



Legislation Details (With Text)

File #: 2020-083 **Version:** 1 **Name:**
Type: Action Item/Other Items **Status:** Agenda Ready
File created: 2/24/2020 **In control:** Board of Directors
On agenda: 3/13/2020 **Final action:**
Title: Draft Resolution - Approval of Authorization for Supplemental Indenture to Amend Terms of Master Indenture (Removal of Engineering Report Compliance Requirement) - F Wolff
Sponsors:
Indexes:
Code sections:
Attachments: 1. 2020-03-13 Ninth_Supplemental_Indenture_(amendment_2020) - F Wolff

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Draft Resolution - Approval of Authorization for Supplemental Indenture to Amend Terms of Master Indenture (Removal of Engineering Report Compliance Requirement) - F Wolff

Submitted By: Robyn Miller on behalf Freddy Wolff

Department: Controller

Financial Impact and Cost/Benefit Considerations: As discussed in Executive Session.

The Cooperative executed a Master Indenture of Trust, dated as of January 1, 1993, as supplemented and amended (the "Indenture") with The Bank of New York Mellon (as successor to The Frost National Bank of San Antonio) (the "Trustee"). Section 2.2(a) of the Indenture requires a third-party consulting engineer to file a certificate with the Trustee prior to adoption of any new schedule of rates of the Cooperative that such rates either do not cause a decrease in net revenues or that the rates will not adversely affect the Cooperative's ability to meet a required debt service coverage ratio. The Cooperative would incur costs to engage a third-party consulting engineer to conduct such analysis. The Cooperative intends to request that the majority Holder of PEC's Outstanding Obligations (as defined in the Indenture) remove such requirement from the Indenture. Sections 10.3, 10.4 and 11.2 of the Indenture outlines the requirements for amending the Indenture and issuing a supplemental indenture.

WHEREAS, to effect an amendment under the Indenture; waivers and consents from at least 50% of the aggregate in principal amount of holders of Outstanding Obligations are required; and

WHEREAS, to further evidence such waivers and consents, a supplemental indenture by and between the Cooperative and the Trustee shall be executed and delivered;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE, that the Cooperative requests the removal of the requirement for a Consulting Engineer's Certificate of Section 2.2(a) of the Indenture;

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE, that the execution and delivery by the Cooperative of the Eight Supplemental Indenture of Trust dated as of the date

therein ("Supplement") and the performance by the Cooperative of the transactions contemplated thereby are hereby approved and confirmed in all respects; and

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE, that the form, terms, and provisions of the Supplement between the Cooperative and the Trustee, a substantially final form of which has been presented to the Board of Directors, hereby is approved in all respects.

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE, that the Chief Executive Officer of the Cooperative or any person designated in writing for such purpose, be, and each hereby is, authorized as a duly authorized officer or agent of the Cooperative, for and in the name and on behalf of the Cooperative, to execute and deliver the Supplement, any other agreements, certificates, consents, affidavits, opinions, and other instruments of any nature necessary or appropriate to give effect to such Supplement, in each case in such form and containing such terms and conditions as such officer or agent may in her or his reasonable discretion deem necessary, appropriate, or desirable.

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE, that the Chief Executive Officer of the Cooperative or any person designated in writing for such purpose, be and each of them hereby is, authorized as a duly authorized officer or agent of the Cooperative, for and in the name and on behalf of the Cooperative, to do any and all acts deemed by such officer in such officer's judgment to be necessary or appropriate in the best interests of the Cooperative to give effect to the foregoing resolutions.

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE, that all actions taken prior to the effective date hereof by the officers and duly authorized agents of the Cooperative in connection with the subject of the foregoing resolutions be and are hereby ratified, confirmed, and approved.