

File No. 170771

Committee Item No. 19
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee Date July 20, 2017

Board of Supervisors Meeting Date _____

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Completed by: Linda Wong Date July 13, 2017
Completed by: Linda Wong Date _____

1 [Amendment to Memorandum of Understanding - San Francisco Local Agency Formation
2 Commission - Not to Exceed \$2,100,000]

3 **Resolution authorizing the General Manager of the San Francisco Public Utilities**
4 **Commission to execute the third amendment to the Memorandum of Understanding**
5 **with the San Francisco Local Agency Formation Commission, extending its duration by**
6 **two years, for a total agreement duration of 11 years from FY2008-2009 through**
7 **FY2018-2019, with no change to the total amount not to exceed \$2,100,000, pursuant to**
8 **Charter, Section 9.118.**

9
10 WHEREAS, On April 17, 2009, the San Francisco Public Utilities Commission (SFPUC)
11 approved Resolution No. 09-0061, authorizing the General Manager of the SFPUC to execute
12 a Memorandum of Understanding (MOU) with the San Francisco Local Agency Formation
13 Commission (SF LAFCo) to allocate SFPUC Power Enterprise funds for reimbursement for
14 SF LAFCo services related to the Community Choice Aggregation (CCA) Program, called
15 CleanPowerSF, for an amount not to exceed \$2,100,000 with a term of three (3) years,
16 concluding on June 30, 2011; and

17 WHEREAS, On April 24, 2009, the SFPUC approved Resolution No. 09-0073, adopting
18 the MOU; and

19 WHEREAS, On April 9, 2013, the SFPUC approved Resolution No. 13-0054,
20 authorizing the General Manager to execute Amendment No. 1, extending the duration of the
21 MOU by four (4) years, for a total agreement duration of seven (7) years, with no change to
22 the total not-to-exceed amount; and

23 WHEREAS, On January 30, 2015, the SFPUC approved Resolution No. 15-0023,
24 authorizing the General Manager to execute Amendment No. 2, extending the duration of the
25

1 MOU by two (2) years, for a total agreement duration of nine (9) years, with no change to the
2 total not-to-exceed amount; and

3 WHEREAS, On May 9, 2017, the SFPUC Approved Resolution No. 17-0103,
4 authorizing the General Manager to execute Amendment No. 3, extending the duration of the
5 MOU by two (2) years, for a total agreement duration of eleven (11) years, with no change to
6 the total not-to-exceed amount; and

7 WHEREAS, Amendment No. 3 is being requested to extend the duration of the MOU
8 by two (2) years, for a total agreement duration of eleven (11) years, with no change to the
9 total not-to-exceed amount, in order to continue to have SF LAFCo monitor the
10 implementation process and advise the SFPUC and San Francisco Board of Supervisors
11 regarding all aspects of development, operation and management of the CCA program; and

12 WHEREAS, The proposed Amendment No. 3 is on file with the Clerk of the Board of
13 Supervisors in File No. 170771, and is hereby declared to be part of this Resolution as if fully
14 set forth herein; and

15 WHEREAS, Funds for this MOU are available from Project CUH978 – CCA Project
16 LAFCO-HHP; now, therefore, be it

17 RESOLVED, That this Board of Supervisors hereby approves and authorizes the
18 General Manager of the SFPUC to execute Amendment No. 3 to the MOU, extending the
19 duration of the MOU by two (2) years, for a total agreement duration of eleven (11) years, with
20 no change to the total not-to-exceed amount of \$2,100,000, pursuant to Charter, Section
21 9.118; and, be it

22 FURTHER RESOLVED, That within thirty (30) days of the execution of Amendment
23 No. 3 to the MOU, the General Manager of the SFPUC shall provide the signed revised
24 contract to the Clerk of the Board for inclusion in the official file.
25

Item 19
File 17-0771

Departments:

San Francisco Public Utilities Commission (SFPUC)
Local Agency Formation Commission (LAFCO)

EXECUTIVE SUMMARY**Legislative Objectives**

- The proposed resolution would authorize the General Manager of the San Francisco Public Utilities Commission (SFPUC) to execute the third amendment to the Memorandum of Understanding (MOU) with the San Francisco Local Agency Formation Commission (LAFCO), to extend the term by two years, for a total agreement term of 11 years from FY 2008-09 through FY 2018-19, with no change to the total amount not-to-exceed \$2,100,000, pursuant to Charter Section 9.118.

Key Points

- On April 17, 2009, the SFPUC authorized the General Manager to execute a Memorandum of Understanding (MOU) with LAFCO for services related to the Community Choice Aggregation Program, or CleanPowerSF, for a not-to-exceed \$2,100,000 for the three-year period from July 1, 2008 through June 30, 2011.
- SFPUC has approved three amendments to this MOU to extend the term, now through June 30, 2019, or a total of 11 years, with no change to the not-to-exceed \$2,100,000.
- Under the third amendment, LAFCO would continue to monitor the implementation process and advise the SFPUC and the Board of Supervisors regarding all aspects of development, operation and management of the CleanPowerSF Program.

