

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

3 **Ordinance adopting a Community Choice Aggregation Program Description and**
4 **Revenue Bond Plan and Draft Implementation Plan, establishing key aspects of the**
5 **Community Choice Aggregation Program, and adopting further implementation**
6 **measures.**

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 provide for
23 the issuance of revenue bonds to "finance or refinance the acquisition, construction,
24 installation, equipping, improvement or rehabilitation of equipment or facilities for renewable
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1 energy and energy conservation” without the voter approval otherwise required for the
2 issuance of revenue bonds.

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

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

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

1 by a March 8, 2006 resolution of the CCA Task Force, created in 2004 by the Board of
2 Supervisors to advise the Board of Supervisors and Mayor on the CCA IP and subsequent
3 Request For Proposals (RFP). Finally, the Mayor's office hosted a working group including
4 Supervisors, SFPUC staff, Department of the Environment (SFE) staff and interested parties
5 and advocacy groups, including Local Power, Greenpeace, and the Sierra Club, to develop
6 the CCA IP dated April 17, 2007. This document was updated with technical corrections and
7 is now dated June 6, 2007. The document adopted by this ordinance is a two-part document
8 which 1) describes the process the City will pursue in becoming a CCA and 2) includes a Draft
9 Implementation Plan attached as Appendix A to be completed in accordance with the process
10 described and adopted pursuant to Public Utilities Code Section 366.2. This document is
11 adopted by this ordinance as a Community Choice Aggregation Program Description and
12 Revenue Bond Action Plan and Draft Implementation Plan.

13 6. This IP discusses the legal and factual background of CCA, sets forth goals and
14 policies for the CCA Program, and delineates further steps necessary for completing the start-
15 up of San Francisco's CCA Program. It provides for both issuing an RFP and advising the
16 Board of Supervisors and Mayor on the best response to the CCA RFP. This creates a basis
17 on which to approve a multi-decade energy services contract that will include investing \$1.2
18 billion of revenue bonds, to the extent feasible, into new green power facilities for San
19 Francisco, most of them physically located within the City and County of San Francisco. This
20 document, the San Francisco CCA Program Description and Revenue Bond Action Plan and
21 Draft Implementation Plan, dated June 6, 2007, with Appendices and Attachments, is on file
22 with the Clerk of the Board in File No. 070501, and is declared to be a part of this ordinance
23 as if set forth fully herein.

24 7. The Board of Supervisors intends to approve a final IP, a subsequent CCA RFP as
25 per Ordinance 86-04, a new supplier contract, and a Binding Notice of Intent to take

1 customers to be submitted as per CPUC Decisions D.04-12-046 (December 15, 2004) and D.
2 05-12-041 (December 16, 2005) in Rulemaking R.03-10-003.

3 8. In the event that the SFPUC does not act in within the timeframe set forth hereafter
4 for the issuance of a Request For Information (RFI), LAFCO may recommend to the Board of
5 Supervisors issuance of a LAFCO drafted RFI. Upon closure of the RFI response period, the
6 SFPUC, in consultation with LAFCO, should prepare the RFP in a timely manner. In the
7 event that the SFPUC fails to submit a draft RFP to LAFCO for consideration in a timely
8 manner, LAFCO may recommend to the Board of Supervisors issuance of a LAFCO drafted
9 RFP. The time period for issuance of the RFP shall not be less than sixty (60) days. In the
10 event that the SFPUC fails to act in good faith in review of RFP responses and recommending
11 a supplier based thereon, LAFCO may recommend a supplier to the Board of Supervisors.

12 **(b) Key Aspects of the CCA Program.**

13 1. A CCA RFP will set as a bidding requirement that each qualifying energy supplier
14 must include within its proposed rates, including all costs, a rollout of 360 Megawatts (MW) of
15 renewable electric resources, comprised of at least 31 MW of solar photovoltaic cells, 72 MW
16 of local renewable distributed generation such as fuel cells, and 107MW of local energy
17 efficiency and conservation measures, along with investment in a 150 MW wind turbine farm,
18 all of which may be financed with City revenue bonds issued without voter approval pursuant
19 to Charter Section 9.107.8, to the extent feasible.

20 2. Upon approval by the Board of Supervisors, the City will issue revenue bonds
21 pursuant to Charter Section 9.107.8, to the extent feasible, to finance the 360 Megawatt
22 rollout.

