

LEGISLATIVE DIGEST

[Administrative Code Waivers and Delegation of Charter Contract Approval Authority - Biogas Utilization Project Agreements, Southeast Treatment Plant]

Ordinance authorizing the San Francisco Public Utilities Commission (SFPUC) to exempt certain design, construction, finance, operation, and maintenance services and related agreements for the Public-Private Partnership (P3) delivery of the Biogas Utilization Project at the Southeast Treatment Plant (SEP), located at 1800 Jerrold Avenue, from Chapters 6, 14B, and 21, and Section 23.30 of the Administrative Code, but requiring compliance with the underlying public policies, including the payment of prevailing wages, implementation of a local business enterprise participation program, and compliance with the City's local hire policy and first source hiring ordinance, as applicable to such agreements, and permitting a best-value selection of the contractor team if the City elects to proceed with the Project after completing its review under the California Environmental Quality Act; and delegating to the SFPUC the authority under Charter, Section 9.118, to approve all necessary contracts that are \$10,000,000 or more and/or in excess of ten years.

Existing Law

Administrative Code Chapter 6 establishes the policies, procedures, and required contract terms that apply under City law to public works contracts, including construction contracts and contracts for related design and engineering services. Administrative Code Chapter 21 establishes the policies, procedures, and required contract terms that apply to City contracts for professional services, including financial advisory services, and general services, including maintenance and asset management services. Administrative Code Chapter 14B establishes the City's policies and requirements for utilization of Local Business Enterprises (LBEs) on and non-discrimination in public contracts generally. Administrative Code Chapter 23 governs the City's real property transactions, with Section 23.30 therein requiring determination of the market value of leases for City-owned property.

Amendments to Current Law

The proposed ordinance would exempt the Biogas Utilization Project (Project) from the requirements of Administrative Code Chapters 6, 14B, and 21, and Section 23.30, and would authorize the San Francisco Public Utilities Commission (SFPUC) to:

- Utilize a competitive two-step process, comprised of a request for qualifications and request for proposals, to select a private-sector party to develop and deliver the Project.

- Select the proposal that offers the best overall value to the City, based on evaluation criteria that include, but are not limited to, the qualifications of respondents, projected construction and financing costs, life-cycle cost savings, and design quality.
- Enter into one or more agreements with the successful respondent to design, build, finance, operate, and maintain the Project and, at all stages, obtain any applicable approvals from the SFPUC Commission or Board of Supervisors.

The proposed ordinance would not waive the requirements in Administrative Code Chapters 6, 14B, or 21 requiring payment of prevailing wages, implementation of an LBE utilization program, and compliance with the City's local hire policy and first source hiring ordinance.

Background Information

The SFPUC is planning to deliver a new facility to convert biogas generated from the Biosolids Digester Facilities Project (BDFP) at the Southeast Treatment Plant (SEP), located at 1800 Jerrold Avenue, into Renewable Natural Gas (RNG) for pipeline injection (Biogas Utilization Project or Project). The RNG will be injected into an existing natural gas pipeline, which PG&E owns and operates and is located adjacent to the SEP. In alignment with the BDFP construction and facility start-up, the Project must be operational and ready to accept the biogas from the new biosolids facilities in the fourth quarter of calendar year 2026.

The Public-Private Partnership (P3) delivery method involves a public-private partnership in which there is competitive procurement of a private sector partner (also referred to as P3 contractor) for the SFPUC. The P3 contractor would provide financing, design, construction, operation, and/or maintenance of the biogas utilization facilities, and sales and marketing of the produced fuel and renewable fuel credits. To compensate the P3 contractor for these services, the SFPUC will grant the P3 contractor rights to the produced fuel and associated revenue, with possible revenue sharing, and renewable fuel credits, for a fixed period of time.

The contemplated P3 services span the subject matters of Administrative Code Chapters 6, 14B, and 21, and Section 23.30. But none of these chapters contemplates the acquisition of these services under a single procurement and contracting process, without monetary compensation to the P3 contractor, which is required for the Project. If the Project is approved following environmental review, the proposed ordinance would allow this procurement and contracting method while continuing to require compliance with essential public policies, including the payment of prevailing wage and LBE participation.

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