Fiscal Impact

- The total \$2,100,000 provided by the SFPUC to LAFCO was funded with SFPUC Power Enterprise revenues in FY 2008-09. To date, LAFCO has expended \$1,879,000 of the original \$2,100,000 appropriation, leaving a remaining balance of \$221,000. The SFPUC has not determined a specific spending plan for LAFCO over the next two fiscal years.
- The Mayor's FY 2017-18 original proposed budget included \$143,000 of General Fund monies for LAFCO. During the FY 2017-18 budget deliberations, the Budget and Finance Committee (a) deleted two LAFCO positions and (b) added back \$50,000, for a total \$193,000 of General Fund revenues for FY 2017-18 for LAFCO. Under this arrangement, the Clerk of the Board will provide limited administrative support and LAFCO will hire outside consultants to provide research, analysis and reporting on assigned projects.

Policy Consideration

- LAFCO annual budgets must, at a minimum, be equal to the budget adopted the previous fiscal year, unless the local Commission finds that reduced staffing or program costs will still allow LAFCO to fulfill its purposes and programs. According to LAFCO, the official statutory amount that LAFCO is entitled to for FY 2017-18 is \$297,342.

Recommendation

- Approval of the proposed resolution is a policy decision for the Board of Supervisors.

MANDATE STATEMENT

Charter Section 9.118(b) requires Board of Supervisors approval by resolution of any City contract or agreement having a term in excess of ten years or \$10,000,000.

BACKGROUND**MOU between LAFCO and SFPUC**

On April 17, 2009, the San Francisco Public Utilities Commission (SFPUC) authorized the General Manager of the SFPUC to execute a Memorandum of Understanding (MOU) with the San Francisco Local Agency Formation Commission (LAFCO) for LAFCO services related to the Community Choice Aggregation (CCA) Program, or CleanPowerSF, for a not-to-exceed \$2,100,000 for the three-year period from July 1, 2008 through June 30, 2011 (SFPUC Resolution No. 09-0061). Under the MOU, SFPUC is solely responsible for providing energy services, including CleanPowerSF¹. LAFCO's role is to monitor the implementation process and advise SFPUC and the Board of Supervisors. In addition, LAFCO can undertake tasks to assist in the implementation of CleanPowerSF, subject to the SFPUC's direction.

According to Mr. Michael Hyams of SFPUC, since the MOU has been in place, LAFCO has:

- Commissioned studies on potential job creation associated with the formation of a CCA Program in San Francisco;
- Worked closely with SFPUC to advocate on behalf on the CCA Program and CleanPowerSF before the State Legislature and the California Public Utilities Commission on bills and regulations;
- Joined SFPUC staff at countless public events and meetings to help educate San Franciscans about CleanPowerSF Program; and
- Worked closely with program stakeholders to help ensure that program design and implementation are aligned with the City's goals for CleanPowerSF.

Amendments to the MOU

- On April 9, 2013, the SFPUC authorized the SFPUC General Manager to execute the first amendment to the MOU, to extend the MOU by four years, or through June 30, 2015, for a total of seven years with no change in the authorized not-to-exceed \$2,100,000 (SFPUC Resolution No. 13-0054).
- On January 13, 2015, the SFPUC authorized the SFPUC General Manager to execute the second amendment to the MOU, to extend the MOU by two additional years or through June 30, 2017, for a total of nine years, with no change in the not-to-exceed \$2,100,000 (SFPUC Resolution No. 15-0023).

¹ CleanPowerSF is San Francisco's Community Choice Aggregation program that allows the SFPUC to make electricity supply choices for its customers and partner with Pacific Gas & Electric (PG&E) to deliver that cleaner energy to residents and businesses. PG&E continues to bill all customers and remains responsible for outage response. CleanPowerSF began serving energy to San Francisco neighborhoods in phases in May 2016.

- On May 9, 2017, the SFPUC authorized the SFPUC General Manager to execute the third amendment to the MOU, to extend the MOU by two additional years or through June 30, 2019, for a total of 11 years, with no change in the not-to-exceed \$2,100,000 (SFPUC Resolution No. 17-0103).

Charter Section 9.118

The previous MOUs were not subject to Board of Supervisors approval as the term was less than ten years and \$10,000,000, the thresholds for Charter Section 9.118. However, as the term of the MOU would extend for a total of 11 years under the proposed third amendment, the requested extension is therefore subject to the Board of Supervisors approval, in accordance with Charter Section 9.118.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the General Manager of the San Francisco Public Utilities Commission (SFPUC) to execute the third amendment to the Memorandum of Understanding (MOU) with the San Francisco Local Agency Formation Commission (LAFCO), to extend the term of the MOU by two years, for a total agreement duration of 11 years from FY 2008-09 through FY 2018-19, with no change to the total amount not-to-exceed \$2,100,000, pursuant to Charter Section 9.118.

