

Date March 6, 2009 Item No. 9

LOCAL AGENCY FORMATION COMMISSION
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Completed by: Victor Young Date: March 4, 2009

***This list reflects the explanatory documents provided**

San Francisco Local Agency Formation Commission

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TO: LAFCO Commissioners

FROM: Nancy C. Miller, Interim Executive Officer

DATE: March 6, 2009

SUBJECT: Item 9: Report on Budget and Status of hiring staff for CCA Implementation, Coordination and Outreach. (Continued from November 21, 2008 and January 23, 2009) (Discussion and Possible Action Item)

Background: Under Ordinance 0146-07, the Board of Supervisors directed SF LAFCo to assist with the implementation of the Community Choice Aggregation Program. The Board of Supervisors also adopted Ordinance 0147-07, which directed LAFCo to make expenditures from budgeted amounts for all purposes relating to the implementation of the CCA program, including staff costs, support services costs, and administrative costs such as office space, equipment, and supplies.

LAFCo accepted responsibility to provide monitoring and advice to the Board of Supervisors, the SFPUC, and other agencies regarding the CCA Program. (LAFCo Resolution No. 2007-01.) LAFCo further authorized the Executive Officer to hire and/or independently contract for personnel to assist LAFCo with its CCA Program responsibilities. (LAFCo Resolution No. 2007-03.)

Later SFPUC confirmed that certain reserves were set aside in SFPUC accounts specifically for reimbursement of LAFCo CCA activities. The amount allocated to LAFCo is \$700,000 per fiscal year or a total of 2.1 million. (LAFCo Resolution No. 2007-03.) LAFCo directed the LAFCo Executive Officer to seek reimbursement from the SFPUC from the reserve funds "through the ordinary and usual processes utilized by the City and County of San Francisco for the transfer of funds between departments." (LAFCo Resolution No. 2007-03.)

For the last two fiscal years, LAFCO has set up a process through the Clerk of the Board's office and the SFPUC utilizing the ordinary and usual process for the transfer of funds from one department of the City to another. The Clerk's office is the department that administers LAFCo, as per LAFCo policies and procedures. This reimbursement procedure has been followed successfully for the past two fiscal years.

Recently the Commission determined that it needed to add staff to be able to provide the functions of the CCA Implementation program and determined the position needed based upon findings by the Human Resources Department for the CCCSF.

The Human Resources personnel recommended two positions at the categories of Senior Program Officer, and Administrative Assistant/Community Liaison.

At its hearings held on September 12, 2008, and November 21, 2008, the Commission heard presentations on two proposed positions for LAFCO staff members to assist with the development and implementation of the CCA Program, including an Administrative Assistant/Community Liaison and a Senior Program Officer.

LAFCO determined that current staff consisting of one part time clerk and a part time Interim Executive Officer is inadequate to provide the CCA services and authorized the Executive Officer to hire one additional staff person.

An amendment to the Board of Supervisors Salary Ordinance was requested to authorize the two positions noting that we were going to fill only one at this time. We requested authorization of both positions to avoid having to return to amend the salary ordinance a second time, should LAFCo authorize the funding of a second position.

This item was calendared to be reviewed by the Government Audit and Oversight Committee at its February 26, 2009 hearing. The matter was continued to the next meeting, March 12, 2009, to allow for LAFCo response.

The Board of Supervisors' Budget Analyst, in reviewing the request for the Amended to the Salary Ordinance, has recommended that the Draft Ordinance be amended to: (1) Reduce the .50 FTE for the 9775 Senior Community Development Specialist II position to .30 FTE; (2) Delete the proposed hire of the 9770 Community Development Assistant position; (3) Specify that the remaining position is of limited tenure and would terminate no later than June 30, 2011; and (4) Urge LAFCO and the SFPUC to immediately enter into a Memorandum of Understanding regarding SFPUC's funding, LAFCO's and SFPUC's responsibilities, and staff management for the CCA Program. At its March 12, 2009, hearing, the Government Audit and Oversight Committee for the City and County of San Francisco will review the Draft Ordinance.

I do not agree with the Budget Analyst's recommended amendment number (2) and (4). In regards to recommended amendment number (2), the deletion of an authorized staff person would require us to amend the Salary Ordinance again if LAFCo determines to fund the second position. It is more effective to have the position authorized under the Salary Ordinance but not filled by LAFCo until approved.

As to the Budget Analyst's recommended amendment number (4) regarding a Memorandum of Understanding ("MOU"), such a MOU is unnecessary because effective and efficient procedures are already in place for SFPUC's funding of LAFCo CCA activities. More importantly, the recommendation for the MOUS is apparently to be completed prior to the hiring of critical staff. This would delay the hiring process and needlessly delay our CCA Program implementation.

