

File No. 105161

Committee Item No. _____
Board Item No. 23

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee BUDGET AND FINANCE

Date 2/17/10

Board of Supervisors Meeting

Date 2/23/10

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
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Completed by: Gail Johnson

Date 2/12/10

Completed by: [Signature]

Date 2/18/10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

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1 [Adopting Implementation Plan for CleanPowerSF.]
 2

3 **Ordinance adopting a revised Implementation Plan for the City's Community Choice**
 4 **Aggregation program, CleanPowerSF, and authorizing the filing of the Implementation**
 5 **Plan with the California Public Utilities Commission.**
 6

7 NOTE: Additions are *single-underline italics Times New Roman*;
 8 deletions are ~~*strike-through italics Times New Roman*~~.
 9 Board amendment additions are double-underlined;
 10 Board amendment deletions are ~~striketrough normal~~.

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

12 Section 1. Background

13 A. Ordinance 86-04 established and elected to implement a Community Choice
 14 Aggregation (CCA) program pursuant to Public Utilities Code Sections 218.3, 331.1, 366,
 15 366.2, 381.1, 394, and 394.25, finding that CCA provides a means by which the City may help
 16 ensure the provision of clean, reasonably priced, and reliable electricity to San Francisco
 17 customers. Ordinance 86-04 further found that a CCA Program could provide a means for the
 18 City to increase the scale and cost-effectiveness of conservation, energy-efficiency and
 19 renewable energy in San Francisco. Ordinance 86-04 directed City departments to develop a
 20 draft Implementation Plan (IP) and to prepare a draft Request For Proposals (RFP) to solicit
 21 an electricity supplier for the program.

22 B. Ordinance 147-07 continued implementation of a CCA program by adopting a
 23 June 6, 2007 Program Description and Revenue Bond Action Plan and Draft Implementation
 24 Plan (Draft IP) and setting forth requirements for the CCA program based on the Draft IP.
 25 The Ordinance stated that "The Board of Supervisors expects to consider modifications to the
 Draft IP as the development of the CCA Program progresses. In particular, the Board of
 Supervisors expects that the City will gain additional material information regarding the

1 suppliers, costs, and financing mechanisms, among other things, from the Request for
2 Information (RFI) that will be issued following adoption of this ordinance as well as from other
3 work performed in connection with the CCA Program." (Page 7, lines 11-16.) The Ordinance
4 directed the San Francisco Public Utilities Commission (SFPUC), in consultation with the
5 Local Agency Formation Commission (LAFCO) to "draft for approval by the Board of
6 Supervisors and submission to the CPUC a revised IP that is consistent with this ordinance,
7 the companion ordinance adopting a CCA Governance Structure [Ordinance 146-07] and all
8 applicable requirements. The revised IP should reflect additional information received through
9 the RFI/RFP process." (Page 8, lines 5-9).

10 C. As required by Ordinance 147-07, the SFPUC issued a Request for Information
11 (RFI) from potential suppliers in November 2007. In April 2009, the PUC issued a Request for
12 Qualifications (RFQ) from potential suppliers.

13 D. Ordinance 232-09 authorized the issuance of an RFP for services related to the
14 provision of electricity, finding it reasonable to allow some flexibility in meeting the CCA RFP
15 requirements and program criteria set forth in Ordinances 86-04 and 147-07 in order to
16 encourage robust responses to the RFP and to facilitate a successful CCA program.

17 E. The SFPUC issued the RFP on November 5, 2009 and received five responses.
18 The independent review panel ranked highest the proposal from Power Choice, LLC. On
19 February 9, 2010, in Resolution 10-0020, the SFPUC authorized the SFPUC General
20 Manager to begin negotiating a contract with Power Choice, LLC for necessary services for
21 CleanPowerSF customers.