Under the proposed third amendment to the MOU between SFPUC and LAFCO, LAFCO would continue to monitor the implementation process and advise the SFPUC and the Board of Supervisors regarding all aspects of development, operation and management of the CleanPowerSF Program. In addition, given that CleanPowerSF began implementation in phases in 2016, according to Ms. Barbara Hale of SFPUC, LAFCO could participate in additional enrollment-related activities, such as education and outreach. Planned growth of the CleanPowerSF Program, through public events and meetings and continued work with stakeholders is also needed to help ensure that program design and implementation are aligned with the City's goals for CleanPowerSF.

Ms. Hale further advises that if LAFCO staff or resources are not available, SFPUC would have to rely on its own staff and contractors to do this work.

FISCAL IMPACT

The Mayor's FY 2017-18 original proposed budget included \$143,000 of General Fund monies for LAFCO, under the Board of Supervisors budget, which assumed approval of the proposed resolution to fully fund LAFCO with the balance of SFPUC funding. During the FY 2017-18 budget deliberations, the Budget and Finance Committee (a) deleted two positions for LAFCO² and (b) added back \$50,000 of General Fund monies in the Board of Supervisors budget, for a

² The two LAFCO positions included: (1) 9775 Senior Community Development Specialist II and (1) 9770 Community Development Assistant. Only the 9775 Senior Community Development Specialist II position was filled and funded.

total of \$193,000 of General Fund revenues for FY 2017-18 for LAFCO. Under this arrangement, the Clerk of the Board would assume the role of LAFCO Executive Director for limited administrative responsibilities and LAFCO could hire outside consultants to provide research, analysis and reporting on assigned SFPUC and other projects.

The total \$2,100,000 provided by the SFPUC to LAFCO was funded with SFPUC Power Enterprise revenues in FY 2008-09. To date, LAFCO has expended \$1,879,000 of the original \$2,100,000 appropriation, leaving a remaining balance of \$221,000. Under the proposed resolution, the subject MOU would be extended by two fiscal years, through FY 2018-19. The SFPUC has not determined a specific spending plan for LAFCO over the next two fiscal years.

POLICY CONSIDERATION

In accordance with State Government Code Section 56381 (Cortese-Knox-Hertzberg Act), Local Agency Formation Commissions (LAFCOs) must adopt their final annual budgets by June 15 of each year. LAFCO annual budgets must, at a minimum, be equal to the budget adopted the previous fiscal year, unless the local Commission finds that reduced staffing or program costs will still allow LAFCO to fulfill its purposes and programs. San Francisco's LAFCO has historically requested the full statutory amount authorized by Government Code Section 56381, and then based on available reserves, allocated surplus funds back to the City's General Fund. According to LAFCO, the official statutory amount that LAFCO is entitled to for FY 2017-18 is \$297,342.

RECOMMENDATION

Approval of the proposed resolution is a policy decision for the Board of Supervisors.

**Amendment Number One to Memorandum of Understanding Between
The San Francisco Public Utilities Commission and
The San Francisco Local Agency Formation Commission
Regarding the Community Choice Aggregation Program**

This Amendment No. 3 to the MEMORANDUM OF UNDERSTANDING (“MOU”) dated April 17, 2009, by and between the SAN FRANCISCO PUBLIC UTILITIES COMMISSION (“SFPUC”) and the SAN FRANCISCO LOCAL AGENCY FORMATION COMMISSION (“SF LAFCo”) is dated for convenience insert date here.

1. Extension of Term. The parties agree to extend the terms of this Memorandum of Understanding through Fiscal Year 2018-2019 pursuant to the terms of Section 2 and Section 13 of the Memorandum.
2. Effect of Amendment. All responsibilities and obligations of the parties under the agreement will remain in effect through the extended term.
3. Counterparts. This MOU may be executed in multiple counterparts.

San Francisco Local Agency Formation Commission,

Date: _____

Jason Fried, Executive Director, San
Francisco LAFCo

San Francisco Public Utilities Commission,

Date: _____

Harlan L. Kelly Jr.
General Manager, the San Francisco Public
Utilities Commission

Approved as to Form

Deputy City Attorney

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO.: 17-0103

WHEREAS, On April 17, 2009, this Commission authorized the General Manager of the San Francisco Public Utilities Commission (SFPUC) to execute an Memorandum of Understanding (MOU) with the San Francisco Local Agency Formation Commission (SF LAFCo) to allocate Power Enterprise Funds for reimbursement for SF LAFCo services related to the Community Choice Aggregation (CCA) Program, called CleanPowerSF, from Fiscal Year 2008-09 through 2010-11; and

WHEREAS, On April 24, 2009, the SFPUC and the SF LAFCo Commissions jointly adopted the MOU from Fiscal Year 2008-09 through 2010-11; and

WHEREAS, The term of the initial MOU between the SFPUC and the SF LAFCo expired at the end of Fiscal Year 2010-11, prior to the conclusion of SF LAFCO's CCA Program responsibilities and obligations; and

WHEREAS, Amendment No. 1, for the MOU extended the collaborative working relationship between the SFPUC and the SF LAFCo through FY 2014-2015; and

WHEREAS, Amendment No. 2, for the MOU extended the collaborative working relationship between the SFPUC and the SF LAFCo through Fiscal Year 2016-2017; and