RECOMMENDATION:

Staff recommends that the Commission approve the attached Resolution requesting the Government Audit and Oversight Committee approve the Amended Salary Ordinance for Fiscal Year 2008-2009 and agreeing to some of the Budget Analyst's requests but not to the proposed deletion of one authorized position or the recommendation for a Memorandum of Understanding between LAFCo and SFPUC prior to the hiring of additional staff.

Staff also recommends that the Commission directs the Interim Executive Officer to prepare a response to the Board of Supervisors' Budget Analyst's Memo to the Government Audit and Oversight Committee consistent with this Resolution.

Additionally, staff recommends that if the Government Audit and Oversight Committee and the Board of Supervisors do not authorize the addition of staff, that the Interim Executive Officer be authorized to directly hire one or two of these positions. The Interim Executive Officer already has the power and authority to directly hire these positions based on the Commission's General Policies and Procedures 2.6, Government Code section 56301, the Board of Supervisors Resolution No. 0147-07, and LAFCo Resolution No. 2007-03.¹

¹ Board of Supervisors, Resolution No. 0147-07, incorporated the Implementation Plan and declared it to be part of the ordinance as if fully set forth therein. Under the Implementation Plan, "LAFCo shall have the authority to expend funding authorized by the Board of Supervisors, and to secure the services of SFPUC and/or other support services, as required for the performance of LAFCo's CCA Program responsibilities." (Implementation Plan, p. 90.) Additionally, LAFCo is permitted to make expenditures from the budgeted amounts "for all purposes relating to the implementation of the program: including staff costs, support services costs, and administrative costs such as office space, equipment and supplies." (Implementation Plan, p. 93.) Finally, LAFCo Resolution No. 2007-03 states in relevant part: "...That LAFCo hereby authorizes its Executive Officer to, consistent with the City and County of San Francisco policies, requisition, hire, and/or independently contract for or otherwise retain personnel to assist LAFCo..." (LAFCo Res. No. 2007-03, p. 2, ll. 17 - 20.)

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While this option is not ideal because no medical or dental benefits will be provided, a payroll system would have to be established, and the positions would be hired under consulting contracts, the need for staff is critical.

The Interim Executive Officer is working with the SFPUC to ensure that any new CCA staff will complement the staff recently hired by the SFPUC, and will not duplicate the work being performed at the SFPUC. The Interim Executive Officer wants to ensure that any additional CCA staff will add value to the ongoing CCA effort, and increase the efficiency of the CCA Program.

Finally, the Interim Executive Officer expects that the addition of CCA staff will result in a reduction of legal costs, as many of the Executive Officer's CCA duties will be transferred to the new CCA staff.

RESOLUTION NO. 2009-0

1 [LAFCO Resolution to request the Board of Supervisors approve the Draft Ordinance
2 amending the Annual Salary Ordinance for Fiscal Year 2008-2009 for LAFCo Staff, budgeted
under the Board of Supervisors, for Community Choice Aggregation (CCA).]

3
4 **Resolution of the Local Agency Formation Commission of the City and County of**
5 **San Francisco to Request the Board of Supervisors Approve the Draft Ordinance**
6 **amending the Annual Salary Ordinance for Fiscal Year 2008-2009 to authorize staff for**
7 **LAFCo, budgeted under the Board of Supervisors, for Community Choice Aggregation**
8 **(CCA).**

9
10 WHEREAS, under Ordinance 0146-07, the Board of Supervisors has directed SF
11 LAFCO to assist with the startup of the CCA Program and to advise the Board of Supervisors,
12 the SFPUC, and other agencies regarding all aspects of development, implementation,
13 operation, and management of the CCA Program; and

14 WHEREAS, under Ordinance 0147-07, the Board of Supervisors incorporated the
15 Draft Implementation Plan in full, which directed LAFCO to make expenditures from budgeted
16 amounts "for all purposes relating to the implementation of the program: including staff costs,
17 support services costs, and administrative costs such as office space, equipment and
18 supplies"; and

19 WHEREAS, by adopting Resolution number 2007-01 on September 28, 2007, LAFCO
20 accepted responsibility to provide monitoring and advice to the Board of Supervisors, the
21 SFPUC, and other agencies regarding the CCA Program; and

22 WHEREAS, by adopting Resolution number 2007-03, LAFCO authorized "its Executive
23 Officer to, consistent with the City and County of San Francisco policies, requisition, hire,
24 and/or independently contract for or otherwise retain personnel to assist LAFCo..." with its
25 CCA Program responsibilities; and

