

[Contract - Brookfield Properties - Electric Facilities Installation at Pier 70 - Not to Exceed \$1,700,000]

Ordinance authorizing the Public Utilities Commission to contract with Brookfield Properties to install certain electrical facilities in substructures installed by Brookfield Properties on Pier 70, for an amount not to exceed \$1,700,000 and for a term of three years from March 1, 2021, through February 28, 2024; and waiving certain provisions of the Administrative Code.

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

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

Section 1. Background.

(a) The City and County of San Francisco ("City"), acting through the Port of San Francisco ("Port"), and Seawall Lot 337 Associates, LLC ("Mission Rock") negotiated the terms of a Disposition and Development Agreement for the development of a 28-acre project located on Third Street between Terry Francois Boulevard and Mission Rock Street ("Mission Rock DDA"), which is on file with the Clerk of the Board of Supervisors ("Board") in File No. 201320.

(b) On February 23, 2018, the City adopted Resolution No. 42-18, approving the Mission Rock DDA.

1 (c) On March 6, 2018, the City enacted Ordinance No. 33-18, approving the
2 Mission Rock Development Agreement, which is on file with the Clerk of the Board in File No.
3 201320.

4 (d) The Board found in Ordinance No. 33-18 that the Mission Rock development will
5 help the City realize and further its goals to restore and revitalize Seawall Lot 337 and Pier 48,
6 increase public access to the waterfront, increase public open space and community facilities
7 within the neighborhood, add to the City's affordable and market-rate housing stock, and
8 create a significant number of construction and permanent jobs in and near the project site.

9 (e) The City and FC Pier 70, LLC, then a wholly-owned affiliate of Forest City Realty
10 Trust, Inc. and now owned by Brookfield Properties Development ("Brookfield Properties"),
11 negotiated the terms of a Disposition and Development Agreement for development of the 28-
12 acre site on Pier 70 that is bounded generally by Illinois Street on the west, 22nd Street on the
13 south, 20th Street on the north, and San Francisco Bay on the east ("Pier 70 DDA"), which is
14 on file with the Clerk of the Board in File No. 201320.

15 (f) On November 9, 2017, the City adopted Resolution No. 401-17, approving the
16 Pier 70 DDA.

17 (g) On November 15, 2017, the City enacted Ordinance No. 224-17, approving the
18 Pier 70 Development Agreement ("Pier 70 DA), which is on file with the Clerk of the Board in
19 File No. 201320.

20 (h) The Board found in Ordinance No. 224-17 that the Pier 70 development will help
21 the City realize and further its goals to restore and revitalize the Union Iron Works Historic
22 District, increase public access to the waterfront, increase public open space and community
23 facilities within the neighborhood, increase affordable and market-rate housing, and create a
24 significant number of construction and permanent jobs along the southeastern waterfront.
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1 (i) Pursuant to the California Constitution, Charter section 16.101, and
2 Administrative Code Article 99, the City has adopted a policy to supply electricity through the
3 Public Utilities Commission ("PUC") where feasible to all new City developments.

4 (j) Both the Mission Rock DDA and Pier 70 DA require the developers to obtain
5 power from the PUC where feasible, and the PUC has determined that it is feasible to serve
6 both developments.

7 (k) The PUC has determined there is a need for new electric service at the PUC's
8 Mariposa Pump Station.

9 (l) In order to obtain electric service from the PUC at Pier 70, under the PUC Rules
10 and Regulations for Electric Service ("PUC Rules") Brookfield Properties must construct at its
11 own expense certain underground substructures including, but not limited to, electric conduits,
12 utility vaults, and equipment pads throughout the Pier 70 development.

13 (m) One of the substructures being constructed by Brookfield Properties could be
14 used to provide temporary service to Mission Rock and the Mariposa Pump Station before it is
15 needed at the Pier 70 development.

16 (n) Under the PUC Rules, the PUC is responsible for installing certain conductors
17 and other electrical equipment within the substructures Brookfield Properties will install on
18 Pier 70. The PUC has determined that it does not have the personnel needed to perform
19 work required under the PUC Rules, and that entering into a competitive process would
20 unduly delay these development projects and service to the Mariposa Pump Station. The
21 PUC's cost for this work is approximately \$1,700,000.

