

1 [Ordinance establishing a Community Choice Aggregation Program to allow San Francisco to
2 aggregate the electrical load of San Francisco electricity consumers and to accelerate
3 renewable energy, conservation and energy efficiency.]

4 **Ordinance establishing a Community Choice Aggregation Program in accordance with**
5 **California Public Utilities Code Sections 218.3, 331.1, 366, 366.2, 381.1, 394, and 394.25,**
6 **allowing San Francisco to aggregate the electrical load of electricity consumers within**
7 **San Francisco and to accelerate the introduction of renewable energy, conservation**
8 **and energy efficiency into San Francisco’s portfolio of energy resources.**

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10 Note: Additions are single-underline italics Times New Roman;
11 deletions are ~~strikethrough italics Times New Roman~~.
12 Board amendment additions are double underlined.
13 Board amendment deletions are ~~strikethrough normal~~.

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

15

Section 1. FINDINGS

16 The Board of Supervisors of the City and County of San Francisco hereby finds
17 and declares as follows:

18 A. On September 24, 2002, the Governor signed into law Chapter 838 which
19 authorizes any California city, county, or city and county, whose governing board so elects, to
20 combine the electricity loads of its residents and businesses in a community-wide electricity
21 buyers’ program known as Community Choice Aggregation.

22 B. Community Choice Aggregation is a method by which the City and County of
23 San Francisco can help to ensure the provision of clean, reasonably priced and reliable
24 electricity to San Francisco retail electricity customers.

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1 C. San Francisco voters approved Proposition H in the November 6, 2001 General
2 Municipal Election, adding Section 9.107.8 to the Charter, authorizing the Board to provide for
3 the issuance of Proposition H revenue bonds (“H Bonds”), without further voter approval, for
4 the purpose of financing or refinancing the acquisition, construction, installation, equipping,
5 improvement or rehabilitation of equipment or facilities for renewable energy and energy
6 conservation.

7 D. The City has a public mandate and an urgent public health and environmental
8 justice-based need to facilitate the rapid and large-scale development of renewable energy
9 and conservation resources within the jurisdiction of San Francisco as part of a plan to retire
10 old, inefficient and highly polluting fossil-fueled electricity generation plants currently located
11 within San Francisco, as well as a social, ecological and economic need for stable electricity
12 prices, reliability, reasonable electricity rates and sustainability.

13 E. In December, 2002, San Francisco adopted an Electricity Resource Plan calling
14 for the development of 107 Megawatts of load reduction through electricity load management
15 and efficiency measures, 31 Megawatts of in-City solar energy, 72 Megawatts of small-scale
16 distributed generation such as fuel cells in San Francisco and 150 Megawatts of new wind
17 energy imports by 2012, as well as new natural gas powered generation needed to close
18 over 420 megawatts of power generating facilities at Hunters Point and Potrero power
19 stations.

20 F. In March, 2002, San Francisco also adopted Resolution 158-02 directing the
21 City to commit to a greenhouse gas pollution reduction of 20% below 1990 levels by the year
22 2012.

23 G. In September, 2003, the Local Agency Formation Commission accepted a report
24 from R.W. Beck indicating that Community Choice Aggregation may be a feasible method of
25

1 benefiting consumers and developing renewable energy resources, conservation programs
2 and energy efficiency.

3 H. Photovoltaic energy facilities and equipment, energy efficiency and energy
4 conservation technologies provide viable and cost-effective means of reducing San
5 Francisco's peak electricity needs in a pollution-free manner and provide an alternative to the
6 development of fossil fuel electricity generation facilities beyond what is needed to retire older
7 power plants in San Francisco.

8 I. As a Community Choice Aggregator, the City could have a significant additional
9 means of increasing the scale and cost-effectiveness of conservation, energy efficiency and
10 renewable energy in San Francisco.

11 J. Community Choice Aggregation provides a means of exercising local control
12 over electricity prices, resources and quality of service, and designing local energy systems to
13 protect against future blackouts and rate shocks.

14 K. It is important that the City and County of San Francisco act expeditiously to
15 implement a Community Choice Aggregation regime in order to properly engage the CPUC in
16 rulemaking related to Community Choice Aggregation.

