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

Section 1. Environmental Findings.

The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 161286 and is incorporated herein by reference. The Board affirms this determination.

Section 2. Background and Findings.
(a) The United States Army Corps of Engineers ("USACE") is responsible for maintaining the authorized navigational depth of all federal channels in the United States through its maintenance dredging program.

(b) The Port of San Francisco's ("Port") shipyard at Pier 70 is home to the longest continuously operating shipyard on the West Coast. The shipyard includes two large floating drydocks and provides high-paying, skilled employment opportunities in San Francisco.

(c) The Central Basin lies within the jurisdictional boundaries of the City and County of San Francisco but outside existing federal navigational channels, and serves as the navigational point of entry for vessels that enter the Pier 70 shipyard.

(d) Accumulation of San Francisco Bay mud or "shoaling" in the Central Basin reduces the functional navigational depth of the area, increasingly restricting the size of vessels capable of entering the shipyard, thereby threatening the economic viability of ship repair activity at that location.

(e) The ideal operating depth of the Central Basin for shipyard operations is 32 feet. But the current operating depth of the Central Basin is approximately 26 feet, which is forcing the Port's tenant and shipyard operator to turn away business it would otherwise accept.

(f) The expense of required periodic dredging of the Central Basin is substantial, and not viable in the long term for either the Port's shipyard operator to absorb as an operating cost or for the Port to include in its annual dredge budget.

(g) 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 USACE's Continuing Authorities Program, Section 107 ("CAP107"), for navigation projects in the federal interest, pursuant to Public Law Section 107, as amended (33 U.S.C. 577).

(h) 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 resulted in a provisional Detailed Project Report recommending a specific federal deepening and maintenance dredging project.

(i) In July 2011, the Port entered into a cost sharing agreement for the formal feasibility study of the Central Basin as a federal CAP107 project. But 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.

(j) In April 2016, USACE chose its preferred alternative from among nine alternatives considered for execution of the Central Basin CAP107 project, and the Port concurred with that selected alternative. The alternative would dredge the Central Basin to a depth of 32 feet at an initial project cost of $8,971,000, and required the “local sponsor,” the Port, to contribute a 25% project match, or $2,242,740.

(k) Under this project, upon completion of the initial deepening of the Central Basin to 32 feet, USACE would assume responsibility for maintenance dredging of the Central Basin every four years to maintain the depth of 32 feet, at an estimated cost of $1,626,000, conditioned upon the Port supplying an additional match of $897,100, or 10% of the cost of the initial deepening dredge, payable during the first 30 years of maintenance dredging. The total cost of maintenance dredging during the first 30 years is estimated at $12,195,000. Under the Project Partnership Agreement, the Port, as property owner, will also retain responsibility for investigating and mitigating any hazardous substances regulated under the federal Comprehensive Environmental Response, Compensation and Liability Act. (42 U.S.C.9601-9675.)

(l) For this proposed federal project to move forward, the Port as local sponsor must execute the USACE Project Partnership Agreement, which is a federal contract with contract terms and conditions required by USACE procedures and protocols.
(m) The Port Commission will consider the USACE Project Partnership Agreement at its December 13, 2016 meeting.

Section 3. Approval of Agreement.

Subject to the Port Executive Director's determination that the USACE CAP107 federal contract terms are highly standardized and that deviation from those terms would result in USACE rejection of revisions to the Project Partnership Agreement, the Board of Supervisors hereby approves and authorizes the Port Executive Director to execute a Project Partnership Agreement with USACE substantially in the form on file with the Clerk of the Board of Supervisors under File No. 161286, to allow federal dredging of the Central Basin as generally described in Section 2 above, conditioned upon (a) the Port providing a 25% matching share, not to exceed $2,242,750, towards the initial project costs, and (b) the Port providing an additional matching share not to exceed $897,100, or 10% of the cost of the initial deepening dredge, payable over 30 years, for federal maintenance dredging of the Central Basin.


The Board of Supervisors hereby exempts the Project Partnership Agreement from Chapters 5, 7, 8, 16, and 25 of the Environment Code, and from the contracting provisions of the Administrative Code, without limitation, 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. This Section 4 does not preclude inclusion of provisions in the Project Partnership Agreement obligating USACE to satisfy any such requirements.

Section 5. Additions, Amendments, and Modifications.

The Board of Supervisors hereby authorizes the Port Executive Director to enter into any additions, amendments, or other modifications to the Project Partnership Agreement, and any other documents or instruments in connection with same, that the Port Executive Director
determines, following consultation with the City Attorney, are in the Port's and City's best interests, do not materially decrease the Port's and City's benefits or materially increase the Port's and City's obligations or liabilities, and are appropriate and advisable to complete the proposed transaction, such determination to be conclusively evidenced by the execution and delivery by the Port Executive Director of any such additions, amendments, or other modifications.

Section 6. Effective Date.

This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the 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.

Section 7. Filing of Executed Agreement.

Within 30 days of the Project Partnership Agreement being fully executed by all parties, the Port shall provide a copy of the contract to the Clerk of the Board for inclusion into the file.

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

By: TIMOTHY L. YOSHIDA
Deputy City Attorney
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.

December 05, 2016 Budget and Finance Committee - AMENDED

December 05, 2016 Budget and Finance Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

December 06, 2016 Board of Supervisors - PASSED, ON FIRST READING
   Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang and Yee

December 13, 2016 Board of Supervisors - FINALLY PASSED
   Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang and Yee
   Vacant: 1 - District 8
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 12/13/2016 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved

12/13/16