

1 [Adopting Community Choice Aggregation Draft Implementation Plan and Adopting Further
2 Implementation Measures.]

3 Ordinance adopting a Community Choice Aggregation Draft Implementation Plan, establishing
4 key aspects of the Community Choice Aggregation program, and establishing a Community
5 Choice Board of Control to administer program startup activities.
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7 Note: Additions are single-underline italics Times New Roman;
8 deletions are ~~strikethrough italics Times New Roman~~.
9 Board amendment additions are double underlined.
10 Board amendment deletions are ~~strikethrough normal~~.

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

12 Section 1. Findings

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

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

22 (2) Pursuant to Section 9.107.8 of the Charter the Board of Supervisors may
23 provide for the issuance of revenue bonds to “finance or refinance the acquisition,
24 construction, installation, equipping, improvement or rehabilitation of equipment or facilities for
25 renewable energy and energy conservation.”

1 (3) In Ordinance 86-04 the Board of Supervisors established a Community Choice
2 Aggregation (CCA) program pursuant to Public Utilities Code Sections 218.3, 331.1, 366,
3 366.2, 381.1, 394, and 394.25, finding that CCA provides a means by which the City may help
4 ensure the provision of clean, reasonably priced, and reliable electricity to San Francisco
5 customers. Ordinance 86-04 further found that a CCA Program could provide a means for the
6 City to increase the scale and cost-effectiveness of conservation, energy-efficiency and
7 renewable energy in San Francisco and directed City departments to investigate the use of
8 bonds issued under Section 9.107.8 of the Charter to augment CCA.

9 (4) The Public Utilities Code requires that a prospective CCA adopt an
10 Implementation Plan (IP) "detailing the process and consequences of aggregation." Sections
11 366.2(c)(3) and (4) set forth a number of detailed requirements for the contents of such a
12 plan. This IP is to be adopted in a public hearing and filed with the California Public Utilities
13 Commission (CPUC).

14 (5) Local Power, a local advocacy organization, and the San Francisco Public
15 Utilities Commission (SFPUC) submitted proposed CCA Implementation Plans to the Local
16 Agency Formation Commission (LAFCO) in the summer of 2005. LAFCO referred Local
17 Power's plan to the Board of Supervisors "with recommendation" and adopted a subsequent
18 resolution reflecting elements of the SFPUC's plan. The Budget Analyst submitted a report
19 comparing Local Power's plan to SFPUC's plan in 2006, and SF LAFCO commissioned a
20 report by Nixon Peabody in November of 2005 analyzing the use of revenue bonds to
21 augment CCA, and also analyzing the City Charter to evaluate the option of a CCA Board of
22 Control as a legal mechanism to implement the startup of CCA. LAFCO accepted the
23 recommendations of Nixon Peabody's report, referring it to the Board of Supervisors, after
24 which it was approved by a March 8, 2006 resolution of the CCA Task Force, created in 2004
25 by the Board of Supervisors to advise the Board of Supervisors and Mayor on the CCA IP and

1 subsequent Request For Proposals (RFP). Finally, the Mayor's office hosted a working group
2 including Supervisors, SFPUC staff, Department of the Environment (SFE) staff and
3 interested parties and advocacy groups, including Local Power, Greenpeace, and the Sierra
4 Club, to develop the CCA IP dated November 13, 2006, which is adopted by this ordinance as
5 a CCA Draft Implementation Plan.

6 (6) This IP discusses the legal and factual background of CCA, sets forth goals and
7 policies for the CCA Program, and delineates further steps necessary for completing the start-
8 up of San Francisco's CCA Program. It provides for both issuing an RFP and advising the
9 Board of Supervisors and Mayor on the best response to the CCA RFP. This creates a basis
10 on which to approve a multi-decade energy services contract that will include investing \$1.2
11 billion of revenue bonds and interest payments, to the extent feasible, into new green power
12 facilities for San Francisco, most of them physically located within the City and County of San
13 Francisco. This document, the San Francisco CCA Draft Implementation Plan, dated
14 November 13, 2006, with Appendices and Attachments, is on file with the Clerk of the Board
15 in File No. _____, and is declared to be a part of this ordinance as if set forth fully
16 herein.

