

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE  
ADDING A NEW CHAPTER 4.40 OF TITLE 4 OF  
THE SAN JOSE MUNICIPAL CODE TO ESTABLISH  
PROCEDURES FOR SECURING CREDIT  
FACILITIES FOR SAN JOSE CLEAN ENERGY**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
SAN JOSE:

A new Chapter is added to Title 4 of the San José Municipal Code, to be  
numbered, entitled and to read as follows:

**CHAPTER 4.40  
PROCEDURES FOR SECURING CREDIT FACILITIES  
FOR SAN JOSE CLEAN ENERGY OPERATIONS**

**Part 1**

**Purpose and Construction**

**4.40.010 Purpose**

The purpose of this Chapter is to establish procedures to secure credit facilities  
as set forth herein to support the operations of San José Clean Energy.

**4.40.020 Definitions**

- A. All terms used in this Chapter that are defined in Title 26 of this Code shall  
have the meaning established in Title 26.

B. Whenever the following terms are used in this Chapter, they shall have the meaning established by this Section:

1. "Credit Facility" means a loan, revolving line of credit, non-revolving line of credit, letter of credit or any other similar credit facility or arrangement made or issued by a Credit Provider, together with any and all agreements related or ancillary thereto, that is payable solely from Revenues and any other legally available funds as permitted pursuant to Section 4.040.080 hereof. The term Credit Facility excludes revenue bonds.
2. "Credit Provider" means a bank, corporation, public entity, agency, instrumentality, political subdivision or any similar entity or organization permitted under the laws of the United States to make or issue a Credit Facility.
3. "Revenues" means all income, rents, rates, fees, charges, and other moneys that the City derives from San José Clean Energy and any other legally available funds that the City Council may, in its discretion, designate as Revenues in the documents governing the Credit Facility.

#### **4.40.030 Proceedings**

The proceedings for the City Council's approval of, or the delegation of authority to approve, the documents related to securing a Credit Facility may be conducted pursuant to this Chapter whether or not provided in any state law.

**4.40.040 Nonexclusivity**

- A. This Chapter is not, in any way, exclusive.
- B. The procedures provided in this Chapter are alternative to any other procedure provided in this Code or under state law.

**4.40.050 Chapter Controlling**

To the extent this Chapter is inconsistent with any general statute or special act, this Chapter will control.

**4.40.060 Construction**

This Chapter, being necessary for the health, welfare, and safety of the City and its residents and businesses, is to be liberally construed to carry out its purposes.

**Part 2**

**Credit Facilities for San José Clean Energy**

**4.40.070 General Powers**

The City is authorized and empowered to do all of the following:

- A. Obtain one or more Credit Facilities to secure the performance of San José Clean Energy under a Transaction or to provide working capital to fund San José Clean Energy's operations under Title 26 of this Code.

- B. Establish the terms of the Credit Facilities secured in accordance with this Chapter.
- C. Employ or contract for such legal, feasibility, financial and other consultant services in connection with securing a Credit Facility.
- D. Do all things necessary or convenient to carry out the purposes of this Chapter.

**4.40.080 Authorization of Credit Facility**

- A. The City Council may at any duly noticed meeting of the City Council adopt a resolution to approve, or delegate the authority to approve, the agreements and any other documents related to securing a Credit Facility in accordance with this Chapter.
- B. The source of repayment for any Credit Facility must be payable from Revenues or such other legally available funds specifically authorized by the City Council.

RD:KMM:CER  
5-22-2018

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk