AMENDED IN COMMITTEE
9/13/18

FILE NO. 180708 ORDINANCE NO. 227-18

[Authorizing Agreements - Binding Arbitration for Purchase of Electricity and Related Products - Public Utilities Commission - Total Costs of $13,762,490]

Ordinance delegating authority to the General Manager of the Public Utilities Commission to enter into agreements requiring binding arbitration for purchase of electricity and related products within certain parameters and where necessary to meet legal requirements; and retroactively authorizing three agreements for CleanPowerSF with Pacific Gas & Electric Company requiring binding arbitration, with a combined term of two years and five months from August 2018, through December 2020, and total costs of $13,762,490 for purchase of electricity-related products.

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. Background.

(a) For the last 100 years, the Public Utilities Commission (PUC) has operated a municipal electric utility providing service to City agencies and other customers using greenhouse-gas-free energy produced by the Hetch Hetchy system. The PUC supplements the energy produced by Hetch Hetchy and other City-owned facilities with purchases of electricity and related products to satisfy the energy demand of its customers and meet legal requirements.

(b) In May 2016, the PUC launched a Community Choice Aggregation (CCA) program called CleanPowerSF to provide San Francisco residents and businesses the option

to receive cleaner, more sustainable electricity at rates comparable to Pacific Gas & Electric Company's (PG&E) rates. CleanPowerSF uses clean and renewable energy purchased from various facilities, including energy from Hetch Hetchy.

Section 2. Pacific Gas and Electric Company Agreements; Retroactive Authorization.

(a) State law requires entities that provide electric service to customers, including CleanPowerSF and the City's municipal electric utility operated by PUC, to meet certain requirements such as those intended to ensure reliable service. One such requirement is for Resource Adequacy, an electricity-related product that ensures sufficient electric generation resources are available to meet unusually high levels of demand.

(b) CleanPowerSF has issued competitive solicitations for Resource Adequacy supplies and has participated in PG&E's solicitations to sell such supplies. The PUC has executed agreements with several suppliers, but must also make purchases from PG&E to procure sufficient supplies for CleanPowerSF for 2018-2020.

(c) To timely comply with state law requirements, the PUC has executed the following three agreements with PG&E: one for August through December 2018 for $3,411,740; one for September through December 2018 for $504,000; and one for January 2019 through December 2020 for $ 9,846,750. These agreements use the Edison Electric Institute form agreement authorized by Ordinance No. 75-15; that form agreement is already on file with the Clerk of the Board of Supervisors in File No. 150408.

(d) PG&E requires a three-step dispute resolution process that includes negotiation, mediation, and binding arbitration in accordance with the JAMS Commercial Arbitration Rules.

(e) The Board of Supervisors hereby authorizes retroactively the three PG&E agreements, described in subsection (c) of this Section 2, with binding arbitration provisions.

Section 3. Limited Delegation of Authority to Enter Into Certain Contracts Requiring Binding Arbitration.

(a) State law requires entities that provide electricity service to customers to demonstrate compliance with rules to ensure reliable service, meet renewable energy standards, and achieve other goals. These rules apply to the City's municipal electric utility and CleanPowerSF.

(b) The Board of Supervisors has previously granted the PUC additional flexibility in contracting to ensure it can secure electricity products needed for operating CleanPowerSF and its municipal electric utility. See, e.g., Ordinance Nos. 75-15, 223-15, and 8-18.

(c) It is reasonable and in the public interest to allow the General Manager of the PUC to agree to binding arbitration in certain limited circumstances, without Board of Supervisors approval. Accordingly, the Board hereby delegates authority to the General Manager of the PUC to enter into agreements that require binding arbitration, provided that the agreement meets all of the following conditions:

1. The agreement is to purchase electricity or an electricity-related product such as, by way of illustration but not limitation, Resource Adequacy;

2. The purchase is necessary to meet a legal requirement;

3. No other purchase that would meet the legal requirement and does not require binding arbitration is available; and

4. The agreement would not otherwise require Board of Supervisors approval.

(d) The General Manager of the PUC shall notify the Board of Supervisors in writing of any agreements executed under the authority granted in subsection (c) of this Section 3, and shall provide a copy of the agreement along with the notice.

(e) This section III expires by operation of law five years from the effective date of this ordinance.

Section 4. Effective Date; Retroactivity.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

(b) Upon the effective date of this ordinance, Section 2 of this ordinance shall be retroactive to May 29, 2018.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
THERESA L. MUELLER
Deputy City Attorney

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File Number: 180708 **Date Passed:** September 25, 2018

Ordinance delegating authority to the General Manager of the Public Utilities Commission to enter into agreements requiring binding arbitration for purchase of electricity and related products within certain parameters and where necessary to meet legal requirements; and retroactively authorizing three agreements for CleanPowerSF with Pacific Gas & Electric Company requiring binding arbitration, with a combined term of two years and five months from August 2018, through December 2020, and total costs of $13,762,490 for purchase of electricity-related products.

September 06, 2018 Budget and Finance Committee - CONTINUED

September 13, 2018 Budget and Finance Committee - AMENDED

September 13, 2018 Budget and Finance Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

September 18, 2018 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Brown, Cohen, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

September 25, 2018 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Brown, Cohen, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani and Tang
Excused: 1 - Yee

File No. 180708

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 9/25/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

10/5/18
Date Approved