

1 [Adopting Community Choice Statement of Intent.]

2

3 **Ordinance adopting a Community Choice Statement of Intent Pursuant to Public**
4 **Utilities Code 366.2(c)(4).**

5 Note: Additions are *single-underline italics Times New Roman*;
6 deletions are *~~strikethrough italics Times New Roman~~*.
7 Board amendment additions are double underlined.
8 Board amendment deletions are ~~strikethrough normal~~.

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

9 Section 1. The San Francisco Code Title Code is hereby amended by amending OR
10 adding Section Section #(s), to read as follows:

11 Section 1. Findings

12 A. San Francisco's Efforts to Become a CCA

13 (1) Pursuant to Section 9.107.8 of the Charter (Proposition H, 2001), voters authorized the
14 Board of Supervisors of Supervisors, without further voter approval and without limit, to
15 provide for the issuance of revenue bonds (H Bonds) to “finance or refinance the acquisition,
16 construction, installation, equipping, improvement or rehabilitation of equipment or facilities for
17 renewable energy and energy conservation.”

18 (2) Pursuant to California Public Utilities Code Section 366.2, a city may become a
19 Community Choice Aggregator to provide electric power and related services to the electric
20 customers located within its jurisdiction. As a Community Choice Aggregator, the City and
21 County of San Francisco (San Francisco) would aggregate the electric power loads of its
22 citizens and businesses in accordance with state law. San Francisco would provide electric
23 generation and related services to electric customers while responsibility for transmission,
24 distribution, meter-reading, and billing for those customers would remain with Pacific Gas and
25 Electric Company (PG&E).

1 (3) In Ordinance 00-00 (2007) the Board of Supervisors adopted a Community Choice
2 Aggregation (CCA) Implementation Plan (IP), which this Statement of Intent follows pursuant
3 to AB117 and California Public Utilities Commission Phase I and II Decisions D.04-12-046
4 (December 16, 2004) and 05-12-041 (December 15, 2005).

5 (4) Pursuant to Section 366.2(c)(4) of the California Public Utilities Code, San
6 Francisco is required to prepare a Statement of Intent with the Implementation Plan, and in
7 this document outlines its intent to establish a CCA program that shall provide for the
8 following:

9 (A) Universal access.

10 (B) Reliability.

11 (C) Equitable treatment of all classes of customers.

12 (D) Any requirements established by state law or by the commission concerning
13 aggregated service.

14 (5) In Ordinance 86-04 (2004) the Board of Supervisors established a Community
15 Choice Aggregation (CCA) program pursuant to AB117 and directed city departments to
16 investigate the use of H Bonds to augment CCA, finding that CCA provides a means by which
17 the City may help ensure the provision of clean, reasonably priced, and reliable electricity to
18 San Francisco customers. Ordinance 86-04 further found that a CCA Program could provide
19 a means for the City to increase the scale and cost-effectiveness of conservation, energy-
20 efficiency and renewable energy in San Francisco. Ordinance 86-04 established a CCA
21 Program for the City and County of San Francisco (CCA Program) and directed City staff to
22 take steps to develop a CCA Program, including the use of H Bonds to finance development
23 of renewable energy and conservation facilities. Energy efficiency, conservation and
24 renewable resource development are the core of the City and County's CCA program,
25 including local municipal H Bond financing of renewable energy and conservation facilities.

1 Ordinance 86-04 required the selection of a consultant to design, build, operate and maintain
2 a 360 Megawatt rollout, meeting the state's Renewable Portfolio Standard. Responsive
3 proposals must include the cost of this portfolio requirement in their proposed multiyear rate
4 schedules.

5 (6) The San Francisco Local Agency has reviewed H Bonds and commissioned an
6 analysis by Nixon Peabody, LLC of the use of H Bonds to augment CCA in San Francisco in
7 FY2005-2006. The resulting analysis was referred by LAFCO to the Board of Supervisors by
8 resolution in February 2006, and was subsequently endorsed by the CCA Task Force.

