



CITY OF PALO ALTO OFFICE OF THE CITY ATTORNEY

August 22, 2016

The Honorable City Council
Palo Alto, California

Adoption of a Resolution Correcting Clerical Errors in two Items Previously Approved as Part of the Palo Alto Clean Local Energy Accessible Now (CLEAN) Program

Recommendation

To correct clerical errors associated with two Palo Alto Clean Local Energy Accessible Now (CLEAN) Program resolutions approved on October 5, 2015 and March 28, 2016, staff recommends that Council approve the attached Resolution.

Background

The purpose of this action is to correct errors that occurred with respect to two Palo Alto CLEAN Program resolutions that the Council approved on October 5, 2015 and March 28, 2016:

- On October 5, 2015, the City Council adopted Resolution No. 9552 to add Exhibit A-1, CLEAN Program Eligibility Rules and Requirements, to Resolution 9512, originally adopted on May 27, 2015. Resolution 9552 misstated Council's May 27, 2015 action regarding the contract price for solar energy resources in the CLEAN Program. Adoption of the attached Resolution corrects this clerical error by amending Resolution 9552 to include the correct 16.5 c/kWh contract price for solar energy resources for both 20 and 25 year contract terms.
- On March 28, 2016 the City Council adopted Resolution No. 9580, adopting revised Palo Alto CLEAN Program Eligibility Rules and Requirements and authorizing the City Manager or his designee to sign contracts for resources meeting those Rules and Requirements. Although the Council voted to maintain the Palo Alto CLEAN Program price for local solar energy resources at 16.5 c/kWh for both 20 and 25 year terms and continue the Program limit of 3 megawatts (MW), Resolution 9580 inadvertently carried forward the misstated solar resource contract price from Resolution 9552. Adoption of the attached Resolution corrects this clerical error to include the appropriate 16.5 c/kWh contract price for solar energy resources.

Environmental Review

The proposed Resolution correcting clerical errors are not projects subject to environmental review.

ATTACHMENTS:

- Attachment A: Resolution Amending and Correcting Resos 9552 and 9580 re Palo Alto CLEAN program (PDF)

Department Head: Molly Stump, City Attorney

RESOLUTION NO: _____

[Amending and Correcting Resolutions 9552 and 9580]

Resolution of the Council of the City of Palo Alto Amending and Correcting
Resolutions 9552 and 9580 to Correctly State the Prices and Program Limits for the
Palo Alto Clean Local Energy Accessible Now (CLEAN) Program

RECITALS

A. On October 5, 2015 the City Council of Palo Alto ("the City") adopted Resolution No. 9552 correcting Resolution 9512 and modifying the City's CLEAN Program to include Exhibit A-1 to the Resolution, which was inadvertently omitted in Resolution 9512. Exhibit A-1 contained then-current CLEAN Program Eligibility Rules and requirements necessary to implement changes to the Palo Alto CLEAN Program.

B. Recital A(ii) of Resolution 9552 misstated Council's May 27, 2015 action regarding the contract price for solar energy resources in the CLEAN Program. At its May 27, 2015 meeting, contrary to the title and Recital A(ii) of Resolution 9552, Council voted to continue the CLEAN Program price for solar energy resources at 16.5 c/kWh for both 20 and 25 year terms.

C. On March 28, 2016, the City Council adopted Resolution 9580:

- a. Adopting revised Palo Alto CLEAN Program Eligibility Rules and Requirements and authorizing the City Manager or his designee to sign contracts for resources meeting those Rules and Requirements,
- b. Maintaining the Palo Alto CLEAN Program price for local solar energy resources at 16.5 c/kWh for both 20 and 25 year terms and continuing with a Program limit of 3 megawatts (MW),
- c. Reducing the Palo Alto CLEAN Program price for local non-solar eligible renewable energy resources to the updated avoided cost of such energy (\$0.081/kWh for a 20-year contract term, or \$0.082/kWh for a 25-year contract term), from the prior avoided cost projection (\$0.093/kWh for a 20-year contract term, or \$0.094/kWh for a 25-year contract term), and continuing with a separate Program limit of 3 MW specifically for local non-solar eligible renewable resources; and
- d. Approving the amended CLEAN Program Power Purchase Agreement (PPA) to implement the recommended changes.

