

1 [Resolution urging reformation of the Calpine CCSF contract.]

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Resolution urging the Public Utilities Commission and the City Attorney to reform or terminate San Francisco's contract with Calpine Energy Services, L.P. and urging the Public Utilities Commission and the City Attorney to take all appropriate steps to reform the CES contract, including filing a complaint at the Federal Energy Regulatory Commission and a civil lawsuit challenging the CES contract.

WHEREAS, On May 7, 2001, the City and County of San Francisco entered into a contract with Calpine Energy Services, L.P. ("CES") for the purchase of electricity for the period of July 1, 2001 through June 30, 2006, which contract is on file with the Clerk of the Board of Supervisors in File No. 010739, which is hereby declared to be a part of this Resolution as if set forth fully herein; and

WHEREAS, During the 12 months leading up to May 7, 2001, the California wholesale electricity markets were experiencing extremely high price levels, levels since acknowledged by the Federal Energy Regulatory Commission to be unjust and unreasonable within the meaning of Section 205 of the Federal Power Act, and

WHEREAS, Under the terms of the contract with CES, the price charged to San Francisco for electricity during the period from July 1, 2001 through December 31, 2001 was \$115 per Megawatt Hour ("MWh"), and

WHEREAS, That \$115 MWh price was substantially above the actual market prices for electricity during that period such that the price paid by San Francisco was unjust and unreasonable, and

1 WHEREAS, Under the terms of the contract with CES, the price charged to San
2 Francisco for electricity is currently \$75.25 per MWh and will continue to be that price through
3 the conclusion of the contract; and

4 WHEREAS, That \$75.25 per MWh is substantially higher than current market prices
5 and anticipated future market prices for electricity, such that the contractual price of electricity
6 is and will continue to be unjust and unreasonable; and,

7 WHEREAS, The California Public Utilities Commission and the California Energy
8 Oversight Board have recently filed complaints with the Federal Energy Regulatory
9 Commission under Section 206 of the Federal Power Act, including but not limited to the
10 complaints captioned *Public Utilities Commission of the State of California, Complainant, v.*
11 *Sellers of Long Term Contracts to the California Department of Water Resources,*
12 *Respondents*, FERC Docket No. EL02-60-000, and *California Electricity Oversight Board v.*
13 *Sellers of Energy and Capacity Under Long-Term Contracts with the California Department of*
14 *Water Resources*, FERC Docket No. EL02- 62 -000, on the grounds that the prices for
15 electricity contained in contracts entered into between the California Department of Water
16 Resources and energy providers, including CES, are unjust and unreasonable; and

17 WHEREAS, The Federal Energy Regulatory Commission has itself recently initiated an
18 investigation by its staff into whether the prices of California long term wholesale electricity
19 contracts were unjust and unreasonable as the result of conduct by certain energy providers;
20 and

21 WHEREAS, The Audit Committee of the Board of Supervisors held a hearing on San
22 Francisco's contract with CES on November 13, 2001, and the Finance Committee of the
23 Board of Supervisors has scheduled a hearing on this matter for February 27, 2002; and

24 WHEREAS, the San Francisco Public Utilities Commission has undertaken discussions
25 with CES to conform the contractual prices to existing and anticipated market prices, and

Mark Leno*

BOARD OF SUPERVISORS

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2/25/2002

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1 WHEREAS, The City Attorney has undertaken an examination of the options available
2 to San Francisco for reforming the CES contract through litigation, now therefore, be it

3 RESOLVED, That the Board of Supervisors hereby urges the Public Utilities
4 Commission and the City Attorney to reform the CES contract; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors urges the Public Utilities
6 Commission and the City Attorney to continue those efforts and to take all appropriate steps
7 expeditiously to reform the CES contract, including filing a complaint at the Federal Energy
8 Regulatory Commission and a civil lawsuit challenging the CES contract.

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Resolution

File Number: 020354

Date Passed:

Resolution urging the Public Utilities Commission and the City Attorney to reform or terminate San Francisco's contract with Calpine Energy Services, L.P. and urging the Public Utilities Commission and the City Attorney to take all appropriate steps to reform the CES contract, including filing a complaint at the Federal Energy Regulatory Commission and a civil lawsuit challenging the CES contract.

March 4, 2002 Board of Supervisors — CONTINUED

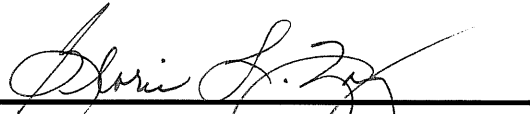
Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

March 11, 2002 Board of Supervisors — ADOPTED

Ayes: 7 - Daly, Gonzalez, Hall, Leno, Newsom, Sandoval, Yee
Absent: 4 - Ammiano, Maxwell, McGoldrick, Peskin

File No. 020354

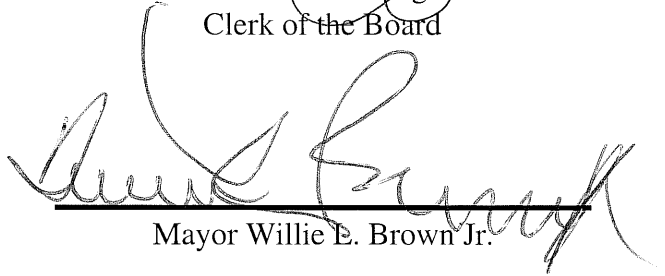
I hereby certify that the foregoing Resolution was ADOPTED on March 11, 2002 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

MAR 22 2002

Date Approved



Mayor Willie E. Brown Jr.