17

18 **Section 2. BACKGROUND**

19 Under California law (Public Utilities Code § 366.2 and other sections of Chapter 838 of
20 2002, formerly AB117), for San Francisco to implement Community Choice Aggregation so
21 that it may find a new electric service provider for the residents and businesses within its
22 jurisdiction, the Board of Supervisors must proceed via a series of ordinances. The Public
23 Utilities Code further provides the following:

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1 A. The California Public Utilities Commission (CPUC) must establish rules by which
2 any entity can seek to provide electricity aggregation service, now being undertaken in
3 Rulemakings 03-10-003 and 01-08-028;

4 B. All electrical corporations must cooperate with entities investigating, pursuing or
5 implementing Community Choice Aggregation, and provide them with billing and electrical
6 load data, subject to rules established by the CPUC;

7 C. A Community Choice Aggregator may apply to become the administrator for
8 cost-effective energy efficiency and conservation programs for its retail electric customers;

9 D. A Community Choice Aggregator must develop an Implementation Plan detailing
10 the process and consequences of aggregation, which must be adopted by the Board of
11 Supervisors at a duly noticed public hearing by ordinance;

12 E. Potential Community Choice Aggregation customers must be fully informed of
13 the program and be given ample opportunity to opt out pursuant to Section 366.2(c)(11) of the
14 Public Utilities Code;

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16 **Section 3. COMMUNITY CHOICE AGGREGATION IMPLEMENTATION PLAN**

17 The San Francisco Public Utilities Commission and the San Francisco Department of
18 the Environment (collectively, "Departments") shall develop a Draft Implementation Plan for a
19 Community Choice Aggregation (CCA) program for San Francisco for consideration by the
20 Board of Supervisors.

21 A. Within 6 months of the effective date of this ordinance, the Departments shall
22 submit a Draft Implementation Plan and schedule to the Board of Supervisors with a report on
23 any CPUC or other developments that might impact the City's effort to proceed with
24 implementation of a Community Choice Aggregation. The Board of Supervisors may, by
25 motion, extend the deadline for submission of the Draft Implementation Plan. In developing its

1 report to the Board of Supervisors, the Departments shall, at a minimum, address the
2 following topics:

3 1. The appropriate scope and organizational structure for the program, its
4 operations, and its funding;

5 2. City ratesetting mechanisms and other costs to participants;

6 3. The benefits of the program to San Francisco customers;

7 4. How the program can meet or exceed the renewable portfolio standard
8 required of Pacific Gas & Electric Company under state law;

9 5. How the program can meet or exceed consumer protection standards
10 required of Pacific Gas & Electric Company by the CPUC, including provisions for disclosure
11 and due process in setting rates and allocating costs among participants and rights and
12 responsibilities of program participants, including credit issues and shutoff procedures;

13 6. How the program will provide information about any third parties that will
14 be supplying electricity or providing other services under the program, including information
15 about financial, technical and operational capabilities;

16 7. Termination of the program;

17 8. What functions of the program should be performed by entities other than
18 the City, including an Electric Service Provider (ESP) or its subcontractors;

19 9. Appropriate contract and bid requirements, including:

20 I. A desired portfolio of resources that exceeds goals for energy
21 efficiency, renewable energy, peak shaving and load management provided for in the City's
22 adopted Electricity Resource Plan;

23 II. Recommended contract periods designed to optimize meeting or
24 exceeding Electricity Resource Plan goals and to provide a reasonable repayment schedule
25 for debt;

1 III. A requirement that bids include proposals for rate design, with all
2 costs and profits associated with providing the various components of its proposed service
3 package, including the costs of designing, building, operating and maintaining all renewable
4 energy, conservation and energy efficiency installations, as well as any capital, insurance and
5 other costs associated with fulfilling the commitments made in its bid.;

6 IV. Recommended bid evaluation mechanisms that will encourage
7 respondents to compete based on the environmental and local economic benefits of their
8 proposed portfolio of energy resources; and

9 V. Recommended contract provisions that will provide financial
10 incentives to the City's Electric Service Provider, if one is selected, to accelerate deployment
11 of and/or expand the energy efficiency and renewable energy components of its proposed
12 energy portfolio.

13 B. With the assistance of City finance staff, the Departments shall determine how
14 Proposition H Bonds may be used to augment CCA by providing financing for renewable
15 energy and conservation projects, including a bond-repayment schedule based on anticipated
16 revenues collected from monthly electric bills and other sources.

17 C. With the assistance of the City Attorney, the Departments shall continue to
18 participate in any applicable proceedings at the CPUC on adopting rules for implementing
19 community choice aggregation and other relevant proceedings.

