



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Lori Mitchell

SUBJECT: SEE BELOW

DATE: March 16, 2018

Approved

Date

3-16-18

**SUBJECT: SERVICE AGREEMENT WITH NORTHERN CALIFORNIA POWER
AUTHORITY FOR WHOLESALE ENERGY SERVICES FOR SAN JOSE
CLEAN ENERGY**

RECOMMENDATION

Approve the Professional Services Agreement for Wholesale Energy Services (“Agreement”) with Northern California Power Authority, for San José Clean Energy for a period of two years and five months from the date of execution in an amount not to exceed \$1,400,000 and up to two one-year agreement extension options, for an additional \$655,452 and \$668,561 in the third and fourth year respectively for a total contract amount not to exceed \$2,725,000 subject to appropriations.

OUTCOME

Approving the Agreement with Northern California Power Authority (“NCPA”) to provide wholesale energy services for San José Clean Energy (“SJCE”) will enable SJCE to prepare for the launch of the program in the summer of 2018 and to meet the new adopted California Public Utilities Commission (“CPUC”) regulatory obligations to serve load in 2019.

BACKGROUND

At the August 29, 2017 City Council meeting, City Council established the SJCE operating fund. The funding strategy included funds for contractual services, that include the power supply scheduling coordinator (“SC”), portfolio management, and optimization services. On January 30, 2018, SJCE provided City Council with program updates on the Department’s status of its service delivery schedule, staffing plan adjustments, and information on the 2017 Legislative Session Related to Clean Energy.

On February 27, 2018 City Council approved the Professional Services Agreement for Data Management and Customer Call Center Services with Calpine Energy Solutions, LLC for San José Clean Energy for a period of two years from the date of execution. At the February 27th meeting, SJCE staff also provided City Council a summary of next steps and key activities to support the launch of the program in the summer of 2018. The next key milestone to support the launch is Council consideration of the power supply SC, portfolio management, and optimization services.

ANALYSIS

It is important that SJCE obtain the required wholesale energy services to support the operation of the program. These services include power supply SC, portfolio management, and optimization services. SJCE did not issue an RFP for these services due to timing constraints related to new regulatory obligations. On December 19, 2017 the CPUC approved SJCE's implementation plan. In the approval letter, the CPUC stated that SJCE is required to comply with state law and Commission decisions regarding its Resource Adequacy ("RA") requirements. On February 8th, 2018 the CPUC adopted Resolution E-4907. This resolution adopted a registration process for Community Choice Aggregators ("CCAs").

The adopted process coordinates the timeline of the mandatory filings of the RA program to ensure that newly launched and expanding CCAs comply with RA requirements, as established by Section 380, before they serve customers. The adopted CPUC E-4907 Resolution states that, "CCAs certified by April 13, 2018 must submit their registration packets (including signed service agreements and bond) no later than April 20, 2018 so that those CCAs are certified and registered before the RA annual load forecast deadline in April 2018. This will allow these CCAs to serve load in 2019." To comply with the RA annual load forecast in April and be able to serve load in 2019, SJCE must have an SC under contract to complete this regulatory obligation.

Given this new regulatory obligation was established in February, it was not possible to issue an RFP, evaluate bids, negotiate the contract, and obtain Council approval by the April 20, 2018 deadline. Staff evaluated options and determined that collaborating and negotiating directly with another public agency to provide these services was the best way to meet this new regulatory obligation. Section 4.12.225 of the Municipal Code allows the City to procure services without competitive process from governmental agencies in certain circumstances. NCPA was selected as they have a strong history of successfully providing these services to local municipal utilities such as Santa Clara, Palo Alto, Alameda, the Port of Oakland, and many others. NCPA is also performing these services for Pioneer Community Energy in Placerville and Valley Clean Energy which is the community energy program serving Davis and Yolo County. NCPA is also in negotiations to serve East Bay Community Energy in Alameda County.

This contract does not include the standard indemnity and insurance language included in other contracts. NCPA is a not for profit joint powers agency and could not agree to these provisions

