

1 [Amending Authorizing Agreements - Bank Credit Facility for CleanPowerSF - Public Utilities  
2 Commission]

3 **Ordinance amending Ordinance No. 8-18, to authorize the General Manager of the San**  
4 **Francisco Public Utilities Commission to enter into amendments and extensions of, or**  
5 **replacements for, the bank credit facility agreement authorized under Ordinance No.**  
6 **8-18, to provide liquidity support, as needed, for power purchases, regulatory**  
7 **requirements, and other financial obligations of San Francisco’s CleanPowerSF**  
8 **community choice aggregation program for an additional term or terms not exceeding**  
9 **10 years.**

10  
11 Be it ordained by the People of the City and County of San Francisco:

12 Section 1. Background and Findings. The Board of Supervisors (the Board) of the City  
13 hereby finds and declares as follows:

14 A. State law allows cities and counties to develop Community Choice Aggregation  
15 (CCA) programs, through which local governments supply electricity to serve the needs of  
16 participating customers within their jurisdictions while the existing utility continues to provide  
17 services such as customer billing, transmission and distribution.

18 B. The City elected to implement a CCA program, CleanPowerSF, through the San  
19 Francisco Public Utilities Commission (PUC), to provide San Francisco residents and  
20 businesses the option to receive cleaner, more sustainable electricity at rates comparable to  
21 PG&E’s rates. See Ordinance Nos. 86-04, 147-07, 232-09, 45-10, 200-12, 78-14 and 75-15;  
22 and Resolution Nos. 348-12 and 331-13.

23 C. In Ordinance Nos. 75-15, 223-15, 8-18, 11-20, and pursuant to the provisions of  
24 Section 21.43 of the Administrative Code as added by Ordinance No. 176-22, and for the  
25

1 reasons stated therein, to provide the services of CleanPowerSF, the Board of Supervisors  
2 has authorized the PUC to use certain standardized industry form contracts, PUC pro forma  
3 contracts, and form contracts developed by the joint powers authority California Community  
4 Power, for procurement of energy and energy-related products and to deviate from certain  
5 otherwise applicable contracting requirements, subject to specified conditions. The Board also  
6 delegated authority to the PUC General Manager (General Manager) to enter into agreements  
7 with terms in excess of ten years or requiring expenditures of \$10,000,000 or more, subject to  
8 specified conditions.

9 D. In Ordinance No. 8-18, and following the solicitation by the PUC for a bank  
10 credit facility to provide credit support for purchases of electricity products for CleanPowerSF  
11 services and for other program requirements, the Board further authorized the General  
12 Manager, subject to the conditions specified in Ordinance No. 8-18, to enter into a bank  
13 facility credit agreement with JPMorgan Chase Bank, N.A. (JPMorgan), the selected provider,  
14 or another entity, and to waive certain standard City contract provisions and make  
15 modifications to the standard City agreements so long as such modifications, in the judgment  
16 of the General Manager and the City Attorney, did not materially decrease the City's rights or  
17 materially increase its liabilities, all as specified in Ordinance No. 8-18. Among the conditions  
18 applicable to such bank credit facility agreement as provided in Ordinance No. 8-18 was that  
19 the total credit commitment under the bank credit facility agreement not exceed \$150 million  
20 over the term of the agreement, and that the term of the agreement not exceed six years.

21 E. Under the authority granted by Ordinance No. 8-18, and authorized and  
22 approved by Resolution No. 18-0012 adopted by the PUC on January 23, 2018, the PUC has  
23 previously entered into a Credit Agreement dated as of March 29, 2018 as amended, and a  
24 fee agreement as amended and restated, with JPMorgan (collectively, the Existing Bank  
25

1 Credit Agreement), which Existing Bank Credit Agreement has a stated expiration date of  
2 March 29, 2024.

3 F. The PUC anticipates having an ongoing need for uninterrupted access to a bank  
4 credit facility to provide liquidity support, as needed, for authorized power purchases,  
5 regulatory requirements, and other financial obligations for CleanPowerSF through letters of  
6 credit or loans.

7 Section 2. Authorization to Amend, Extend or Replace Bank Credit Facility. The Board  
8 hereby amends Ordinance No. 8-18 to extend the limitation on the term of the bank credit  
9 facility agreement authorized to be entered into under Ordinance No. 8-18 for an additional  
10 period or periods not exceeding ten years. The Board authorizes the General Manager to  
11 enter into amendments and/or an amended and restated credit agreement with JPMorgan for  
12 the extension of the Existing Bank Credit Agreement and/or a replacement bank credit facility  
13 agreement with another entity; provided that (i) the total principal amount of the credit  
14 commitment available under the bank credit facility agreement shall not at any time exceed  
15 \$150 million, (ii) the term of bank credit facility agreement as amended or extended shall not  
16 exceed ten years from the current stated expiration date of the Existing Bank Credit  
17 Agreement; (iii) the agreements shall be approved by the PUC acting through its Commission  
18 in a public meeting, which approval authority may be delegated by the Commission to the  
19 General Manager, subject to conditions specified by the Commission in a public meeting;  
20 (iv) the provider(s) of future replacement bank credit facilities as undertaken from time-to-time  
21 shall be selected in accordance with City procurement processes as then in effect, and (v) all  
22 other conditions established by the PUC Commission in its approval of such amendments  
23 and/or amended and restated credit agreement or replacement bank credit facility agreements  
24 shall be met.

1 All other terms and conditions of Ordinance No. 8-18 relating to the authorization of the  
2 bank credit facility thereunder are hereby incorporated by reference as if set forth in full  
3 herein, and except as amended by the terms of this Ordinance, Ordinance No. 8-18 remains  
4 in full force and effect with respect thereto.

5 Section 3. General Authority. The Controller of the City, the Treasurer of the City, the  
6 City Attorney, and all other appropriate officers, employees, representatives and agents of the  
7 City, the PUC, and all other appropriate officers, employees, representatives and agents of  
8 the PUC are hereby authorized and directed, jointly and severally, to take such actions and to  
9 execute and deliver such certificates, agreements, requests and other documents, as they  
10 may deem necessary or desirable to facilitate and carry out the provisions of this Ordinance.

11 Section 4. Ratification of Prior Actions. All actions authorized and directed by this  
12 Ordinance in connection with the bank credit facility agreement and the amendment,  
13 extension or replacement thereof, and heretofore taken are hereby ratified, approved, and  
14 confirmed by this Board.

15 Section 5. Effective Date. This Ordinance shall become effective 30 days after  
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
18 of Supervisors overrides the Mayor's veto of the ordinance.

19 APPROVED AS TO FORM:

20 DAVID CHIU, City Attorney

21  
22  
23 By: \_\_\_\_\_ /s/  
24 KATHERINE ORTEGA  
25 Deputy City Attorney