9 Section 2. The City and County hereby adopts this CCA Statement of Intent to
10 accompany the City's filing of an Implementation Plan with the CPUC in order to aggregate
11 the electric power loads of its citizens and businesses, in accordance with state and municipal
12 law, including the City's voter-approved H Bond Authority and Community Choice Aggregation
13 Ordinance 86-04, Public Utilities Code section 366.2(c)(3) and (4), and Implementation Plan
14 Ordinance 00-00 (0000).

15 City and County of San Francisco's CCA is an ambitious effort to provide the citizens
16 and businesses of San Francisco with a number of significant improvements in their electric
17 power service; not the least of which are possibilities for reduced energy costs, reduced
18 exposure to increasing power plant fuel cost volatility, improved environmental quality, and the
19 physical development of significant renewable energy sources both within and near to San
20 Francisco, and benefiting all San Francisco residents and businesses for decades into the
21 future.

22

23 Section 3. Start-Up Implementation Process.

24 The Implementation Plan adopted by ordinance #() creates a CCA Board of Control to
25 implement start-up of the CCA Program. Accordingly, the City and County will develop a

1 Request for Proposals (RFP) as described in the Implementation Plan for a competitive
2 selection process among interested suppliers. As a part of that process, the City and County
3 will release a preliminary Request for Information (RFI) to solicit comments on the CCA
4 process and identify interested competitive electricity suppliers. The successful CCA
5 respondent must be approved by ordinance and registered with the California Public Utilities
6 Commission to enter into a contract to be a provider to the City and County of San Francisco.

7 Specifically, an RFI/RFP process will seek responds to provide electricity service to
8 San Francisco residents and businesses that includes a rollout of 31 MW of solar photovoltaic
9 cells and 72 MW of distributed generation, such as fuel cells, throughout the City and County;
10 a 150 MW wind turbine farm; and 107 MW of efficiency and conservation measures
11 throughout the City. All responses must include rate schedules.

12 The Board of Supervisors is undertaking preparation for an issuance of H Bonds to be
13 issued by the City and County within one year to finance 360 Megawatt rollout in accordance
14 with the Federal Tax Code and Charter authority given to the Board of Supervisors by voters
15 in approving Proposition H in 2001.

16 The Board of Supervisors will solicit CCA suppliers who must bid electric generation
17 rates with a 51% Renewable Portfolio Standard by 2017 that will “meet or beat” current PG&E
18 generation rates for each rate class during opt-out followed by structured rates that are
19 intended to meet or beat PG&E’s rates into the future. These electric generation rates
20 charged to CCA customers are intended to account not only for the costs of the CCA
21 supplier’s power contracts, but also the administrative costs and profit of the supplier, the
22 repayment of Revenue Bond or other funding of the 360 MW roll-out, and all other City CCA
23 related costs, e.g. staffing and expense costs. Thereafter the CCA supplier should commit to
24 a structured long-term rate intended to meet or beat PG&E’s electric rates, with a
25 performance adjustment rewarding/penalizing the new provider for compliance or non-

1 compliance with its promised 360 MW rollout schedule, with the reward and penalty to be
2 determined in a CCA Request for Proposals, as outlined in this Implementation Plan, which is
3 on file with the Clerk of the Board of Supervisors.

4 The Board of Supervisors and Mayor shall establish rates by awarding a contract by
5 ordinance to the chosen new CCA supplier containing fixed or structured rates over a
6 multiyear basis to facilitate repayment of 360 H Bonds within the term of the CCA contract.
7 The existing SFPUC Rate Fairness Board will hear any customer complaints and provide
8 reports and make recommendations to the Board of Supervisors, which could adjust these
9 rates by ordinance in an emergency situation;

10 The CCA supplier will provide all required services at its own risk, and may hire
11 subcontractors to perform components of its portfolio;

12 The CCA supplier Contract/H Bond repayment term is not set a priori by the plan –
13 prospective suppliers shall propose contract durations in response to the Request for
14 Proposals - but is likely limited to 15 or 20 years, such that each SF CCA bidders must
15 calculate paybacks on H Bonds within its proposed multi-year rate structure.

