

1 [Project Partnership Agreement - Army Corps of Engineers - Dredging of Central Basin by
2 Pier 70 - Not to Exceed \$4,500,650]

3 **Ordinance amending Ordinance No. 244-16, regarding a Project Partnership between**
4 **the U.S. Army Corps of Engineers and the Port to allow federal dredging of the Central**
5 **Basin adjacent to Pier 70, to: 1) change the project dredging depth from 32 feet to 35**
6 **feet; 2) increase the estimated initial project cost from \$8,971,000 to \$11,690,000; 3)**
7 **increase the Port's 25% project contribution from \$2,242,740 to \$2,922,500; 4) change**
8 **the frequency of maintenance dredging from every four years to every two years, and**
9 **at an estimated cost of \$2,080,000 instead of \$1,026,000 for each maintenance dredge**
10 **episode; 5) increase the Port's additional 10% matching contribution from \$897,100 to**
11 **\$1,169,000; 6) increase the estimated total cost of dredging during the first 30 years**
12 **from \$12,195,000, to \$31,300,00; and 7) authorize the Port Executive Director to reserve**
13 **a contingency fund of \$409,150 (equivalent to 10% of the Port's total estimated cost**
14 **contributions of \$4,091,500), to expend in case of future unanticipated increases in**
15 **project costs, for a total expenditure authorization not to exceed \$4,500,650.**

16
17 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
18 **Additions to Codes** are in *single-underline italics Times New Roman font*.
19 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
20 **Board amendment additions** are in double-underlined Arial font.
21 **Board amendment deletions** are in ~~strikethrough Arial font~~.
22 **Asterisks (* * * *)** indicate the omission of unchanged Code
23 subsections or parts of tables.

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

25 Section 1. Background and Findings.

(a) On December 15, 2016, the City enacted Ordinance No. 244-16, which authorized
the Port Executive Director to execute a Project Partnership Agreement ("PPA") with the

1 United States Army Corps of Engineers (USACE) to allow the federal government to dredge
2 the Central Basin adjacent to Pier 70, as generally described in Section 2 of Ordinance No.
3 244-16 (the "Project"). The PPA resulted from the Port's request to USACE for funding
4 assistance for Central Basin dredging under USACE's Continuing Authorities Program,
5 Section 107 ("CAP107"), for navigation projects in the federal interest, pursuant to the River
6 and Harbor Act of 1960, Public Law 86-645, Section 107, as amended (33 U.S.C. § 577).

7 (b) The Central Basin is located within the Port's jurisdictional boundaries, and
8 provides navigational access to maritime vessels entering the Port's ship repair facility at Pier
9 70. The current depth of Central Basin is 26 feet, which has restricted larger vessels from
10 entering the Pier 70 ship repair facility, substantially hindering the economic success of the
11 ship repair facility.

12 (c) At the time of enactment of Ordinance No. 244-16, the PPA called for USACE to
13 dredge the Central Basin to a depth of 32 feet, with the Port contributing a 25% matching
14 share, not to exceed \$2,242,750, towards the initial Project costs, and an additional matching
15 share not to exceed \$897,100 (equivalent to 10% of the initial Project costs), payable over 30
16 years for federal maintenance dredging of Central Basin.

17 (d) After enactment of Ordinance No. 244-16, USACE's supplemental analysis
18 determined that the most cost-effective dredge depth for the Central Basin would be 35 feet,
19 rather than the 32 feet that is specified in the original PPA and in Ordinance No. 244-16. This
20 increase in dredge depth will substantially improve the federal cost-benefit ratio of the Project
21 and the economic competitiveness of the Pier 70 ship repair facility by allowing larger vessels
22 to transit the Central Basin.

23 (e) However, this deeper dredge depth will increase the estimated Project costs,
24 resulting in a higher cost contribution from the Port under the PPA cost-sharing formula. With
25 the PPA's revised Project dredge depth of 35 feet and corresponding increased costs to the

1 Port, the expenditure authority provided by Ordinance No. 244-16 no longer satisfies the
2 Project funding requirements.

