

<b>Item 6</b> <b>File 18-0459</b>	<b>Department:</b> Municipal Transportation Agency (MTA)
<b>EXECUTIVE SUMMARY</b>	
<b>Legislative Objectives</b>	
<ul style="list-style-type: none"> <li>• The proposed resolution (1) authorizes the substitution of a letter of credit offered by Sumitomo Mitsui Banking Corporation, acting through its New York Branch, in an amount not to exceed \$100,000,000 to support SFMTA’s commercial paper program; (2) approves the forms of certain financing documents, including a reimbursement agreement, a fee agreement, an amended and restated issuing and paying agent agreement, a commercial paper memorandum, amended and restated dealer agreements; (3) makes California Environmental Quality Act (CEQA) findings; and (4) authorizes the SFMTA Director, Controller, City Attorney, and other appropriate City officials to take the necessary actions to provide for the issuance of SFMTA’s commercial paper notes.</li> </ul>	
<b>Key Points</b>	
<ul style="list-style-type: none"> <li>• Commercial paper is short-term interim financing for capital projects that permits the City to pay capital project costs on an on-going basis. The City’s Commercial Paper Program allows the City to issue up to \$250,000,000 in commercial paper to provide short-term interim financing to the City’s General Fund departments, with the exception of the Port.</li> <li>• In order to replace and expand the letters of credit that are expiring, the Controller’s Office of Public Finance (OPF) selected U.S. Bank and State Street Bank through a competitive process to provide two replacement letters of credit in May 2016. A separate existing letter of credit for the SFMTA, also provided by State Street Bank, was selected concurrently with the City’s letter of credit in 2013 and expires in September 2018. SFMTA determined that renewal pricing offered by State Street Bank was not competitive; a Request for Proposals (RFP) for a letter of credit or alternative credit facility to substitute for the 2013 letter of credit was issued on November 28, 2017. Based on this competitive selection process, Sumitomo Mitsui Bank offered the lowest letter of credit pricing and was selected as the substitution Letter of Credit Bank.</li> </ul>	
<b>Fiscal Impact</b>	
<ul style="list-style-type: none"> <li>• The letter of credit is estimated to be for a total of \$108,876,712, to account for the maximum amount of possible interest (12 percent) equal to \$8,876,712 on the \$100,000,000 when the commercial paper matures after 270 days. Annual fees for the \$100,000,000 commercial paper issuance are estimated to equal \$497,507. SFMTA has budgeted \$600,000 annually for these costs in the FY 2017-18, FY 2018-19, and FY 2019-20 budgets, funded from SFMTA’s operating revenues.</li> <li>• The one-time estimated cost of authorizing the execution and delivery of the \$100,000,000 in commercial paper is \$171,000, resulting in a total cost of \$668,507 (\$497,507 plus \$171,000) in the first year and \$497,507 in subsequent years. The cost of issuance would be paid from SFMTA’s operating revenues and have been budgeted in SFMTA’s FY 2017-18, FY 2018-19, and FY 2019-20 budgets.</li> </ul>	
<b>Recommendation</b>	
<ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul>	

## MANDATE STATEMENT

According to City Charter Section 8.A102(b)(13), the SFMTA has the authority to borrow money by the issuance of tax anticipation notes, temporary notes, commercial paper, or other short-term debt instruments with the concurrence of the Board of Supervisors.

## BACKGROUND

### Commercial Paper

Commercial paper is short-term interim financing for capital projects that permits a governmental entity to pay capital project costs on an ongoing basis. Commercial paper notes are issued and short-term debt is incurred only when needed to pay capital project costs as they are incurred, supported by a letter of credit provided by a bank. Commercial paper has a fixed maturity date of up to 270 days (approximately nine months), compared with a fixed maturity date of 20 to 30 years for long-term debt, such as general obligation bonds. On the maturity date, commercial paper may be refinanced for additional periods of up to 270 days.

Commercial paper may be issued in anticipation of the issuance of previously authorized but not yet issued long-term debt. The use of commercial paper can reduce overall borrowing costs associated with the issuance of long-term debt because commercial paper interest rates are typically lower than long-term interest rates.