WHEREAS, Amendment No. 3, for the MOU is being requested to extend the collaborative working relationship between the SFPUC and the SF LAFCo through Fiscal Year 2018-2019; and

WHEREAS, Funds identified in the MOU between the SFPUC and SF LAFCo will continue to be available from Project No. 519782 – CCA Project LAFCO-HHP, subject to budget and appropriation procedures; now, therefore, be it

RESOLVED, That this Commission hereby approves Amendment No. 3 to the Power Enterprise, CCA Project-funded MOU between the SFPUC and the SF LAFCo; and authorizes the General Manager of the SFPUC to execute this amendment, with a term extension of two years, for a total agreement duration of 11 years through Fiscal Year 2018-2019, subject to Board of Supervisors approval pursuant to Charter Section 9.118.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of May 9, 2017.

Altonia Hood

Secretary, Public Utilities Commission

**Amendment Number Two to Memorandum of Understanding Between
The San Francisco Public Utilities Commission and
The San Francisco Local Agency Formation Commission
Regarding the Community Choice Aggregation Program**

This Amendment No. 2 to the MEMORANDUM OF UNDERSTANDING ("MOU") dated April 17, 2009, by and between the SAN FRANCISCO PUBLIC UTILITIES COMMISSION ("SFPUC") and the SAN FRANCISCO LOCAL AGENCY FORMATION COMMISSION ("SF LAFCo") is dated for convenience the 30th day of January, 2015.

1. Extension of Term. The parties agree to extend the terms of this Memorandum of Understanding through Fiscal Year 2016-2017 pursuant to the terms of Section 2 and Section 13 of the Memorandum.
2. Effect of Amendment. All responsibilities and obligations of the parties under the agreement will remain in effect through the extended term.
3. Counterparts. This MOU may be executed in multiple counterparts.

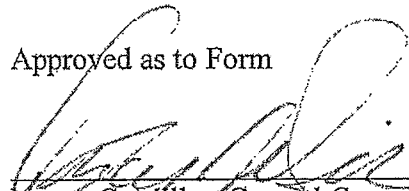
San Francisco Local Agency Formation Commission,

Date: Jan 30, 2015



Jason Fried, Executive Officer,
San Francisco LAFCo

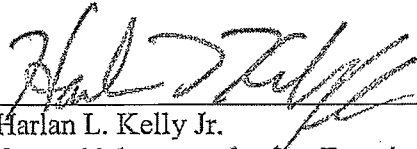
Approved as to Form



Nancy C. Miller, General Counsel

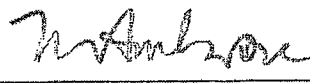
San Francisco Public Utilities Commission,

Date: 1/30/15



Harlan L. Kelly Jr.
General Manager, the San Francisco Public
Utilities Commission

Approved as to Form



Deputy City Attorney

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 15-0023

WHEREAS, On April 17, 2009, this Commission authorized the General Manager of the SFPUC to execute an MOU with the SF LAFCo to allocate Power Enterprise Funds for reimbursement for SF LAFCo services related to the CCA Program, called CleanPowerSF, from Fiscal Year 2008-09 through 2010-11; and

WHEREAS, On April 24, 2009, the SFPUC and the SF LAFCo Commissions jointly adopted the MOU from Fiscal Year 2008-09 through 2010-11;

WHEREAS, The term of the existing MOU between the SFPUC and the SF LAFCo expired at the end of Fiscal Year 2010-11, prior to the conclusion of SF LAFCO's CCA Program responsibilities and obligations; and

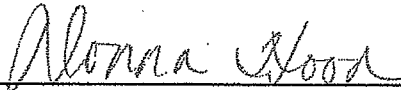
WHEREAS, Amendment No. 1, for the MOU extended the collaborative working relationship between the SFPUC and the SF LAFCo through FY 2014-2015; and

WHEREAS, Amendment No. 2, for the MOU is being requested to extend the collaborative working relationship between the SFPUC and the SF LAFCo; and

WHEREAS, Funds identified in the MOU between the SFPUC and SF LAFCo will continue to be available from Project No. 519782 – CCA Project LAFCO-HHP, subject to budget and appropriation procedures; now, therefore, be it

RESOLVED, That this Commission hereby approves Amendment No. 2 to the Power Enterprise, CCA Project-funded MOU between the SFPUC and the SF LAFCo; and authorizes the General Manager of the SFPUC to execute this amendment, with a term extension of two years, for a total agreement duration of nine years through Fiscal Year 2016-2017.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of January 30, 2015.



Secretary, Public Utilities Commission

**Amendment Number One to Memorandum of Understanding Between
The San Francisco Public Utilities Commission and
The San Francisco Local Agency Formation Commission
Regarding the Community Choice Aggregation Program**

This Amendment No. 1 to the MEMORANDUM OF UNDERSTANDING ("MOU") dated April 17, 2009, by and between the SAN FRANCISCO PUBLIC UTILITIES COMMISSION ("SFPUC") and the SAN FRANCISCO LOCAL AGENCY FORMATION COMMISSION ("SF LAFCo") is dated for convenience 9th day of April, 2013.

