

1 [Identifying Next Steps for CleanPowerSF.]

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3 **Resolution identifying next steps for obtaining services related to CleanPowerSF,**
4 **consistent with the City's previously approved Community Choice Aggregation plans.**

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6 **A. Implementation of CleanPowerSF.**

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WHEREAS, The California Public Utilities Code allows local governments to establish a program called Community Choice Aggregation (CCA), under which a local government can aggregate the electrical demand from interested customers and obtain electricity for those customers. The California Public Utilities Commission ("CPUC") is charged with establishing rules to implement CCA and regulating the activities of investor owned utilities, who continue to deliver the electricity, bill customers, and provide other services. (Assembly Bill 117, codified as Chapter 838, 2002); and

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WHEREAS, In 2004, the City established and elected to implement a CCA program, now known as CleanPowerSF. (Ordinance 86-04) The City found that CCA provides a means by which the City may help to ensure the provision of clean, reasonably priced and reliable electricity to San Francisco customers and to increase the scale and cost-effectiveness of conservation, energy efficiency and renewable energy in the City; and

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WHEREAS, To implement the program, Ordinance 86-04 directed the development of a draft Implementation Plan ("IP") and the preparation of a draft Request For Proposals ("RFP") to solicit an electricity supplier for the program. In December 2004, the Board of Supervisors created a Citizens Advisory Task Force ("Task Force") to advise the City regarding the draft IP and the draft RFP; and

1 WHEREAS, After an extensive public process that benefited from the work of the Task
2 Force and the participation of interested parties and advocacy groups, the Board of
3 Supervisors approved a Draft IP in June 2007. (Ordinance 147-07) The Draft IP set forth
4 goals and policies for the City's CCA program; and

5 WHEREAS, In June 2007, the Board of Supervisors established a governance
6 structure for the CCA program. (Ordinance 146-07) As provided in that Ordinance, the City
7 has implemented the CCA program through the San Francisco Public Utilities Commission
8 ("PUC"), in consultation with the San Francisco Local Agency Formation Commission
9 ("LAFCO") and with substantial review by the public; and

10 WHEREAS, In furtherance of the implementation of the CCA program, Ordinance 147-
11 07 provided direction for the City's RFP for an electricity supplier and directed the issuance of
12 a Request For Information ("RFI") to solicit input from interested parties regarding the
13 development of the program. Ordinance 147-07 found that the RFI responses and other
14 information obtained in implementing the program would necessitate changes to the Draft IP
15 and, accordingly, directed PUC, in consultation with LAFCO, to prepare a revised IP for
16 review and approval by the Board of Supervisors; and

17 WHEREAS, In accordance with Ordinance 147-07, PUC prepared a revised IP for
18 approval by the Board of Supervisors to file with the CPUC in compliance with Public Utilities
19 Code Section 366.2(c). In a joint public meeting on January 22, 2010, the LAFCO and PUC
20 Commission considered the IP and provided further direction to their staffs regarding changes
21 to the IP. The PUC Commission approved the revised IP on February 9, 2010, and
22 authorized the General Manager of the PUC to seek Board of Supervisors approval of the IP.
23 (PUC Resolution 10-0019) The Board of Supervisors held a hearing on the IP in the Budget
24 and Finance Committee on February 17, 2010. The Board of Supervisors considered and
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1 voted on the Ordinance adopting the revised IP and Statement of Intent at its public meetings
2 on February 23, 2010 and March 2, 2010. (Ordinance 45-10) The IP was filed with the CPUC
3 on March 3, 2010, and certified by the CPUC on May 18, 2010. The IP and CPUC
4 certification are on file with the Clerk of the Board of Supervisors (as Exhibit A) in File No. ,
5 which is hereby declared to be a part of this resolution as if set forth fully herein; and

6 **B. Registration as a CCA with the CPUC.**

7 WHEREAS, In order to provide service to customers, CleanPowerSF must be
8 registered as a Community Choice Aggregator with the CPUC. (Public Utilities Code
9 366.2(c)(14)) The CPUC requires execution of a Service Agreement with the local investor
10 owned utility (here, PG&E) as part of the registration process. The Service Agreement is
11 needed to govern business matters such as billing and payment terms, default and dispute
12 resolution, limits to liability, indemnity, and audits. The PUC Commission authorized
13 negotiation and execution of a Service Agreement on May 11, 2010. (PUC Resolution 10-
14 0079) ; and

15 WHEREAS, On May 27, 2010, the City and PG&E executed a Service Agreement, and
16 on May 28, 2010, the City submitted the Service Agreement to the CPUC. On the same day,
17 the City submitted to the CPUC a \$100,000 payment to satisfy the CCA bond requirement
18 established by the CPUC; and

19 WHEREAS, On May 28, 2010, the CPUC confirmed that CleanPowerSF is registered
20 as a Community Choice Aggregator. The CPUC confirmation, including the Service
21 Agreement and evidence of the bond payment is on file with the Clerk of the Board of
22 Supervisors (as Exhibit B) in File No. , which is hereby declared to be a part of this
23 resolution as if set forth fully herein; and
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1 **C. RFP for an Electricity Supplier.**

