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19 JUN 14 PM 2:53

# OAKLAND CITY COUNCIL

RESOLUTION NO. 87788 C.M.S.

INTRODUCED BY COUNCILMEMBER NIKKI FORTUNATO BAS AND  
COUNCILMEMBER LOREN TAYLOR

**RESOLUTION SUPPORTING WITH AMENDMENTS ASSEMBLY BILL 1191, ENTITLED, "STATE LANDS COMMISSION: EXCHANGE OF TRUST LANDS: CITY OF OAKLAND: HOWARD TERMINAL PROPERTY: OAKLAND WATERFRONT BALLPARK ACT" ("AB 1191"), INTRODUCED BY ASSEMBLY MEMBER ROBERT BONTA**

**WHEREAS**, Beginning in 1852 and through a series of legislative grants, including the 1852 tidelands grant and the 1923 tidelands grant, the State of California, granted to the City of Oakland ("City"), in trust, sovereign tide and submerged lands located within its boundaries, including portions of the property referred to as the "Howard Terminal"; and

**WHEREAS**, Through the City's Charter, portions of these public trust lands are delegated to the department of the Port of Oakland ("Port") and are managed by the City acting by and through its Board of Port Commissioners; and

**WHEREAS**, Over the years, the City and the Port, acquired, sold and then re-acquired additional lands that were never owned by the State, referred to as the "Rancho Uplands", that are now included within the Howard Terminal; and

**WHEREAS**, The Howard Terminal property is approximately 50 acres; includes two deep-water berths adjacent to the Inner Harbor Channel; and is situated between Schnitzer Steel and Jack London Square in the City; and

**WHEREAS**, Under existing law the State Lands Commission ("SLC") has jurisdiction over certain public lands in the State, including tidelands and submerged lands, and existing law authorizes the State Lands Commission to enter into an exchange, with any other public entity, any person or any private entity, of filled or reclaimed tidelands and submerged lands or beds of navigable waterways, or interests in these lands, that are subject to the public trust for commerce, navigation, and fisheries, for other lands or interests in lands, if the commission finds that specified conditions are met; and

**WHEREAS**, A dispute exists as to the public trust status of the lands comprising the Howard Terminal and SLC's jurisdiction over such lands; and

**WHEREAS**, The Howard Terminal Property retains its capacity to function as a Marine terminal; is currently in the San Francisco Bay Conservation and Development Commission ("BCDC") Seaport plan for Port priority use; and is being used for ancillary maritime operations; and

**WHEREAS**, State law requires sponsors of projects that propose to fill or extract materials from the Bay to apply for a BCDC permit as well as get a permit from BCDC within the Bay's 100-foot shoreline band upon providing "maximum feasible public access"; and

**WHEREAS**, the Oakland Athletics have identified Howard Terminal as its preferred location to develop a new baseball park; and

**WHEREAS**, The SLC is not authorized to issue a permit for the proposed project under existing state law; and

**WHEREAS**, AB 1191 would enact the Oakland Waterfront Ballpark Act, which would authorize the SLC to enter into a trust exchange agreement with the Port, whereby certain portions of Howard Terminal would be settled as being subject to the public trust for commerce, navigation, and fisheries and other portions would be freed from the public trust, if the SLC finds that specified conditions exist ("Trust Exchange Agreement"); and

**WHEREAS**, AB 1191 also would authorize the SLC to impose any additional conditions on an exchange of land authorized under the bill, if the SLC determines that the conditions are necessary to protect the public trust; and

**WHEREAS**, AB 1191 would authorize the SLC to establish the ordinary high water mark or the ordinary low water watermark of any tidelands or submerged lands within the boundaries of the Howard Terminal property that are exchanged pursuant to an agreement with the Port; and

**WHEREAS**, AB 1191 would not limit the authority of the BCDC to review any project at the Howard Terminal or decide whether Howard Terminal still is a Port priority use; and

**WHEREAS**, A version of AB 1191 has passed the Assembly floor and is being considered by the Senate; and

**WHEREAS**, The Oakland Athletics, Port and City staff are negotiating further amendments to AB 1191 with SLC and BCDC;

now, therefore be it

**RESOLVED:** That the Oakland City Council supports and urges the California Legislature to pass and Governor Newsom to sign into law California Assembly Bill 1191, with the following amendments:

- 1) that the bill explicitly name the City as a party to the Trust Exchange Agreement, which shall require City Council approval;
- 2) that any contribution, grant or concession that the City makes to enable the proposed project, including offsite infrastructure, be eligible for reimbursement by trust revenues;
- 3) that any police or fire safety services provided by the City to serve the proposed project be eligible for reimbursement by trust revenue; and
- 4) that any parking services provided by the City on public or private streets, garages or lots in the proposed project be eligible for reimbursement by trust revenue; and further; and be it

**FURTHER RESOLVED:** That the City Council directs the City Administrator to negotiate and advocate for the 1) incorporation of language into AB 1191 that reflects the foregoing amendments stipulated in this Resolution and 2) passage of the final bill, as so amended, all in consultation with the City Attorney; and be it

**FURTHER RESOLVED:** That the Oakland City Council hereby directs the City Clerk to convey a copy of the Resolution to the State Legislature, to Assembly Member Robert Bonta and Governor Gavin Newsom.

IN COUNCIL, OAKLAND, CALIFORNIA

**JUN 1 2 2019**

PASSED BY THE FOLLOWING VOTE:

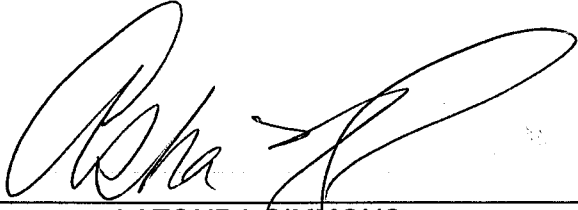
AYES - FORTUNATO BAS, GALLO, ~~DESSON WOODHONEY~~, KALB, REID, TAYLOR, THAO  
AND PRESIDENT KAPLAN — 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

*Excused - 1 McElhaneey*

ATTEST:   
 LATONDA SIMMONS  
 City Clerk and Clerk of the Council of  
 the City of Oakland, California