### The City's Commercial Paper Program

The Board of Supervisors approved the creation of the City's Commercial Paper Program in 2009, which allowed the City to issue up to \$150,000,000 in commercial paper. The Board of Supervisors approved an increase of \$100,000,000 in the Commercial Paper Program in 2013, allowing the City to issue up to \$250,000,000 in commercial paper (File 13-0626). The City's Commercial Paper Program generally applies to the City's General Fund departments, with the exception of the Port. The City's enterprise departments have separate commercial paper programs, including the Public Utilities Commission, Airport, and San Francisco Municipal Transportation Agency. Three banks – J.P. Morgan Chase, U.S. Bank, and State Street Bank and Trust Company (State Street Bank) – provided letters of credit to the City's Commercial Paper Program<sup>1</sup>. The letters of credit provided by J.P. Morgan Chase and U.S. Bank expired in June 2016. In order to replace and expand the letters of credit that are expiring, the Controller's Office of Public Finance (OPF) selected U.S. Bank and State Street Bank through a competitive process to provide two replacement letters of credit. (File 16-0427<sup>2</sup>). A separate existing letter

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<sup>1</sup> Each of the banks provides a letter of credit that guarantees that the bank will repay the outstanding commercial paper in the event that the City is unable to make required payments to the commercial paper investors.

<sup>2</sup> The resolution (1) re-authorized the issuance by the City of both tax-exempt and taxable lease revenue commercial paper certificates of participation; (2) replaced \$100,000,000 in letters of credit currently held by J.P. Morgan Chase and U.S. Bank and expanded the total letters of credit by \$50,000,000 to \$150,000,000; (3) authorized financing documents, including the first supplement to the trust agreement, first amendment to the site lease, first amendment to the sublease, revolving credit agreements, fee agreement, dealer agreements, and other related financing documents; and (4) authorized other related actions.

of credit for the SFMTA, also provided by State Street Bank, was selected concurrently with the City's letter of credit in 2013 and expires in September 2018.

According to Ms. Sonali Bose, SFMTA's Chief Financial Officer (CFO), SFMTA staff and its financial advisor outreached to State Street Bank to seek potential renewal of the letter of credit. SFMTA determined that renewal pricing offered by State Street Bank was not competitive; therefore with the assistance of SFMTA's financial advisor and in concern with the Office of Public Finance, a Request for Proposals (RFP) for a letter of credit or alternative credit facility to substitute for the 2013 letter of credit was issued on November 28, 2017. SFMTA received four responses<sup>3</sup> providing both letters of credit and alternative credit facilities. The review panel (consisting of SFMTA, the City Attorney's Office, and SFMTA's financial advisor consultant) evaluated the proposals based on qualifications, strength of bank, debt coverage requirements, credit rating requirements, term, default provisions and proposed fees. SFMTA also consulted with the Controller's Office of Public Finance (OPF). Based on this competitive selection process, Sumitomo Mitsui Bank offered the lowest letter of credit pricing and was selected as the substitution Letter of Credit Bank.

Consequently, SFMTA is requesting the continuation of the not-to-exceed \$100 million Commercial Paper program, utilizing the substitution of a new five year letter of credit to be provided by Sumitomo Mitsui Bank. The SFMTA Board of Directors approved the substitute letter of credit and associated documents on March 20, 2018.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution (1) authorizes the substitution of a letter of credit offered by Sumitomo Mitsui Banking Corporation, acting through its New York Branch, in an amount not to exceed \$100,000,000 to support SFMTA's commercial paper program; (2) approves the forms of certain financing documents, including a reimbursement agreement, a fee agreement, an amended and restated issuing and paying agent agreement, a commercial paper memorandum, amended and restated dealer agreements; (3) makes California Environmental Quality Act (CEQA) findings; and (4) authorizes the SFMTA Director, Controller, City Attorney, and other appropriate City officials to take the necessary actions to provide for the issuance of SFMTA's commercial paper notes.

