

Date: September 28, 2007

Item No. 7

**LOCAL AGENCY FORMATION COMMISSION
AGENDA PACKET CONTENTS LIST***

- Resolution Accepting Advisory Role for Implementation of
CCA Energy Program
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Completed by: Linda Wong

Date: 9/25/07

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

FILE NO.

RESOLUTION NO.

1 [LAFCo Resolution Accepting Advisory Role for Implementation of Community Choice
2 Aggregation Energy Program]

3
4 **Resolution of the Local Agency Formation Commission of the City and County of San**
5 **Francisco accepting an advisory role in monitoring Community Choice Aggregation**
6 **energy program implementation, authorizing staffing for said purpose, directing the**
7 **executive officer to draft an initial budget and tentative timeline for advisory role**
8 **duration, authorizing the executive officer to execute Memoranda of Understanding**
9 **with governmental agencies or contractors of the City and County of San Francisco**
10 **and establishing initial advisory and monitoring protocols.**

11
12 WHEREAS, The City and County of San Francisco established a Community Choice
13 Aggregation program ("CCA Program") pursuant to the California Public Utilities Code as
14 authorized by Assembly Bill 117 (Migden, 2002) under Ordinance 86-04, file # 40236 which is
15 incorporated by this reference as though set forth at length; and,

16 WHEREAS, The City and County of San Francisco adopted a Community Choice Draft
17 Implementation Plan ("IP") by Ordinance 0147-07, file #070501, which is incorporated by this
18 reference as though set forth at length; and,

19 WHEREAS, The City and County of San Francisco further adopted a Community
20 Choice governance structure by Ordinance 0146-07, file #070777, which is incorporated by
21 this reference as though set forth at length; and,

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1 WHEREAS, The City and County of San Francisco has sought the assistance of the
2 Local Agency Formation Commission of the City and County of San Francisco ("LAFCo") in
3 providing an advisory role for the implementation of its Community Choice energy program
4 specifically seeking the involvement of LAFCo in Ordinance 0146-07, at Section (1)(b), to
5 "assist with the startup of the CCA Program and advise the Board of Supervisors, SFPUC
6 and other agencies regarding all aspects of development, implementation, operation and
7 management of the CCA program....", and,

8 WHEREAS, the San Francisco Public Utilities Commission ("SFPUC") has agreed to
9 provide LAFCo with an initial \$2.1 million in annual increments of \$700,000 over three years
10 for the purposes of establishing its requested monitoring and advisory role in the
11 implementation of the CCA Program; and,

12 WHEREAS, The Board of Supervisors has placed \$3.1 million of Mayor's Energy
13 Conservation Account (MECA) funds previously allocated to the SFPUC for implementation of
14 the Program on Finance Committee reserve; and

15 WHEREAS, LAFCo has been substantively involved in developing the CCA Program
16 having been the venue for development of the Draft Implementation Plan, receiving feasibility
17 studies and third party legal opinions, and conducting hearings on CCA creation, scope and
18 viability; now therefore, be it

19 RESOLVED, That the Local Agency Formation Commission of the City and County of
20 San Francisco hereby accepts the responsibility to provide monitoring of and advice to the
21 Board of Supervisors of the City and County of San Francisco and the San Francisco Public
22 Utilities Commission ("SFPUC") regarding implementation of the City's Community Choice
23 Aggregation Energy Program as contemplated by the ordinances incorporated herein.
24 Activities and actions taken by LAFCo to monitor and provide advice regarding the CCA
25 Program are hereinafter referred to as the "Project"; and, be it

1 FURTHER RESOLVED, that LAFCo has the authority to assume the role of monitor
2 and advisor to the Board of Supervisors of the City and County of San Francisco and the
3 SFPUC regarding implementation of the City's Community Choice Aggregation Energy
4 Program pursuant to its powers to pursue special studies, and to obtain and provide
5 information regarding government services as outlined in SF LAFCo Policies and Procedures
6 sections 1.1 and 2.6 consistent with Government Code section 56031.

7 FURTHER RESOLVED, That LAFCo hereby authorizes its Executive Officer to expend
8 funds necessary to hire personnel to: adequately assist its members in discharging their
9 duties; hire experts or other consultants to render budgetary, financial, technical, policy,
10 specialized legal or other advice, representation or expertise to LAFCo regarding the CCA
11 Program as contemplated by Ordinance 0146-07, Section 1(b), subsections (1-14); and, be it

12 FURTHER RESOLVED, the Executive Officer is hereby requested to submit an
13 amended budget for the current fiscal year reflecting the initial \$700,000.00 in funds
14 anticipated from the SFPUC and draft-propose a budget for the subsequent two years of
15 anticipated funding for an initial Project term of three (3) years. Said amended budget shall
16 contain provisions and funding for a staff position; and, be it