23 3. The CCA supplier must bid electric generation rates that will “meet or beat” current
24 PG&E generation rates for each rate class; these electric generation rates charged to CCA
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1 customers shall include the CCA supplier's power costs, the administrative costs and profit of
2 the supplier, the repayment of revenue bonds or other funding of the roll-out, and all other City
3 CCA-related costs. Thereafter the CCA supplier shall commit to a structured long-term rate
4 intended to meet or beat PG&E's electric rates. Such structured rates may be in the form of
5 tiered rates: an indexed generation rate that can never exceed that of the incumbent utility, a
6 rate that increases at a fixed annual percentage or any other such tier(s) as the RFP
7 respondent CCA supplier deems economically sound to its business model. Bids must also
8 include the ultimate CCA electric bill rates, which will also include the Cost Responsibility
9 Surcharge that will be imposed by the CPUC.

10 4. The supplier will be a single contractor, providing all required services at its own
11 risk, and may hire subcontractors to provide services and work connected to any components
12 of its CCA portfolio. The supplier will be required to provide appropriate financial assurances
13 (payment/performance bonds, guarantees, or letters of credit) to secure its performance, and
14 also to cover the cost of any re-entry fees in the event that a worst-case program failure
15 scenario occurs, and customers are involuntarily returned to service provided by PG&E.

16 5. The term of the contract with the supplier or the revenue bond repayment term is
17 not set a priori by the plan, but is expected to be fifteen years or longer for a viable revenue
18 bond repayment. The SFPUC will seek input from prospective suppliers and establish
19 contract durations and financing terms in the RFP.

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

3 7. The CCA Program is committed to reliably serving its generation customers. This
4 will occur in two ways. First, the emphasis on in-city generation as a major element of this
5 plan may provide opportunities to decrease the impacts of blackouts at the individual
6 customer and neighborhood levels. Second, the City's CCA will be required to meet
7 Resource Adequacy Requirements (RAR) established by the CPUC. However, the San
8 Francisco CCA will not be able to directly react or respond to the vast majority of interruptions
9 of electric power that occur due to distribution or transmission level problems which remain
10 the responsibility of PG&E under state law.

11 8. The CCA Program is committed to providing equitable treatment of all classes of
12 CCA customers. There will be no discrimination among customer classes in setting CCA
13 rates. However the CCA will seek opportunities to site renewable generation at customer
14 sites or to offer particular customers customized CCA rates, where such opportunities are
15 demonstrated to be of benefit to the entire CCA program and therefore all CCA customers. In
16 addition, the CCA Program will include provisions for low-income ratepayer assistance.

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

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

6 Section 2. As set forth herein and to the extent consistent with all applicable laws, the
7 Board of Supervisors adopts the attached document dated June 6, 2007 as a CCA Program
8 Description and Revenue Bond Action Plan and Draft Implementation Plan. Modifications to
9 this document and additional work will be required before submission of a revised IP to the
10 CPUC at the appropriate time.

11 The Board of Supervisors expects to consider modifications to the Draft IP as the
12 development of the CCA Program progresses. In particular, the Board of Supervisors expects
13 that the City will gain additional material information regarding the suppliers, costs, and
14 financing mechanisms, among other things, from the Request for Information (RFI) that will be
15 issued following adoption of this ordinance as well as from other work performed in
16 connection with the CCA Program.

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

19 (a) The SFPUC should issue a RFI to solicit input from interested parties regarding the
20 development and implementation of a CCA Program within 20 days of the effective date of the
21 adoption of this ordinance.

22 (b) The SFPUC, in consultation with LAFCO, should begin drafting a Program Basis
23 Report and RFP to solicit potential CCA suppliers as described in Sections 4(A)-(G) of
24 Ordinance 86-04, and the Draft IP. The RFP should also contain specific reference to the
25 recently enacted AB 32 (The Global Warming Solutions Act) in order that respondents may

1 leverage financial incentives provided therein. The Program Basis Report and RFP should
2 incorporate information from the RFI.

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

5 (d) The SFPUC, in consultation with LAFCO, should draft for approval by the Board of
6 Supervisors and submission to the CPUC a revised IP that is consistent with this ordinance,
7 the companion ordinance adopting a CCA Governance Structure and all applicable
8 requirements. The revised IP should reflect additional information received through the
9 RFI/RFP process.

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

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17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By: _____
20 Deputy City Attorney

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