17 (7) The Public Utilities Code requires the Board of Supervisors or City Council of a
18 CCA to adopt an IP "detailing the process and consequences of aggregation." Section
19 366.2(c)(3) and (4) set forth a number of detailed requirements for the contents of such a
20 plan. An IP is to be filed with the California Public Utilities Commission. This program also
21 implements a local charter authority, section 9.107.8 of the Charter, which provides that the
22 Board of Supervisors may approve issuance of H Bonds, and in particular Ordinance 86-04,
23 which required that both the IP and a subsequent CCA Request For Proposals (RFP) be
24 approved by the Board of Supervisors. Thus, the Board of Supervisors must undertake due
25 diligence in preparation its governance role given it by AB117 and the Charter, including

1 approval of this IP, approval of a subsequent CCA RFP as per Ordinance 86-04, approval of a
2 new supplier contract by ordinance as per AB117, and submission of a Binding Notice of
3 Intent to take customers as per CPUC Decisions D.04-12-046 (December 15, 2004) and D.
4 05-12-041 (December 16, 2005) in Rulemaking R.03-10-003, as well as general fund liability
5 for H Bond investments and potential CPUC penalties.

6 B. Key Aspects of the CCA Program

7 (1) A CCA RFP will set as a bidding requirement that each qualifying energy
8 supplier must include within its proposed rates, including all costs, a rollout of 360 Megawatts
9 (MW) of renewable electric resources, comprised of at least 31 MW of solar photovoltaic cells,
10 72 MW of local renewable distributed generation such as fuel cells, and 107MW of local
11 energy efficiency and conservation measures, along with investment in a 150 MW wind
12 turbine farm, all of which may be financed pursuant to Charter Section 9.107.8, to the extent
13 feasible.

14 (2) The City will issue revenue bonds pursuant to Charter Section 9.107.8, to the
15 extent feasible, to finance the 360 Megawatt rollout.

16 (3) The CCA supplier must bid electric generation rates that will “meet or beat”
17 current PG&E generation rates for each rate class; these electric generation rates charged to
18 CCA customers shall include the CCA supplier’s power costs, the administrative costs and
19 profit of the supplier, the repayment of revenue bonds or other funding of the roll-out, and all
20 other City CCA-related costs. Thereafter the CCA supplier shall commit to a structured long-
21 term rate intended to meet or beat PG&E’s electric rates. Bids must also include the ultimate
22 CCA electric bill rates which will also include the Cost Responsibility Surcharge that will be
23 imposed by the CPUC.
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1 (4) The supplier will be a single contractor, providing all required services at its own
2 risk, and may hire subcontractors to provide services and work connected to any components
3 of its CCA portfolio. The supplier will be required to provide appropriate financial assurances
4 (payment/performance bonds, guarantees, or letters of credit) to secure its performance, and
5 also to cover the cost of any re-entry fees in the event that a worst-case program failure
6 scenario occurs, and customers are involuntarily returned to service provided by PG&E.

7 (5) The term of the contract with the supplier or the revenue bond repayment term is
8 not set a priori by the plan, but is expected to be fifteen years or longer for a viable revenue
9 bond repayment. The CCA Board of Control will seek input from prospective suppliers and
10 establish contract durations and financing terms in the RFP.

11 (6) The CCA Program is committed to universal access; therefore all the electric
12 customers within the City and County of San Francisco will have an opportunity to become
13 CCA customers, except ineligible customers as defined by state regulation such as those who
14 receive Direct Access service. The City may consider opportunities to sell available SFPUC
15 capacity to the CCA, or otherwise seek to make existing or new capacity available, whether
16 Hetch Hetchy capacity or in-city solar capacity.

17 (7) The CCA Program is committed to reliably serving its generation customers.
18 This will occur in two ways. First, the emphasis on in-city generation as a major element of
19 this plan may provide opportunities to decrease the impacts of blackouts at the individual
20 customer and neighborhood levels. Second, the City's CCA will be required to meet
21 Resource Adequacy Requirements (RAR) established by the CPUC. However, the San
22 Francisco CCA will not be able to directly react or respond to the vast majority of interruptions
23 of electric power that occur due to distribution or transmission level problems which remain
24 the responsibility of PG&E under state law.
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1 (8) The CCA Program is committed to providing equitable treatment of all classes of
2 CCA customers. There will be no discrimination among customer classes in setting CCA
3 rates. However the CCA will seek opportunities to site renewable generation at customer
4 sites or to offer particular customers customized CCA rates, where such opportunities are
5 demonstrated to be of benefit to the entire CCA program and therefore all CCA customers. In
6 addition, the CCA Program will include provisions for low-income ratepayer assistance.