17 FURTHER RESOLVED, that the Executive Officer is requested to propose a timeline,
18 in consultation with either the General Manager of the SFPUC or Manager of its Power
19 Enterprise, either the Director of Government Relations or the Director or designee of the
20 Mayor's Office of Economic and Workforce Development, and the LAFCo Chair, for duration
21 of the Project; and, be it

22 FURTHER RESOLVED, Upon LAFCo's adoption of an initial project budget and
23 annually thereafter in accordance with approved LAFCo budgetary authority, the Executive
24 Officer shall submit a work order to the SFPUC for transfer of budgeted funds to the LAFCo
25 account. Budgeted funds remaining unspent shall be carried forward to future years without

1 offset to the annual increment due from the SFPUC's initial project funding obligation.

2 However, unspent funds, if any and less encumbrances, received from the SFPUC, on hand
3 at the end of the project duration shall be returned to the SFPUC; and, be it

4 FURTHER RESOLVED, the Executive Officer is authorized to enter into agreements
5 either by work order or properly let contracts to retain a staff member for the balance of the
6 current fiscal year in accordance with budgetary authority hereafter approved; and, be it

7 FURTHER RESOLVED, the Executive Officer is authorized to enter into Memoranda
8 of Understanding with other City Departments, the Legislative Analyst, Budget Analyst or
9 other governmental agencies or existing city contractors to provide services, logistic support,
10 or technical capacity in furtherance of the Project, and, be it

11 FURTHER RESOLVED, That LAFCo establishes the following initial protocols for
12 discharging the duties contemplated by the Project:

13 1. LAFCo understands that time is of the essence and will consequently review, in
14 its discretion, all documentation produced and actions to be taken pursuant to relevant law,
15 including, but not limited to, the contemplated RFI, RFP, Final IP, or any contract, MOU,
16 release of reserved funds or other public document or action that may be required to be
17 executed, approved or taken by any or all of the Mayor, Board of Supervisors or SFPUC
18 relating to the CCA Program in a timely manner;

19 2. LAFCo will convey its advice regarding such documentation or proposed action
20 either through its Executive Officer, assistant executive officer or other staff, an expert or
21 consultant's memorandum or directly to the interested parties by resolution. LAFCo will rely
22 on the IP to guide its assessment of the progress of CCA Program implementation and may,
23 by resolution, outline parameters to further guide its membership and interested parties as to

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1 the elements, policy and desired outcome necessary to assess a successful completion of
2 each phase of the CCA Program. Such phases presently contemplated, some of which may
3 run concurrently, are:

- 4 a. Request for Information
- 5 b. Request for Proposal, CCA Program Basis Report and Completion of Statement
6 of Intent
- 7 c. Contract Negotiation
- 8 d. Completion and Approval of Implementation Plan
- 9 e. Submission of the IP and Binding Notice of Intent to the CPUC and related
10 process
- 11 f. Contract Monitoring and Administration
- 12 g. Contract wind-up and transfer of assets and management responsibility to the
13 SFPUC;

14 3. LAFCo will provide advice, opinions, communications and recommendations in
15 writing where practicable;

16 4. Reports, memoranda, opinions, communications, recommendations and advice
17 generated by LAFCo or its staff, to the extent not covered by a lawful exclusions including,
18 but not limited to, attorney-client privilege, corporate confidentiality agreement, or trade or
19 competitive secret, shall be in the public domain and published on the LAFCo website;

20 5. In order to exercise due diligence, expedite action and reduce delay of
21 consideration of Project and CCA Program matters coming before it, LAFCo will, in either the
22 discretion of the Chair or upon recommendation of LAFCo, promptly forward reviewed
23 documents and proposed actions to relevant experts for evaluation, comment and advice
24 prior to the scheduling of hearings, if necessary, to discuss, make recommendations, and/ or
25 propose revisions relating to said documentation and/ or contemplated actions;

1 6. LAFCo understands that, given the power delegated to it to draft documents in
2 the absence of action by the SFPUC in Ordinance 0147-07 Section (1)(a)(8), the Board of
3 Supervisors expects that LAFCo has the right to and will, either in its discretion or upon
4 request, review and advise either the Board, Mayor or SFPUC on all matters regarding the
5 CCA Program prior to official release, approval or execution of documentation, or taking
6 actions as contemplated in paragraph one (1) above; and, be it

7 FURTHER RESOLVED, That the Executive Officer of LAFCo is directed to transmit fully
8 conformed copies of this resolution to: the Clerk of the Board of Supervisors of the City and
9 County of San Francisco for inclusion on its next printed agenda as a communication and for
10 distribution to its membership, the Director of Governmental Affairs, the General Manager of
11 the SFPUC, the Director of the Mayor's Office of Economic and Workforce Development and
12 to publish this resolution on the LAFCo website.