

Amendment of the Whole  
as amended in Committee 7/7/08

FILE NO. 080566

ORDINANCE NO.

1 [Approving an agreement with Cochran, Inc. to install shoreside power equipment at Pier 27  
2 and 29 of the Port of San Francisco and waiving certain contracting requirements of the  
3 Administrative Code and Environment Code.]

4 **Ordinance authorizing the Executive Director of the Port to execute an agreement with**  
5 **Cochran, Inc. to install shoreside power equipment at Piers 27 and 29 of the Port of San**  
6 **Francisco for an amount not to exceed \$3,200,000 ~~\$1,700,000 from the City and an~~**  
7 **additional ~~\$1,900,000 to be separately provided by Princess Cruise Lines from the Bay~~**  
8 **Area Air Management District Carl Moyer Program grant and exempting the agreement**  
9 **from the contracting requirements of the Administrative Code and Environment Code.**

10 Note: Additions are *single-underline italics Times New Roman*;  
11 deletions are *strikethrough italics Times New Roman*.  
12 Board amendment additions are double underlined.  
13 Board amendment deletions are ~~strikethrough normal~~.

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

15 Section 1. Findings.

16 (a) On September 27, 2005, the Port of San Francisco's Cruise Terminal  
17 Environmental Advisory Committee recommended the adoption of shoreside power for cruise  
18 ships at any future cruise terminal development at the Port.

19 (b) On September 27, 2005, the San Francisco Port Commission endorsed the Cruise  
20 Terminal Environmental Advisory Committee recommendation regarding shoreside power for  
21 cruise ships.

22 (c) On December 22, 2006, the Port and Princess Cruise Lines, as co-applicants,  
23 submitted an application to the Bay Area Air Quality Management District ("BAAQMD") for  
24 Carl Moyer Program funding for shoreside power at the Port.

25 (d) On April 4, 2007, the BAAQMD approved a Carl Moyer Program grant of \$1.9  
million to the Port of San Francisco and Princess Cruise Lines, jointly as grantee, to fund a

1 shoreside power project (“Project”) and in December 2007, this Board by Resolution No. 671-  
2 07 approved the acceptance and expenditure of those grant funds. The Carl Moyer grant  
3 specifies that the Project must be completed by June 2009; otherwise, the grant funds must  
4 be repaid to BAAQMD.

5 (e) In December 2007, the California Air Resources Board (“CARB”) voted to approve a  
6 proposed regulation, which, when effective, will require five ports in California, including the  
7 Port of San Francisco, to phase in shoreside power for certain vessels including cruise ships  
8 beginning in the year 2014.

9 (f) Carl Moyer Program grant funds cannot be used to fund projects that are required  
10 by law. Since CARB adopted a regulation requiring shoreside power to be phased in  
11 beginning 2014, the Port must install its grant-funded Project by mid-2009, thereby providing  
12 for an operational shoreside power facility at least four years in advance of state  
13 requirements, in order to achieve Carl Moyer Program emission reduction requirements.

14 (g) The Project will reduce the emission of air pollutants by each typical cruise ship that  
15 connects, by approximately:

16 140 lbs diesel particulate matter (“PM”),

17 0.87 tons nitrogen oxides (“NOx”), and

18 1.3 tons sulfur oxides (“SOx”);

19 thereby improving San Francisco’s air quality and enhancing the public health and welfare of  
20 all San Franciscans and creating other significant public benefits.

21 Additionally, each ship that connects will reduce the consumption of fossil fuels by  
22 approximately 16 tons, resulting in a reduction of carbon dioxide emissions of approximately  
23 19.7 tons, thereby reducing the amount of the City’s greenhouse gas emissions.

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1 (h) Princess Cruise Lines, as the only cruise ship company that has designed and  
2 constructed shoreside power facilities for cruise ships, has unique experience in the  
3 development of shoreside power equipment and is uniquely qualified as a Carl Moyer  
4 Program grantee to participate in this Project. Princess Cruise Lines utilizes Cochran, Inc., a  
5 Seattle-based electrical engineering contractor, to design and install shoreside power  
6 installations.

7 (i) All other major cruise lines, through the International Council of Cruise Lines  
8 ("ICCL"), in order to maximize compatibility among the various ships and cruise companies,  
9 have agreed to adopt the Princess design for shoreside power as the industry standard.

10 (j) Any delay in installing the shoreside power equipment increases the risk of losing  
11 the Carl Moyer Program grant funds.

