

1 [Authorizing a public-private partnership for the development of a 50 megawatt power plant at
2 San Francisco International Airport.]

3 **Ordinance recognizing the need for a nominal 50 megawatt power plant at the San**
4 **Francisco International Airport; ratifying the process undertaken by the San Francisco**
5 **Public Utilities Commission/Hetch Hetchy to select ATCO Power Canada Ltd. for the**
6 **joint design, development, construction, ownership and operation of this plant; waiving**
7 **the competitive bidding requirements of Administrative Code Chapter 6 for the project,**
8 **except that subcontractors shall be procured in a commercially reasonable manner for**
9 **the best price and that subcontractors shall comply with Charter section A7.204 and**
10 **Administrative Code section 6.22; waiving the requirements of Chapter 12.D.A., except**
11 **for subcontracting goals to be negotiated with and monitored by the San Francisco**
12 **Human Rights Commission; directing that the resulting agreement be subject to**
13 **approval by the Board of Supervisors; and waiving the ten day rule (Administrative**
14 **Code section 67.24(a)(2)).**
15

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

17 Section 1. The Board of Supervisors hereby finds that:

18 1. California in general and the Bay Area in particular is experiencing an
19 unprecedented electric power crisis. Heightened potential for rolling blackouts
20 jeopardizes the safe and continuous operation of the San Francisco International
21 Airport (the "Airport") as well as electric reliability on the northern San Francisco
22 Peninsula and within the City and County of San Francisco itself; and

23 2. Immediate action by the City is necessary to minimize the risks to public
24 health and safety caused by potential disruptions to local electric power supplies; and
25

1 3. A nominal 50 megawatt ("MW") power plant sited at the Airport will
2 provide much-needed voltage support at a critical location on the San Francisco
3 Peninsula which will reduce the risk of power outages at the Airport, on the northern
4 San Francisco Peninsula and within the City and County of San Francisco itself; and

5 4. The Mayor directed the San Francisco Public Utilities Commission's
6 Hetch Hetchy Division ("SFPUC/Hetch Hetchy") to work with the Airport to develop and
7 construct a power plant at the Airport at the earliest possible date, and preferably on or
8 about February 1, 2002; and

9 5. If the appropriate regulatory approvals are obtained by September 30,
10 2001, SFPUC/Hetch Hetchy is confident that a nominal 50 megawatt simple cycle
11 natural gas-fired power plant (the "50 MW Plant") could be constructed at the Airport
12 within the target timeline; and

13 6. SFPUC/Hetch Hetchy has proceeded on an expedited basis to procure a
14 development partner for the proposed 50 MW Plant. On July 13, 2001, SFPUC/Hetch
15 Hetchy issued a Request For Qualifications. On July 23, 2001, SFPUC/Hetch Hetchy
16 received fifteen responses. On July 31, 2001, SFPUC/Hetch Hetchy announced a
17 shortlist of four candidates: ATCO Power Canada, Ltd. ("ATCO"), CMS Energy,
18 Cinergy and Coral Energy. Over two days, on August 2 and August 3, 2001,
19 SFPUC/Hetch Hetchy conducted lengthy interviews with each of the shortlisted
20 candidates. Following the interviews, the selection panel invited all four firms to
21 provide key terms for their proposals. The selection panel then evaluated the
22 proposals in context of qualifications, receptivity and responsiveness to the City's
23 requirements; and

24 7. The selection panel chose ATCO as the most distinguished among the
25 candidates for its ability to create a partnership with the City in designing, developing,

1 constructing, owning, operating and maximizing the potential benefits and value from
2 the 50 MW Plant, and as the candidate most willing to meet the City's aggressive
3 timeline for this project, subject to the necessary permits and licenses to be obtained
4 and the parties' ability to expeditiously negotiate a Joint Development Agreement which
5 implements the "Principles for a Joint Development, Ownership and Operations
6 Agreement between ATCO Power Canada Ltd. and City and County of San Francisco,"
7 dated August 9, 2001, a copy of which is located in the Board of Supervisors' File for
8 this Ordinance (the "Principle Term Document"); and

9 8. In order to assure power source reliability for the Airport, to increase
10 electric reliability on the San Francisco Peninsula and within the City and County of
11 San Francisco itself, to maximize the potential benefits for the City and County of San
12 Francisco in the development partnership and to enable the expedited development of
13 the 50 MW Plant, the Board of Supervisors deems it in the best interests of the City
14 and County of San Francisco to ratify the process undertaken by SFPUC/Hetch Hetchy
15 in selecting ATCO as partner/developer for the 50 MW Plant project and to authorize
16 SFPUC/Hetch Hetchy to negotiate the terms necessary for the construction and
17 operation of the 50 MW Plant consistent with the exemptions and limitations stated in
18 this Ordinance.

19 Section 2. The Board of Supervisors hereby ratifies the process undertaken by
20 SFPUC/Hetch Hetchy in selecting ATCO as the private party with whom SFPUC/Hetch
21 Hetchy will negotiate a Joint Development Agreement for the 50 MW Plant.

22 Section 3. The Board of Supervisors hereby waives the competitive bidding
23 requirements of Administrative Code Chapter 6 for the 50 MW Plant project, except that
24 SFPUC/Hetch Hetchy shall require that the general contractor charged with building the plant
25 procure its subcontractors in a fair and commercially reasonable manner to provide qualified,

1 responsible subcontractors who can perform the necessary work for the best price and who
2 shall comply with the prevailing wage requirements of Charter section A7.204 and with the
3 requirements of Administrative Code section 6.22.

4 Section 4. The Board of Supervisors hereby authorizes SFPUC/Hetch Hetchy to
5 negotiate a Joint Development Agreement with ATCO for the 50 MW Plant within the terms
6 and conditions set forth in the Principle Term Document.

7 Section 5. The Board of Supervisors hereby exempts the Joint Development
8 Agreement from Chapter 12.D.A (Minority/Local/Women Business Utilization), except that
9 ATCO shall agree to utilize Minority/Local/Women Businesses for the 50 MW Plant through
10 subcontracting goals negotiated with and monitored by the Human Rights Commission.

11 Section 6. The Joint Development Agreement for the 50 MW Plant is subject to
12 approval by resolution of the Board of Supervisors.

13 Section 7. The Board of Supervisors finds that, as provided in Administrative Code
14 section 67.24(a)(2), the public interest would unavoidably and substantially be harmed by
15 compliance with the rule that would require the Joint Development Agreement to be available
16 for public review ten days prior to presentation to the Board of Supervisors, in that compliance
17 with the rule may result in substantially higher rates for power acquisition, and, therefore the
18 rule is waived.

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21 APPROVED AS TO FORM:
22 LOUISE H. RENNE, City Attorney

23 By: _____
24 Sheryl L. Bregman
25 Deputy City Attorney