

[Pier 70 Maritime District plan approval and financing; priorities for use of Port funds; Port agreements with other City departments.]

CHARTER AMENDMENT

PROPOSITION ____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by: amending Section B6.406 to update the priorities for use of Port funds; adding Section B7.310 to authorize the Board of Supervisors to approve a financial and land use plan for a Pier 70 Maritime District submitted by the Port, which may include financing or incentives for Pier 70 waterfront improvements; and adding Section B7.320 to require appropriations for certain agreements between the Port and other City departments submitted by the Mayor to the Board of Supervisors and approved by the Board of Supervisors.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 4, 2008, a proposal to amend the Charter of the City and County by adding Section B7.310 and Section B7.320 and by amending Section B6.406, to read as follows:

Note: Additions are *single-underline italics Times New Roman*.
Deletions are ~~*strikethrough italics Times New Roman*~~.

SEC. B6.406. HARBOR REVENUES AND EXPENDITURES.

The revenues of the harbor and of all properties and facilities incident thereto, or used in connection therewith, shall be deposited in a separate fund in the treasury of the city and county; and a harbor trust fund or trust funds shall be established by the city and county; and the city and county shall deposit in the fund or funds all monies received attributable to facilities on the transferred lands in the harbor. Subject to the terms and conditions of Statute 1968, ch. 1333,

appropriations from such funds shall be made for the following purposes and in the order named, specifically:

(a) for the payment of maintenance and operating expenses, pension charges and proportionate payments to such compensation and other insurance and accident reserve funds as the commission may establish or the board of supervisors may require;

~~(b) for payment of the principal and interest of any obligations of the State of California and assumed or agreed to be paid by the City and County of San Francisco;~~

~~(b) (e)~~ for the payment of principal, interest, reserve funds, sinking funds, and other funds established *with respect to any forms of indebtedness issued or undertaken by or on behalf of the commission for any purpose authorized under this charter, including, but not limited to, revenue bonds, general obligation bonds, infrastructure financing district bonds, certificates of participation, lease revenue bonds, commercial paper, variable rate demand notes, auction rate securities, bond anticipation notes and other evidences of indebtedness;*

~~(c) (d)~~ for capital improvements to, and acquisition, construction, repair and reconstruction or replacement of, the properties, equipment and facilities of, or used in connection with the operations of, the harbor or used in connection with the operation thereof, and

~~(e) for the payment of the principal and interest on any general obligation bonds issued by the City and County of San Francisco for the acquisition, construction, repair or extension of said harbor or of any of the facilities used in connection therewith;~~

~~(f) an amount which shall be sufficient to meet the cost of reconstruction and replacement made necessary by the physical and functional depreciation of any of the properties or equipment of said harbor as the same shall occur;~~

~~(g) to pay for extension and betterments to said harbor or to the equipment and facilities thereof; and,~~

(d) (~~H~~) to establish a *reserve*, surplus or sinking fund for *operations, capital improvements, reconstruction, and replacement as the commission may establish. the improvement or extension of the harbor or any facility used in collection therewith.*

In the event of a conflict between any trust indenture or other instrument securing or evidencing indebtedness outstanding as of January 1, 2009 and authorized in this charter and the priorities set forth in this section, the priorities of the debt instrument will control.

SEC. B7.310. PIER 70 MARITIME DISTRICT.

(a) The Port of San Francisco’s southern waterfront includes a 65 acre site known as Pier 70. For over 150 years, some portion of this site has been in use for ship building and repair, or steel production, as well as for other supporting heavy industrial uses. In 2001, the California State Office of Historic Preservation determined that Pier 70’s approximately 40 historic buildings, structures, and features are eligible for the National Register collectively as contributors to a Pier 70 historic district. This Section is intended to enable the City and County, through its Port Commission, to rehabilitate the Pier 70 historic district by establishing planning, financing and project approval mechanisms appropriate to the area. These mechanisms will serve a significant public purpose by preserving and restoring historic waterfront properties in need of repair, restoring waterfront land, and building new waterfront parks and public maritime terminals.

(b) The Port Commission may submit to the Board of Supervisors a financial and land use plan for Pier 70 (“Pier 70 Plan”) that includes a description of the boundaries of a Pier 70 planning area (“Pier 70 Maritime District”) and projections of the Port’s need for financing, in addition to authorized property tax increment financing, to preserve and restore deteriorated Pier 70 historic waterfront properties, seismically strengthen Pier 70 piers and structures, remediate and restore contaminated waterfront land and structures, build new waterfront parks, and build public maritime terminals (“Waterfront Improvements”). As used in this Section,

Waterfront Improvements include renovation of an existing building or pier consistent with Secretary of the Interior Standards for Historic Preservation, seismic strengthening, environmental remediation consistent with applicable regulations and/or a plan approved by a regulatory agency with jurisdiction over the contaminated area, construction and landscaping of waterfront open space, including natural shoreline habitat, and the construction or rehabilitation of public maritime terminals, but do not include interior building remodeling.