### **Issuing and Paying Agent (IPA) Agreement<sup>4</sup>**

The IPA agreement with the paying agent, US Bank, provides SFMTA-authorization of the issuance of commercial paper in an amount not to exceed \$100,000,000 and stipulates:

- SFMTA-generated revenues would be used as security for the issuance of commercial paper;

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<sup>3</sup> The following banks submitted proposals: Barclays (offered letter of credit), JP Morgan (offered letter of credit and direct placement), State Street (offered letter of credit, standby liquidity, and direct placement), and Sumitomo (offered letter of credit). Sumitomo offered the lowest letter of credit pricing for a five year term. Barclays and State Street offered the next lowest letter of credit pricing. JP Morgan had the least attractive pricing.

<sup>4</sup> An issuing and paying agent agreement is an agreement between the debt issuer (SFMTA) and a paying agent that coordinates the issuance of commercial paper.

- Proceeds of commercial paper may be used to pay principal and interest due;
- Commercial paper cannot be redeemed prior to the maturity date; and
- The principal of and interest on the commercial paper are not payable from the City's General Fund transfers to SFMTA or directly from the City's General Fund.

### **Letter of Credit and Reimbursement Agreement<sup>5</sup>**

The reimbursement agreement:

- Provides for an irrevocable letter of credit that would cover the principal on the not-to-exceed \$100,000,000 in commercial paper as well as the interest on the commercial paper accrued on the 270 days prior to the maturity date;
- Requires SFMTA to repay the bank on amounts drawn under the letter of credit;
- Sets a five-year term for the letter of credit; and
- Requires that the interest rate not exceed 12 percent annually.

According to Ms. Bose, SFMTA currently expects to enter into a reimbursement agreement with Sumitomo Mitsui Bank resulting in annual letter of credit fees of approximately 0.40 percent<sup>6</sup>. The interest rate will vary based upon short term market conditions at the time commercial paper notes are issued. Currently 30 day commercial paper rates are approximately 1.75 percent.

### **Dealer Agreement<sup>7</sup>**

The dealer agreement includes:

- A cost not to exceed 0.045 percent annually of the weighted average of the principal amount of commercial paper remaining outstanding each quarter to be paid by SFMTA on a quarterly basis;
- Stipulation that the commercial paper will reach maturity in no later than 270 days;

SFMTA, with input from the Office of Public Finance, has selected Loop Capital and Morgan Stanley as commercial paper dealers.

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<sup>5</sup> A reimbursement agreement is an agreement between SFMTA and a bank which (a) provides a letter of credit supporting the SFMTA's commercial paper, which is necessary to sell SFMTA's commercial paper, such that if SFMTA is unable to make required payments to Commercial Paper investors, the bank shall make such payments on behalf of SFMTA, and (b) sets forth the terms under which the SFMTA reimburses the bank for those payments made by the bank to the SFMTA's commercial paper investors on behalf of SFMTA.

<sup>6</sup> The current fee structure assumes that the SFMTA's senior lien revenue bonds credit rating from S&P does not decline below "AA-" (it is currently rated "AA") and that the Moody's rating does not decline below "Aa3" (it is currently "Aa2"). The commitment fee may be increased in increments of 0.20 percent for every notch rating downgrade below the ratings of "AA-" or "Aa3-". Should the SFMTA's senior lien revenue bonds credit rating fall below "Baa1" and "BBB+" this would trigger a default.

<sup>7</sup> A dealer agreement sets forth the terms for the commercial paper dealer, who is responsible for the marketing and selling of the commercial paper on behalf of SFMTA.

**Fee Letter/Agreement<sup>8</sup>**

The fee letter/agreement summarizes SFMTA's agreement to pay:

- A non-refundable letter of credit fee of 0.40 percent, paid quarterly;
- A drawing fee of \$300 for each drawing of funds under the letter of credit;
- A transfer fee of \$5,000 for each transfer of the letter of credit;
- An amendment fee of \$5,000 for any change in the terms of pledged security, collateral, covenants, or provisions in the letter of credit, the reimbursement agreement, or related documents;
- A termination fee for termination or replacement of the letter of credit prior to the two year anniversary of the closing date;
- A reduction fee for permanently reducing the amount of the letter of credit prior to the two year anniversary of the closing date; and
- All reasonable out-of-pocket administrative expenses and other out-of-pocket expenses with respect to the reimbursement agreement, the letter of credit, and other related documents.

