

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DECLARING THE INTENTION OF THE CITY COUNCIL TO GRANT A FRANCHISE TO HUMMINGBIRD ENERGY STORAGE, LLC, FOR THE PURPOSE OF TRANSMISSION OF ELECTRICITY TO PACIFIC GAS AND ELECTRIC COMPANY'S METCALF SUBSTATION; SETTING A PUBLIC HEARING ON AUGUST 25, 2020 TO HEAR ANY OBJECTIONS TO THE GRANTING OF THE FRANCHISE; AND DIRECTING THE CITY CLERK TO PUBLISH NOTICE OF THE PUBLIC HEARING

WHEREAS, Hummingbird Energy Storage, LLC ("Hummingbird Energy") is developing a utility-scale energy storage project that includes the installation and construction of electric interconnection and transmission facilities and appurtenances related to Hummingbird Energy's operation of a utility facility for energy storage, installation of a substation, and an underground transmission line along Monterey Road connecting the substation to the Pacific Gas & Electric ("PG&E") Metcalf Substation; and

WHEREAS, Hummingbird Energy has executed a long-term agreement with PG&E to provide electric energy resource adequacy, and the City of San José ("City") granted Hummingbird Energy a Conditional Use Permit (CP19-020) on May 13, 2020; and

WHEREAS, Hummingbird Energy has requested approval of a nonexclusive franchise for the installation and construction of electric interconnection and transmission facilities and appurtenances within the City's public rights-of-way on Monterey Road from the Hummingbird Energy site, located at 6321 San Ignacio Avenue, to the existing PG&E Metcalf Substation;

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

1. Pursuant to City Charter Article XIII and San José Municipal Code, Chapter 15.32, Sections 1300 et seq., and the Franchise Act of 1937 (California Public Utilities Code Section 6201, et seq.), the Council of the City of San José (“Council”) hereby declares its intent to adopt an ordinance approving the grant of a franchise to Hummingbird Energy Storage, LLC, for the installation and construction of electric interconnection and transmission facilities and appurtenances within the City’s public rights-of-way on Monterey Road from the Hummingbird Energy site, located at 6321 San Ignacio Avenue, to the existing PG&E Metcalf Substation.

2. In accordance with the provisions of the City Charter, Article XIII and San José Municipal Code, Chapter 15.32, Sections 1300 et seq., and the Franchise Act of 1937 (California Public Utilities Code Section 6201, et seq.), the Council hereby declares that it will conduct a hearing on Tuesday, August 25, 2020, at 1:30 p.m., or as soon thereafter as the matter may be heard, via teleconference pursuant to the provisions of California Executive Order 29- 20, which suspends certain requirements of the Ralph M. Brown Act and in accordance with City of San José Resolution No. 79485.

3. Pursuant to San José Municipal Code, Chapter 15.32, Section 15.32.040, tThe City Clerk is hereby directed and authorized to give notice of the matters contained in this Resolution by publication at least twice, within five (5) days after the passage of this Resolution, in a newspaper of general circulation within the City. The time fixed for such hearing shall not be less than ten (10) days nor more than twenty-five days (25) after the adoption of this Resolution. ~~once within fifteen (15) days after the adoption of this Resolution in a newspaper of general circulation within the City.~~

4. At any time not later than the hour set for the hearing, any person interested may make written protest stating objections against the granting of such franchise. Such protest must be signed by the protestant and be delivered to the City Clerk. At the time set for hearing objections, the Council shall proceed to hear and pass upon all protests so made, and its decision shall be final and conclusive. The Council may adjourn said hearing from time to time.

5. If no protest in writing shall have been delivered to the City Clerk up to the hour set for hearing, or such protests as shall have been filed shall have been heard and determined by the Council to be insufficient, or shall have been overruled or denied, the Council may adopt an ordinance granting such franchise upon the terms provided in the application or upon such other terms and conditions as it deems for the public interest.

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk