

1 [Administrative Code - Purchase and Sale of Electricity and Related Products - Public Utilities
Commission]

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3 **Ordinance amending the Administrative Code to modify the waivers of specified**
4 **contract-related requirements in the Administrative and Environment Codes for**
5 **electricity and related product transactions, authorize binding arbitration for contracts**
6 **with Investor Owned Utilities, and increase the annual expenditure limit for energy**
7 **procurements from \$150,000,000 to \$200,000,000.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Chapter 21 of the Administrative Code is amended by revising Chapter
17 21.43, to read as follows:

18 **SEC. 21.43. PURCHASE AND SALE OF CERTAIN ELECTRICITY AND RELATED**
19 **PRODUCTS BY THE PUBLIC UTILITIES COMMISSION.**

20 (a) **Findings.**

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22 (12)) In order for CleanPowerSF and Hetch Hetchy Power to meet State law
23 requirements for RA, electricity-related products that ensure sufficient electric generation resources
24 are available to meet unusually high levels of demand, and the Renewable Portfolio Standard (RPS),
25 the state’s program for continuously increasing purchases from renewable energy facilities, the PUC
purchases RA and RPS from a variety of suppliers, but on occasion must rely on purchases from

1 Investor Owned Utilities (IOUs) in California. The IOUs in California, PG&E, Southern California
2 Edison, and San Diego Gas & Electric, all require RA and RPS buyers to agree to binding arbitration
3 when purchasing these products.

4 (13) In Ordinance No. 08-18, the Board of Supervisors authorized binding arbitration
5 provisions in certain limited circumstances and approved three PG&E agreements with binding
6 arbitration provisions. In order to reliably meet the State's legal requirements for RA and RPS
7 compliance, it is imperative to authorize the PUC to include binding arbitration provisions in
8 agreements for RA and/or RPS with California IOUs.

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10 (c) **Delegation of Approval Authority under Charter Section 9.118.** Pursuant to
11 its authority under Charter Section 9.118, the Board of Supervisors delegates to the General
12 Manager of the PUC authority to enter into purchases of power and related products using
13 contracts with terms in excess of 10 years or requiring expenditures of 10 million dollars or
14 more including amendments to such agreements with an impact of greater than \$500,000, so
15 long as the contract term, including any amendments, does not exceed 25 years. The annual
16 expenditure for all agreements entered under this subsection (c) may not exceed ~~150 million~~
17 ~~dollars~~ 200 million dollars per year. This annual expenditure cap may be increased by Board of
18 Supervisors Resolution.

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21 (f) **Waiver of Certain Contract-Related Requirements.** The Board of Supervisors finds
22 the waivers identified below to be reasonable and in the public interest, for individual contracts or an
23 entire procurement process, wWhere the General Manager of the PUC finds and documents in
24 writing both that the ~~transaction~~ agreement or solicitation represents the best opportunity
25 available to the City to obtain essential services and products in a manner beneficial to the

1 City, and that it is not feasible to add all standard City contract provisions to the agreement or
2 solicitation; ~~the Board of Supervisors finds the following waivers to be reasonable and in the public~~
3 ~~interest, for contracts~~ these waivers apply to agreements procured through competitive bidding
4 processes that include language requiring compliance with all applicable federal, state, and
5 local laws:

- 6 (1) Nondiscrimination in contracts (Admin. Code Chapter 12B);
- 7 (2) MacBride Principles (Admin. Code Chapter 12F);
- 8 (3) Local business enterprise utilization and non-discrimination in contracting
9 ordinance (Admin. Code Chapter 14B);
- 10 (4) Consideration of criminal history in hiring (Admin. Code Section 12T);
- 11 (5) Consideration of salary history in hiring (Admin. Code Section 12K);
- 12 (6) Prohibition on contracting in certain states (Admin. Code Section 12X);
- 13 (7) First source hiring (Admin. Code Chapter 83);
- 14 (8) Competitive bidding requirements (Admin. Code Section 21.1); ~~and~~
- 15 (9) Tropical hardwood and virgin redwood ban (Environ. Code Chapter 8);
16 (10) Minimum Compensation Ordinance (Admin. Code Chapter 12P);
- 17 (11) Health Care Accountability Ordinance (Admin. Code Chapter 12Q);
- 18 (12) Public access to meetings and records of non-profit organizations (Admin. Code
19 Section 12L.2);
- 20 (13) Sweatfree contracting (Admin. Code Section 12U.4); and
- 21 (14) Food service waste reduction (Environ. Code Section 1605).

22 (g) Delegation of Approval of Binding Arbitration for RA Agreements with IOUs. The Board
23 of Supervisors finds it is reasonable and in the public interest to delegate to the General Manager of
24 the PUC the authority to enter into contracts for RA from California IOU's with binding arbitration
25 provisions, and hereby delegates said authority to the General Manager of the PUC.

