

## **LEGISLATIVE DIGEST**

Authorization to Execute Agreement With Army Corps of Engineers for Dredging of Central Basin by Pier 70 And Waiving Certain Requirements of Environment And Administrative Codes

**Ordinance approving and authorizing the Executive Director of the Port of San Francisco (“Port”) to execute a Project Partnership Agreement with the United States Army Corps of Engineers (“USACE”) to allow federal dredging of the Central Basin adjacent to Pier 70 conditioned upon the Port providing a 25% matching share not to exceed \$2,242,750 for the initial project costs, and the Port providing a 10% matching share, not to exceed an additional \$897,100 for federal maintenance dredging of the Central Basin payable over the following 30 years, for a total matching share from the Port not to exceed \$3,139,850; exempting the Agreement from certain requirements of the Environment Code and Administrative Code except to the extent that the Agreement obligates USACE to satisfy any such requirements; and affirming the Planning Department’s determination under the California Environmental Quality Act.**

### Existing Law

Various City ordinances require that agreements between the City and third parties, including government agencies, for services funded entirely or partially with funds from the city treasury, must comply with specific procurement and contract requirements adopted by the City. These City contracting requirements often present severe obstacles for the City when negotiating an agreement with a federal agency such as USACE that must follow federal procurement and contracting requirements. These federal agencies often lack flexibility or authority to incorporate City contract requirements into their federally-funded agreements.

### Amendments to Current Law

By adopting this ordinance, the Board of Supervisors would authorize the Port Director to execute a project partnership agreement with USACE, allowing USACE to conduct initial federal dredging and future periodic maintenance dredging of the Central Basin, based upon a cost-sharing sharing formula specified in the ordinance, with the City’s monetary obligation not to exceed \$3,139,840. The ordinance would exempt the agreement from Environment Code Chapters 5, 7, 8, 16, and 25, and contracting requirements of the Administrative Code except as to Chapters 12G, 12M and 67, to the extent the Board has the power to waive such provisions of the Administrative and Environment Codes. The ordinance would not preclude inclusion of provisions in the agreement obligating USACE to satisfy any such requirements.

### Background Information

The Port of San Francisco's shipyard at Pier 70 ("Pier 70 Shipyard") is home to the longest continuously operating shipyard on the West Coast. The shipyard includes two large floating drydocks and provides skilled employment opportunities in San Francisco. The Pier 70 shipyard is leased to BAE Systems San Francisco Ship Repair, Inc. ("BAE Systems"), a California corporation.

On March 24, 2015, the San Francisco Port Commission approved Lease No. L-15875 with BAE Systems for approximately 14.7 acres of land improved with 19 buildings, 17.4 acres of submerged land and Port-owned Equipment, including Drydock #2, the Drydock Eureka and the Shoreside Power System (the "Shipyard") located at Piers 68 and 70 and Seawall Lot 349 near 20th and Illinois Street, for a term of 20 years with two five-year extension options. Under the Lease, BAE Systems provides maintenance, alteration, and repair services for cruise ships, tankers, foreign and domestic bulk carriers and container ships, military vessels and local bay traffic. BAE Systems employs over 250 skilled crafts persons.

The Central Basin lies within San Francisco's jurisdiction but outside existing federal navigational channels, and serves as the navigational approach for vessels that enter the Pier 70 Shipyard. The Central Basin is outside of the premises of Lease L-15875; under its lease, BAE Systems has the obligation to dredge the area within its lease, including the areas under Drydock #2 and the Drydock Eureka, but is not obligated to undertake dredging of the Central Basin, which provides navigational access to a broader area, including a proposed ferry terminal serving Mission Bay.

Accumulating sediment reduces the functional navigational depth of the Central Basin, restricting the size of vessels capable of entering the shipyard and threatening its economic viability. The ideal operating depth for shipyard operations is 32 feet; the current depth is 26 feet, which is forcing BAE Systems to turn away business it would otherwise accept. The expense of required periodic dredging of the Central Basin is substantial, and not viable in the long term for either the Port's tenant to absorb as an operating cost or for the Port to include in its annual dredge budget.

With many federally-owned ships receiving service at the Pier 70 shipyard, in October 2009, the Port requested funding assistance from USACE for the Central Basin under its Continuing Authorities Program, Section 107 ("CAP107") program for navigation projects in the federal interest. In September 2010, USACE determined there was an apparent federal interest in the Port's Central Basin project, and recommended a formal feasibility study of a federal project to dredge the Central Basin that would result in a provisional Detailed Project Report recommending a federal deepening and maintenance dredging project for the Central Basin.

In July of 2011, the Port entered into a cost sharing agreement for the formal feasibility study of the Central Basin as a federal CAP107 project. Federal appropriations to the national

CAP107 account, from which individual CAP107 projects are funded, were put on hold by Congress in intervening years, and with other competing projects, USACE effectively placed the Central Basin project in suspension until 2015.

In FY 2015-16, the San Francisco Board of Supervisors appropriated funding for the Port of San Francisco to fund a local match to federal funding for the USACE to dredge the Central Basin. In April 2016, the San Francisco District Office of USACE chose its preferred alternative from among 15 alternatives considered for execution of the Central Basin CAP107 project, and the Port of San Francisco concurred with that selected alternative. USACE selected a project alternative to dredge the Central Basin to a depth of 32 feet at a total project cost of \$8,971,000, with a \$6,728,260 federal contribution, and which would require the local sponsor, the Port of San Francisco, to contribute a 25% project match, or \$2,242,740.

The USACE has drafted a project partnership agreement (“PPA”) to be executed by USACE and the City and County of San Francisco, acting by and through the Port, subject to approval of the Board of Supervisors and the Mayor, under which USACE would dredge the Central Basin at a cost of \$8,971,000. Under the proposed PPA, USACE would also maintain the dredge depth in the future, provided the Port supplies an additional match equal to 10% of the initial deepening project, or a total of \$897,100. If approved by the Board of Supervisors and the Mayor, the Port would fund its 25% initial project match and 10% maintenance dredging match from Port Harbor Funds. As stated above, the 25% project match has already been budgeted and appropriated as part of the Port of San Francisco’s annual budget. The additional \$897,000 in required matching funds for USACE to maintain the 32 foot depth is payable over a 30 year period, or \$29,900 annually, which the Port would fund from its annual maintenance dredge budget. The estimated cost of maintenance dredging to be conducted by USACE over the first 30 years is \$12.2 million.

USACE uses a standard form federal contract which does not include provisions allowing local jurisdictions to impose local contracting requirements on the federal government.

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