1. Extension of Term. The parties agree to extend the terms of this Memorandum of Understanding through Fiscal Year 2014-2015 pursuant to the terms of Section 2 and Section 13 of the Memorandum.
2. Effect of Amendment. All responsibilities and obligations of the parties under the agreement will remain in effect through the extended term.
3. Counterparts. This MOU may be executed in multiple counterparts.

San Francisco Local Agency Formation Commission,

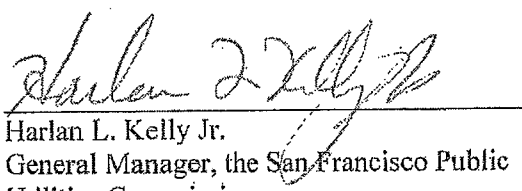
Date: May 1, 2013



Nancy Miller, Interim Executive Director,
San Francisco LAFCo

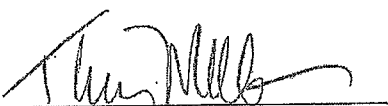
San Francisco Public Utilities Commission,

Date: _____



Harlan L. Kelly Jr.
General Manager, the San Francisco Public
Utilities Commission

Approved as to Form



Deputy City Attorney

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 13-0054

WHEREAS, On April 17, 2009, this Commission authorized the General Manager of the SFPUC to execute an MOU with the SF LAFCo to allocate Power Enterprise Funds for reimbursement for SF LAFCo services related to the CCA Program, called CleanPowerSF, from Fiscal Year 2008-09 through 2010-11; and

WHEREAS, On April 24, 2009, the SFPUC and the SF LAFCo Commissions jointly adopted the MOU from Fiscal Year 2008-09 through 2010-11;

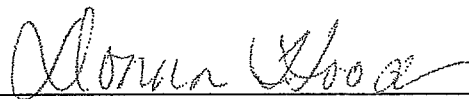
WHEREAS, The term of the existing MOU between the SFPUC and the SF LAFCo expired at the end of Fiscal Year 2010-11, prior to the conclusion of SF LAFCO's CCA Program responsibilities and obligations; and

WHEREAS, Amendment No. 1, for the MOU is being requested to extend the collaborative working relationship between the SFPUC and the SF LAFCo; and

WHEREAS, Funds identified in the MOU between the SFPUC and SF LAFCo will continue to be available from Project No. 519782 – CCA Project LAFCO-HHP, subject to budget and appropriation procedures; now, therefore, be it

RESOLVED, That this Commission hereby approves Amendment No. 1 to the Power Enterprise, CCA Project-funded MOU between the SFPUC and the SF LAFCo; and authorizes the General Manager of the SFPUC to execute this amendment, with a term extension of four years, for a total agreement duration of seven years through Fiscal Year 2014-2015.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of April 9, 2013.



Secretary, Public Utilities Commission

**Memorandum of Understanding Between
The San Francisco Public Utilities Commission and
The San Francisco Local Agency Formation Commission
Regarding the Community Choice Aggregation Program**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is dated for convenience as of April 17, 2009, by and between the SAN FRANCISCO PUBLIC UTILITIES COMMISSION ("SFPUC") and the SAN FRANCISCO LOCAL AGENCY FORMATION COMMISSION ("SF LAFCo").

1. Purpose. The purpose of this MOU is to memorialize the agreement reached between SFPUC and SF LAFCo, as set forth in LAFCo Resolution No. 2007-03, for reimbursements to SF LAFCo for Community Choice Aggregation Implementation Plan ("The Implementation Plan") duties as set forth in San Francisco Board of Supervisors ("Board of Supervisors") Ordinance No. 147-07. (File No. 07-0777.) The agreement set forth in LAFCo Resolution No. 2007-03 accepted \$700,000 per year in SFPUC funds for reimbursement for SF LAFCo duties from fiscal year 2008-09 through 2010-11, up to \$2,100,000 total. Consistent with that agreement, the SFPUC has sought and obtained an appropriation of \$700,000 of SFPUC Power Enterprise Funds in fiscal year 2008-09 for SF LAFCo duties. The SFPUC budgeted the balance of the \$2,100,000 in the fiscal year 2008-2009, but the funds in excess of \$700,000 were placed on reserve by the Board of Supervisor's, and subsequent releases are subject to Budget and Finance Committee action. As needed, the SFPUC can request release of funds from the Board of Supervisors Finance Committee, but the decision to release the funds is within the Board Committee's sole discretion.

2. Term and Reimbursement.
 - a. The Term of this Memorandum of Understanding is for Fiscal Year 2008-2009 through 2010 -2011, which term may be extended by mutual agreement of the parties. SF LAFCo may seek up to \$700,000 in reimbursement for each fiscal year, beginning in Fiscal Year 2008-2009 through fiscal year 2010-11. If any of the \$700,000 allotted for a fiscal year is not used, the SFPUC shall recommend to the Mayor that those funds shall carry over to the subsequent fiscal year, and if approved by the Board of Supervisors and Mayor in the subsequent budget process pursuant to the San Francisco Charter, then the maximum amount that can be reimbursed for the subsequent fiscal year shall be increased accordingly, pending any further necessary authorization from the Board of Supervisors to remove required funds from reserve. Any monies received by SF LAFCo pursuant to state or federal grants are in addition to, and supplement, the SFPUC Power Enterprise Funds pursuant to this MOU.
3. Background.
 - a. The Charter of the City of San Francisco stipulates that the SFPUC holds sole authority over energy services. SF LAFCo's role is to monitor and advise. SF

LAFCo may undertake tasks that assist in the implementation of CCA subject to the SFPUC's delegation.

