

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

3 **Ordinance amending the Administrative Code to approve the use of certain form**  
4 **contracts to purchase and sell electricity and related products by the Public Utilities**  
5 **Commission (PUC), grant waivers of specified contract-related requirements in the**  
6 **Administrative and Environment Codes for these transactions, and delegate to the**  
7 **General Manager of the PUC authority under Charter section 9.118 to execute certain**  
8 **contracts with terms in excess of 10 years or requiring expenditures of \$10,000,000 or**  
9 **having anticipated revenue of one million dollars or more subject to specified**  
10 **limitations through June 30, ~~2025~~2027.**

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

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

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

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

23 *(a) Findings.*

24 *(1) The Power Enterprise ("Power Enterprise") of the Public Utilities Commission*  
25 *("PUC") operates a municipal utility, Hetch Hetchy Power, and a community choice aggregation*

1 (“CCA”) program, CleanPowerSF. Both Hetch Hetchy Power and CleanPowerSF purchase and sell  
2 electricity in the wholesale markets to serve their respective retail customers in San Francisco.

3 (2) In May 2016, the City launched CleanPowerSF to provide San Francisco  
4 residents and businesses the option to receive cleaner, more sustainable electricity at rates comparable  
5 to PG&E's rates. See Ordinance Nos. 86-04, 147-07, 232-09, 45-10, 200-12, 78-14 and 75-15 and  
6 Resolution Nos. 348-12 and 331-13.

7 (3) Hetch Hetchy Power serves its customers primarily with electricity generated by  
8 City-owned generation resources; CleanPowerSF serves its customers entirely with electricity  
9 purchased through wholesale market transactions. Both Hetch Hetchy Power and CleanPowerSF  
10 comply with state law and California Independent System Operator market rules, including  
11 requirements to procure renewable energy, Resource Adequacy (RA), and energy storage. In addition,  
12 as a CCA, CleanPowerSF is subject to numerous energy procurement requirements under state law  
13 and California Public Utilities Commission decisions.

14 (4) The PUC is in a unique market position because both Hetch Hetchy Power and  
15 CleanPowerSF directly compete with PG&E and private power providers for retail electricity  
16 customers and with other load serving entities for supplies of electricity and electricity-related products  
17 in the highly competitive wholesale markets. This competitive environment heightens the need to  
18 maintain prices at a level that is competitive with PG&E despite the many regulatory burdens and costs  
19 placed on CCAs and the unique challenges faced by Hetch Hetchy Power due to its reliance on PG&E  
20 for wholesale distribution service.

21 (5) To meet regulatory requirements, secure the best possible prices and terms, keep  
22 rates affordable and competitive, and manage procurement risk, the PUC engages in a continual  
23 process of procuring power and simultaneously negotiating a mix of short, medium, and long-term  
24 contracts for a diverse supply of energy and energy-related products with multiple suppliers, all in an  
25 expedited time frame consistent with regulatory deadlines.

1           (6) The PUC is engaged in a number of procurement efforts to fulfill the City's goals  
2 for a carbon-free future, energy independence, equity in access to 100% renewable energy supply;  
3 ensure stable and affordable rates, meet Hetch Hetchy Power's and CleanPowerSF's regulatory  
4 obligations; and contribute to the reliability of the state's energy grid and resource supply.

5           (7) These efforts include CleanPowerSF programs to secure a significant number of  
6 long-term agreements to purchase electricity from new renewable and energy storage projects,  
7 including from small renewable projects located in disadvantaged communities under the  
8 Disadvantaged Communities ("DAC") Green Tariff and the Community Solar ("CS") Green Tariff  
9 programs, and renewable and energy storage projects located on City reservoirs within the City. The  
10 DAC and CS Green Tariff programs will provide 100% renewable energy at discounted rates to  
11 residents of disadvantaged communities within the City. The costs expended on procuring energy for  
12 Hetch Hetchy Power and CleanPowerSF are fully recovered by PUC through customer billing.

13           (8) Hetch Hetchy Power and CleanPowerSF will also engage in procurement efforts  
14 through competitive bidding processes as necessary for short- and medium-term agreements for energy  
15 and energy-related products. As the PUC manages fluctuations in supply and demand and navigates  
16 the constantly changing regulatory requirements of multiple agencies, it also engages in the sale of  
17 excess energy.

18           (9) In Ordinance Nos. 75-15, 223-15, 08-18, and 11-20 (collectively, the "Procurement  
19 Ordinances"), the Board of Supervisors authorized the PUC to use two commonly used industry form  
20 contracts and PUC pro forma contracts with terms that deviated from the City's standard contract  
21 terms, and authorized modifications to the form agreements so long as such modifications, in the  
22 judgment of the General Manager and the City Attorney, did not materially decrease the City's rights  
23 or materially increase its liabilities. These agreements were:

24           (A) Western System Power Pool ("WSPP") Agreement;

25           (B) Edison Electric Institute (EEI) Master Agreement;



1 harmless agreements for the purchase of power and related products. The Board of Supervisors also  
2 authorizes modifications to these form agreements so long as such modifications, in the judgment of the  
3 General Manager of the PUC, the City's Risk Manager, and the City Attorney, do not materially  
4 decrease the City's rights or materially increase its liabilities.

