

1 [Updated Term Sheet Parameters for Program and Contract Negotiations]

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3 **Resolution recommending the San Francisco Board of Supervisors approve: 1) the**
4 **“Updated Term Sheet Parameters for Program and Contract Negotiations” (Term**
5 **Sheet); and 2) the General Manager of the San Francisco Public Utilities Commission**
6 **to continue negotiations with Shell North America, consistent with the programs and**
7 **terms described in the Term Sheet.**

8
9 WHEREAS, The San Francisco Board of Supervisors established a Community
10 Choice Aggregation (CCA) program in 2004 (Ordinance No. 86-04) and has implemented the
11 program, called CleanPowerSF, through the work of the San Francisco Public Utilities
12 Commission (SFPUC) in consultation with the San Francisco Local Agency Formation
13 Commission (SFLAFCo) (Ordinance Nos. 146-07, 147-07, and 232-09); and

14 WHEREAS, The SFPUC, in response to direction from the Board of Supervisors,
15 issued two Request for Proposals (RFPs) seeking suppliers to provide key services for
16 CleanPowerSF; and

17 WHEREAS, The SFPUC RFPs clearly stated the City's goals of meeting the state's
18 Renewables Portfolio Standard, providing 51% renewable energy at prices that meet or beat
19 PG&E rates, developing new renewable energy resources, and providing these benefits with
20 no financial risk to the City; and

21 WHEREAS, Upon advice from SFLAFCo and the SFPUC, and approval of the Board
22 of Supervisors, the first RFP, CS-978R, was issued on November 5, 2009, for electricity
23 supply, renewable project development and customer care and billing services; and

24 WHEREAS, In order to elicit the largest possible pool of respondents, CS-978R
25 afforded respondents flexibility with respect to meeting certain City goals for CCA, including

1 the timeline to achieve the requested renewable portfolio content and development of new
2 renewable resources; and

3 WHEREAS, The SFPUC received five (5) responses to CS-978R on December 29,
4 2009, from Fotowatio Renewable Ventures, Invenergy, LLC, Main Street Power, Power
5 Choice, LLC , and Shell North America, but only two (2) of these included electricity supply;
6 and

7 WHEREAS, Negotiations with the highest ranked proposer (Power Choice, LLC) were
8 not successful; and

9 WHEREAS, After further consideration and review by the SFPUC and SFLAFCO, a
10 decision was made to provide for development of new renewable resources by the City
11 through a separate process, and a second RFP, CS-160, was issued on August 5, 2010, for
12 electricity supply and customer care and billing services for CleanPowerSF; and

13 WHEREAS, The SFPUC received four (4) responses to CS-160 on November 3, 2010,
14 from Constellation Energy, Noble Americas, Power Choice, Inc, and Shell North America, and
15 none met the minimum qualifications and minimum proposal requirements of the RFP; and

16 WHEREAS, On November 15, 2010, respondents were informed of the deficiencies in
17 their proposals and were given until December 10, 2010, to supplement their proposals; and

18 WHEREAS, The revised proposals were received on December 10, 2010, and still
19 failed to meet minimum qualifications and minimum proposal requirements set forth in the
20 RFP, including a comprehensive pricing proposal that meets or beats PG&E rates; and

21 WHEREAS, The General Manager of the SFPUC determined that the RFP could not
22 be altered and reissued in a manner likely to attract responsive offers; and

23 WHEREAS, On February 8, 2011, the SFPUC authorized the General Manager to
24 negotiate with one or more creditworthy firms for power supply and customer care and billing
25 services for CleanPowerSF; and

1 WHEREAS, SFPUC staff began negotiations with Shell North America in February
2 2011 for electricity supply services that most closely achieve the City's goals and has not yet
3 reached any agreement with Shell Energy; and

4 WHEREAS, The attached Term Sheet "Updated Term Sheet Parameters for Program
5 and Contract Negotiations" sets forth the status of the CleanPowerSF Program details and
6 negotiations with Shell Energy for an energy supply contract ; and

7 WHEREAS, The "Updated Term Sheet Parameters for Program and Contract
8 Negotiations" does not reflect any binding agreements and SFPUC and the Board may each
9 in its sole discretion approve or reject any proposed contract with Shell submitted to such
10 body for its approval irrespective of whether or not such contract is consistent with the
11 program and contract terms described in the "Updated Term Sheet Parameters for Program
12 and Contract Negotiations;" now, therefore, be it

13 RESOLVED, That the SFLAFCo recommends that the Board of Supervisors approve
14 the General Manager to continue negotiations with Shell North America consistent with the
15 program and terms described in the attached "Updated Term Sheet Parameters for Program
16 and Contract Negotiations;" and, be it

17 FURTHER RESOLVED, That the SFPUC intends to appropriate up to \$19.5 million for
18 the initial phase of the CleanPowerSF program for the purposes of providing financial security
19 to its supplier counterparties, as well as ensuring sufficient financial capacity to ensure the
20 program's financial health over the term of the initial contract; and, be it

21 FURTHER RESOLVED, That to mitigate the financial risks associated with starting a
22 CCA Program the initial opt-out notices shall be directed to a portion of the available
23 residential accounts in San Francisco, in order to provide a reserve of residential accounts
24 that could be offered the program should opt-outs be higher than estimated; and, be it

1 FURTHER RESOLVED, That the SFPUC General Manager will not be authorized to
2 sign a final CCA contract until after such contract has been approved by the SFPUC and
3 Board of Supervisors each in its sole and absolute discretion irrespective of whether or not
4 such contract reflects the terms set forth in the "Updated Term Sheet Parameters for Program
5 and Contract Negotiations;" and, be it

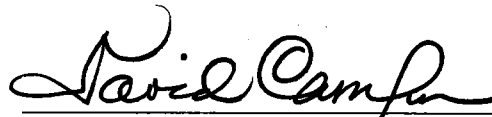
6 FURTHER RESOLVED, That if a contract is approved by the SFPUC and Board of
7 Supervisors, the SFPUC intends to authorize the General Manager to launch the program if
8 the following conditions are met to the satisfaction of the SFPUC: (1) supplier's prices are
9 within a range pre-authorized by the SFPUC and Board of Supervisors, (2) the California
10 Public Utilities Commission (CPUC) has made its final determination of the method to
11 calculate the CCA bond amount required by Public Utilities Code Section 366.2 and SFPUC
12 has the resources and all necessary authorizations to obtain the bond, (3) all appropriations
13 required by the CCA supplier contracts have been authorized, and (4) the SFPUC Power
14 Enterprise has rates in place to be financially stable and in compliance with its reserve
15 policies; and, be it

16 FURTHER RESOLVED, That the SFLAFCo recommends the Board of Supervisors
17 approve the "Updated Term Sheet Parameters for Program and Contract Negotiations."

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1 On a motion by Commissioner Avalos, seconded by Commissioner Schmeltzer, the foregoing
2 Resolution was passed and adopted by the SAN FRANCISCO LOCAL AGENCY FORMATION
3 COMMISSION, State of California, this 11th day of October, 2011, by the following vote, to wit:

4 Ayes: Chairperson Campos, Commissioners Avalos, and Schmeltzer.
5 Noes: None.
6 Absent: Commissioner Mirkarimi.

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8 David Campos, Chairperson
9 SAN FRANCISCO LOCAL AGENCY
10 FORMATION COMMISSION

11 ATTEST:

12 
13 Nancy Miller
14 Interim Executive Officer