16 Section 4. Universal Access.

17 The San Francisco CCA Program is committed to universal access; therefore all the
18 electric customers within the City of San Francisco will have an opportunity to become a CCA
19 customer except existing municipal customers or customers locked into contracts with Direct
20 Access suppliers. The city does not intend to phase-in enrollment of customers, and will
21 design the CCA Program's four statutorily customer notifications to allow a simple, apple-to-
22 apple comparison of the City's offered rate schedule and energy resource portfolio. Any
23 customers who opt out will continue to be served by PG&E. Pursuant to 366.2(a)(2) of the
24 Public Utilities Code, the City and County will give all customers an opportunity to opt out of
25 the CCA. The procedures the City and County will use to inform all customers of their right to

1 opt out will be fully compliant with the requirements of the Public Utilities Code, and are
2 described in detail in the supporting Implementation Plan, which is on file with the Clerk of the
3 Board of Supervisors.

4 Section 5. Reliability

5 The San Francisco CCA is committed to reliably serving its generation customers. This
6 will occur in four ways. First the emphasis on in-city generation as a major element of this
7 plan may provide opportunities to decrease the impacts of blackouts at the individual
8 customer level, and potentially the neighborhood level. Second the CCA supplier will be
9 required under CPUC regulation to meet Resource Adequacy Requirements (RAR). However
10 the San Francisco CCA as the legal power supply entity cannot directly react or respond to
11 the vast majority of interruptions of electric power that occur due to distribution or transmission
12 level problems which under state law and regulation shall remain the responsibility of PG&E.
13 Third, the renewable generation facilities will broaden the City and County's power generation
14 resource mix, which will provide improved power generation capacity resilience, and fourth,
15 the efficiency and conservation measures will reduce demand levels.

16 The CCA supplier contract provisions will require a commitment to providing certain
17 levels of reliability in all power supplied by the CCA supplier.

18 The San Francisco CCA is committed to meeting or in some cases exceeding any
19 State of California requirements established by the CPUC for Load Serving Entities (LSE's)
20 for Renewable Portfolio Standards (RPS), RAR, and Greenhouse Gas Emissions. At a
21 minimum, City and County of San Francisco's Implementation Plan establishes a 51% RPS
22 by 2017, including solar photovoltaics, distributed renewable generation, and energy
23 efficiency measures.

24 The CCA program will implement a number of benefits to San Francisco residents and
25 businesses, from a better environment to a more stable secure service and security. Higher

1 cost, more secure technologies will be blended with conventional power supplies and lower
2 cost renewables and energy efficiency measures to make solar more available and ubiquitous
3 throughout San Francisco. Energy security has many forms. A ubiquitous, distributed solar
4 infrastructure throughout the city could potentially deliver significant opportunities for improved
5 reliability and blackout protection services to customers who are prepared to pay a premium
6 for this service. More in City distributed generation may also offer the potential, depending
7 upon interconnection arrangements, to provide some degree of electric service during grid
8 failures and other emergencies, improving public safety in a natural disaster, rolling blackout
9 or other grid failures.

10 By installing 360 MW of new clean energy technologies in a community that demands
11 between 650 and 850 MW of power every afternoon, the CCA Program will seek to
12 dramatically reduce San Franciscans' dependence upon natural gas-fired generation and
13 exposure to increasingly volatile gas-fired power costs. PG&E's power portfolio currently
14 consists of 42% natural gas generation, making its customers particularly exposed to
15 increasingly high, and even more volatile natural gas prices. While PG&E power costs are
16 expected to rise, and PG&E retains the right to request further rate increases from its
17 remaining customers when this occurs, San Francisco's CCA program will circumscribe
18 ratepayer exposure to PG&E's procurement activities, and reduce procurement risk
19 substantially by building a 51% green portfolio for San Francisco by 2017.