7 (9) The CCA Program is committed to meeting or in some cases exceeding
8 applicable State of California requirements for Load Serving Entities (LSE's) for Renewable
9 Portfolio Standards (RPS), RAR, and Greenhouse Gas Emissions, and sets a goal of a 51%
10 Renewable Portfolio Standard by 2017 that includes energy efficiency, solar photovoltaics and
11 renewable distributed generation, rather than the 20% by 2017 RPS that PG&E is required to
12 attain under state law.

13 (10) Management and control of the CCA Program will be undertaken by the CCA
14 Board of Control, which is established by this Ordinance, consistent with State Law AB 117
15 and Ordinance 86-04, as identified in the Nixon Peabody analysis submitted to LAFCo on
16 November 10, 2005, accepted and referred the Board of Supervisors on February 10, 2006,
17 and endorsed by the CCA Task Force. The roles, responsibilities and authorities of the CCA
18 Board of Control are established by this Ordinance as they are described in the IP. Rates will
19 be established by the bid of the selected CCA supplier . Rate changes over the course of the
20 CCA Program will be restricted by the terms of the contract with the CCA supplier.

21 (11) The CCA Program may be able to secure funds for energy efficiency programs
22 that are currently administered by PG&E. PG&E collects these funds from its customers
23 through a Public Goods Surcharge. San Francisco, through SFE, currently partners with
24 PG&E to implement energy efficiency programs in San Francisco using a portion of these
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1 funds. Direct control of these funds by the CCA Program would maximize the local benefits of
2 funds contributed by local customers. The CCA Board of Control will aggressively pursue
3 allocation of these existing ratepayer funds to the City's CCA Program.

4 Section 2. As set forth herein and to the extent consistent with all applicable laws, the
5 Board of Supervisors adopts the attached IP dated April 17, 2007 as a CCA Draft
6 Implementation Plan. Modifications to this document and additional work will be required
7 before submission of a revised IP to the CPUC by the Board of Control at the appropriate
8 time.

9 The Board of Supervisors expects to consider modifications to the Draft IP as the
10 development of the CCA Program progresses. In particular, the Board of Supervisors expects
11 that the City will gain additional material information regarding the suppliers, costs, and
12 financing mechanisms, among other things, from the Request for Information (RFI) that will be
13 issued following adoption of this ordinance as well as from other work performed in
14 connection with the CCA Program. Additional information, namely the name of a supplier that
15 is approved by ordinance of the Board of Supervisors, will be yielded by the RFP process and
16 will require a subsequent ordinance by the Board of Supervisors. Therefore, the Board of
17 Control will submit to the Board of Supervisors a revised Implementation Plan that is
18 consistent with this ordinance and satisfies all legal requirements for filing with the CPUC.

19 Section 3. The Board of Supervisors establishes the following next steps toward
20 implementation of a CCA Program:

21 (A) Within 20 days of the appointment of the Program Director, the CCA Board of
22 Control should issue a RFI to solicit input from interested parties regarding the development
23 and implementation of a CCA Program.

24 (B) The CCA Board of Control should begin drafting a Program Basis Report and
25 RFP to solicit potential CCA suppliers as described in Sections 4(A)-(G) of Ordinance 86-04,

1 and the Draft IP. The Program Basis Report and RFP should incorporate information from the
2 RFI.

3 (C) The Board of Control and City Attorney should continue monitoring/participating
4 in legislative and regulatory activities that may impact the CCA Program.

5 (D) The CCA Board of Control should draft a modified IP that is consistent with this
6 ordinance and all applicable requirements and reflects additional information received through
7 the RFI for approval by the Board of Supervisors and submission to the CPUC.

8 Section 4. The Board of Supervisors establishes a CCA Board of Control, which is
9 responsible for the start-up implementation of the CCA Program.

