

RESOLUTION NO. 78747

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE DIRECTOR OF COMMUNITY ENERGY OR HER DESIGNEE TO NEGOTIATE AND EXECUTE ENERGY SUPPLY CONTRACTS FOR RESOURCE ADEQUACY USING EITHER THE EDISON ELECTRIC INSTITUTE AGREEMENT OR THE WESTERN SYSTEMS POWER POOL AGREEMENT, FOR NOVEMBER 2018 THROUGH FEBRUARY 2019 IN AN AMOUNT NOT TO EXCEED \$275,000 IN AGGREGATE, AND FOR MARCH 2019 THROUGH DECEMBER 2019 IN AN AMOUNT NOT TO EXCEED \$35,000,000 IN AGGREGATE, SUBJECT TO THE APPROVAL OF THE RISK OVERSIGHT COMMITTEE FOR CONTRACTS OVER \$1,000,000

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 for resource adequacy (“RA”); and

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

WHEREAS, 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 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, in response to its solicitation for providers of RA to support Phase I for the months of September through December 2018, SJCE received only one bid for supply in all four months, from Pacific Gas and Electric Company ("PG&E"); and

WHEREAS, PG&E agreed to use the WSPP form to sell SJCE RA for September and October 2018, but for November and December 2018 would prefer to use 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; and

WHEREAS, on July 11, 2018, the City issued a solicitation for RA for 2019 through 2021, however, SJCE is reviewing the bid responses and has decided to award bids for calendar year 2019 only and may return to the City Council for approval of longer-term contracts depending on the outcome of ongoing negotiations; and

WHEREAS, parties offering RA services for periods of one or more years will likely require use of the EEI agreement, while the WSPP Agreement is used primarily for shorter term transactions; and

WHEREAS, the City desires to authorize the Director of Community Energy or her designee to execute energy supply contracts using either the EEI Agreement or the WSPP Agreement forms, with modifications, as appropriate, in consultation with the City Attorney, in order to procure RA for 2018 and 2019 in an amount not to exceed \$35,275,000 in aggregate;

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

The Director of Community Energy or her designee is hereby authorized to:

1. Negotiate and execute energy supply contracts for resource adequacy for November 2018 through February 2019 using the Edison Electric Institute Agreement or the Western Systems Power Pool Agreement, in an amount not to exceed \$275,000 in aggregate; and
2. Negotiate and execute energy supply contracts for resource adequacy for March 2019 through December 2019 using the Edison Electric Institute Agreement or the Western Systems Power Pool Agreement, in an amount not to exceed \$35,000,000 in aggregate, subject to the approval of the Risk Oversight Committee for contracts over \$1,000,000.

ADOPTED this 14th day of August, 2018, by the following vote:

AYES: ARENAS, CARRASCO, DAVIS, DIEP, JONES, JIMENEZ,
KHAMIS, NGUYEN, PERALEZ, ROCHA; LICCARDO.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



SAM LICCARDO
Mayor

ATTEST:



TONI J. TABER, CMC
City Clerk