20 The CCA Program will prioritize new in city renewable generation development to
21 increase reliability by broadening the City's resource portfolio mix. The efficiency and
22 conservation measures will reduce demand, which has the collateral benefit of further
23 enhancing the reliability of the City's power supply and reducing the environmental impacts
24 from overdependence on conventional generation resources. As electricity causes 25% of the
25

1 greenhouse gases emitted by the San Francisco community, the 360 Megawatt network will
2 achieve an unprecedented greenhouse gas reduction for the City.

3 Section 6. Equitable Treatment of Customers.

4 As the governing entity of the CCA program under AB117, the San Francisco Board of
5 Supervisors and Mayor are committed to providing equitable treatment of all classes of CCA
6 customers. There will be no discrimination among customer classes in setting CCA rates.
7 However the CCA and its supplier will seek opportunities in siting renewable generation
8 facilities at optimal sites and offering particular customers at those sites customized CCA
9 rates for those facilities – where these opportunities are of benefit to the entire CCA program
10 and therefore all CCA customers.

11 The City and County will require that a qualifying CCA supplier’s bid shall contain a rate
12 schedule comparable to PG&E’s rate schedule, but shall meet or beat each PG&E ratepayer
13 class charge in an equitable manner. Furthermore, as a potential administrator of Energy
14 Efficiency Public Goods Charge funds, the City and County of San Francisco declares its
15 intent to ensure an equitable allocation of these funds among all ratepayer classes

16 The City’s mission is for San Francisco residents and businesses to enjoy the option of
17 a cleaner, local, and economically more secure power system - without having to pay higher
18 energy prices first – and with the intention of long-term reduction of San Francisco ratepayers’
19 power prices

20 Significantly, the Ordinance ordering the preparation of the Implementation Plan,
21 passed by the City in 2004, calls for the City to issue revenue bonds (“H Bonds”) based on the
22 Proposition H revenue bond authority approved by voters in 2001, now Charter Section
23 9.107.8, which empowers the Board of Supervisors to authorize the issuance of bonds by
24 ordinance. The Implementation Plan calls for San Francisco’s revenue bonds to be issued to
25 finance the City’s chosen CCA supplier’s 360 MW rollout during the early years of its contract

1 with the City, such that annual power sales over the remaining years can fully repay the H
2 Bonds, within the supplier's rate schedule over the remainder of its CCA contract period. It is
3 the city's intent to offer taxable H Bond financing for solar photovoltaic systems to residential
4 and business ratepayers to eliminate the high upfront cost of solar that makes it unaffordable
5 to many ratepayers.

6 The CCA program will prioritize achieving lower ratepayer risk than PG&E Bundled
7 Service. The CCA Program is designed to offer San Franciscans a lower-risk electricity
8 service and build a physically more secure energy system for the local community. By
9 replacing a significant portion of San Francisco's power use from remote, fossil fuel and
10 nuclear power to local renewable resources, San Franciscans will enjoy more stable power
11 prices, and less exposure to increasingly volatile natural gas-fired power plants, while also
12 minimizing contracting, liability and financial risks to the City and County.

13 The CCA Program will seek to administer California Public Goods Charge funds for
14 energy efficiency programs at the California Public Utilities Commission, and intends to
15 administer these funds to ensure an equitable treatment of ratepayer classes in its allocation
16 of these ratepayer funds.

17 The CCA Program will work to mitigate rate risk to CCA customers by requiring
18 suppliers to offer a long-term structured rate. The CCA supplier's structured rates must meet
19 or beat PG&E's rates during the initial opt-out period of the contract for all classes of
20 customers taking service through the program, and must commit to future rates through fixed
21 or indexed prices intended to meet or beat PG&E's future rates.