10 (A) CCA Board of Control Purpose. The CCA Board of Control shall oversee the
11 startup of the CCA Program and advise the Board of Supervisors, SFPUC and other agencies
12 regarding all aspects of development, implementation, operation and management of the CCA
13 Program, as established by Ordinance 86-04, this Ordinance and any subsequent ordinances.
14 The CCA Board of Control shall appoint a Program Director to perform technical work; shall
15 advise the Board of Supervisors' in executing its statutorily defined governance
16 responsibilities; and shall oversee all Program Director CCA program startup activities,
17 including the following:

18 (1) Complying with applicable requirements established by the Public Utilities Code,
19 decisions of the CPUC, and the Charter and Municipal Codes, as well as other applicable
20 laws.

21 (2) Reviewing responses to the RFI, the RFP and proposals received in response to
22 the RFP.

23 (3) Considering potential modifications to the Draft Implementation Plan in light of
24 additional information and further progress in development of the CCA Program.

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1 (4) Applying for and accepting grants, fees and other allocations from federal, state,
2 and local agencies and private entities that may be available for the advancement or benefit of
3 the CCA Program.

4 (5) Acquiring any real property or property rights necessary or convenient for the
5 development, implementation, operation and management of the CCA Program.

6 (6) Issuing revenue bonds or approving other debt necessary to fund elements of
7 the CCA Program.

8 (7) Negotiating and contracting with energy suppliers and other entities for services
9 necessary to develop, implement, operate, and manage the CCA Program as described in the
10 IP.

11 (8) Recommending for or against acceptance of an RFP respondent's proposed
12 rates for the CCA Program.

13 (9) Entering into cooperative or joint development agreements with other public or
14 private entities for any purpose necessary or convenient for the development, implementation,
15 operation, and management of the CCA Program.

16 (10) Presenting and promoting the CCA Program to the public, the media, and
17 governmental and regulatory entities.

18 (11) Adopting policies and procedures to govern the development, implementation,
19 operation and management of the CCA program, including the following:

- 20 (i) measures necessary to protect the confidential data of each customer;
- 21 (ii) procedures for handling and responding to customer complaints;
- 22 (iii) financial management protocols;
- 23 (iv) budgetary requirements;
- 24 (v) procedures for reporting to the Board of Supervisors on a regular basis.

1 (12) Collection of electrical load data, including, but not limited to data detailing
2 electricity needs and patterns of usage, as determined by the CPUC.

3 (B) CCA Board of Control Composition, Meetings, and Dissolution.

4 (1) The CCA Board of Control shall be comprised of five members, as follows:

5 (i) One member shall be the President of the Board of Supervisors, who
6 shall be the Chairperson of the CCA Board of Control.

7 (ii) One member shall be the Mayor or an alternate appointed by the Mayor
8 from the Mayor's staff to attend meetings when the Mayor is unable to be present. This
9 member shall be the Vice-Chairperson of the Board of Control.

10 (iii) One member shall be a member of the Board of Supervisors appointed
11 by the President of the Board of Supervisors.

12 (iv) One member shall be a Commissioner of the SFPUC appointed by the
13 SFPUC.

14 (v) One member shall be the Controller.

15 (vi) Three members shall constitute a quorum.

16 (2) The CCA Board of Control shall convene within 30 days of the adoption of this
17 Ordinance, and follow the administrative processes described in detail in the IP. Thereafter,
18 the Board of Control shall meet monthly and more frequently if requested by the Chairperson.
19 At its second meeting, the Board of Control shall select and approve a Program Director, as
20 specified in the IP, (and his/her chosen initial support team).

21 (3) The Program Director and appropriate CCA Program staff shall attend CCA
22 Board of Control meetings and assist the Board of Control with its work.

23 (4) The CCA Board of Control shall be dissolved by the Board of Supervisors and
24 SFPUC assume full operational control when the Board of Supervisors determines that the
25 startup period of the CCA Program implementation has been completed, or when the Board of

1 Supervisors determines not to implement CCA, or as otherwise determined by the Board of
2 Supervisors.

3 Section 5. Before making a final commitment to proceed with offering CCA service to
4 San Francisco customers, the Board of Supervisors will consider projected costs, risks and
5 benefits of this program to CCA customers, SFPUC and other city agencies, and the City's
6 general fund. In addition, the Board of Supervisors must ensure that the provision of CCA
7 service to San Francisco customers can be reasonably expected to deliver significant benefits
8 at a reasonable cost.

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

12 By: _____
13 ATTORNEY'S NAME
14 Deputy City Attorney

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