5 (c) Delegation of Approval Authority under Charter Section 9.118. Pursuant to its  
6 authority under Charter Section 9.118, the Board of Supervisors delegates to the General Manager of  
7 the PUC authority to enter into purchases power and related products using contracts with terms in  
8 excess of 10 years or requiring expenditures of 10 million dollars or more including amendments to  
9 such agreements with an impact of greater than \$500,000, so long as the contract term, including any  
10 amendments, does not exceed 25 years. The annual expenditure for all agreements entered under this  
11 section (c) may not exceed 150 million dollars per year. This annual expenditure cap may be increased  
12 by Board of Supervisors Resolution.

13 (d) Delegation of Approval Authority under Charter Section 9.118. Pursuant to its  
14 authority under Charter Section 9.118, the Board of Supervisors delegates to the General Manager of  
15 the PUC authority to enter into contracts for the sale of power and related products having anticipated  
16 revenue in excess of one million dollars or more. The annual revenue for all agreements entered under  
17 this section (d) may not exceed 10 million dollars per year. This annual revenue cap may be increased  
18 by Board of Supervisors Resolution.

19 (e) Reporting. Annual Reports. The PUC shall ~~quarterly~~ annually report to the Board of  
20 Supervisors the duration, product purchased, and cost of contracts entered into pursuant to subsection  
21 (c). The PUC shall also annually report to the Board the program costs, the rates charged to  
22 CleanPowerSF customers to recover those costs, and a comparison of those rates to PG&E rates.

23 (f) Waiver of Contract-Related Requirements. Where the General Manager of the PUC  
24 finds and documents in writing both that the transaction represents the best opportunity available to the  
25 City to obtain essential services and products in a manner beneficial to the City, and that it is not

1 feasible to add all standard City contract provisions to the agreement, the Board of Supervisors finds  
2 the following waivers to be reasonable and in the public interest, for contracts procured through  
3 competitive bidding processes that include language requiring compliance with all applicable federal,  
4 state, and local laws:

5 \_\_\_\_\_ (1) Nondiscrimination in contracts (Admin. Code Chapter 12B);

6 \_\_\_\_\_ (2) MacBride Principles (Admin. Code Chapter 12F);

7 \_\_\_\_\_ (3) Local business enterprise utilization and non-discrimination in contracting  
8 ordinance (Admin. Code Chapter 14B);

9 \_\_\_\_\_ (4) Consideration of criminal history in hiring (Admin. Code Section 12T);

10 \_\_\_\_\_ (5) Consideration of salary history in hiring (Admin. Code Section 12K);

11 \_\_\_\_\_ (6) Prohibition on contracting in certain states (Admin. Code Section 12X);

12 \_\_\_\_\_ (7) First source hiring (Admin. Code Chapter 83);

13 \_\_\_\_\_ (8) Competitive bidding requirements (Admin. Code Section 21.1); and

14 \_\_\_\_\_ (9) Tropical hardwood and virgin redwood ban (Environ. Code Chapter 8).

15 \_\_\_\_\_ (g) For purposes of the delegation, authorizations, and waivers in this Section 21.43, power  
16 and related products and services shall include power supplies, RA, the conveyance or transmission of  
17 same, or ancillary services such as spinning reserve, voltage control, as required for assuring reliable  
18 services in accordance with good utility practices and applicable laws.

19 \_\_\_\_\_ (h) The delegation, authorizations, and waivers in Section 21.43 shall not apply to  
20 projects being constructed on City property.

21 \_\_\_\_\_ (i)(h) Sunset Date. This Section 21.43 shall expire by operation of law on July 1, 2025 2027.  
22 Upon expiration of this Section, the City Attorney is authorized to remove this from the Administrative  
23 Code.

24 ///

25 ///

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

5  
6  
7  
8 APPROVED AS TO FORM:  
9 DAVID CHIU, City Attorney

10  
11 By:                     /s/            
12           MARGARITA GUTIERREZ  
13           Deputy City Attorney

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
n:\legana\as2022\2200387\01614232.docx



# City and County of San Francisco

## Tails Ordinance

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

**File Number:** 220652

**Date Passed:** July 26, 2022

Ordinance amending the Administrative Code to approve the use of certain form contracts to purchase and sell electricity and related products by the Public Utilities Commission (PUC), grant waivers of specified contract-related requirements in the Administrative and Environment Codes for these transactions, and delegate to the General Manager of the PUC authority under Charter, Section 9.118, to execute certain contracts with terms in excess of ten years or requiring expenditures of \$10,000,000 or having anticipated revenue of \$1,000,000 or more subject to specified limitations through June 30, 2025.

July 13, 2022 Budget and Finance Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

July 13, 2022 Budget and Finance Committee - RECOMMENDED AS AMENDED

July 19, 2022 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 11 - Chan, Dorsey, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

July 19, 2022 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 11 - Chan, Dorsey, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

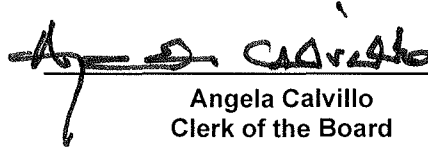
July 26, 2022 Board of Supervisors - FINALLY PASSED

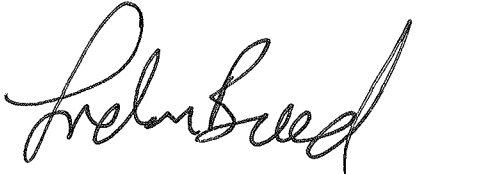
Ayes: 11 - Chan, Dorsey, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton



File No. 220652

I hereby certify that the foregoing  
Ordinance was FINALLY PASSED on  
7/26/2022 by the Board of Supervisors of  
the City and County of San Francisco.

  
Angela Calvillo  
Clerk of the Board

  
London N. Breed  
Mayor

8/4/22  
Date Approved