

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 ~~strikethrough 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. 111154.

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

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Supervisors, in File No. 111154 , with such changes or modifications, including without limitation modifications to the exhibits, as may be acceptable to the PUC General Manager and the City Attorney, and which do not materially increase the obligations and liabilities of the City. This authorization is subject to annual appropriation of funds and shall extend so long as total expenditures for the WREGIS agreements do not exceed \$1,000,000.

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

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

By: Margarita Gutierrez
Margarita Gutierrez
Deputy City Attorney



City and County of San Francisco
Tails
Ordinance

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

File Number: 111154

Date Passed: December 13, 2011

Ordinance approving a contract between the City and County of San Francisco and the Western Renewable Energy Generation Information System for: 1) documenting and tracking environmental attributes at an estimated initial cost of \$4,500 per year, depending on account activity; 2) waiving the competitive procurement requirements of the San Francisco Administrative Code Chapter 21 for this service, waiving the requirement of Section 21.9(b) of the San Francisco Administrative Code that a City contract not contain an automatic renewal provision, waiving the requirement of Section 21.35 of the San Francisco Administrative Code that every contract contain a statement regarding liability of claimants for submitting false claims, waiving the requirement of Section 12F.5 of the San Francisco Administrative Code that every contract contain a statement urging companies abide by the MacBride Principles, and waiving the requirement of Section 12O.2 of the San Francisco Administrative Code that every contractor provide EIC forms to eligible employees; and 3) authorizing the San Francisco Public Utilities Commission to enter other similar contracts for tracking environmental attributes.

November 30, 2011 Budget and Finance Committee - RECOMMENDED

December 06, 2011 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

December 13, 2011 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 111154

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
12/13/2011 by the Board of Supervisors of
the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Edwin Lee

12/20/11

Date Approved