Ordinance amending Ordinance 125-08, which authorized the Executive Director of the Port to execute an agreement with Cochran, Inc., to install shoreside power equipment at Piers 27 and 29 of the Port of San Francisco and exempted the agreement from the contracting requirements of the Administrative Code and Environment Code, to increase the amount of the contract to design, purchase, and install the shoreside power equipment, and to allow the Port to contract with Cochran, Inc. to operate and maintain said equipment for a period of three (3) years, for a total amount not to exceed $5,198,000.

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through italics Times New Roman. Board amendment additions are double-underlined; Board amendment deletions are strikethrough normal.

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

Section 1. Findings.

(a) On September 27, 2005, the Port of San Francisco's Cruise Terminal Environmental Advisory Committee recommended the adoption of shoreside power for cruise ships at any future cruise terminal development at the Port.

(b) On September 27, 2005, the San Francisco Port Commission endorsed the Cruise Terminal Environmental Advisory Committee recommendation regarding shoreside power for cruise ships.

(c) On December 22, 2006, the Port and Princess Cruise Lines, as co-applicants, submitted an application to the Bay Area Air Quality Management District ("BAAQMD") for Carl Moyer Program funding for shoreside power at the Port.

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(d) On April 4, 2007, the BAAQMD approved a Carl Moyer Program grant of $1.92 million to the Port of San Francisco and Princess Cruise Lines, jointly as grantee, to fund a shoreside power project ("Project") and in December 2007, this Board by Resolution No. 671-07 approved the acceptance and expenditure of those grant funds. The Carl Moyer grant originally specified that the Project must be completed by June 2009; otherwise, the grant funds must be repaid to BAAQMD. BAAQMD has extended the deadline for project completion to December 31, 2010.

(e) In December 2007, the California Air Resources Board ("CARB") voted to approve a proposed regulation, which, when effective, will require five ports in California, including the Port of San Francisco, to phase in shoreside power for certain vessels including cruise ships beginning in the year 2014.

(f) Carl Moyer Program grant funds cannot be used to fund projects that are required by law. Since CARB adopted a regulation requiring shoreside power to be phased in beginning 2014, the Port must install its grant-funded Project by mid-2009 December 31, 2010, thereby providing for an operational shoreside power facility at least four three years in advance of state requirements, in order to achieve Carl Moyer Program emission reduction requirements.

(g) The Project will reduce the emission of air pollutants by each typical cruise ship that connects, by approximately:

- 140 lbs diesel particulate matter ("PM"),
- 0.87 tons nitrogen oxides ("NOx"), and
- 1.3 tons sulfur oxides ("SOx");

thereby improving San Francisco's air quality and enhancing the public health and welfare of all San Franciscans and creating other significant public benefits.
Additionally, each ship that connects will reduce the consumption of fossil fuels by approximately 16 tons, resulting in a reduction of carbon dioxide emissions of approximately 19.7 tons, thereby reducing the amount of the City's greenhouse gas emissions.

(h) Princess Cruise Lines, as the only cruise ship company that has designed and constructed shoreside power facilities for cruise ships, has unique experience in the development of shoreside power equipment and is uniquely qualified as a Carl Moyer Program grantee to participate in this Project. Princess Cruise Lines utilizes Cochran, Inc., a Seattle-based electrical engineering contractor, to design and install shoreside power installations.

(i) All other major cruise lines, through the International Council of Cruise Lines ("ICCL"), in order to maximize compatibility among the various ships and cruise companies, have agreed to adopt the Princess design for shoreside power as the industry standard.

(j) Any delay in installing the shoreside power equipment increases the risk of losing the Carl Moyer Program grant funds.

(k) The Port proposes to enter into an agreement with Princess Cruise Lines, under which the Port shall seek reimbursement of funds not to exceed $1.9 million from BAAQMD through the Carl Moyer Program for Project costs, and Princess Cruise Lines will assist the Port by working with Cochran to test and certify that the shoreside power equipment functions properly with Princess' cruise vessels. The estimated cost of the project construction, including contingencies is $3.6 million $4,848,000, thereby exceeding the Carl Moyer Program grant amount by $1.7 million $2,948,000. The additional $350,000 in operation and maintenance costs is not reimbursable through grant funding. The Port proposes to enter into a Memorandum of Understanding ("MOU") with the San Francisco Public Utilities Commission ("SFPUC") for SFPUC funding of the remainder of Project costs of $1.7 million, leaving potentially $1.248,000 in construction costs to be funded using Port capital funds.

