total – Phase II</b>		<b>\$65,000,000</b>

\* Phase I (city accounts) energy supply costs after 2/1/19 and Resource Adequacy costs after 2/28/19 are covered in the cost of energy and Resource Adequacy for Phase II (residential and commercial accounts).

\*\* Council approved on June 12, 2018.

\*\*\* Council approved up to \$35 million on August 14, 2018.

**BUDGET REFERENCE**

The table below identifies the appropriation that will fund the energy supply contract costs for FY 2018-2019. Total costs to fund energy contracts through December 2019 are estimated to be \$235,000,000. Staff will seek additional authorization to procure the remaining supplies in the Fall of 2018.

<b>Fund #</b>	<b>APPN #</b>	<b>Appn Name</b>	<b>Current Year Appn</b>	<b>2018-2019 Proposed Operating Budget Page</b>	<b>Last Budget Action (Date, Ord. No.)</b>
501	202V	Cost of Energy	\$69,046,000	X-77	06/19/2018, Ord. No. 30124

HONORABLE MAYOR AND CITY COUNCIL

September 12, 2018

**Subject: Renewable Power Contracts for San José Clean Energy**

Page 7

**CEQA**

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/

LORI MITCHELL

Director, Community Energy Department

For questions, please contact Lori Mitchell, Director of Community Energy Department, at (408) 535-4880.