22 F. Public Utilities Code Sections 366.2(c)(3) and (4) require a CCA program to
23 develop an IP "detailing the process and consequences of aggregation" and to include with
24 the IP a "statement of intent" (SI) affirming that the program will provide for universal access,
25 reliability, equitable treatment of all customers classes, and adherence to state law. Public

1 Utilities Code Sections 366.2(c)(3) and (4) require the IP to address the following subjects:
2 organizational structure of the CCA program, its operations and funding; ratesetting and other
3 costs to participants; provisions for disclosure and due process in setting rates; methods for
4 entering and terminating agreements with other entities; rights and responsibilities of program
5 participants; description of third parties who will be supplying electricity, including information
6 about the supplier's financial, technical, and operational capabilities; and termination of the
7 program. The IP is to be adopted at a public hearing and filed with the California Public
8 Utilities Commission (CPUC).

9 G. As directed by Ordinance 147-07, the SFPUC, in consultation with LAFCO, has
10 revised the Draft IP to reflect the results of the RFI/RFP process and to reflect the other work
11 of SFPUC and LAFCO in connection with the CCA program.

12 H. On February 9, 2010, in Resolution 10-0019, the SFPUC authorized the
13 SFPUC General Manager to seek the approval of the Board of Supervisors to file a revised IP
14 with the CPUC.

15 Section 2. Key Elements of the Revised Implementation Plan and Statement of Intent.

16 A. CleanPowerSF will seek to exceed State of California requirements for
17 Renewable Portfolio Standards (RPS) and sets a goal of a 51% renewable portfolio by 2017.
18 CleanPowerSF will meet its renewable goals, to the extent feasible, through new, preferably
19 local, renewable sources of electricity generation and the use of demand side management
20 efforts, including energy efficiency and conservation programs. Any decisions regarding
21 construction of new facilities will only be reached after environmental review, including review
22 under the California Environmental Quality Act.

23 B. CleanPowerSF intends to offer its customers stable and competitive rates with
24 provisions for low-income ratepayer assistance. CleanPowerSF is committed to equitable
25 treatment of all classes of customers. The program may offer customized rates to particular

1 customers where such opportunities are demonstrated to be of benefit to the entire program
2 and therefore all CleanPowerSF customers.

3 C. To the extent beneficial for its customers, CleanPowerSF may roll out service to
4 groups of its customers in phases, the details of any such phasing to be determined by the
5 contract that the program signs with its electricity supplier.

6 D. In accordance with the City Charter and Ordinance 146-07, SFPUC will manage
7 and control CleanPowerSF, and LAFCO will continue to advise the Board of Supervisors and
8 SFPUC regarding the operation and management of the program.

9 E. In accordance with City Charter Section 8B.125, rates for CleanPowerSF
10 services will be set by the SFPUC, subject to rejection by the Board of Supervisors. Before
11 rates are set, the Rate Fairness Board will review the proposed rates and make a
12 recommendation to the SFPUC regarding such proposed rates. Customers will be given
13 notice and an opportunity to be heard before final rates are determined. Rates will cover
14 electricity supply, capital, administrative and other costs of CleanPowerSF.

15 F. In accordance with Public Utilities Code Section 366.2(c)(2), electricity
16 customers in San Francisco will be automatically enrolled in CleanPowerSF unless they opt
17 out of the program. CleanPowerSF will provide all electricity customers in San Francisco two
18 notices regarding the program within 60 days prior to their automatic enrollment and two
19 additional notices within 60 days or two billing cycles after the start of service. The notices will
20 include the terms and conditions of CleanPowerSF's service and an opportunity to opt out of
21 the program.

22 G. CleanPowerSF intends to contract with a third party for electricity supply,
23 account and billing services, and other services. The third party supplier will assist in
24 developing plans for new renewable resources and new demand side management programs,
25 including energy efficiency and conservation and may participate in the development of such

1 projects that CleanPowerSF decides to implement. Any decisions regarding construction of
2 new facilities will only be reached after environmental review, including review under the
3 California Environmental Quality Act. Eligible third party suppliers of electricity and other
4 services have been identified using a competitive solicitation process and ranked using an
5 independent review process. After SFPUC staff, in consultation with LAFCO, has negotiated
6 a contract with a third party supplier, the contract will be reviewed and approved by the
7 SFPUC and, if required under applicable City law, the Board of Supervisors.

