

California Government Code 4217 Process Guide

Attached are examples of the forms and language used to introduce an energy services project and financing into the official record in accordance with Government Code 4217.10 and California Government Code 4217.18 respectively.

PROCESS

(1) Two Week Public Notice Required for Public Hearing for Energy Services Contract and Two Week Public Notice Required for Public Hearing for Financing Agreement

California Government Code 4217 requires that a public hearing for the energy retrofit **and** a public hearing for the financing be held during a regularly scheduled Council/Board of Supervisor's meeting. These two separate public hearings are typically, but not required to be held in the same Council/Board of Supervisor's meeting. Notice of these two public hearings must be posted as two separate public notices at least two (2) full weeks before the Council's/Board's action to make the "Findings" (explained below). The posting should be made in accordance with the City's/County's customary practice (i.e. on a bulletin that allows public access).

Sample Language for Public Notice Posting for Energy Services Contract

NOTICE OF PUBLIC HEARING-
RESOLUTION ADOPTING CERTAIN FINDINGS AND APPROVING ENERGY SERVICE CONTRACT FOR ENERGY RELATED IMPROVEMENTS TO CITY FACILITIES WITH AIRCON ENERGY, INC.

City Council/County Board of Supervisors shall hold a public hearing on (Date of Hearing) for the purposes of presenting certain findings, taking public comment, and approving a Resolution adopting the findings and approving an Energy Services Contract with Aircon Energy, Inc. for the implementation of certain energy related improvements to City/County facilities in accordance with California Government Code Section 4217.10 to 4217.18. The City Council/County Board of Supervisor's findings shall provide and Energy Services Contract shall require that the cost to the City/County to implement the energy related improvements will be less than the anticipated marginal cost to the City/County of thermal, electrical, or other energy that would have been consumed by the City/County in absent of purchasing the energy improvements.

Sample Language for Public Notice Posting for Finance Agreement

NOTICE OF PUBLIC HEARING-
ADOPT CERTAIN FINDINGS AND APPROVE A FINANCE AGREEMENT, AND RELATED LOAN DOCUMENTS, WITH (NAME OF FINANCE COMPANY) TO FUND ENERGY RELATED IMPROVEMENTS AT CITY/COUNTY FACILITIES

City Council/County Board of Supervisors shall hold a public hearing on (Date of Hearing) for the purposes of taking public comment, adopting the findings and approving a Finance Agreement and related necessary loan documents with (name of Finance Company) to fund the implementation of certain energy conservation improvements to City/County facilities in accordance with California Government Code Section 4217.10 to 4217.18.

(2) Public Hearing-City Council Presents Findings and Receives Public Comment Regarding Proposed Energy Service Contract

At the properly noticed public hearing, the Council/Board of Supervisors shall present its findings required by Government Code Section 4217.12 to enter into an Energy Service Contract and receives comments from the public and any other interested parties regarding the Council's/Board of Supervisor's proposed action to authorize the execution of the Contract. The findings shall provide that the cost to the City/County to implement the energy related improvements will be less than the anticipated marginal cost to the City/County of thermal, electrical, or other energy that would have been consumed by the City/County in absent of purchasing the energy improvements. The Council/Board of Supervisors closes the Public Hearing after comments are received and before the Council/Board of Supervisors takes formal action.

(3) Adoption of Resolution-Adopting Required Findings and Authorizing City/County to Execute an Energy Services Contract

As required by California Government Code Section 4217.12, the Council/Board of Supervisors may by Resolution authorize the City/County to enter into an Energy Services Contract if the Council determines it is in the best interests of the City/County to do so, and the Council finds and adopts the required findings at the Council/Board of Supervisors meeting that becomes part of the public record.

Sample Resolution Language

WHEREAS California Government Code Section 4217.10 to 4217.18, authorizes the City Council/County Board of Supervisors to enter into an Energy Services Contract for the implementation of energy related improvements if the Council/Board of Supervisors finds that it is in the best interest of the City/County to enter into such Energy Service Contract and that the anticipated cost to the City/Council for thermal or electrical energy or conservation services provided by Aircon Energy, Inc. under the contract will be less than the anticipated marginal cost to the City/County of thermal, electrical, or other energy that would have been consumed by the City/County in absent of those purchases; and

WHEREAS the proposed Energy Service Contract by and between the City/County and Aircon Energy, Inc. for the implementation of certain energy measures whose cost to the City/County such for thermal or electrical energy or conservation services provided under the Energy Service Contract will be less than the anticipated marginal cost to the City/County of thermal, electrical, or other energy that would have been consumed by the City/County in absent of the implementation of the improvements under the Energy Service Contract.

NOW THEREFORE, the City Council/County Board of Supervisors finds and adopts the following:

This Council/County hereby declares its intention to enter into the proposed agreement with Aircon Energy, Inc. for energy conservation services for the City/County facilities as defined by the Energy Services Contract.

(4) Public Hearing-City Council/County Board of Supervisors Receives Public Comment Regarding Acceptance and Approval of a Finance Agreement to Fund Energy Related Improvements at City/County Facilities.

Following taking formal action on the Energy Services Contract, at the properly noticed public hearing, the Council/Board of Supervisors shall open a second public hearing to receive comments from the public and any other interested parties regarding the City/County entering into a Finance Agreement to fund energy related improvements to be performed under an Energy Services Contract pursuant to California Government Code, chapter 3.2, Section 4217.10 through 4217.18. The Council/Board of Supervisors closes the Public Hearing after comments are received and before the Council/Board of Supervisors takes formal action.

(5) Adoption of Resolution-

- (a) Council/Board of Supervisors Adopts Required Findings and Authorizes City/County to Execute a Lease Agreement and Related Loan Documents to Fund Energy Related Improvements at City/County Facilities in Accordance with Government Code Section 4217.13; and**
- (b) Council/Board of Supervisors Adopts Resolution Language**

As required by California Government Code Section 4217.13, the Council/Board of Supervisors may by Resolution authorize the City/County to enter into a Finance Agreement and all necessary related loan documents with a third party if the City Council/County Board of Supervisor's determines (1) it is in the best interests of the City/County to do so, and (2) the Council/Board of Supervisors adopts certain required findings at the Council/Board of Supervisors meeting.

The financing company selected may have their own resolution form approved by their lawyers for projects negotiated under Government Code 4217.