

# J.P.Morgan

[\_\_\_\_\_], 2016

Public Utilities Commission  
of the City and County of San Francisco  
CleanPowerSF

Fee Agreement

City and County of San Francisco  
Public Utilities Commission  
525 Golden Gate Avenue, 13<sup>th</sup> Floor  
San Francisco, California 94102  
Attention: Chief Financial Officer  
& Assistant General Manager, Business Services

Ladies and Gentlemen:

Reference is made to the Reimbursement Agreement, dated as of [\_\_\_\_\_], 2016 (the “**Agreement**”), between the Public Utilities Commission of the City and County of San Francisco (the “**Commission**”) and JPMorgan Chase Bank, National Association (the “**Bank**”), relating to the provision by the Bank of standby letters of credit (each, a “**Letter of Credit**”) to support the Commission’s obligations under power purchase agreements entered into in connection with San Francisco’s community choice aggregation. Any capitalized term below that is defined in the Agreement shall have the same meaning when used herein. This letter agreement (“**this Fee Agreement**”) is the Fee Agreement described in the Agreement.

In order to induce the Bank to enter into the Agreement and to issue the Letters of Credit, the Commission agrees to make the following payments to the Bank at the following times:

(1) A facility fee (the “**Facility Fee**”) for each Letter of Credit which shall be determined on a daily basis by multiplying (a) the Stated Amount of such Letter of Credit at 5:00 p.m., New York City time, on each day, by (b) the applicable Facility Fee Rate (as defined below) in effect for such day for the applicable tenor of such Letter of Credit, expressed as a decimal, and by (c) a fraction equal to 1/360. As used herein, “**Facility Fee Rate**” means, for a Letter of Credit, the per annum percentage set forth in the grid below, expressed as a decimal, opposite the level that contains the lowest Rating (it being understood that Level 1 contains the highest Ratings and Level 6 contains the lowest Ratings):

*[Remainder of page intentionally left blank; pricing grid follows.]*

LEVEL	S&P RATING	FITCH RATING	COMMITMENT FEE RATE
Level 1:	A+ or above	A+ or above	1.600%
Level 2:	A	A	1.750%
Level 3:	A-	A-	1.950%
Level 4:	BBB+	BBB+	2.200%
Level 5:	BBB	BBB	2.500%
Level 6:	BBB- or below	BBB- or below	2.900%

As used herein, the “**Rating**” means, with respect to a Rating Agency, the lowest long-term, unenhanced rating assigned by such Rating Agency to any Bonds. Notwithstanding the foregoing, (a) in the event that the Rating is withdrawn, suspended or otherwise unavailable from any Rating Agency for any reason and/or (b) upon the occurrence and during the continuance of an Event of Default, the Facility Fee Rate shall be increased in both cases by 1.00% per annum from the Facility Fee Rate in effect immediately prior thereto. Any change in the Facility Fee Rate resulting from a change in the Rating shall be and become effective as of and on the date of the announcement of the change in the Rating. References to the Rating above is a reference to the rating category of the Rating Agencies as presently determined by the respect Rating Agency and in the event of adoption of any new or changed rating system by a Rating Agency, the Ratings from such Rating Agency shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect.

The Facility Fee shall accrue for each Letter of Credit from and including the Closing Date to and including the date on which such Letter of Credit terminates in accordance with its terms (the “**Termination Date**”). The Facility Fee shall be payable quarterly in arrears on the first Business Day of April, July, October and January of each calendar year (each, a “**Payment Date**”) and on the Termination Date.

(2) In the event the Commission terminates or permanently reduces a Letter of Credit before its Termination Date, whether by replacement or otherwise, the Commission shall pay or cause to be paid to the Bank a non-refundable termination/reduction fee (the “**Termination/Reduction Fee**”) equal to the Facility Fee that would have been payable to the Bank pursuant to this Fee Agreement but for the termination or permanent reduction of the Letter of Credit for the period from and including the date on which the Letter of Credit is terminated or permanently reduced (the “**Termination/Reduction Date**”) to and including the Termination/Reduction Date assuming (i) a rate per annum equal to the rate per annum at which the Facility Fee is calculated immediately prior to the termination or permanent reduction of the Letter of Credit and (ii) the Stated Amount in effect immediately prior to the termination or permanent reduction of the Letter of Credit<sup>1</sup>.