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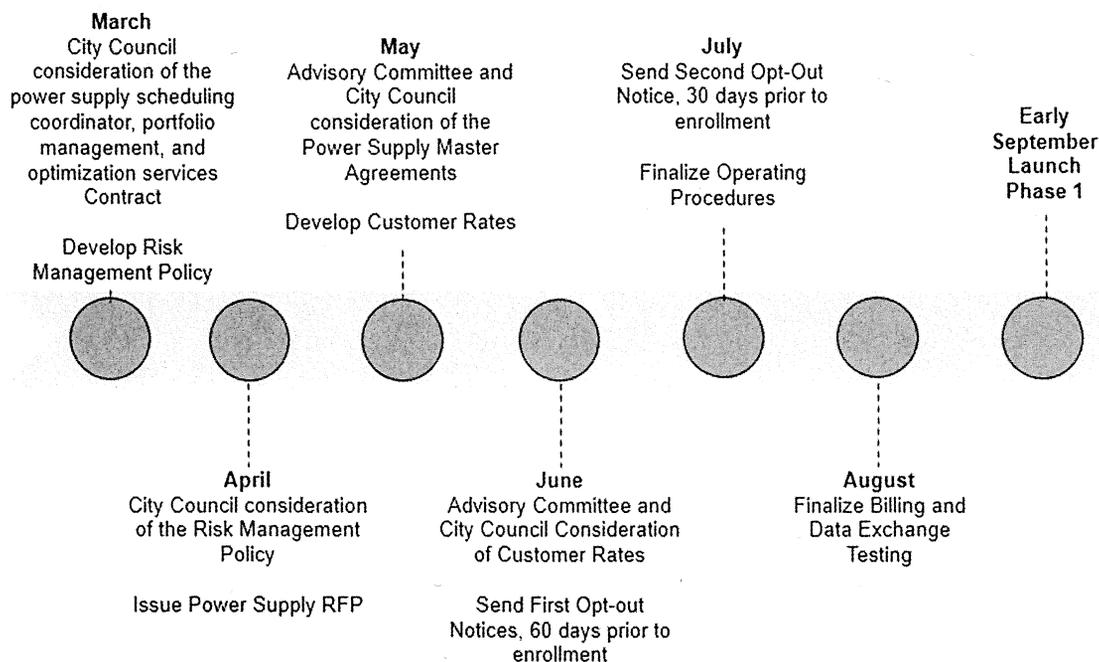
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as it would mean that their member agencies would be responsible for these risks. The contract includes a limitation of liability provision in which both Parties agree to indemnify each other to the maximum extent permitted by law. This contract does not require the standard insurance included in other contracts as it may limit liability and NCPA indicated that it is not commercially available. Staff recommended this approach after discussion with the Risk Manager. Any risks associated with this contract will be mitigated through operational procedures developed both by NCPA and SJCE. These risks could include scheduling errors and other operational issues. In addition, SJCE will develop a comprehensive Risk Management policy which will include funding a Risk Management Reserve. It is expected that this policy will be brought forward for Council consideration in April.

EVALUATION AND FOLLOW-UP

In the spring, staff expects to bring several additional items to the City Council and to the Clean Energy Community Advisory Commission for consideration including the Risk Management Policy, Energy Supply Contracts, and Customer Rates.



PUBLIC OUTREACH

This memorandum will be posted on the City's website for the March 27, 2018 City Council meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

There is no commission recommendation or input associated with this action.

FISCAL/POLICY ALIGNMENT

The recommended actions support the City's 2017 Green Vision (Goals 2 and 3) and the Envision San José 2040 General Plan (Goal MS-2 and Appendix 8: GHG Reduction Strategy).

COST SUMMARY/IMPLICATIONS

City Council approved the establishment of the Community Energy Department and the SJCE Fund at the August 29, 2017 Council meeting. The 2017-2018 Non-Personal/Equipment appropriation in the SJCE Fund includes funding of \$625,000 for power supply SC, portfolio management, optimization, and consulting services.

The total cost of the services under this agreement are \$25,000 per month for Phase 1 (which includes power supply SC, portfolio management, and optimization services) and \$52,500 per month to support the same services for full operation of the program including Phase 1, 2, and 3. The term of this contract is two years and five months, with an expected contract execution date in April of 2018. The maximum amount payable under this contract is \$2,725,000 and includes a contingency for as-needed consulting services. With the exception of minimal start-up consulting services, there is no obligation to pay for power supply SC, portfolio management, and optimization services prior to the launch of Phase 1 in the summer of 2018.

The following is a table that summarizes the costs associated with this agreement.

Phase 1: \$25,000/month for 4 months (Sept-Dec 2018)	\$100,000
Phase 1, 2 & 3: \$52,500/month for 20 months (Jan 2019-Aug 2020)*	\$1,050,000
Contingency (additional consulting services as needed)	\$250,000
Agreement Total	\$1,400,000
<i>First Agreement extension option</i>	<i>\$655,452</i>
<i>Second Agreement extension option</i>	<i>\$668,561</i>
Total Contract Amount Not to Exceed	\$2,724,013

*costs reflect earliest start date for phase II & III, these phases may start later in 2019

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BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Current Year Appn	Recommended Budget Action	2017-2018 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
501	0782	Non-Personal /Equipment	\$2,558,000	\$0	N/A	8/29/2017 Ord. 29988

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/

LORI MITCHELL

Director, Community Energy Department

For questions, please contact Lori Mitchell, Director of Community Energy Department, at (408) 535-4880