1	[Administrative Code - Purchase and Sale of Electricity and Related Products - Public Utilities Commission]			
2	Commission			
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. Additions to Codes are in single-underline italics Times New Roman font.			
9	Deletions to Codes are in <u>single-underline lialics Times New Roman font.</u> Deletions to Codes are in <u>strikethrough italics Times New Roman font.</u> Board amendment additions are in <u>double-underlined Arial font.</u>			
10	Board amendment additions are in <u>additions</u> . Board amendment deletions are in strikethrough Arial font. Asterisks (* * * *) indicate the omission of unchanged Code			
11	subsections or parts of tables.			
12				
13	Be it ordained by the People of the City and County of San Francisco:			
14				
15	Section 1. Chapter 21 of the Administrative Code is amended by revising Chapter			
16	21.43, to read as follows:			
17	SEC. 21.43. PURCHASE AND SALE OF CERTAIN ELECTRICITY AND RELATED			
18	PRODUCTS BY THE PUBLIC UTILITIES COMMISSION.			
19	(a) Findings.			
20	* * * *			
21	(12) In order for CleanPowerSF and Hetch Hetchy Power to meet State law			
22	requirements for RA, electricity-related products that ensure sufficient electric generation resources			
23	are available to meet unusually high levels of demand, and the Renewable Portfolio Standard (RPS),			
24	the state's program for continuously increasing purchases from renewable energy facilities, the PUC			
25	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.
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 \underline{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 <u>sub</u> section (c) may not exceed <u>150 million</u>
17	dollars 200 million dollars per year. This annual expenditure cap may be increased by Board or
18	Supervisors Resolution.
19	* * * *
20	
21	(f) Waiver of <u>Certain Contract-Related Requirements</u> . <u>The Board of Supervisors finds</u>
22	the waivers identified below to be reasonable and in the public interest, for individual contracts or an

entire procurement process, www.here the General Manager of the PUC finds and documents in

available to the City to obtain essential services and products in a manner beneficial to the

writing both that the transactionagreement or solicitation represents the best opportunity

23

24

25

1	City, and tha	City, and that it is not feasible to add all standard City contract provisions to the agreement \underline{or}		
2	solicitation;,	the Boo	ard of Supervisors finds the following waivers to be reasonable and in the public	
3	interest, for c	ontract	s these waivers apply to agreements procured through competitive bidding	
4	processes th	nat incl	ude 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		<u>(11)</u>	Health Care Accountability Ordinance (Admin. Code Chapter 12Q);	
18		<u>(12)</u>	Public access to meetings and records of non-profit organizations (Admin. Code	
19		<u>Sectio</u>	on 12L.2);	
20		<u>(13)</u>	Sweatfree contracting (Admin. Code Section 12U.4); and	
21		<u>(14)</u>	Food service waste reduction (Environ. Code Section 1605).	
22	<u>(g) De</u>	legatio	on of Approval of Binding Arbitration for RA Agreements with IOUs. The Board	
23	of Supervisors	s finds	it is reasonable and in the public interest to delegate to the General Manager of	
24	the PUC the o	uthori	ty to enter into contracts for RA from California IOU's with binding arbitration	
25	provisions, an	id here	by delegates said authority to the General Manager of the PUC.	

1	(h) (g) Power and Related Products and Services. For purposes of the delegation,				
2	authorizations, and waivers in this Section 21.43, power and related products and services				
3	shall include power supplies, RA, the conveyance or transmission of same, or ancillary				
4	services such as spinning reserve, voltage control, as required for assuring reliable services in				
5	accordance with good utility practices and applicable laws.				
6	(i)(h) Projects on City Property. The delegation, authorizations, and waivers in Section				
7	21.43 shall not apply to projects being constructed on City property.				
8	(j) Sunset Date. This Section 21.43 shall expire by operation of law on July 1,				
9	2025. Upon expiration of this Section, the City Attorney is authorized to remove this <u>Section</u>				
10	from the Administrative Code.				
11	Section 2. Effective Date. This ordinance shall become effective 30 days after				
12	enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the				
13	ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board				
14	of Supervisors overrides the Mayor's veto of the ordinance.				
15					
16	APPROVED AS TO FORM:				
17	DAVID CHIU, City Attorney				
18					
19	By: /s/				
20	MARGARITA GUTIERREZ Deputy City Attorney				
21	n:\legana\as2023\2200387\01660640.docx				
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