

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 FOR THE PROCUREMENT OF POWER SUPPLY CONTRACTS BY \$19,000,000 FOR A TOTAL NOT TO EXCEED \$245,000,000 IN AGGREGATE FOR CALENDAR YEAR 2019 AND BY \$80,000,000 FOR A TOTAL NOT TO EXCEED \$302,000,000 IN AGGREGATE FOR CALENDAR YEAR 2020; (2) AUTHORIZING THE DIRECTOR OF COMMUNITY ENERGY OR HER DESIGNEE TO NEGOTIATE AND EXECUTE LONG-TERM POWER PURCHASE AGREEMENTS FOR RENEWABLE PROJECTS IN AN AMOUNT NOT TO EXCEED \$50,000,000 ANNUALLY AND \$1,080,000,000 IN AGGREGATE FROM 2020 THROUGH 2043; AND (3) AUTHORIZING THE DIRECTOR OF COMMUNITY ENERGY OR HER DESIGNEE TO NEGOTIATE AND EXECUTE MEDIUM- TO LONG-TERM CONTRACTS TO PROCURE RESOURCE ADEQUACY PRODUCTS IN AN AMOUNT NOT TO EXCEED \$451,800,000 IN AGGREGATE FOR TERMS OF UP TO TWENTY YEARS SUBJECT TO THE ENERGY RISK MANAGEMENT POLICY, APPROVAL BY THE RISK OVERSIGHT COMMITTEE, AND THE APPROPRIATION OF FUNDS**

**WHEREAS**, on August 29, 2017, the Council of the City of San José (“City”) approved the San José Clean Energy (“SJCE”) Implementation Plan discussing the funding strategy to obtain power supply contracts; and

**WHEREAS**, on January 30, 2018, the City Council approved September 1, 2018 as the launch date for electric generation service to Phase I customers, which includes City accounts, and March 1, 2019 as the launch date to Phase II customers, which includes residential and commercial accounts; and

**WHEREAS**, on May 1, 2018, the City Council approved the Energy Risk Management Policy (“Policy”) and associated Energy Risk Management Regulations (“Regulations”)

setting forth a risk control structure and procurement requirements for power supply contracts entered into by the City, and creating a Risk Oversight Committee responsible for overseeing compliance with the Policy and with authority to amend the Regulations; and

**WHEREAS**, Section 26.50.020 of the San José Municipal Code states that the City may enter into contracts to procure power products for a term up to twenty-five (25) years through a competitive bidding process, among other alternatives, and the Policy and Regulations establish requirements for the competitive procurement of power products; and

**WHEREAS**, on June 12, 2018, the City Council adopted Resolution No. 78636 authorizing the Director of Community Energy (“Director”) to negotiate and execute short-term energy supply contracts for Phase I using the Western Systems Power Pool (“WSPP”) Agreement, a form approved by the Federal Energy Regulatory Commission and the most commonly used standardized power sales contract in the electric industry, in an amount not to exceed \$3,000,000 in aggregate; and

**WHEREAS**, on August 14, 2018, the City Council adopted Resolution No. 78747 authorizing the Director to negotiate and execute contracts for Resource Adequacy (“RA”), a product required by law to ensure there are sufficient generators available at all times to maintain the reliability of the electric system, for November 2018 through December 2019 using either the WSPP Agreement or the Edison Electric Institute (“EEI”) Agreement, a model agreement developed through an EEI-facilitated industry-wide collaboration with the National Energy Marketers Association and others, which is used extensively by industry participants to buy and sell power products, in an amount not to exceed \$35,000,000, subject to approval by the Risk Oversight Committee for contracts over \$1,000,000; and

**WHEREAS**, on September 18, 2018, the City Council adopted Resolution No. 78796 authorizing the Director to negotiate and execute contracts for Calendar Year 2019 for Renewable Energy and Renewable Energy Credits to meet SJCE's minimum compliance obligations pursuant to the California Renewables Portfolio Standard using either the EEI Agreement or the WSPP Agreement in an amount not to exceed \$32,000,000 in aggregate, subject to the Policy and Regulations; and

**WHEREAS**, on September 25, 2018, the City Council adopted Resolution No. 78804 authorizing a Revolving Credit Agreement with Barclays Bank PLC in the amount of \$50,000,000 that provides both a line of credit and letters of credit that can be issued as collateral to electricity suppliers; and

**WHEREAS**, on November 6, 2018, the City Council adopted Resolution No. 78864 authorizing the Director to negotiate and execute energy supply contracts for Phase II for Calendar Year 2019 using either the WSPP Agreement or the EEI Agreement in an amount not to exceed \$226,000,000 in aggregate, approved rates and a power mix for SJCE's 2019 GreenSource and TrueGreen products, and approved adjustments to Phase II including moving the launch date to February 2019; and