12 (k) The Port proposes to enter into an agreement with Princess Cruise Lines, under  
13 which ~~Princess Cruise Lines~~ the Port shall seek reimbursement of funds not to exceed \$1.9  
14 million from BAAQMD through the Carl Moyer Program for Project costs, and Princess Cruise  
15 Lines will assist the Port by working with Cochran to test and certify that the shoreside power  
16 equipment functions properly with Princess' cruise vessels. The estimated cost of the project,  
17 including contingencies is \$3.6 million, thereby exceeding the Carl Moyer Program grant  
18 amount by \$1.7 million. The Port proposes to enter into a Memorandum of Understanding  
19 ("MOU") with the San Francisco Public Utilities Commission ("SFPUC") for SFPUC funding of  
20 the remainder of Project costs of \$1.7 million.

21 (l) The Port and SFPUC staff are ~~examining methods of~~ pursuing engineering and  
22 dividing construction of the shoreside power project into two distinct phases: one that involves  
23 the specialized shoreside power equipment that ~~could~~ will be executed by ~~Princess Cruise~~  
24 Lines the Port of San Francisco with BAAQMD funds and SFPUC funds ~~(the "BAAQMD-~~

25

1 ~~funded phase")~~ through a contract with Cochran, Inc., and another that involves upgrading  
2 SFPUC-owned electrical power supply to the shoreside power system ~~and could~~ which will be  
3 executed by the SFPUC and its current, as-needed construction contractors, utilizing SFPUC  
4 funds ~~(the "SFPUC-funded phase").~~ ~~City staff have not yet concluded whether t~~This  
5 approach will deliver an operational project by mid-2009.

6 (m) Subject to the Port Director's determination that it is economically or technically  
7 infeasible to complete ~~the SFPUC-funded phase of the Project~~ utilizing a current City-certified  
8 contractor, the Board of Supervisors hereby authorizes the Executive Director of the Port to  
9 execute an agreement with Cochran, Inc. to install shoreside power equipment at Piers 27  
10 and 29 of the Port of San Francisco for an amount not to exceed \$3,200,000 ~~the Port of San~~  
11 ~~Francisco wishes to enter into an agreement with Cochran, Inc. for the purchase and~~  
12 ~~installation of shoreside power equipment at Piers 27 and 29 of the Port of San Francisco, for~~  
13 ~~an amount not to exceed \$1,700,000 dollars from the City and an additional amount of~~  
14 ~~\$1,900,000 to be separately provided by Princess Cruise Lines the Port of San Francisco from~~  
15 ~~the BAAQMD Carl Moyer Program grant, such agreement to be substantially in the form of~~ the  
16 agreement on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_  
17 (the "Agreement") which is incorporated herein by reference.

18 (n) At the discretion of the Executive Director of the Port, ~~the Agreement shall~~ may  
19 waive either party's right to seek incidental, consequential, special, punitive, or exemplary  
20 damages from the other.

21 (o) The City's Planning Department has issued a Categorical Exemption dated March  
22 13, 2008, for this project in accordance with the California Environmental Quality Act  
23 (California Public Resources Code sections 21000 et seq.). Said determination is on file with  
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1 the Clerk of the Board of Supervisors in File No. 2008.030E and is incorporated herein by  
2 reference.

3 Section 2. Subject to the Port Director's determination that it is economically or  
4 technically infeasible to complete ~~the SFPUC-funded phase~~ of the Project utilizing a current  
5 City-certified contractor, the Board of Supervisors hereby exempts the Agreement from the  
6 contracting requirements of the Administrative Code and Environment Code, including,  
7 without limitation, Chapters 6, 12C, 12P, 12Q, and 14A, 14B, and 21 of the Administrative  
8 Code and Chapters, 2, 5, and 8 of the Environment Code except to the extent the Agreement  
9 obligates Cochran, Inc. as contractor, to satisfy such requirements, and hereby authorizes the  
10 Executive Director of the Port, or her designee, to execute the Agreement, on behalf of the  
11 City, substantially in form of the agreement on file with the Clerk of the Board, in File No.  
12 \_\_\_\_\_.

13 Section 3. The Board of Supervisors hereby authorizes the Executive Director or her  
14 designee to enter into any additions, amendments or other modifications to the Agreement  
15 that the Executive Director, in consultation with the City Attorney, determines are in the best  
16 interests of the City, do not increase the amount of the Agreement or otherwise do not  
17 materially increase the obligations or liabilities of the City and are necessary or advisable to  
18 complete the Project contemplated by the Agreement and effectuate the purpose and intent of  
19 this Ordinance.

20  
21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By: \_\_\_\_\_  
24 ROBERT A. BRYAN  
25 Deputy City Attorney