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1 (l) In anticipation of a potential shortfall in non-Port capital funds for the project, the Port
2 submitted a grant application for $1.65 million to the US Environmental Protection Agency’s Diesel
3 Emissions Reduction Act (“DERA”) grant program in April 2009. Additionally, in a joint application
4 with six other West Coast ports, the Port also applied for similar funding through the US Department
5 of Energy’s Transportation Electrification Program in May 2009. The Port anticipates receiving
6 notification in late summer or early fall 2009 regarding these grant applications. The Port and SFPUC
7 staff are pursuing engineering and construction of the shoreside power project in two distinct phases:
8 one that involves the specialized shoreside power equipment that will be executed by the Port of San
9 Francisco with BAAQMD funds and SFPUC funds through a contract with Cochran, Inc., and another
10 that involves upgrading SFPUC-owned electrical power supply to the shoreside power system which
11 will be executed by the SFPUC and its current, as-needed construction contractors, utilizing SFPUC
12 funds. This approach will deliver an operational project by mid-2009.
13
14 (m) Subject to the Port Director’s determination that it is economically or technically infeasible
15 to complete the project utilizing a current City-certified contractor, the Board of Supervisors hereby
16 authorizes the Executive Director of the Port to execute an agreement with Cochran, Inc., to install
17 shoreside power equipment at Piers 27 and 29 of the Port of San Francisco for an amount not to
18 exceed $3,200,000 such agreement to be substantially in the form of the agreement on file with the
19 Clerk of the Board of Supervisors in File No. __________________________ (the "Agreement") which is
20 incorporated herein by reference:
21
22 (nm) At the discretion of the Executive Director of the Port, the Agreement may waive
23 either party’s right to seek incidental, consequential, special, punitive, or exemplary damages
24 from the other.
25
26 (en) The City’s Planning Department has issued a Categorical Exemption dated March
27 13, 2008, for this project in accordance with the California Environmental Quality Act
28 (California Public Resources Code sections 21000 et seq.). Said determination is on file with

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the Clerk of the Board of Supervisors in File No. 2008.030E and is incorporated herein by
reference.

(nQ) At the discretion of the Executive Director of the Port, the Agreement may waive
either party’s right to seek incidental, consequential, special, punitive, or exemplary damages
from the other.

Section 2. Subject to the Port Director’s determination that it is economically or technically
infeasible to complete the Project utilizing a current City-certified contractor, the Board of Supervisors
hereby authorizes the Executive Director of the Port or her designee to execute an agreement with
Cochran, Inc. to design, purchase, and install shoreside power equipment at Piers 27 and 29 of the
Port of San Francisco for an amount not to exceed $4,848,000, including contingencies, and, by same
or separate agreement, to operate and maintain said shoreside power equipment for three years beyond
completion of construction for an additional amount not to exceed $350,000, including contingencies,
such agreement or agreements to be substantially in the form of the agreement or agreements on file
with the Clerk of the Board of Supervisors in File No. 090734 (collectively, the
"Agreement") which are incorporated herein by reference.

Section 23. Subject to the Port Director’s determination that it is economically or
technically infeasible to complete the Project utilizing a current City-certified contractor, the
Board of Supervisors hereby exempts the Agreement from the contracting requirements of the
Administrative Code and Environment Code, including, without limitation, Chapters 6, 12C,
12P, 12Q, and 14A, 14B, and 21 of the Administrative Code and Chapters, 2, 5, and 8 of the
Environment Code except to the extent the Agreement obligates Cochran, Inc. as contractor,
to satisfy such requirements, and hereby authorizes the Executive Director of the Port, or her
designee, to execute the Agreement, on behalf of the City, substantially in form of the agreement on file
with the Clerk of the Board, in File No. 090734.
Section 34. The Board of Supervisors hereby authorizes the Executive Director of the Port or her designee to enter into any additions, amendments or other modifications to the such Agreement that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the City, do not increase the amount of the Agreement or otherwise do not materially increase the obligations or liabilities of the City and are necessary or advisable to complete the Project contemplated by the Agreement and effectuate the purpose and intent of this Ordinance.

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

By:  
Robert A. Bryan  
Deputy City Attorney
Ordinance amending Ordinance 125-08, which authorized the Executive Director of the Port to execute an agreement with Cochran, Inc., to install shoreside power equipment at Piers 27 and 29 of the Port of San Francisco and exempted the agreement from the contracting requirements of the Administrative Code and Environment Code, to increase the amount of the contract to design, purchase, and install the shoreside power equipment, and to allow the Port to contract with Cochran, Inc. to operate and maintain said equipment for a period of three (3) years, for a total amount not to exceed $5,198,000.

June 23, 2009  Board of Supervisors — PASSED ON FIRST READING
Ayes: 10 - Alioto-Pier, Avalos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi
Noes: 1 - Campos

June 30, 2009  Board of Supervisors — FINALLY PASSED
Ayes: 10 - Alioto-Pier, Avalos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi
Noes: 1 - Campos
File No. 090734

I hereby certify that the foregoing Ordinance was FINALLY PASSED on June 30, 2009 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

7/10/09
Date Approved

Mayor Gavin Newsom