8 H. As required by Public Utilities Code Section 366.2(c)(4), CleanPowerSF affirms
9 its intent to satisfy all applicable requirements of California law and to provide universal
10 access to CleanPowerSF service, reliable service, and equitable treatment of all classes of
11 customers.

12 Section 3. Adoption of the Implementation Plan.

13 A. The Board of Supervisors finds that the Draft IP and the program requirements
14 set forth in Ordinance 147-07 should be revised in accordance with Section 2 of this
15 ordinance to reflect the information obtained from the RFI/RFQ/RFP solicitation process and
16 the additional information learned by the SFPUC and LAFCO through their implementation of
17 the CCA program.

18 B. The Board of Supervisors adopts the IP described in this ordinance as the IP for
19 CleanPowerSF and authorizes the General Manager of the SFPUC, in consultation with the
20 Executive Officer of the LAFCO, to file with the CPUC an IP that is consistent with this
21 ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By:


Thomas J. Long
Deputy City Attorney

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LEGISLATIVE DIGEST

[Adopting Implementation Plan for CleanPowerSF.]

Ordinance adopting a revised Implementation Plan for the City's Community Choice Aggregation program, CleanPowerSF, and authorizing the filing of the Implementation Plan with the California Public Utilities Commission.

Existing Law

In Ordinance 86-04, the Board of Supervisors established and elected to implement a Community Choice Aggregation (CCA) program for San Francisco. This program is now commonly known as CleanPowerSF. Ordinance 147-07 adopted a Draft Implementation Plan (Draft IP) and set forth requirements for the CCA program based on the Draft IP. Ordinance 147-07 directed the San Francisco Public Utilities Commission, in consultation with the Local Agency Formation Commission (LAFCO), to prepare a revised Implementation Plan (IP) based on additional information gathered in the development of the program, including results of a Request for Information (RFI) and Request for Proposals (RFP). Ordinance 147-07 required the revised IP to be approved by the Board of Supervisors before it could be filed with the California Public Utilities Commission (CPUC).

Amendments to Current Law

This Ordinance finds that the Draft IP and the program requirements set forth in Ordinance 147-07 should be revised as shown in Section 2 of this Ordinance to reflect the additional information gathered by the SFPUC and LAFCO through their implementation of the CCA program. This Ordinance adopts the IP, with revised program requirements, as the IP for CleanPowerSF and authorizes the General Manager of the SFPUC, in consultation with the Executive Officer of the LAFCO, to file with the CPUC an IP that is consistent with this Ordinance.

Background Information

State law allows a municipality to supply the electric power needed by the residents and businesses within its jurisdiction. One way to do this, under Public Utilities Code Section 366.2, is CCA. Under CCA, the City would supply the electricity used by participating customers in San Francisco, and Pacific Gas & Electric Company would continue to deliver that electricity. In Ordinance 86-04, the San Francisco Board of Supervisors established and

elected to implement a CCA Program and directed City departments to develop a plan for providing CCA service and to issue an RFI and an RFP for electric supply services. In consultation with the LAFCO, the SFPUC has implemented the CleanPowerSF program by preparing and revising the Draft IP, and issuing an RFI, a Request for Qualifications, and an RFP for electricity supply services. The SFPUC has authorized its General Manager to negotiate a contract with the highest ranked proposer.

One of the steps required before offering CCA service is the preparation of an IP and submission of the IP to the CPUC. State law, in Public Utilities Code Sections 366.2(c)(3) and (4), sets forth a number of detailed requirements for the contents of an IP. After submission of the IP, the CPUC has 90 days to request any additional information it needs and to certify its receipt of the IP.