20 D. The Departments shall collect electrical load data, including, but not limited to,
21 data detailing electricity needs and patterns of usage, as determined by the California Public
22 Utilities Commission, and in accordance with procedures established by the California Public
23 Utilities Commission. Such data may include, but are not limited to, the following:

- 24 1. Energy consumption for each customer class for a given period of time;

- 1 2. Residential and nonresidential load shapes and most recent hourly load
2 shapes;
- 3 3. Dynamic and static load profiles posted daily at PG&E's website by rate
4 categories;
- 5 4. Number of current IOU customers;
- 6 5. Sum of customer non-coincident demand (kW or MW). (This data is used
7 for calculating group diversity factors. The degree of diversity affects the utility's system
8 requirements.);
- 9 6. Coincident peak demand (kW or MW) including the time of day and date
10 (This data is used to determine the size of procurement contracts as well as revenue
11 allocation and rate design.);
- 12 7. Electric load (kW or MW) for each hour of the year (8760 hourly loads)
13 based on the most recent 12 months of load research. (This data provides information on the
14 basic load shape for customer classes within a specific community or area of the community.);
- 15 8. Energy billing determinants (kWh) for each season and time of use period
16 that applies to the tariff schedule (e.g. summer peak, summer partial peak, summer off-peak,
17 winter peak, winter partial peak, winter off-peak, etc); and
- 18 9. Any other data the Departments deem necessary.
- 19 E. The Departments shall provide a copy of the report to the San Francisco Local
20 Agency Formation Commission for review and comment to the Board of Supervisors.
- 21 F. The Board of Supervisors may adopt and/or amend the Draft Implementation
22 Plan at a duly noticed public hearing by ordinance.
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24 **Section 4. COMMUNITY CHOICE AGGREGATION SOLICITATION PROCESS**

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1 Within 9 months of the effective date of this ordinance, provided the Board of
2 Supervisors has adopted a CCA Implementation Plan pursuant to Section 3, the Departments
3 shall submit to the Board of Supervisors for review and approval a Draft Request for
4 Proposals (RFP) for a Community Choice Aggregation (CCA) program for San Francisco for
5 use by prospective Electric Service Providers in submitting proposals to implement the City's
6 adopted Implementation Plan. The Board of Supervisors may, by motion, extend the deadline
7 for submission of the Draft RFP.

8 A. The Draft RFP shall include the following:

9 1. All appropriate billing and load data collected from PG&E pursuant to
10 Section 2 of this ordinance;

11 2. Notice of the CPUC's findings regarding any cost recovery that must be
12 paid by customers participating in the City's CCA to prevent a shifting of costs, based on a
13 ninety day Implementation Plan certification process pursuant to Section 366.2(c)(7) of the
14 Public Utilities Code; and

15 3. Any subsidies or financing available from the CPUC, the California
16 Energy Commission, the federal government or the City.

17 B. Notification of the RFP shall be posted in at least one industry-recognized
18 national publication upon its adoption by the Board.

19 C. The RFP shall solicit bids from Electric Service Providers pursuant to section
20 366.2(c) of the Public Utilities Code.

21 D. The RFP shall require that bids by prospective Electric Service Providers shall
22 include a proposed rate design, with all costs and profits associated with providing the various
23 components of its proposed service package, including the costs of designing, building,
24 operating and maintaining all renewable energy, conservation and energy efficiency
25 installations, as well as any capital, insurance and other costs associated with fulfilling the

1 commitments made in its bid, to be reflected in a per kilowatt hour rate schedule that is
2 comparable to PG&E's rate schedule and consistent with the resource portfolio requirements
3 and rate-setting mechanisms contained in the City's adopted Implementation Plan.

4 E. The RFP shall require that qualifying Electric Service Providers post a bond or
5 demonstrate insurance sufficient to cover the cost of reentry fees in the event that customers
6 are involuntarily returned to service provided by PG&E, pursuant to section 394.25(e) of the
7 Public Utilities Code, and shall bid an insured electricity rate schedule, similar in structure to
8 that appearing on monthly PG&E bills, which conforms to the City's rate-setting mechanism as
9 adopted in its Implementation Plan, pursuant to 366.2.(c)(3) of the Public Utilities Code.

10 F. The RFP shall specify that no bid shall be accepted as qualified that does not
11 meet the requirements of the state's Renewables Portfolio Standard law, section 399.12 of the
12 Public Utilities Code.

13 G. Bidders responding to the City's RFP may have recourse to the use of
14 Proposition H bonds to finance renewable energy and conservation projects that meet the
15 requirements of the city's Implementation Plan, and may include in their bids a proposed
16 schedule for the board to authorize the issuance of Proposition H bonds, as well as a bond-
17 repayment schedule to repay its proposed renewable energy and conservation facilities,
18 based on anticipated revenues collected from monthly electric bills through a proposed rate
19 design and other eligible funding sources, in order to meet the City's energy resource portfolio
20 requirements and rate-setting mechanism as outlined in this ordinance and elaborated by the
21 Draft Implementation Plan.

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

24 By: _____
25 Joseph P. Como
Deputy City Attorney