

**ORDINANCE NO. 27-08 N.S.**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF RICHMOND  
AMENDING AND RESTATING ORDINANCE NO. 1-99 N.S.  
CREATING A SPECIAL FUND AND AUTHORIZING THE CITY TO PLEDGE AND  
ASSIGN THE NET REVENUES THEREOF AS SECURITY  
FOR PORT RELATED OBLIGATIONS

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The Council of the City of Richmond do ordain that Ordinance No. 1-99 N.S., adopted on January 12, 1999, is hereby amended and restated in its entirety as follows:

SECTION 1. Definitions. The terms used in this Ordinance have the following meanings:

City means the City of Richmond.

Enterprise means the City's entire port and harbor property, facilities and equipment, including the Port Terminal Facilities and all additions, extensions and improvements which may be hereafter made thereto, but excluding any Special Facilities.

Expenses means all costs of management, operation, maintenance and repair of the Enterprise, including all incidental fees and expenses properly chargeable thereto and including obligations payable from Revenues under contracts entered into prior to the effective date hereof.

Net Revenues means all Revenues after Expenses.

Port Fund means the City of Richmond Port Operations Special Fund herein created and established.

Port Obligations means any bonds, notes, or other evidences of indebtedness or lease obligations entered into by the City and to which the City has pledged the Net Revenues as a source of repayment.

Revenues means all fees, tolls, rates, rentals and other charges received for and all other income and receipts derived by the City from the operation of or arising from the Enterprise, including the proceeds of sale of property.

Special Facilities means any facilities owned by the City that are designated by the City as "Special Facilities, the revenues of which are not a part of the Revenues. The City may (a) designate an existing or planned facility, structure, equipment or other property, real or personal, which is located within the Enterprise or part of any facility or structure at the Enterprise as a "Special Facility," (b) provide that revenues earned by the City from or with respect to such Special Facility shall constitute "Special Facility Revenue" and shall not be included as Revenues, and (c) issue Port Obligations primarily for the purpose of acquiring, constructing, renovating or improving, or providing financing to a third party to acquire, construct, renovate or improve, such Special Facility secured in whole or in part by the Special Facility Revenues.

SECTION 2. Creation of Special Fund. There is hereby created and established a special fund of the City of Richmond, to be known as the "City of Richmond Port Operations Special Fund", defined and hereinafter referred to as the "Port Fund".

SECTION 3. Maintenance and Operation of the Port Fund. The Port Fund shall be maintained and operated by the Director of Finance as a separate account distinct from all other funds and accounts of the City.

SECTION 4. Revenues. All Revenues shall be deposited in the Port Fund.

SECTION 5. Expenses. All Expenses shall be charged to and paid from the Port Fund.

SECTION 6. Pledge and Lien of Net Revenues. The City may pledge, grant a lien on and security interest in the Net Revenues for any Port Obligations, and the terms of such pledge, transfer, lien and security interest shall be as set forth in the documents pursuant to which

such Port obligations are issued. The City may determine the lien priority, amount, timing, and terms of any such pledge, transfer, lien or security interest.

SECTION 7. Trust Fund. All of the Net Revenues shall constitute trust funds for the security and payment of Port Obligations pursuant to Section 6. Any Net Revenues remaining in the Port Fund after full payment of Port Obligations payable in each calendar year may be used for any lawful purpose of the Enterprise, subject to the terms of the Port Obligations.

SECTION 8. 1941 Law. The obligations of the City to pay Port Obligations is hereby determined to be analogous to the obligation of a local agency to make principal and interest payments on revenue bonds under the Revenue Bond Law of 1941, being Chapter 6 (commencing with Section 54300) of Division 2 of Title 5 of the Government Code of the State of California. In the exercise of its powers under this Ordinance, the City shall have and may exercise all of the applicable powers and authority granted in said Revenue Bond Law of 1941 and shall not be subject to any of its limitations, including, without limiting the generality of the foregoing, the provisions of Section 54380 to 54388, inclusive. The Authority, the Trustee and any holder of the Port Obligations shall be entitled to all of the rights and to exercise all of the remedies against the City in the event of City default under the Port Obligations as are Bondholders under said Revenue Bond Law of 1941.

SECTION 9. Publication. This Ordinance shall be published once in the West County Times, a newspaper of general circulation published in the City, within fifteen (15) days after its passage, pursuant to Section 54242 of the Government Code.

SECTION 10. Referendum. This ordinance is subject to the provisions for referendum applicable to the City as set forth in the City Charter, and shall therefore become effective upon the commencement of the thirty-first day after the day of its passage, or the date on which the City of Richmond Joint Powers Financing Authority Port Terminal Lease Revenue Refunding Bonds, Series 1999, are no longer outstanding, whichever occurs later.

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First read at a regular meeting of the Council of the City of Richmond held [November 18] 2008, and finally passed and adopted at a regular meeting held December 2, 2008, by the following vote:

AYES: Councilmembers Bates, Butt, Lopez, Marquez, Rogers, Sandhu, Thurmond, Viramontes, and Mayor McLaughlin  
NOES: None  
ABSTENTIONS: None  
ABSENT: None

DIANE HOLMES  
Clerk of the City of Richmond

(SEAL)

Approved:

GAYLE McLAUGHLIN  
Mayor

Approved as to form:

RANDY RIDDLE  
City Attorney

State of California )  
County of Contra Costa ) ss.  
City of Richmond )

I certify that the foregoing is a true copy of Ordinance No. 27-08 N.S., finally passed and adopted by the Council of the City of Richmond at a special meeting on November 25, 2008, and published in accordance with law.