2 WHEREAS, As required by Ordinance 147-07, PUC issued an RFI in November 2007.
3 In April 2009, PUC issued a request for qualifications (“RFQ”) from potential electricity
4 suppliers. PUC, in consultation with LAFCO, used the information obtained from these
5 solicitations to prepare an RFP; and

6 WHEREAS, The Board of Supervisors approved the issuance of an RFP in October
7 2009. (Ordinance 232-09) The Ordinance found that it was reasonable to allow some
8 flexibility in meeting the RFP requirements and program criteria set forth in previous
9 ordinances in order to encourage robust responses and to facilitate a successful CCA
10 program; and

11 WHEREAS, In November 2009, PUC issued the RFP. The City received five
12 responses to its RFP and, in January 2010, identified Power Choice as the highest ranked
13 proposer. The PUC and LAFCO considered the next steps in the RFP process at a joint
14 public meeting on January 22, 2010. On February 9, 2010, the PUC Commission authorized
15 the General Manager to negotiate with Power Choice for an agreement to provide services for
16 CleanPowerSF. (PUC Resolution 10-0020) ; and

17 **D. Agreement with Power Choice.**

18 WHEREAS, PUC and LAFCO staff have negotiated with Power Choice a draft
19 Community Choice Aggregation Services Agreement (the "draft Agreement") for
20 CleanPowerSF; and

21 WHEREAS, All of the terms of the draft Agreement have not been mutually agreed
22 upon yet, but PUC and LAFCO staff anticipate concluding negotiations with Power Choice
23 shortly. If the negotiations with Power Choice are not successfully concluded, PUC and
24 LAFCO staff anticipate entering into one or more agreements with other parties to provide
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1 these services. In addition, if negotiations with Power Choice are not successfully concluded,
2 PUC and LAFCO staff will determine expeditiously whether to issue a new, expedited
3 competitive solicitation or take other steps in order to take advantage of market opportunities
4 that may exist now, after the defeat of Proposition 16; and

5 WHEREAS, Under the draft Agreement Power Choice would provide energy to meet
6 the needs of CleanPowerSF customers, including providing energy efficiency services and
7 procuring energy that meets or exceeds applicable California renewables portfolio standards.
8 In addition, Power Choice would provide customer care and billing services, including
9 preparing customer usage data for billing, and initially managing a customer call center; and

10 WHEREAS, The draft Agreement includes provisions that ensure reasonable, stable
11 rates for CleanPowerSF customers and a greener energy portfolio than PG&E's energy
12 supply; and

13 WHEREAS, Under the draft Agreement, the City would retain control over the
14 development of new renewable resources. This provision would enable the City to utilize the
15 most advantageous financing mechanisms available for the development of new facilities,
16 including the use of municipal bonding authority (such as that in Charter Section 9.107(8),
17 added by Proposition H, 2001). New resources developed or obtained by the City would be
18 included in the energy supply portfolio for CleanPowerSF customers. The City would also
19 provide excess Hetch Hetchy power for use by CleanPowerSF customers. In addition, the
20 City would pursue energy efficiency funding at the CPUC, and would use that funding to
21 benefit CleanPowerSF customers; and

22 WHEREAS, In order to meet the obligations of the draft Agreement, neither the City nor
23 Power Choice would need to construct new facilities. Nothing in this Agreement would limit
24 any discretion available to the City including all departments, boards and commissions, with
25 respect to the decision to proceed with the development or construction of any particular

1 facility, including but not limited to the discretion to (a) make any modifications to proposed
2 facilities deemed necessary to mitigate significant environmental impacts or to achieve other
3 objectives; (b) select other feasible alternatives to avoid such impacts or achieve other
4 objectives; (c) balance the benefits of constructing any facility against unavoidable significant
5 impacts prior to taking final action if such significant impacts cannot otherwise be avoided; or
6 (d) determine not to proceed with one or more of the proposed facilities; and

7 WHEREAS, PUC will seek Board approval to modify the Annual Salary Ordinance to
8 provide adequate staff for CleanPowerSF; and

9 WHEREAS, In a prior approval by ordinance the Board of Supervisors authorized
10 approval by resolution for future CleanPowerSF approvals (Ordinance 232-09) ; now,
11 therefore, be it

12 RESOLVED, That the Board of Supervisors urges the PUC General Manager, in
13 consultation with the LAFCO, to complete the Agreement with Power Choice and submit the
14 Agreement for public review; and be it

15 FURTHER RESOLVED, That the Board of Supervisors authorizes the PUC General
16 Manager, on approval of the PUC Commission and in consultation with the LAFCO, to issue
17 expeditiously a new competitive solicitation for CCA services or pursue other alternatives on
18 an expedited basis, in view of new market opportunities that may exist due to the defeat of
19 Proposition 16, if the negotiations with Power Choice are not successfully concluded.