3 (f) Accordingly, the Board of Supervisors desires to amend Ordinance No. 244-16, to
4 increase the Port's expenditure authority needed to fund the Port's financial contribution under
5 the PPA's revised Project scope and resulting increased costs to the Port, and to authorize an
6 additional 10% contingency for Port expenditures, should Project costs further escalate for
7 unanticipated reasons. This ordinance will authorize the Port to contribute a 25% cost match
8 (equivalent to \$2,922,500), towards the initial Project costs to dredge the Central Basin to a
9 depth of 35 feet, and will authorize a secondary Port payment of 10% of the cost of the initial
10 Project costs (equivalent to \$1,169,000), towards future federal costs for maintenance
11 dredging of Central Basin, payable over 30 years. Under this ordinance, the "not to exceed"
12 limits are removed from amounts of the Port's individual cost contributions stated in Ordinance
13 No. 244-16, but the amended total expenditure authorization, which includes the 10%
14 contingency, is now stated as not to exceed \$4,500,650.

15 Section 2. Ordinance No. 244-16 is hereby amended at Section 2(j) and Section 2(k)
16 on page 3, lines 10 through 24, by replacing Sections 2(j) and 2(k) with the following
17 language:

18 "(j) In April 2016, USACE chose its preferred alternative from among nine
19 alternatives considered for execution of the Central Basin CAP107 project, and
20 the Port concurred with that selected alternative. The alternative, has been
21 revised by USACE, and, as shown in the ordinance in Board File No. 170861
22 amending Ordinance No. 244-16, would dredge the Central Basin to a depth of
23 35 feet at an initial project cost of \$11,690,000, and require the "local sponsor,"
24 the Port, to contribute a 25% project match (equivalent to \$2,922,500)."
25

1 “(k) Under this project, upon completion of the initial deepening of the
2 Central Basin to 35 feet, USACE would assume responsibility for maintenance
3 dredging of the Central Basin every two years to maintain the depth of 35 feet,
4 at an estimated cost of \$2,080,000, conditioned upon the Port supplying an
5 additional match of \$1,169,000 (equivalent to 10% of the cost of the initial
6 deepening dredge), payable during the first 30 years of maintenance dredging.
7 The total cost of maintenance dredging during the first 30 years is estimated at
8 \$31,300,000. Under the Project Partnership Agreement, the Port, as property
9 owner, will also retain responsibility for investigating and mitigating any
10 hazardous substances regulated under the federal Comprehensive
11 Environmental Response, Compensation and Liability Act. (42 U.S.C. §§ 9601-
12 9675.)”

13 Section 3. Ordinance No. 244-16 is hereby amended at Section 3 on Page 4, lines 3
14 through 14, by replacing Section 3 with the following language:

15 “Section 3. Approval of Agreement.

16 “Subject to the Port Executive Director’s determination that the USACE CAP107
17 federal contract terms are highly standardized and that deviation from those terms would
18 result in USACE rejection of revisions to the Project Partnership Agreement, the Board of
19 Supervisors hereby approves and authorizes the Port Executive Director to execute a Project
20 Partnership Agreement with USACE substantially in the form on file with the Clerk of the
21 Board of Supervisors under File No. 161286 for Ordinance No. 244-16, subject to the
22 amendments to Ordinance No. 244-16 in Sections 2 and 3 of the ordinance on file with the
23 Clerk of the Board under File No. 170861, to allow federal dredging of the Central Basin as
24 generally described in Section 2 above, conditioned upon (a) the Port providing a 25%
25 matching share, \$2,922,500, towards the initial project costs, and (b) the Port providing an

1 additional matching share, \$1,169,000 (equivalent to 10% of the cost of the initial deepening
2 dredge), payable over 30 years, for federal maintenance dredging of the Central Basin. The
3 sum of these two matching shares, required by the PPA, totals \$4,091,500. The Board of
4 Supervisors further authorizes the Port Executive Director to reserve a contingency fund of
5 \$409,150 (equivalent to 10% of the Port's total estimated cost contributions of \$4,091,500), to
6 expend in the event of future unanticipated increases in project costs, for a total expenditure
7 authorization not to exceed \$4,500,650."Section 4. Except as stated in Sections 2 and 3,
8 above, this ordinance does not change the terms of Ordinance No. 244-16.

9 Section 5. Effective Date.

10 This ordinance shall become effective 30 days after enactment. Enactment occurs
11 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
12 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
13 Mayor's veto of the ordinance.

14
15

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

18 By: _____
19 TIMOTHY L. YOSHIDA
Deputy City Attorney

20 n:\legana\as2017\1700307\01208673.docx

21
22
23
24
25