- b. Neither SF LAFCo nor SFPUC has the authority to appropriate funds and funds may not be removed from reserve without the action of the Board of Supervisors at a noticed and public hearing.
- c. In May 2004, the Board of Supervisors adopted Ordinance No. 86-04 approving the development of an Implementation Plan to create a San Francisco Community Choice Aggregation Program ("CCA Program"). (File No. 04-0236.)
- d. The Board of Supervisors adopted Ordinance No. 146-07 which provides that "[m]anagement and control of the Community Choice Aggregation (CCA) Program will be undertaken by the San Francisco Public Utilities Commission (SFPUC)." (File No. 07-0777.)
- e. Pursuant to Board of Supervisors' Ordinance No. 146-07, SF LAFCo's CCA Program assignment is "to monitor the implementation process and advise the SFPUC and the Board of Supervisors regarding the progress of CCA development and implementation. To the extent the LAFCo agrees, the LAFCo will assist with the startup of the CCA Program and advise the Board of Supervisors, SFPUC and other agencies regarding all aspects of development, implementation, operation and management of the CCA Program, as established by Ordinance 86-04, this Ordinance and any subsequent ordinances." (File No. 07-0777.) SF LAFCo accepted this assignment by adopting Resolution No. 2007-01.
- f. Additionally, in certain instances, SF LAFCo may make recommendations to the Board of Supervisors regarding how to proceed with certain implementation steps, should SFPUC fail to do so in a timely manner. (Board of Supervisors, Section 1(a)(8), Ord. No. 147-07; File No. 07-0501.)
- g. The Board of Supervisors enacted an ordinance which adopts and incorporates by reference a CCA Program Description and Revenue Bond Action Plan and Draft Implementation Plan. (Board of Supervisors, Ord. No. 147-07; File No. 07-0501.)

4. Individual Responsibilities of SF LAFCo and SFPUC Regarding CCA Program Development and Implementation. Ordinance Nos. 146-07 and 147-07 set forth the role of SF LAFCo regarding CCA Program development and implementation. (File Nos. 07-0501.)

5. **Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. Procedures**

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. The SF LAFCo assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

6. Invoicing Procedures

- a. An invoicing procedure for reimbursements of SF LAFCo by SFPUC has already been established through the Clerks' Office of the Board of Supervisors. This procedure was established by SF LAFCo, pursuant to LAFCo Resolution No. 2007-03, which provides that the invoicing reimbursement shall be accomplished through the City and County of San Francisco procurement process.
- b. Under the current procedure, which shall continue until a streamlined mechanism is put in place, an approved invoice for work performed is sent from the Clerk's Office of the Board of Supervisors to the SFPUC for reimbursement or payment. Based upon their mutual understanding, and past practices, SFPUC and SF LAFCo intend to continue using this invoicing procedure for all future payments until a streamlined mechanism is put in place, pursuant to this MOU.
- c. SF LAFCo will continue to submit detailed invoices for contracts where CCA Program duties are performed for a fixed "not to exceed" amount. SFPUC shall promptly pay such invoices.
- d. Should a question arise regarding an invoice, SFPUC and SF LAFCo agree to work cooperatively to resolve the matter.
- e. If SF LAFCo and SFPUC later determine that a different invoicing procedure will be more efficient and save costs, they commit to work cooperatively to implement the better invoicing procedure to replace the invoicing procedure described in (a)-(b), above.

7. Cooperation. SF LAFCo and SFPUC issued a joint Request for Qualifications in November 2007, and have worked cooperatively to establish a pool of qualified consultants for CCA Program activities. SF LAFCo and SFPUC agree to continue to work cooperatively in the preparation of scopes of services and budgets for CCA Program activities, so as to avoid any duplication of work or services, and to ensure funds are used prudently.

8. SF LAFCo Hiring. SF LAFCo will hire staff as directed by SF LAFCo and will work cooperatively with SFPUC to avoid duplication of staff efforts. SF LAFCo staff will be located within the Clerk's Office of the Board of Supervisors and will be available for SFPUC CCA Program assignments, from time-to-time, and as mutually agreed upon. SF LAFCo staff shall be managed and supervised by SF LAFCo. SFPUC staff will be hired as directed by the SFPUC.

9. Limited Term Employment. Any SF LAFCo staff hired for the CCA Program will be for a limited term. The employment will continue until the earliest of:

- f. Funding for the position is exhausted and no additional funds are received; or
- g. SF LAFCo's CCA Program responsibilities and obligations are completed.

