

1 [Agreement - Tracking Environmental Attributes]

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3 **Ordinance approving a contract between the City and County of San Francisco and the**  
 4 **Western Renewable Energy Generation Information System (WREGIS) for documenting**  
 5 **and tracking environmental attributes at an estimated initial cost of \$4,500 per year,**  
 6 **depending on account activity; waiving the competitive procurement requirements of**  
 7 **the San Francisco Administrative Code Chapter 21 for this service, waiving the**  
 8 **requirement of Section 21.9(b) of the San Francisco Administrative Code that a City**  
 9 **contract not contain an automatic renewal provision, waiving the requirement of**  
 10 **Section 21.35 of the San Francisco Administrative Code that every contract contain a**  
 11 **statement regarding liability of claimants for submitting false claims, waiving the**  
 12 **requirement of Section 12F.5 of the San Francisco Administrative Code that every**  
 13 **contract contain a statement urging companies abide by the MacBride Principles, and**  
 14 **waiving the requirement of Section 12O.2 of the San Francisco Administrative Code**  
 15 **that every contractor provide EIC forms to eligible employees; and authorizing the San**  
 16 **Francisco Public Utilities Commission to enter other similar contracts for tracking**  
 17 **environmental attributes.**

18 NOTE: Additions are *single-underline italics Times New Roman*;  
 19 deletions are ~~*strike-through italics Times New Roman*~~.  
 20 Board amendment additions are double-underlined;  
 Board amendment deletions are ~~strike-through normal~~.

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

22 Section 1. Findings: The Board of Supervisors of the City and County of San Francisco  
 23 hereby finds, determines and declares that:

24 (a) Background

25 (1) The City and County of San Francisco (City), through the San Francisco

1 Public Utilities Commission (PUC) owns facilities that generate renewable energy and also  
2 purchases renewable energy generated by others. Renewable energy has what are called  
3 "environmental attributes" which are a way of recognizing the environmental benefits of  
4 renewable energy. These environmental attributes can be used to meet renewable energy  
5 requirements established by state law and may have value in the energy markets.  
6 Renewable Energy Credits are one example of this type of instrument. A Renewable Energy  
7 Credit is a certificate which demonstrates that one unit of electricity was generated and  
8 delivered by an eligible renewable energy generating unit.

9 (2) Increasingly, instruments to document and track environmental attributes  
10 are being developed to allow entities to demonstrate achievement of environmental goals,  
11 comply with environmental laws and regulations, and ensure that environmental attributes are  
12 verifiable and not double-counted. The City will need to establish one or more accounts with  
13 tracking entities in order to certify, track, and ultimately trade environmental instruments that  
14 are owned, purchased, or otherwise obtained by the City.

15 (3) The Western Renewable Energy Generation Information System  
16 (WREGIS) was developed by the California Energy Commission (CEC), the Western  
17 Governors' Association (WGA), and the Western Regional Air Partnership. WREGIS is a  
18 single, centralized entity responsible for issuing WREGIS certified Renewable Energy Credits  
19 for electricity from renewable facilities in the western U.S. and tracking Renewable Energy  
20 Credits from those facilities to allow entities to demonstrate compliance with state regulations.  
21 Renewable Energy Credits issued by WREGIS have more value in the electric market than  
22 those certified by other sources. WREGIS is the only entity which can register Renewable  
23 Energy Credits for purposes of compliance with California's laws mandating the use of  
24 renewable energy.

25 (4) Establishing accounts with WREGIS will allow the City to accurately track

1 and report the environmental attributes of the City's renewable resources including solar,  
2 wind, geothermal, and small hydroelectric generation, and in so doing, maximize the benefits  
3 of those environmental attributes.

4 (5) In addition to the WREGIS tracking system for renewable energy  
5 resources, tracking systems for other kinds of environmental attributes are being developed.  
6 The California Air Resources Board recently adopted regulations to reduce greenhouse gas  
7 emissions and is establishing similar programs that will be used to track greenhouse gas  
8 emissions from fossil-fuels, methane, and other sources and track emission reductions over  
9 time. These programs include carbon emission allowances, carbon offset credits, and other  
10 greenhouse gas credits. Under the California Air Resources Board's regulations, entities such  
11 as the SFPUC and other City departments will be required to register with tracking systems  
12 and participate in these programs.

13 (6) A delay in establishing accounts with WREGIS and other agencies as  
14 needed would prevent the City from certifying and tracking Renewable Energy Credits and  
15 other environmental instruments that it controls, reporting on its environmental performance,  
16 and demonstrating its compliance with applicable laws and regulations. Failure to establish  
17 these accounts could result in losing the value associated with the environmental attributes of  
18 San Francisco-controlled resources.

