Ordinance approving a contract between the City and County of San Francisco and the Western Renewable Energy Generation Information System (WREGIS) for documenting and tracking environmental attributes at an estimated initial cost of $4,500 per year, depending on account activity; 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 120.2 of the San Francisco Administrative Code that every contractor provide EIC forms to eligible employees; and authorizing the San Francisco Public Utilities Commission to enter other similar contracts for tracking environmental attributes.

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through italics Times New Roman. Board amendment additions are double-underlined; Board amendment deletions are strikethrough normal.

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

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

(a) Background

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

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

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

(4) Establishing accounts with WREGIS will allow the City to accurately track
and report the environmental attributes of the City's renewable resources including solar, wind, geothermal, and small hydroelectric generation, and in so doing, maximize the benefits of those environmental attributes.

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

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

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

(b) WREGIS Terms of Use Agreement

(1) WREGIS requires the registering entity to sign a Terms of Use agreement outlining the roles and responsibilities of the registrant, including authorizing account access,
agreeing to payment terms, and delineating software licensing provisions. A copy of the WREGIS Terms of Use Agreement is on file with the Clerk of the Board of Supervisors in File No. 111154.

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

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

(c) Other Agreements for Tracking Environmental Attributes

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

Section 2. Waiver of City Administrative Code Provisions:

(a) The Board of Supervisors hereby waives the requirement of Section 21 of the
San Francisco Administrative Code that requires competitive procurement for City contracts.

This waiver is reasonable because WREGIS is the only entity that certifies renewable energy
credits recognized for purposes of complying with California laws mandating the use of
renewable energy.

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

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

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

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

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

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

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

Date Approved