(3) A fee of \$750 in respect of each Drawing made under each Letter of Credit, which fee shall be earned on the date such Drawing is honored by the Bank and, unless paid to the Bank at the time each Drawing is reimbursed, shall be paid in arrears on the first Payment Date that occurs after the date such drawing is honored by the Bank.

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<sup>1</sup> At the time of Closing, will the Commission have sufficient information to create a declining Stated Amount balance for each Letter of Credit? If not, the Commission and the Bank can discuss alternatives.

(4) A transfer fee equal to \$3,000 upon each transfer of a Letter of Credit in accordance with its terms. A transfer shall be deemed to have occurred whenever the beneficiary is replaced, substituted or changed as a result of sale, assignment, merger, consolidation, reorganization or an act of law. A transfer shall not be deemed to have occurred solely as a result of a change in the legal name of the beneficiary.

(5) At the time any amendment, modification, waiver, supplement, restatement or consent is sought in respect of any Basic Document by any person other than the Bank, a minimum fee of \$3,000 plus attorneys' fees and expenses, which fee shall be earned and payable whether or not any such amendment, modification, waiver, supplement or restatement is executed or consent granted. Notwithstanding the preceding sentence, in connection with an extension only of a Letter of Credit, aside from legal fees and expenses incurred, no such minimum fee will be due and payable.

(6) Not later than five Business Days following the Closing Date, the fees and expenses of counsel to the Bank in connection with the preparation of this Fee Agreement, the Agreement and the Letters of Credit, which fees shall not exceed \$42,500 and which expenses shall be paid on an as incurred basis.

All amounts paid pursuant to this Fee Agreement shall be non-refundable and payable in immediately available funds. Computations of the Facility Fee and the Termination/Reduction Fee shall be made on the basis of a 360 day year and actual days elapsed. All amounts paid pursuant to this Fee Agreement shall be paid in the manner and to the account set forth in the Agreement.

This Fee Agreement may not be amended or waived except by an instrument in writing signed by the Bank and the Commission.

The provisions of Section 7.14 of the Agreement shall be incorporated by this reference into this Fee Agreement as if such provisions were set forth in their entirety except that references to "this Agreement" shall mean this Fee Agreement and references to "hereunder" or "hereof" shall mean under this Fee Agreement or of this Fee Agreement.

This Fee Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which, when taken together, shall constitute one agreement. Delivery of an executed signature page of this Fee Agreement by electronic transmission shall be effective as delivery of a manually executed counterpart hereof.

This Fee Agreement is delivered to the Commission on the understanding that neither this Fee Agreement nor any of its terms shall be disclosed, directly or indirectly, to any financial institution unless such disclosure is made to such financial institution in accordance with the terms of the California Public Records Act.

*[Remainder of page intentionally left blank.]*

Please confirm that the foregoing is our mutual understanding by signing and returning to the Bank an executed counterpart of this Fee Agreement. This Fee Agreement shall become effective as of the date first above referenced upon our receipt of an executed counterpart of this Fee Agreement from the Commission.

Very truly yours,

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION

By: \_\_\_\_\_

Name: James G. Millard

Title: Executive Vice President

Accepted and agreed to  
as of the date first  
written above by:

PUBLIC UTILITIES COMMISSION OF THE  
CITY AND COUNTY OF SAN FRANCISCO

By: \_\_\_\_\_

Name: Harlan L. Kelly, Jr.

Title: General Manager

APPROVED AS TO FORM:

DENNIS J. HERRERA

City Attorney of the City and

County of San Francisco

By: \_\_\_\_\_

Name: Mark D. Blake

Title: Deputy City Attorney

ACKNOWLEDGED:

\_\_\_\_\_  
Name: Nadia Sesay

Title: Director of Public Finance of the City  
and County of San Francisco