1 WHEREAS, by adopting Resolution number 2007-03, LAFCO directed its Executive
2 Officer "...to seek reimbursement from the SFPUC for such advanced funds or proactively
3 seek Project funding from the SFPUC through the ordinary and usual processes utilized by
4 the City and County of San Francisco for the transfer of funds between departments"; and

5 WHEREAS, for the last two fiscal years, LAFCO has successfully, without dispute or
6 controversy, been reimbursed by the SFPUC for its expenditures incurred pursuant to
7 LAFCO's CCA Program responsibilities, using the ordinary and usual processes utilized by
8 the City and County of San Francisco for the transfer of funds between departments; and

9 WHEREAS, the SFPUC has agreed to provide LAFCO with up to \$2.1 million in funds
10 and has set those funds in reserve for such purpose; and

11 WHEREAS, LAFCO has determined that there are ample budget controls in place to
12 prudently use these resources; and

13 WHEREAS, at its hearings held on September 12, 2008, and November 21, 2008, the
14 Commission heard presentations on two proposed positions for LAFCO staff members to
15 assist with the development and implementation of the CCA Program, including an
16 Administrative Assistant/Community Liaison and a Senior Program Officer; and

17 WHEREAS, LAFCO has determined that current staff consisting of one part time clerk
18 and a part time Interim Executive Officer is inadequate to provide the services necessary
19 under the Board of Supervisors' Ordinance for development and implementation of the CCA
20 Program on schedule; and

21 WHEREAS, the funding for the additional staff is from SFPUC Enterprise reserve
22 funds, and not General funds; and

23 WHEREAS, at its March 12, 2009, hearing, the Government Audit and Oversight
24 Committee for the City and County of San Francisco will review the Draft Ordinance
25 amending the Annual Salary Ordinance for Fiscal Year 2008-2009 to add Staff for LAFCo,

1 budgeted under the Board of Supervisors, for Community Choice Aggregation (CCA) ("Draft
2 Ordinance"); and

3 WHEREAS, the Board of Supervisors' Budget Analyst has recommended that the
4 Draft Ordinance be amended to: (1) Reduce the .50 FTE for the 9775 Senior Community
5 Development Specialist II position to .30 FTE; (2) Delete the proposed hire of the 9770
6 Community Development Assistant position; (3) Specify that the remaining position is of
7 limited tenure and would terminate no later than June 30, 2011; and (4) Urge LAFCO and the
8 SFPUC to immediately enter into a Memorandum of Understanding regarding SFPUC's
9 funding, LAFCO's and SFPUC's responsibilities, and staff management for the CCA Program;
10 and

11 WHEREAS, LAFCO has determined that it does not agree with the Budget Analyst's
12 recommended number (2), as LAFCo may fill the position, and therefore needs the
13 authorization due to staffing constraints; and

14 WHEREAS, LAFCO has determined that it does not agree with the Budget Analyst's
15 recommendation number (4). The Memorandum of Understanding is unnecessary because
16 effective and efficient procedures for SFPUC's funding are in place, LAFCO's and SFPUC's
17 responsibilities are already identified , and CCA Program staff management are already in
18 place; and

19 WHEREAS, LAFCO has determined that it does not agree with the Budget Analyst's
20 apparent recommendation that the Memorandum of Understanding be completed prior to the
21 hiring of critical staff, because it would needlessly delay effective CCA Program
22 implementation;

23 THEREFORE BE IT RESOLVED, that the Local Agency Formation Commission of the
24 City and County of San Francisco requests that the Board of Supervisors approve the Draft
25 Ordinance amending the Annual Salary Annual Salary Ordinance for Fiscal Year 2008-2009

1 to add staff for LAFCO and agrees with the Budget Analyst's recommendations except as to
2 the deletion of one staff position and the need for a Memorandum of Understanding between
3 LAFCo and SFPUC prior to the hiring of additional staff.

4 The Commission further directs the Interim Executive Officer to prepare a response to
5 the Board of Supervisors' Budget Analyst's Memo to the Government Audit and Oversight
6 Committee consistent with this Resolution.

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11 On a motion by _____, seconded by _____, the foregoing
12 Resolution was passed and adopted by the SAN FRANCISCO LOCAL AGENCY
13 FORMATION COMMISSION, State of California, this ____ day of _____, 2009, by the
following vote, to wit:

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AYES:

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NOES:

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ABSTAIN:

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ABSENT:

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Ross Mirkarimi, Chairperson
SAN FRANCISCO LOCAL AGENCY
FORMATION COMMISSION

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22

ATTEST:

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Nancy Miller
Interim Executive Officer

Supervisor Mirkarimi
Local Agency Formation Commission