

RESOLUTION NO.

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (A) INCREASING THE AUTHORITY GRANTED TO THE DIRECTOR OF COMMUNITY ENERGY OR HER DESIGNEE FOR THE PROCUREMENT OF 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, SUBJECT TO THE ENERGY RISK MANAGEMENT POLICY, THE APPROPRIATION OF FUNDS, AND RISK OVERSIGHT COMMITTEE APPROVAL OF ALL CONTRACTS WITH A DURATION OF TEN YEARS OR MORE; (B) INCREASING THE AUTHORITY GRANTED TO THE DIRECTOR OF COMMUNITY ENERGY OR HER DESIGNEE FOR THE PROCUREMENT OF RESOURCE ADEQUACY PRODUCTS BY \$76,200,000, FROM \$461,800,000 TO \$538,000,000 IN AGGREGATE, IN CALENDAR YEARS 2021 THROUGH 2043, SUBJECT TO THE ENERGY RISK MANAGEMENT POLICY, THE APPROPRIATION OF FUNDS, AND RISK OVERSIGHT APPROVAL OF ALL CONTRACTS WITH A DURATION OF TEN YEARS OR MORE; (C) APPROVING THE ACCEPTANCE OF LOW CARBON POWER PRODUCTS FROM PACIFIC GAS AND ELECTRIC COMPANY'S HYDROELECTRIC AND NUCLEAR GENERATING PLANTS; AND (D) AMENDING SUBSECTION B OF RESOLUTION NO. 78711 TO MODIFY THE TIMING FOR THE COMMUNITY ENERGY DEPARTMENT TO PRESENT SAN JOSE CLEAN ENERGY'S INTEGRATED RESOURCE PLAN TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION**

**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

**WHEREAS**, Section 26.50.050 of the Municipal Code requires the Director of Community Energy ("Director") to submit a Risk Management Policy to City Council; 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**, 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 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 June 4, 2019, the City Council adopted Resolution No. 79109 increasing the authority of the Director or her designee to procure power supply products in an amount not to exceed \$245,000,000 in aggregate through Calendar Year

2019 and an amount not to exceed \$302,000,000 in aggregate through Calendar Year 2020, authorizing the Director 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 authorizing the Director or her designee to negotiate and execute medium- to long-term contracts using the EEI or WSPP Agreements for a term of up to twenty (20) years to procure Resource Adequacy products in an amount not to exceed \$451,800,000 in aggregate over twenty (20) years, subject to the Energy Risk Management Policy, Risk Oversight Committee approval, and the appropriation of funds; and

**WHEREAS**, the City desires to increase the authority of the Director for the procurement of power , Renewable Portfolio Standard resources, and low carbon resources to meet SJCE's entire anticipated power needs in 2020 and 2021; 80% of SJCE's anticipated power needs in 2022 and 2023, and 30% of SJCE's anticipated power needs in 2024 through 2026, as well as to enable SJCE to meet regulatory requirements for standard and incremental RA, and allow SJCE to continue to build a diversified power supply portfolio that includes a mix of short, medium, and long-term contracts for a variety of different products to reduce operational costs and protect ratepayers against price fluctuations; and

**WHEREAS**, currently, SJCE customers and other Community Choice Aggregation ("CCA") customers in Pacific Gas and Electric Company ("PG&E") territory pay for PG&E's low-carbon power (large hydro and nuclear) through the Power Charge Indifference Adjustment ("PCIA") but are not credited for the value of this power, and as a result, PG&E represents that its portfolio is 85% carbon free even though these attributes are partly paid for by CCA customers; and

**WHEREAS**, to correct this issue, the CPUC encouraged PG&E to address this discrepancy through negotiations with the CCAs, resulting in PG&E filing with the CPUC Advice Letter 5705-E which, if approved, will give all CCAs the option to take credit for

the carbon-free attributes of PG&E's nuclear and large hydropower resources that CCA customers are paying for; and

**WHEREAS**, if SJCE rejects this option, SJCE customers will continue to pay the same amount for PG&E's hydro and nuclear resources in the PCIA; however, SJCE will have to procure additional carbon-free power to meet its Climate Smart goals for the year; and