D. The title and Recital F of Resolution 9580 inadvertently carried forward the misstated solar resource contact price from Resolution 9552.

E. Based on the foregoing, the City Council of the City of Palo Alto finds and determines it advisable to amend Resolutions 9552 and 9580 to correctly state the prices and Program limits for the CLEAN Program.

NOW THEREFORE, the Council of the City of Palo Alto RESOLVES AS FOLLOWS:

SECTION 1: The title of Resolution 9552 is hereby amended to state: “Resolution of the Council of the City of Palo Alto Amending and Correcting Resolution No. 9512, Maintaining the Contract Price for Palo Alto Clean Local Energy Accessible Now (CLEAN) Program at 16.5 c/kWh, Expanding the CLEAN Program’s Eligibility to Non-Solar Renewable Energy Resources and adding a 25-year Contract Term Option and Adopting Revised Palo Alto CLEAN Program Eligibility Rules and Requirements”.

SECTION 2: Recital A(ii) of Resolution 9552 is hereby amended to state: “Continue the Palo Alto CLEAN Program for solar energy resources, maintaining the contract price of 16.5 cents per kilowatt-hour, and continuing with a CLEAN Program limit for solar energy resources of 3 megawatts (MW);”

SECTION 3: This resolution supplements, amends, and corrects the original resolution No. 9552 only to the extent necessary to correctly state the price for solar projects as 16.5 c/kWh and, except to the extent specifically amended by this resolution, the original resolution 9552 shall remain in full force and effect.

SECTION 4: The title of Resolution 9580 is hereby amended to state: “Resolution of the Council of the City of Palo Alto Maintaining the Contract Price for Palo Alto Clean Local Energy Accessible Now (CLEAN) Program at 16.5 c/kWh and Decreasing the Contract Rate for Non-Solar Renewable Energy Resources to 8.1c/kWh to 8.2c/kWh Based on the Reduced Avoided Cost of Local Renewable Energy and Amending Associated Program Rules”.

SECTION 5: Recital F of Resolution 9580 is hereby amended to state: “The City therefore wants to continue the CLEAN Program for solar resources at 16.5c/kWh for both 20 and 25 year terms and continue with a Program limit of 3 megawatts (MW). Additionally, the City wants to reduce the price for local non-solar eligible renewable energy resources to the updated avoided cost of such energy (\$0.081/kWh for a 20-year contract term, or \$0.082/kWh for a 25-year contract term), and approve the amended CLEAN Program Power Purchase Agreement (PPA) to implement the recommended changes.”

SECTION 6: SECTION 1 of Resolution 9580 is hereby amended to state: “The Council (1) adopts revised Palo Alto CLEAN Program Eligibility Rules and Requirements, set forth in Exhibit 1 attached to this Resolution; (2) maintains the Palo Alto CLEAN Program price for local solar energy resources at 16.5 c/kWh for both 20 and 25 year terms and continues with a Program limit of 3 megawatts (MW); (3) reduces the Palo Alto CLEAN Program price for local non-solar eligible renewable energy resources to the updated avoided cost of such energy (\$0.081/kWh for a 20-year contract term, or \$0.082/kWh for a 25-year contract term), from the prior avoided cost projection (\$0.093/kWh for a 20-year contract term, or \$0.094/kWh for a 25-year contract term); (4) continues with a separate Program limit of 3 MW specifically for local non-solar eligible renewable resources;

and (5) approves the amended CLEAN Program Power Purchase Agreement (PPA) to implement the recommended changes.

SECTION 7: This resolution supplements, amends, and corrects the original resolution No. 9580 only to the extent necessary to correctly state the prices and Program limits for CLEAN projects and approve the amended PPA, and except to the extent specifically amended by this resolution, the original resolution 9580 shall remain in full force and effect.

SECTION 8: The Council finds that the adoption of this resolution is not subject to California Environmental Quality ACT (CEQA) review under California Public Resources Code section 21080(b)(8), because the rate adopted reflects the reasonable cost of the CLEAN Program's operating expenses. Approval of the amended CLEAN Program Eligibility Rules and Requirements is not a project under CEQA, and therefore, no environmental assessment is necessary.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Senior Deputy City Attorney

City Manager

Director of Utilities

Director of Administrative Services