(c) Before proposing to issue or undertake indebtedness to finance Waterfront Improvements pursuant to this Section, the Port Commission, by resolution, must approve a capital budget for the proposed Waterfront Improvements and find that the revenues, including property tax increment, from private investment in and development of the proposed Pier 70 Maritime District under the Pier 70 Plan are insufficient to fund the Waterfront Improvements.

(d) The Clerk of the Board of Supervisors shall refer the Pier 70 Plan to the Controller within thirty days of after the Port Commission's submission to the Board of Supervisors. Within ninety days of the Clerk's referral, the Controller and the Tax Collector, in consultation with the Department of Real Estate and the Port Commission, shall report to the Board of Supervisors the following:

(i) the total amount of taxes received by the City and County from (A) the City Payroll Expense Tax under Article 12-A of the Business and Tax Regulations Code, as amended from time to time (the "Payroll Tax"), from businesses located in the Pier 70 Maritime District, and (B) Tax on Transient Occupancy of Hotel Rooms under Article 7 of the Business and Tax Regulations Code, as amended from time to time (the "Hotel Tax"), from any hotel rooms located in the Pier 70 Maritime District (the "Base Year Tax Revenues") in the full fiscal year immediately preceding the submission of the proposed Pier 70 Plan; and

(ii) projected annual increases in Payroll Tax and the Hotel Tax above the Base Year Tax Revenues that will accrue to the General Fund for each year ("Pier 70 Annual Payroll and Hotel Tax Increment") for a twenty year period following the issuance of a certificate of

occupancy related to a Port lease for one or more areas pursuant to the Pier 70 Plan, using assumptions about growth and development.

The publication of report will not be a violation of Business & Tax Regulations Code Section 6.22-1. The Controller and the Tax Collector shall be entitled to reimbursement of their costs to perform their responsibilities under this Section.

(e) The Board of Supervisors may approve the Port's Pier 70 Plan if it finds that the sum of (i) lease revenues and (ii) property tax increment financing from development of the proposed Pier 70 Maritime District under the Pier 70 Plan is insufficient to fund the proposed Waterfront Improvements.

(f) If the Board of Supervisors approves the Port Commission's Pier 70 Plan, then prior to Port Commission issuance of debt to finance Waterfront Improvements pursuant to this Section, the Controller and the Tax Collector, in consultation with the Department of Real Estate and the Port Commission, shall revise the Base Year Tax Revenues from the Pier 70 Maritime District based on tax receipts in the prior fiscal year and project the Pier 70 Annual Payroll and Hotel Tax Increment for the next twenty years.

(g) If the Board of Supervisors approves the Port Commission's Pier 70 Plan, then the Board of Supervisors may approve financing mechanisms that provide revenues to fund waterfront improvements as well as economic incentives for development projects in the Pier 70 Maritime District, subject to all laws and required approvals. .

(h) The Board of Supervisors' approval of the Pier 70 Plan shall be deemed to constitute approval by the Board of Supervisors of any lease for a project developed in accordance with the Pier 70 Plan under Article IX, Section 9.118 of this Charter upon approval by the Port Commission if all of the following conditions are met:

1. The Controller, in consultation with the Department of Real Estate, finds the lease consistent with the Pier 70 Plan;

2. The lease binds the parties to (A) obtain from the National Park Service a finding of consistency of the project contemplated by the lease with Secretary of the Interior Standards for Historic Preservation, and, if applicable, (B) obtain a permit from the Bay Conservation and Development Commission for the improvement and maintenance of the 100 foot shoreline band along Pier 70; and

3. If needed, the State of California has approved the consistency of the Pier 70 Plan, or portions thereof, with the public trust for navigation, commerce and fisheries; and

4. If needed, any applicable environmental regulatory agency has approved a site remediation or site management plan, or the equivalent, for the relevant portion of Pier 70, where the Port or a former owner, occupant, or operator is the primarily responsible party.

SEC. B7.320. AGREEMENTS WITH OTHER CITY DEPARTMENTS.

The Port Commission may enter agreements with other departments of the City and County with terms in excess of one year. If the Mayor submits such an agreement to the Board of Supervisors for approval by resolution, any subsequent modification of the agreement shall also be subject to approval of the Board of Supervisors by resolution. To the extent agreements so approved require the expenditure of funds, the City and County shall appropriate funds sufficient to implement their purpose until such time as the agreements expire or are terminated by agreement of the parties, the Board of Supervisors, and the Mayor.

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

By: _____
ATTORNEY'S NAME
Deputy City Attorney