19 (7) The PUC Commission authorized the PUC General Manager to execute  
20 the WREGIS agreement, subject to approval by the Board of Supervisors, on September 13,  
21 2011, in Resolution 11-0151, and to enter other such agreements that are needed in order to  
22 track environmental attributes.

23 (b) WREGIS Terms of Use Agreement

24 (1) WREGIS requires the registering entity to sign a Terms of Use agreement  
25 outlining the roles and responsibilities of the registrant, including authorizing account access,

1 agreeing to payment terms, and delineating software licensing provisions. A copy of the  
2 WREGIS Terms of Use Agreement is on file with the Clerk of the Board of Supervisors in File  
3 No. \_\_\_\_\_.

4 (2) The WREGIS Terms of Use Agreement is a standard contract that is not  
5 subject to negotiation or modification. The Agreement renews annually on payment of an  
6 annual fee, currently \$1,500. Other fees are based on the quantity of energy tracked. For  
7 example, the PUC estimates a total annual cost (annual fee plus usage based charges) of  
8 \$4,500 to track RECs from the PUC's solar resources. The Agreement may be terminated by  
9 either party with 60 days written notice. Other key provisions include:

- 10 • WREGIS has sole discretion to increase or decrease customer fees with sixty days  
11 notice;
- 12 • Late fees of one and on-half percent computed on overdue amounts.
- 13 • No liability for most claims of intellectual property infringement, except for those due to  
14 WREGIS' own actions.
- 15 • WREGIS has no liability for any direct, general, special, indirect, consequential,  
16 incidental, exemplary, punitive or other indirect damages regardless of cause.
- 17 • WREGIS reserves the right to audit the City's relevant records to verify any information  
18 submitted by the City to WREGIS under the agreement.

19 (c) Other Agreements for Tracking Environmental Attributes

20 The PUC anticipates that other registries similar to WREGIS will be developed in the  
21 near future. As additional registries are developed that provide value for tracking other  
22 environmental attributes, the PUC will consider entering into agreements on a case-by-case  
23 basis.

24 Section 2. Waiver of City Administrative Code Provisions:

25 (a) The Board of Supervisors hereby waives the requirement of Section 21 of the

1 San Francisco Administrative Code that requires competitive procurement for City contracts.  
2 This waiver is reasonable because WREGIS is the only entity that certifies renewable energy  
3 credits recognized for purposes of complying with California laws mandating the use of  
4 renewable energy.

5 (b) The Board of Supervisors hereby waives the requirement of San Francisco  
6 Administrative Code Section 21.9(b that contracts not include an automatic renewal provision.  
7 This waiver is reasonable because the City may terminate the contract at any time with notice  
8 to WREGIS and this service is one that the City will need continuously for the foreseeable  
9 future.

10 (c) The Board of Supervisors hereby waives the requirement of Section 21.35 of the  
11 San Francisco Administrative Code that every contract contain a false claims provision. This  
12 waiver is reasonable because the City 's fees will consist of an annual subscription amount  
13 and a fee based on the number of Renewable Energy Credits the City registers with WREGIS.

14 (d) The Board of Supervisors hereby waives the requirement of Section 12F.5 of the  
15 San Francisco Administrative Code that every contract contain a statement urging companies  
16 to abide by the MacBride Principles. This waiver is reasonable because the WREGIS  
17 agreement cannot be modified to include this provision.

18 (e) The Board of Supervisors hereby waives the requirement of Section 12O.2 of  
19 the San Francisco Administrative Code that every contractor provide EIC forms to eligible  
20 employees. This waiver is reasonable because the WREGIS agreement cannot be modified  
21 to include this provision.

22 Section 3. Authorizations: Section 9.118 of the San Francisco Charter requires  
23 approval by the Board of Supervisors of agreements with a term of ten years or more.

24 (a) The Board of Supervisors authorizes the PUC General Manager to execute  
25 Agreements with WREGIS in substantially the form on file with the Clerk of the Board of

1 Supervisors, in File No. \_\_\_\_\_ , with such changes or modifications, including  
2 without limitation modifications to the exhibits, as may be acceptable to the PUC General  
3 Manager and the City Attorney, and which do not materially increase the obligations and  
4 liabilities of the City. This authorization is subject to annual appropriation of funds and shall  
5 extend so long as total expenditures for the WREGIS agreements do not exceed \$1,000,000.

6 (b) The Board of Supervisors authorizes the PUC General Manager to execute  
7 other similar agreements in the future as necessary to track environmental attributes. This  
8 authorization is subject to annual appropriation of funds and so long as total expenditures for  
9 those other agreements do not exceed \$2,500,000.

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

14 By: \_\_\_\_\_  
15 Margarita Gutierrez  
16 Deputy City Attorney  
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