10. Staffing Levels. Staffing levels for CCA Program responsibilities will be determined by each individual agency, SF LAFCo and SFPUC, respectively. SF LAFCo and SFPUC shall consult with each other in determining the appropriate CCA Program staffing levels at each agency, however, the final decision rests with the agency hiring the staff. The hiring of SF LAFCo or SFPUC CCA Program staff is not dependent on the hiring status of the other agency.

11. Staff Management. SF LAFCo will monitor and manage its CCA Program staff. SFPUC will monitor and manage its CCA Program staff. SF LAFCo and SFPUC, recognizing the need for timely, efficient progress, will work cooperatively to avoid duplication of services and staff assignments, develop a timeline and tasks to be performed, and ensure that the program is implemented in a timely manner.

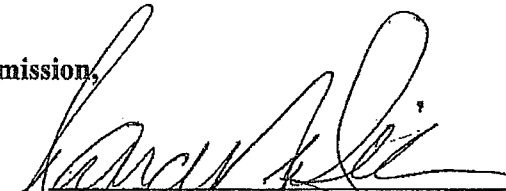
12. Consultants. SF LAFCo and SFPUC have already issued a joint Request for Qualifications and have established a joint working relationship for the selection of consultants for the CCA Program. SF LAFCo and SFPUC will continue to work cooperatively to ensure that the necessary consultants are retained to perform tasks as necessary to the CCA Program by SFPUC and SF LAFCo.

13. Amendments. No alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto. Should SF LAFCo's CCA Program responsibilities and obligations not be completed by the end of Fiscal Year 2010-11, SF LAFCo and SFPUC will work cooperatively to extend the terms of this MOU as necessary.

14. Counterparts. This MOU may be executed in multiple counterparts.

San Francisco Local Agency Formation Commission,


Date: 6/5/09



Nancy Miller, Interim Executive Director,
San Francisco LAFCo

San Francisco Public Utilities Commission,

Date: 6/5/09



Ed Harrington
General Manager, the San Francisco
Public Utilities Commission

Approved as to Form
Dennis J. Herrera
City Attorney



Deputy City Attorney

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 09-0073

WHEREAS, the Board of Supervisors of San Francisco has expressed its intention to pursue a Community Choice Aggregation (CCA) program (Ordinance 86-01 and Ordinance 147-07); and

WHEREAS, under the San Francisco Charter the management and control of a CCA program would be the responsibility of the San Francisco Public Utilities Commission (Board of Supervisors, Section 1(a), Ord. No. 146-07; File No. 07-0777); and

WHEREAS, the San Francisco Board of Supervisors has requested the San Francisco Local Agency Formation Commission (SF LAFCo) to monitor and advise the San Francisco Public Utilities Commission (SFPUC) and Board of Supervisors regarding the progress of CCA development and implementation (Board of Supervisors, Section 1(b), Ord. No. 146-07; File No. 07-0777); and

WHEREAS, the Board of Supervisors adopted the Draft Implementation Plan which described the key aspects and overall policy objectives for San Francisco's CCA program and directed SFPUC to make necessary updates and modifications to the Implementation Plan to incorporate additional information (Board of Supervisors, Section 3(d), Ord. No. 147-07; File No. 07-0777); and

WHEREAS, Ordinance 147-07 stated that before implementing a CCA program that "...the Board of Supervisors will consider projected costs, risks and benefits of this program to CCA customers, SFPUC and other city agencies, and the City's general fund..." while ensuring "...that the provision of CCA service to San Francisco customers can be reasonably expected to deliver significant benefits at a reasonable cost" (Board of Supervisors, Section 4, Ord. No. 147-07; File No. 07-0777); and

WHEREAS, the SFPUC was briefed on February 10, 2009 regarding the intent of Power Enterprise staff to undertake an approach that would issue a Request for Qualifications (RFQ) in Spring of 2009 in order to create a pool of qualified bidders for a Fall 2009 release of a Request for Proposals (RFP) for services necessary to operate San Francisco's CCA program (CleanPowerSF); and

WHEREAS, the SFPUC has directed the General Manager to ensure that SFPUC continue to work cooperatively in a coordinated fashion with LAFCo personnel; and

WHEREAS, the SF LAFCo has been briefed by SFPUC Power Enterprise staff on the status of key milestones and deliverables regarding progress towards issuance of the necessary RFQ and RFP for services necessary to operate San Francisco's CCA program (also referred to as CleanPowerSF) on April 3, 2009, and March 6, 2009; and

WHEREAS, the SFPUC General Manager has directed staff to present the findings of the interim project deliverables to the SFPUC and SF LAFCo as developments warrant; and

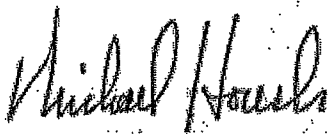
WHEREAS, the SFPUC General Manager has directed staff to engage with members of the public and the LAFCo on an ongoing basis to seek feedback on the development of CCA program implementation details; and

WHEREAS, the SFPUC and SF LAFCo met jointly on the 24th day of April, 2009, to confer and express their mutual interest in pursuing a CCA program; and now, therefore, be it

