

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

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

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

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

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

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

(a) Findings.

* * * *

~~(12)~~ In order for CleanPowerSF and Hetch Hetchy Power to meet State law requirements for RA, electricity-related products that ensure sufficient electric generation resources are available to meet unusually high levels of demand, and the Renewable Portfolio Standard (RPS), 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. ~~08-18227-18~~, the Board of Supervisors authorized binding
5 arbitration provisions in certain limited circumstances and approved three PG&E agreements with
6 binding 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.

9 * * * *

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.

19 * * * *

20
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, w~~H~~ere 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);₂
- 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 and/or RPS Agreements with**
23 **IOUs. The Board of Supervisors finds it is reasonable and in the public interest to delegate to the**
24 **General Manager of the PUC the authority to enter into contracts for RA and/or RPS from California**
25

1 IOU's with binding arbitration provisions, and hereby delegates said authority to the General Manager
2 of the PUC.

3 ~~(h)~~ ~~(g)~~ **Power and Related Products and Services.** For purposes of the delegation,
4 authorizations, and waivers in this Section 21.43, power and related products and services
5 shall include power supplies, RA, the conveyance or transmission of same, or ancillary
6 services such as spinning reserve, voltage control, as required for assuring reliable services in
7 accordance with good utility practices and applicable laws.

8 ~~(i)~~ ~~(h)~~ **Projects on City Property.** The delegation, authorizations, and waivers in Section
9 21.43 shall not apply to projects being constructed on City property.

10 ~~(j)~~ **Sunset Date.** This Section 21.43 shall expire by operation of law on July 1,
11 2025. Upon expiration of this Section, the City Attorney is authorized to remove this Section
12 from the Administrative Code.

13 Section 2. Effective Date. This ordinance shall become effective 30 days after
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
16 of Supervisors overrides the Mayor's veto of the ordinance.

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18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20
21 By: /s/
22 MARGARITA GUTIERREZ
23 Deputy City Attorney

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City and County of San Francisco

Tails Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 230281

Date Passed: May 16, 2023

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

April 26, 2023 Budget and Finance Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

April 26, 2023 Budget and Finance Committee - CONTINUED AS AMENDED

May 03, 2023 Budget and Finance Committee - RECOMMENDED

May 09, 2023 Board of Supervisors - PASSED ON FIRST READING


Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Safai, Stefani and Walton
Excused: 1 - Ronen

May 16, 2023 Board of Supervisors - FINALLY PASSED


Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai and Walton
Excused: 1 - Stefani

File No. 230281

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 5/16/2023 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



London N. Breed
Mayor

5/26/23

Date Approved