

## LEGISLATIVE DIGEST

[Contract Approval - Certain Improvements to Port Property for 34<sup>th</sup> America's Cup Event; Authorizing Waiver of Certain Bidding and Contracting Requirements]

**Amended Ordinance 1) authorizing the Port to amend a contract between the Port and Turner Construction Company to perform certain improvements to Piers 27-29, Piers 19 and 23, and Piers 30-32, and to remove portions of Pier ½ and 64; 2) alternatively, authorizing the Port to execute an agreement between the Port and one of the next highest-ranked proposers, in order of rank, for the Pier 27 Cruise Ship Terminal and Northeast Wharf Plaza Project, to perform certain improvements to Piers 27-29, Piers 19 and 23, and Piers 30-32, and to remove portions of Pier ½ and 64; 3) authorizing the Port to contract with the America's Cup Event Authority for assignment to the Port of its contract with Power Engineering Construction Company for improvements to Piers 30-32 only; 4) authorizing the Port to enter into a contract with AECOM for construction-design engineering services for improvements to Piers 30-32 related to the 34<sup>th</sup> America's Cup Event; and 5) waiving competitive bidding and solicitation requirements of Administrative Code Sections 6.20, 6.21, 6.68(A)-(F), 6.40, and 6.41, and requirements of Administrative Code Sections 14B.19(C)(1)-(5).**

### The Proposed Ordinance

1. The amended ordinance authorizes the Port to utilize alternative methods to contract for certain improvements to Port properties for the America's Cup Event which are required by the Lease Disposition Agreement ("LDA") between the City and the America's Cup Event Authority. The ordinance waives certain competitive bidding and contracting requirements of the Administrative Code, otherwise applicable to public works contracts, to allow the Port to meet the accelerated schedule to complete these improvements. To provide the Port flexibility to perform the improvements, the ordinance authorizes the Port Director to take one or all of the following actions:
  - (a) Execute an amendment to the Port's existing contract with Turner Construction Company ("Turner") for Construction Management/General Contractor ("CM/GC") Services for the Pier 27 Cruise Ship Terminal and Northeast Wharf Plaza project ("Pier 27 CST Project") to perform some or all of the site improvements required by the LDA;
  - (b) Negotiate and contract with one of the next highest-ranked proposers for the Pier 27 CST Project, in order of ranking, to perform some or all of the site improvements; and
  - (c) As an alternative method to accomplish site improvements at Piers 30-32, negotiate and accept an assignment of the Event Authority's contract with Power Engineering to complete site improvements solely at Piers 30-32. For each of these three contracting methods, the amended ordinance waives specific solicitation and bidding requirements for

public works contracts, Administrative Code Sections 6.20, 6.21, 6.88(A) - (F), and certain contracting requirements of Administrative Code Section 14B.19(C)(1) - (5) applicable to CM/GC contracts.

2. For either contract method described in 1(a) and 1(b), the contractor will be required to comply with the City contracting requirements codified in Section 6.22 of the Administrative Code. Under the contract method described in 1(c), should the Port accept the Event Authority's assignment of the Power Engineering contract, the contractor will be required to comply with, at a minimum, Administrative Code requirements for payment of prevailing wages (Section 6.22(E)), the Local Hiring Policy for Construction (Section 6.22(G)), and the Equal Benefits Ordinance (Chapter 12B).
3. Furthermore, the amended ordinance waives competitive bidding requirements and authorizes the Port Director to enter into an contract with AECOM for engineering services to design and assistance during construction of the improvements to Piers 30-32.
4. As amended by the Board of Supervisors on April 3, 2012, the ordinance no longer includes demolition work at Piers 27 -29 in the contracts authorized by the ordinance.

### Background Information

On December 14, 2010, the Board of Supervisors adopted Resolution No. 585-10 approving a 34<sup>th</sup> America's Cup Host City and Venue Agreement (the "HVA") among the City, the America's Cup Event Authority ("Event Authority") and the San Francisco America's Cup Organizing Committee to host the 34<sup>th</sup> America's Cup in San Francisco (the "AC34 Project") subject to review required by the California Environmental Quality Act (CEQA). On December 15, 2011, the City Planning Commission certified the final environmental impact report for the AC34 Project following analysis and review under CEQA by Motion No. 18514 in Case No. 2010.0493E; and thereafter on December 16, 2011, the Port Commission, by Port Resolution Nos. 11-79 and 11-80, adopted CEQA findings and a Mitigation Monitoring and Reporting Program ("MMRP"), and approved the AC34 Project. The Board of Supervisors upheld the Planning Commission's certification of the final environmental impact report on January 24, 2012, by its Motion No. M12-0011.

On December 27, 2012, the Board of Supervisors approved a Lease Disposition Agreement ("LDA") between the Port and the Event Authority as an amendment to the HVA, and affirmed the HVA as amended, by Motion No. \_\_\_\_\_. The LDA obligates the Port to perform at no cost to the Event Authority, or to pay for certain infrastructure improvements to Port property for the AC34 Project. The accelerated schedule under which the Port is obligated to complete the improvements does not permit sufficient time to complete the normal competitive bidding and contracting process to complete the engineering work and construction of all of the Site Improvements while still meeting the obligations under the HVA and LDA. Accordingly, the amended ordinance would waive certain City competitive bidding, solicitation, and contracting requirements, to allow the work to proceed more expeditiously and efficiently.