RESOLVED, the SFPUC and the SF LAFCo are united in their interest in developing a CCA program for the City that will provide residents and businesses the ability to choose a reasonably-priced energy supply from the CCA that is less polluting than what is offered by PG&E; and, be it

RESOLVED, the SFPUC and the SF LAFCo affirm the attached timeline for work to be performed in 2009.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its special joint meeting of April 24, 2009



Secretary, Public Utilities Commission

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 09-0061

WHEREAS, the San Francisco Charter specifies that the management and control of the Community Choice Aggregation (CCA) program is the responsibility of the San Francisco Public Utilities Commission (Board of Supervisors, Section 1(a), Ord. No. 146-07; File No. 07-0777); and

WHEREAS, the San Francisco Board of Supervisors has requested the San Francisco Local Agency Formation Commission (SF LAFCo) to advise the SFPUC and Board of Supervisors regarding the progress of CCA development and implementation (Board of Supervisors, Section 1(b), Ord. No. 146-07; File No. 07-0777); and

WHEREAS, in certain instances, the SF LAFCo may make recommendations to the Board of Supervisors regarding how to proceed with actions related to CCA, should SFPUC fail to do so in a timely manner (Board of Supervisors, Section 1(a)(8), Ord. No. 147-07; File No. 07-0501); and

WHEREAS, the SF LAFCo issued LAFCo Resolution No. 2007-03 accepting \$700,000 per year in SFPUC funds for reimbursement for SF LAFCo services related to CCA from fiscal year 2008-09 through 2010-11, up to \$2,100,000 total; and

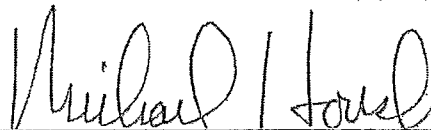
WHEREAS, the SF LAFCo and SFPUC staff have worked collaboratively to craft a Memorandum of Understanding (MOU) regarding the use of SFPUC funds for the purpose of SF LAFCo performing services related to CCA; and

WHEREAS, Funds identified in this MOU between the SFPUC and SF LAFCo will be available at the time of signing of the agreement from Project No. 519782 – CCA Project HHP, subject to budget and appropriation procedures; now, therefore, be it

RESOLVED, That this Commission hereby authorizes the General Manager of the San Francisco Public Utilities Commission to execute a Memorandum of Understanding with the SF LAFCo to allocate \$700,000 of SFPUC Power Enterprise Funds in fiscal year 2008-09 to reimburse SFLAFCo for services performed pursuant to the MOU, and as needed, the SFPUC may request release of the balance of the \$2,100,000 budgeted in fiscal year 2008-09, that remain held on reserve by the Board of Supervisor's Budget and Finance Committee; and authorize the General Manager to execute the MOU consistent with the terms in the MOU on file with the Commission Secretary and in such final form as is approved by the General Manager and City Attorney, consistent with City ordinances and regulations, and authorize the General Manager to approve any subsequent changes to the MOU necessary to address administrative issues, subject to approval as to form by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of _____

April 17, 2009



Secretary, Public Utilities Commission



**San Francisco
Water and Sewer**

Services of the San Francisco Public Utilities Commission

525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102
T 415.554.3155
F 415.554.3161
TTY 415.554.3488

TO: Angela Calvillo, Clerk of the Board
FROM: John Scarpulla, SFPUC Policy and Government Affairs
DATE: May 12, 2017
SUBJECT: Amendment to Memorandum of Understanding - San Francisco Local Agency Formation Commission – Not to Exceed \$2,100,000

Attached please find an original and one copy of a proposed resolution authorizing the General Manager of the San Francisco Public Utilities Commission to execute the third amendment to the Memorandum of Understanding with the San Francisco Local Agency Formation Commission, extending its duration by two (2) years, for a total a total agreement duration of eleven (11) years, pursuant to Charter, Section 9.118..

The following is a list of accompanying documents (2 sets):

1. Board of Supervisors Resolution
2. SFPUC Resolution No. 09-0061
3. SFPUC Resolution No. 09-0073
4. Original SFPUC/LAFCo MOU
5. SFPUC Resolution No. 13-0054
6. Amendment No. 1 to SFPUC/LAFCo MOU
7. SFPUC Resolution No. 15-0023
8. Amendment No. 2 to SFPUC/LAFCo MOU
9. SFPUC Resolution No. 17-0103
10. Amendment No. 3 to SFPUC/LAFCo MOU

Please contact John Scarpulla at 415-934-5782 if you need any additional information on these items.

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 BOARD OF SUPERVISORS
 STAFF OFFICE
 2017 MAY 12 AM 10:15
 37

- Edwin M. Lee**
Mayor
- Francesca Vietor**
President
- Anson Moran**
Vice President
- Ann Moller Caen**
Commissioner
- Vince Courtney**
Commissioner
- Ike Kwon**
Commissioner
- Harlan L. Kelly, Jr.**
General Manager



Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 JUN 20 Time stamp 3
or meeting date

BY *[Signature]*

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

[Signature]

For Clerk's Use Only