22 Apart from rate risk protection for customers, San Francisco's CCA Implementation
23 Plan calls for the program to minimize municipal and ratepayer exposure to energy market
24 risk. The Implementation Plan requires two bonding requirements to cover supplier failure risk.
25 First, the City's supplier is required to post a bond or demonstrate insurance to pay for any

1 costs that might be incurred in returning customers to PG&E service in the event that the
2 supplier cannot perform according to its contract or goes bankrupt, including the difference
3 between spot and regulated rates for customers for a six month period, and any fees PG&E
4 charges for involuntary return of customers. Thus, ratepayers will not be charged for any
5 transaction costs in such a worst-case scenario. Second, the Implementation Plan requires
6 the supplier to obtain a performance bond, letter of credit or other acceptable financial
7 assurance instrument to cover any of its performance failures (including its subcontractors'
8 failures) in the 360 Megawatt construction process, as is done in most major public works
9 projects. This "double bonding" approach protects both CCSF and its ratepayers against
10 worst-case scenarios in addition to protecting against cost-based rate increases.

11 Section 7 Requirements.

12 Requirements established by state law or by the Commission concerning aggregated
13 service. The San Francisco Board of Supervisors hereby declares its intent to abide by all
14 requirements applicable to its CCA Program, whether under state law or under regulations
15 established by the Commission, with specific reference to the Commission's Phase I and II
16 Community Choice Decision, D.04-12-046 and D. 0512041 in R.03-10-003.

17 The San Francisco CCA is committed to meeting or in some cases exceeding any
18 State of California requirements established by the CPUC for Load Serving Entities (LSE's)
19 for Renewable Portfolio Standards (RPS), RAR, and Greenhouse Gas Emissions. During the
20 preliminary phases of the CCA Implementation effort, the CCA Program staff will conduct an
21 analysis of all existing law and regulations that would apply to the CCA, in order to ensure that
22 its approach to the implementation and operation of its CCA are conducted in full compliance
23 with all applicable laws.

24 The San Francisco Board of Supervisors declares its intent to require, in its Request for
25 Proposals for amendment and adoption by the Board of Supervisors three months after this

1 Plan is adopted, a requirement that the City's chosen ESP shall demonstrate a reserve
2 requirement consistent with that the same requirements applying to all Load Serving Entities
3 (LSE's) operating in California, consistent with the January 22, 2004 Electric Utility
4 Procurement decision of the Commission in R.01-10-024 and the December 16, 2004
5 decision of the Commission in R.04-04-003.

6 In the January 22, 2004 decision, the Commission (1) directed that each Load Serving
7 Entity (LSE) within the utility's service territory has an obligation to acquire sufficient reserves
8 for its customer's load located; (2) adopts a reserve margin for LSEs of 15-17%; and (3)
9 directs the LSEs to meet this 15-17% reserve requirement by no later than January 1, 2008,
10 through a gradual phase-in including the establishment of interim benchmarks to become
11 effective in 2005. An adequate demonstration of these levels of resource adequacy to the
12 California Energy Commission shall be included as a bidding requirement in the Request for
13 Proposals ordered by Ordinance 86-04.

14 On this score, Ordinance 86-04 requires that the Energy Independence RFP shall
15 require that a qualifying ESP, not the City and County or participating ratepayers, shall post a
16 bond or demonstrate insurance to cover the cost of an involuntary return of participating San
17 Francisco customers to PG&E bundled service. Accordingly, this is a statement of intent to
18 make a satisfactory demonstration of the aforementioned resource adequacy shall be made to
19 the California Energy Commission in accordance with adopted CPUC policy.

20 Section 8.

21 Before making a final commitment to proceed with offering CCA service to San
22 Francisco customers, the Board of Supervisors will consider projected costs, risks and
23 benefits of this program to CCA customers, SFPUC and other city agencies, and the City's
24 general fund. In addition, the Board of Supervisors must ensure that the provision of CCA
25

1 service to San Francisco customers can be reasonably expected to deliver significant benefits
2 at a reasonable cost.

3

4

5

6

7

8 APPROVED AS TO FORM:
9 LOUISE H. RENNE, City Attorney

10

By: _____
ATTORNEY'S NAME
Deputy City Attorney

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25