22 (o) The SFPUC, during its meeting on December 22, 2020, approved Resolution
23 No. 20-0250 authorizing the SFPUC to: (1) enter into an Electric Service Agreement with
24 Brookfield Properties (through its subsidiary FC Pier 70, LLC) that, among other things, would
25 authorize the PUC to enter into a separate agreement with Brookfield Properties to install the

1 PUC's electric facilities in Brookfield Properties substructures on Pier 70; and (2) seek Board
2 approval to waive certain City contracting requirements so that the PUC could enter into a
3 separate agreement with Brookfield Properties for PUC to pay Brookfield Properties to install
4 the PUC's electric facilities in Brookfield Properties substructures on Pier 70. A copy of
5 Resolution ____ and the Brookfield Properties Electric Service Agreement are on file with the
6 Clerk of the Board in File No. 201320.

7 (p) In accordance with the Charter, the PUC is seeking approval from the Civil
8 Service Commission to contract for this work.

9 (q) It is reasonable and in the public interest for the PUC to contract with Brookfield
10 Properties to do this work, without competitive bidding, because Brookfield Properties is
11 already subject to certain workforce development requirements. In approving the Pier 70 DA,
12 the Board also approved the Workforce Development Plan attached to the Pier 70 DDA,
13 which replaced the following contracting requirements in the Administrative Code: (1) Chapter
14 14B (Local Business Enterprise Utilization and Non-Discrimination in Contracting Ordinance);
15 (2) Article VII of Chapter 23 (Prevailing Wage, Apprenticeship, and Local Hire Requirements
16 in City Real Property Sales Contracts and Leases); and (3) Chapter 83 (First Source Hiring
17 Program) to the extent that these requirements apply to construction work that is subject to
18 the Local Hiring Requirements of the Workforce Development Plan.

19 (r) In addition, in approving the Pier 70 DA the Board granted waivers of certain
20 contracting requirements in the Administrative Code including: (1) Chapter 6 (Public Works
21 Contracting Policies and Procedures) other than the payment of prevailing wages as required;
22 (2) Chapter 14B (Local Business Enterprise Utilization and Non-Discrimination in Contracting
23 Ordinance); (3) Section 12Q.5(f) (Health Care Accountability); and (4) Chapter 12T (City
24 Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment
25 Decisions).

1 (s) Reimbursing Brookfield Properties is consistent with the Pier 70 DDA and
2 Exhibit C1 to the Pier 70 DDA, and the Financing Plan ("FP") between the Port and Brookfield
3 Properties, which requires the Port to reimburse Brookfield Properties its Capital Costs of
4 Horizontal Improvements (as each is defined in the Appendix to the Pier 70 DDA) in
5 connection with its construction at the Pier 70 development, to the extent of available Project
6 Payment Sources (as defined in the Appendix to the Pier 70 DDA), and to the extent such
7 Capital Costs of Horizontal Improvements are approved by the Acquisition and
8 Reimbursement Agreement (FP Exhibit A).

9 (t) In any contract between the PUC and Brookfield Properties entered into
10 pursuant to this ordinance the PUC intends to require Brookfield Properties to comply with the
11 City's contracting requirements and policies contained in the Administrative Code, except to
12 the extent the Board has waived any of those requirements either in this ordinance or in
13 Ordinance No. 224-17 approving the Pier 70 DDA. The contract will be for a term of three
14 years and will contain a not-to-exceed amount of \$1,700,000.

15 Section 2. Waivers.

16 (a) The Board of Supervisors waives the requirement in Administrative Code
17 Section 6.21 that the PUC competitively bid the installation of its electric facilities in the
18 substructures installed by Brookfield Properties on Pier 70.

19 (b) The Board of Supervisors waives the requirement in Administrative Code
20 Section 6.5 that, in contracting with Brookfield Properties, the PUC shall require Brookfield
21 Properties to comply with Local Business Enterprise Utilization and Nondiscrimination
22 provisions contained in Administrative Code Chapter 14B.

23 Section 3. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
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ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

By: /s/
WILLIAM K. SANDERS
Deputy City Attorney

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