ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 26.40.020 OF CHAPTER 26.40 OF TITLE 26 OF THE SAN JOSE MUNICIPAL CODE TO PERMIT SAN JOSE CLEAN ENERGY TO DECREASE RATES AND ADJUST RATES THAT ARE FIXED TO PACIFIC GAS AND ELECTRIC COMPANY RATES WITHOUT REQUIRING WRITTEN NOTICE TO CUSTOMERS OR A FINDING OF EXTRAORDINARY CIRCUMSTANCES BY THE CITY COUNCIL IF THE RATE IS DECREASED OR MODIFIED MORE THAN TWICE A YEAR

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP 17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance; and

WHEREAS, modifications to Section 26.40.020 of Chapter 26.40 of Title 26 of the San José Municipal Code are required to reduce San José Clean Energy's operating costs associated with some bill adjustments, reduce waste related to sending paper notices every time rates are increased or decreased, and improve agility to adjust rates that are pegged to Pacific Gas and Electric Company's ("PG&E") rates;

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REVISED – Changes to Section 26.40.020 subsection E to incorporate Council direction from 03-19-19.

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

Section 26.40.020 of Chapter 26.40 of Title 26 of the San José Municipal Code is amended to read as follows:

26.40.020 Establishment of Electricity Rates and Charges

A.   Rates and charges for electricity, including any meter charges, demand charges, non-bypassable charges or other regulatory charges, and volumetric rates, shall be established from time to time by resolution of the City Council.

B.   Rates shall not be increased more than twice in any fiscal year absent a finding of extraordinary circumstances by the City Council.

C.   Rates may vary based on the customer's choice of electricity supply options and associated resource costs, providing that all customer options shall meet or exceed the Renewables Portfolio Standard set by the State of California as it applies for a specific compliance period.

D.   Written notice of any proposed increase in rates for electricity shall be provided in advance of approval of any rate increase as follows:

1.   Notice shall be published in a newspaper of general circulation at least fifteen (15) days in advance of the City Council consideration of such increase.

2.   No more than forty-five (45) days, but no less than thirty (30) days prior to the City Council's consideration of a rate increase, notice shall be sent

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directly to the customer with the customer's regular bills if possible, or by separate letter or by other means intended to provide timely notice to the customer.

E.   Subsections B and D of this Section shall not apply to a rate increase or decrease if all of the following conditions are met:

1.   As required under Section 26.40.010, the rate was equal to or below similar PG&E rates when it was established and will continue to be equal to or below similar PG&E rates after the rate increase or decrease;

2.   The rate increase or decrease follows a rate increase or decrease by PG&E; and

3.   The rate increase or decrease is consistent with City Council resolutions establishing rates; and

4.   The rate increase inclusive of the Power Charge Indifference Adjustment (PCIA) is not more than five percent (5%).

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PASSED FOR PUBLICATION of title this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

_____
SAM LICCARDO
Mayor

ATTEST:

_____
TONI J. TABER, CMC
City Clerk

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