**WHEREAS**, if the CPUC timely approves and SJCE accepts the PG&E low-carbon allocation, SJCE would achieve a power mix that is more than 86% carbon-free in 2020 without buying additional carbon-free power; conversely, if SJCE rejects the nuclear portion of the allocation, SJCE will have to procure approximately \$5 million of additional carbon-free power to meet its 86% carbon-free goal; and

**WHEREAS**, in 2021, if SJCE accepts the carbon-free allocation from PG&E, SJCE would achieve a 100% carbon-neutral mix (26% nuclear, 29% hydroelectric) and save approximately \$10 million dollars; and

**WHEREAS**, the low-carbon hydroelectric allocations come from existing facilities that will operate regardless of whether SJCE takes the allocations, and the nuclear allocation comes from Diablo Canyon Power Plant, a facility that is scheduled to begin decommissioning in 2025 and be fully decommissioned by 2026, and the closure of which SJCE supports for both economic and safety reasons; and

**WHEREAS**, accepting the PG&E low-carbon allocations is a prudent business decision since failure to do so merely credits PG&E for resources paid for by SJCE's customers; and

**WHEREAS**, the Clean Energy Community Advisory Commission has considered this issue and recommends that SJCE accept these allocations if SJCE's analysis determines that the benefits of accepting the allocation outweighs the risks; and

**WHEREAS**, SJCE has determined that the benefits of accepting the low-carbon allocations outweigh the risks because such action will not weaken SJCE's arguments for reforming the PCIA; SJCE intends to develop a communications plan to explain the acceptance of the PG&E low-carbon allocation to its customers; and SJCE customers will pay a proportional share of Diablo Canyon's costs anyway, so SJCE's determination to accept the PG&E low-carbon allocation will not impact the operation of Diablo Canyon or delay its closure; and

**WHEREAS**, the City desires to approve the acceptance of low-carbon power products from PG&E hydroelectric and nuclear generating plants to save SJCE ratepayers tens of millions of dollars without increasing nuclear output or extending the life of related nuclear facilities; and

**WHEREAS**, on June 26, 2018, the City Council adopted Resolution No. 78711 approving the criteria for an Integrated Resource Plan ("IRP") to ensure SJCE meets program goals and has a reliable and cost-effective electricity supply, authorizing the City Manager to file the IRP with the CPUC by August 1, 2018, and requiring SJCE to present an updated IRP every two (2) years to the City Council for review and approval by March of all even years, consistent with the CPUC requirement to file an IRP by May 1 every other year; and

**WHEREAS**, the CPUC has delayed issuing critical information that is necessary to complete the 2020 IRP and has extended the deadline for submission of the 2020 IRP to July 1, 2020; and

**WHEREAS**, the City desires to modify Resolution No. 78711 to allow the Community Energy Department to submit SJCE's IRP for City Council approval prior to submitting the IRP to the CPUC, rather than in March of all even years, allowing SJCE to align its IRP work with the CPUC's schedule and include necessary planning inputs that will not be available by the March deadline;

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

- A. The authority granted to the Director of Community Energy or her designee for the procurement of power supply products, other than Resource Adequacy products, is hereby increased 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, subject to the Energy Risk Management Policy, the appropriation of funds, and Risk Oversight Committee approval of all contracts with a duration of ten years or more.
- B. The authority granted to the Director of Community Energy or her designee for the procurement of Resource Adequacy products is hereby increased by \$76,200,000, from \$461,800,000 to an amount not to exceed \$538,000,000 in aggregate, in Calendar years 2021 through 2043, subject to the Energy Risk Management Policy, the appropriation of funds, and Risk Oversight Committee approval of all contracts with a duration of ten years or more.
- C. The acceptance of low carbon power products from Pacific Gas and Electric Company's hydroelectric and nuclear generating plants is hereby approved.
- D. Subsection B of Resolution No. 78711 is hereby amended to read as follows:

“B. Authorizes the City Manager authority to file such plan that is consistent with the criteria in Attachment 1 and that complies with all California Public Utilities Commission (“CPUC”) requirements by August 1, 2018; and require SJCE to present an updated IRP every two years to City Council for review and approval prior to submitting the IRP to the CPUC.”

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2020, 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