

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO.: 18-0012

WHEREAS, State law allows cities and counties to establish community choice aggregation programs, through which local governments may choose to supply electricity to serve the needs of participating customers within their jurisdiction while existing investor-owned utilities continue to provide such service to existing customers, such as billing, transmission and distribution; and

WHEREAS, Pursuant to Board of Supervisors Ordinance 86-04, the City established a community choice aggregation program, called CleanPowerSF, pursuant to Public Utilities Code Sections 218.3, 331.1, 366, 366.2, 381.1, 394, and 394.25, finding that such program provides a means by which the City may ensure the provision of clean, reasonably priced, and reliable electricity to San Francisco residents and businesses, and provide a means for the City to increase the scale and cost-effectiveness of conservation, energy-efficiency and renewable energy in the City, and CleanPowerSF has been established as a "Separate System" from the Commission's Power Enterprise and all other enterprises of the Commission; and

WHEREAS, On May 12, 2015, by Commission Resolution 15-0112, the Commission approved initial not-to-exceed rates and a rate-setting methodology for CleanPowerSF; and

WHEREAS, On May 28, 2015, Board of Supervisors Ordinance No. 75-15 became effective, which authorized the General Manager to use certain pro forma contracts, such as the Western System Power Pool agreement and the Edison Electric Institute agreement, to purchase electricity, and authorized the Commission within specified parameters to approve agreements with terms in excess of 10 years or requiring expenditures of \$10,000,000 or more, for renewable and greenhouse gas-free energy supplies from facilities in California; and

WHEREAS, On October 27, 2015, by Commission Resolution 15-0222, the Commission approved the selection of a pool of qualified respondents to the CleanPowerSF Request for Offers of Power Supplies, and authorized the General Manager to negotiate and execute one or more contracts with the approved pool and to seek approval from the Board of Supervisors, to the extent required; and

WHEREAS, On December 8, 2015, by Commission Resolution 15-0269, the Commission approved the form of a Standby Letter of Credit and associated agreements with JP Morgan Chase Bank, National Association for a not-to-exceed principal amount of \$40,000,000 in support of the CleanPowerSF Program, and authorized the General Manager to negotiate final terms of and execute the Standby Letter of Credit and that the associated agreements were entered into and certain Standby Letters of Credit were delivered; and

WHEREAS, An ordinance is pending before the Board of Supervisors in Board of Supervisors File No. 171172 which, if approved, would authorize the Commission to enter into one or more power purchase agreements with power providers ("Contracts") and under the Contracts, CleanPowerSF will be required to make payments that could be in the tens of millions of dollars; and

WHEREAS, CleanPowerSF may have certain working capital needs as part of conducting its normal business activities, and such working capital needs could be in the tens of millions of dollars; and

WHEREAS, In order to secure the obligations of CleanPowerSF to make any such Contract payments and to enable CleanPowerSF to enter into working capital loans, the PUC issued a Request for Proposals (RFP) in July 2017 to qualified banks to provide a credit agreement in a principal amount not to exceed \$150,000,000 (“Credit Agreement”); and

WHEREAS, After an evaluation of the responses to the RFP, Commission staff determined that JPMorgan Chase Bank, National Association (“JPMorgan”) provided the most advantageous terms to the Commission; and

WHEREAS, The form of the Credit Agreement, and a related fee agreement (the “Fee Agreement”), proposed to be entered into by the Commission and JPMorgan have been presented to the Commission, and the Commission finds it in its best interest to enter into such agreements; and

WHEREAS, CleanPowerSF will undertake to pay all of the obligations under the Credit Agreement, including but not limited to, the costs of any payments to JPMorgan, including the annual standby letter of credit fee and repayment of principal and interest on working capital loans, and the costs and expenses of any term loan; and

WHEREAS, The ordinance pending before the Board of Supervisors in File No. 171172 authorizes the General Manager, subject to Commission approval, to enter into a bank credit agreement in support of CleanPowerSF’s expansion for a principal amount not to exceed \$150,000,000 and a term not to exceed six years, and therefore this Commission’s approval of the proposed Credit Agreement and associated Fee Agreement is contingent upon subsequent Board of Supervisors approval of that ordinance; and

WHEREAS, The proposed Credit Agreement and associated Fee Agreement does not constitute a “project” under California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(4) because this approval would constitute the creation of a government funding mechanism which does not involve any commitment to a specific project which may result in a potentially significant physical change in the environment; now, therefore, be it

RESOLVED, Subject to approval by the Board of Supervisors of the ordinance in Board of Supervisors File No. 171172, the Credit Agreement and the Fee Agreement, in substantially the forms submitted to this Commission, are approved and the Commission hereby authorizes the General Manager to enter into the Credit Agreement, together with associated Fee Agreement, with JP Morgan Chase Bank in an aggregate principal amount not to exceed \$150,000,000, with a term not to exceed six years, to secure payments arising under any Contract entered into in connection with CleanPowerSF and to enter into working capital loans, provided that the annual credit facility fee payable to JPMorgan shall not exceed \$3,375,000 per year in the aggregate; and be it

FURTHER RESOLVED, The General Manager or his or her designee, and in consultation with the City Attorney, is hereby authorized to execute such other agreements, certifications or documents and to take any and all necessary action in furtherance of the actions hereby approved, such approval to be conclusively evidenced by the execution and delivery of such documents; and be it

FURTHER RESOLVED, The General Manager is further authorized, in consultation with the City Attorney, to execute amendments to the Credit Agreement and/or Fee Agreement provided that no terms are changed which would increase the financial risk to the Commission, or increase the aggregate principal amount beyond \$150,000,000, the credit facility fee beyond \$3,375,000 per year in the aggregate, or the term beyond six years; and be it

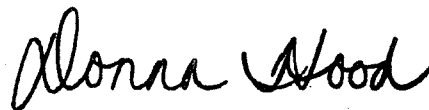
FURTHER RESOLVED, That this Commission makes the following finding in compliance with the California Environmental Quality Act ("CEQA"), California Public Resources Code Sections 21000 et seq., the CEQA Guidelines, 15 Cal. Administrative Code Sections 15000 et seq., (the "CEQA Guidelines"), and San Francisco Administrative Code Chapter 31 that obtaining credit support for CleanPowerSF is not subject to CEQA because as the establishment of a government financing mechanism to secure power purchases, it does not identify individual specific projects to be constructed with the funds, it is not a project as defined by CEQA and the CEQA Guidelines; and be it

FURTHER RESOLVED, The General Manager is authorized to delegate any of the responsibilities or duties authorized in this resolution to the Assistant General Manager, Business Services and Chief Financial Officer of the Commission; and be it

FURTHER RESOLVED, All actions heretofore taken by the officials, employees and agents of the Commission with respect to obtaining credit support for CleanPowerSF are hereby approved, confirmed and ratified; and be it

RESOLVED, This resolution shall take effect from and after its adoption.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of January 23, 2018.



Secretary, Public Utilities Commission