**WHEREAS**, on February 21, 2019, the California Public Utilities Commission ("CPUC") issued an order requiring SJCE and other load serving entities to procure local RA for a three-year forward duration, requiring SJCE to procure by October 31, 2019 at least 100% of its local RA requirements for Calendar Years 2020 and 2021 and 50% of its local RA requirements for Calendar Year 2022; and

**WHEREAS**, on March 19, 2019, the City Council adopted Resolution No. 79014 authorizing the Director or her designee to negotiate and execute power supply contracts for Calendar Years 2020, 2021 and 2022 for Energy, Renewable Energy, Renewable Energy Credits, RA, and Low Greenhouse Gas ("GHG") power and attributes using the EEI or WSPP Agreements in an amount not to exceed

\$380,000,000 in aggregate from January 2020 through December 2022, including authority to procure up to 90% of 2020 power needs for a total expenditure of \$222,000,000, 50% of 2021 power needs for a total expenditure of \$128,000,000, and needed Resource Adequacy, renewable and low carbon products for 2022 for a total expenditure of \$30,000,000, subject to the Policy and the appropriation of funds; and

**WHEREAS**, on April 30, 2019, the City Council adopted Resolution No. 79066 authorizing the City to enter into a First Amendment to the Revolving Credit Agreement, increasing the revolving credit facility to \$80,000,000; and

**WHEREAS**, SJCE has experienced higher load than originally forecasted during the first few months of operation and desires to increase the authority of the Director to procure additional resources and compliance attributes necessary to meet the anticipated load for Calendar Year 2019 by \$19,000,000, from \$226,000,000 to \$245,000,000, and for Calendar Year 2020 by \$80,000,000, from \$222,000,000 to \$302,000,000; and

**WHEREAS**, in order to allow SJCE to diversify and cost-effectively increase the renewable and greenhouse gas-free content of SJCE's portfolio of resources and comply with California Senate Bill 350, which requires that 65% of renewable portfolio standard contracts correspond to long-term agreements of at least ten years, the City Council desires to authorize the Director to enter into long-term power purchase agreements to procure new renewable long-term resources for the period of 2020-2043, for a total cost not to exceed \$50,000,000 annually and \$1,080,000,000 in aggregate; and

**WHEREAS**, SJCE has the opportunity to collaborate with other Community Choice Aggregators ("CCAs") on solicitations for renewable projects, has issued an industry standard solicitation for long-term procurement contracts of renewable energy, and has received competitive offers; and

**WHEREAS**, the City Council desires to authorize the Director to enter into medium- to long-term RA supply contracts, including a limited amount of long-term RA contracts from projects that utilize clean technologies such as battery storage, for a total cost not to exceed \$451,800,000, in order to enable SJCE to begin procuring capacity to meet future RA requirements when attractively priced mid-term RA opportunities become available, to enable SJCE to make initial investments in long-term GHG-free RA supplies, and to set SJCE on a path to meet the requirement that Community Choice Aggregation programs enter into agreements for energy storage equal to 1% of their annual 2020 peak load by 2020;

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

1. The authority granted to the Director of Community Energy or her designee for the procurement of power supply products is hereby increased by \$19,000,000, from \$226,000,000 to an amount not to exceed \$245,000,000 in aggregate, through Calendar Year 2019, and by \$80,000,000, from \$222,000,000 to an amount not to exceed \$302,000,000 in aggregate, through Calendar Year 2020, subject to the Energy Risk Management Policy and the appropriation of funds.
2. The Director of Community Energy or her designee is hereby authorized to negotiate and execute long-term Power Purchase Agreements for renewable projects, including the key terms listed in Attachment 1 to the Memorandum from the Director dated May 22, 2019, with modifications, as appropriate, in consultation with the City Attorney and approval of the full final agreements by the Risk Oversight Committee, in an amount not to exceed \$50,000,000 annually and \$1,080,000,000 in aggregate from 2020 through 2043, subject to the Energy Risk Management Policy and the appropriation of funds.

3. The Director of Community Energy or her designee is hereby authorized to negotiate and execute medium- to long-term contracts using the Edison Electric Institute Agreement or the Western Systems Power Pool Agreement, with modifications, as appropriate, in consultation with the City Attorney, for a term of up to twenty years, to procure Resource Adequacy products from different technologies, including battery storage, in an amount not to exceed \$451,800,000 in aggregate over twenty years, subject to the Energy Risk Management Policy, Risk Oversight Committee approval, and the appropriation of funds.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk