

LEGISLATIVE DIGEST

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

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

Existing Law

Various City ordinances mandate that City contracts with third parties, including agreements with government agencies, which are 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 obstacles in negotiations with federal agencies such as the U. S. Army Corps of Engineers ("USACE") that must follow federal procurement and contracting requirements. Federal agencies such as USACE often lack flexibility or authority to incorporate City contract requirements into their federally-funded agreements.

On December 15, 2016, the City enacted Ordinance No. 244-16, approving a Project Partnership Agreement ("PPA") between the Port and USACE, to allow federal dredging and future maintenance dredging of the Central Basin. At that time, the PPA called for USACE to dredge the Central Basin to a depth of 32 feet, with the Port contributing a sum not to exceed \$2,242,750 (25% of the initial Project costs) towards the initial project costs, and an additional matching share not to exceed \$897,100 (10% of the initial project costs) for future federal maintenance dredging of Central Basin. The sum of these two Port monetary contributions totaled an amount not to exceed \$3,139,850.

To facilitate negotiations with USACE, the ordinance exempted the PPA 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 did not preclude inclusion of provisions in the PPA obligating USACE to satisfy any such requirements.

Amendments to Current Law

After the City's enactment of Ordinance No. 244-16, USACE determined that the most cost-effective dredge depth for the Central Basin would be 35 feet rather than the 32 feet that was specified in the original PPA and in Ordinance No. 244-16. USACE also revised the frequency of future federal maintenance dredging from every four years to every two years. Accordingly, USACE requested the Port to revise the project scope and PPA. This proposed increase in dredge depth and frequency in periodic maintenance dredging will substantially improve the federal cost-benefit ratio of the Project and the economic competitiveness of the Pier 70 ship repair facility by allowing larger vessels to transit the Central Basin. However, this revised project scope (deeper dredge depth and increased frequency in maintenance dredging) increases the estimated project costs, requiring a greater cost contribution from the Port, beyond the expenditure authority provided by Ordinance No. 244-16.

This ordinance will amend and increase the Port's existing expenditure authority under Ordinance No. 244-16, which is needed to fund the Port's financial obligations under the revised PPA project scope, and this ordinance will authorize an additional 10% contingency for Port expenditures, should project costs further escalate for unanticipated reasons. Specifically, this ordinance will amend and increase the Port's 25% initial cost contribution (from \$2,242,750 to \$2,922,500) towards the initial project costs, and will amend and increase the Port's secondary cost contribution of 10% (from \$897,100 to \$1,169,000) towards future federal costs for maintenance dredging of Central Basin. Under this ordinance, the amended total expenditure authorization, which includes the 10% contingency, is now stated as not to exceed \$4,500,650.

Background Information

The Port of San Francisco's ship repair facility 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 was leased to BAE Systems San Francisco Ship Repair, Inc. ("BAE Systems"), a California corporation, and the Port is currently seeking a new tenant and operator under a pending Request for Proposals.

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 lies outside the premises of the Port's former lease for the Pier 70 shipyard operations and, therefore, the tenant had no contractual obligation to dredge the Central Basin.

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 was considered to be 32 feet; the current depth is 26 feet, which forced the Port's Pier 70 shipyard tenant to turn away business it would otherwise could have accepted. The expense of required periodic dredging of the Central Basin is substantial, and not viable in the long term 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 a 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 an initial 25% project match, \$2,242,740, and a secondary 10% match, \$897,100, towards the cost of future federal maintenance dredging of Central Basin.

The USACE 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 PPA, USACE would also maintain the dredge depth in the future, provided the Port contributes the matching funds outlined above.

On December 13, 2016, the Board of Supervisors finally passed and, on December 15, 2016, the City enacted Ordinance No. 244-16, approving the terms of the PPA and authorizing the Port Executive Director to execute the PPA based upon the original project scope outlined above and recited in the Ordinance. Thereafter, USACE continued to analyze the Central Basin project and revised the project scope to increase the dredge depth from 32 feet to 35 feet, and increasing the frequency of future maintenance dredging from every four years to every two years. USACE's revisions to the project scope would substantially benefit the Port and City by allowing larger vessels to access the Pier 70 shipyard for services. Therefore, the Port highly recommends approval of this ordinance that would amend Ordinance No. 244-16, and approve and authorize the Port Executive Director to enter into and execute the PPA with USACE on the revised terms outlined above and recited in the proposed ordinance.

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