**Commercial Paper Note Offering Memorandum (CP Memo)<sup>9</sup>**

The commercial paper memo is provided to potential buyers of the commercial paper notes; and is a summary of the terms of the SFMTA's issuance of commercial paper included in the letter of credit, including interest and other terms, as described above in the other documents subject to approval of the proposed resolution as well as a description of Sumitomo Mitsui, who is a party to the reimbursement agreement.

**FISCAL IMPACT**

Ms. Bose advises that the letter of credit is estimated to be for a total of \$108,876,712, to account for the maximum amount of possible interest (12 percent) equal to \$8,876,712 on the \$100,000,000 when the commercial paper matures after 270 days.

As shown in Table 1 below, based on a letter of credit of \$108,876,712, annual fees for the \$100,000,000 commercial paper issuance are estimated to equal \$497,507. SFMTA has budgeted \$600,000 annually for these costs in the FY 2017-18, FY 2018-19, and FY 2019-20 budgets, funded from SFMTA's operating revenues.

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<sup>8</sup> A fee letter/agreement confirms the fees associated with the letter of credit and other fees payable by SFMTA to Sumitomo Mitsui Bank.

<sup>9</sup> A CP memo describes the term and security for the commercial paper, including a description of the bank and the letter of credit. The CP memo is utilized by the commercial paper dealer(s) as the disclosure document in the sale of the commercial paper and contains limited information on the SFMTA.

**Table 1: Summary of Estimated Annual Fees for SFMTA's Commercial Paper Issuance**

Letter of Credit Fee (0.4%)	\$435,507
Dealer Fee (0.045%)	45,000
Credit Surveillance Fee <sup>10</sup>	15,000
IPA Fee <sup>11</sup>	2,000
<b>Total</b>	<b>\$497,507</b>

In addition, as shown in Table 2 below, the one-time estimated cost of authorizing the execution and delivery of the \$100,000,000 in commercial paper is \$171,000, resulting in a total cost of \$668,507 (\$497,507 plus \$171,000) in the first year and \$497,507 in subsequent years. The one-time costs are primarily for preparation of required documents for the commercial paper issuance. Ms. Bose advises that the cost of issuance would be paid from SFMTA's operating revenues and have been budgeted in SFMTA's FY 2017-18, FY 2018-19, and FY 2019-20 budgets.

**Table 2: Estimated Cost of Authorizing the \$100,000,000 in Commercial Paper**

Rating Agencies	\$40,000
Letter of Credit Counsel	30,000
Bond Counsel	40,000
Printer	4,000
IPA Fees	7,000
Financial Advisors	45,000
Miscellaneous Closing Costs	5,000
<b>Total</b>	<b>\$171,000</b>

Ms. Bose advises that the commercial paper notes are issued on an as needed basis for interim financing needs. The maturity of each note may be from 1 to 270 days. At maturity the note(s) may be rolled into a new note(s), paid down from revenues (e.g. grant receipts) of the SFMTA, or revenue bonds. The new letter of credit (from Sumitomo) which backs the commercial paper notes has a term of 5 years. At the end of the 5 year term, the SFMTA may elect to renew the letter of credit, seek a substitute letter of credit, seek an alternative credit facility, or terminate the program. SFMTA currently plans to repay the commercial paper notes through pending revenue sources, such as grants which have been previously approved but whose funds have yet to be received by SFMTA. According to Ms. Bose, there is no plan to issue commercial paper at this time but will be available when needed to provide interim financing for large capital projects.

## RECOMMENDATION

Approve the proposed resolution.

<sup>10</sup> The credit surveillance fee is the fee charged for two credit rating agencies to monitor SFMTA's credit rating, as required by most investors purchasing short-term securities, such as commercial paper.

<sup>11</sup> The IPA fee is for the coordination and issuance of the commercial paper by the IPA.