

OFFICE OF THE CITY CLERK
2004 MAR 11 PM 1:49

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

CSK

RESOLUTION SUPPORTING STATE LEGISLATION REGARDING A PUBLIC TRUST LAND EXCHANGE AT THE FORMER OAKLAND ARMY BASE AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO AN EXCHANGE AGREEMENT WITH THE STATE LANDS COMMISSION AND TO TAKE ALL OTHER NECESSARY ACTIONS TO EFFECTUATE THE EXCHANGE

WHEREAS, the Oakland Base Reuse Authority ("OBRA"), on July 31, 2002, adopted the Final Reuse Plan for the Oakland Army Base ("Reuse Plan") which sets forth the intended uses and development of land at the former military base; and

WHEREAS, the Reuse Plan provides that most of the land west of Maritime Street and a portion of the land east of Maritime Street will be developed by the Redevelopment Agency with a variety of uses to stimulate job creation and economic development (the "Gateway Development Area"), while most of the land east of Maritime Street and a portion of the land west of Maritime Street will be developed by the Port of Oakland ("Port") to expand its maritime terminals and reconfigure and expand the Port's rail facility through its New Intermodal Facility project (the "Port Development Area"); and

WHEREAS, there is uncertainty regarding the extent to which the lands within and adjacent to the former Oakland Army Base are subject to the public trust for navigation, fisheries and commerce ("Public Trust") and such uncertainty presents, among other things, obstacles to the productive reuse and redevelopment of the property consistent with the Reuse Plan; and

WHEREAS, the State Lands Commission has indicated that, although there exists a dispute regarding the current boundary between Public Trust and non-Public Trust lands, it would be appropriate to assume, for purposes of negotiating a boundary settlement and property exchange, that the portion of the former Army Base west of Maritime Street is currently subject to the Public Trust and that the portion of the former Army Base east of Maritime Street is currently not subject to the Public Trust; and

WHEREAS, the intended use and development of the Gateway Development Area cannot be accomplished unless most the land west of Maritime Street is freed from the Public Trust restrictions on, among other things, development and alienation; and

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WHEREAS, land within the Port Development Area east of Maritime Street is adjacent to the Port's existing terminals and is needed by the Port to increase its terminal capacity; and

WHEREAS, the California law allows the State Legislature to authorize the State Lands Commission to perform a Public Trust boundary settlement and an exchange of Public Trust land for non-Public Trust land if certain specified findings can be made, including, but not limited to, a determination that the value of the lands exchanged into the Public Trust equals or exceeds the value of the lands exchanged out of the Public Trust; and

WHEREAS, the City Council, at its meeting of October 23, 2001, passed Resolution No. 76783 C.M.S. that, among other things, authorizes the City Manager to work with OBRA, the Redevelopment Agency, the Port of Oakland and the State Lands Commission to resolve all issues related to the Public Trust at the former Oakland Army Base so as to allow for the implementation of the Reuse Plan; and

WHEREAS, the City Council, at its meeting of October 29, 2002, passed Resolution No. 77510 C.M.S. thereby authorizing the Agency Administrator to negotiate and enter into a Memorandum of Agreement with the Port of Oakland, OBRA and the Oakland Redevelopment Agency ("Port MOA") that, among other things, provides that the parties will work together to accomplish a Public Trust exchange and that OBRA/Agency can transfer the Gateway Development Area to the Port at fair market value if the Public Trust exchange is not completed (the "Cash-Out Remedy"); and

WHEREAS, the City Manager has worked with OBRA and the Port on a proposal to remove the Public Trust designation from approximately 98 acres of land west of Maritime Street (including 12 acres of land adjacent to the former base that is currently subject to the Public Trust) and to impose the Public Trust designation on approximately 131 acres of land east of Maritime Street as set forth on the map attached hereto; and

WHEREAS, there are several parcels of former Army Base land adjacent to the lands conveyed to OBRA by the Army that are also subject to trust-related title uncertainties and for which it may be in the public interest to include in the Public Trust exchange; and

WHEREAS, certain parcels of land within the Gateway Development Area west of Maritime Street will, after the contemplated Public Trust exchange is completed, remain subject to the Public Trust and will be developed as a park or other open space so as to allow public access to the San Francisco Bay and shoreline; and

WHEREAS, State legislation entitled the Oakland Army Base Public Trust Exchange Act has been introduced in the State Legislature as Senate Bill 1435 ("SB 1435") which would authorize the State Lands Commission to negotiate and enter into a Public Trust boundary settlement and exchange agreement as set forth above; and

WHEREAS, the current version of SB 1435 provides, among other things, that the State Lands Commission shall not approve the exchange unless the Memorandum of Agreement with the Port is amended to eliminate the Cash-Out Remedy; and

WHEREAS, it is in the best interests of the City of Oakland to support passage of SB 1435 in order to (i) eliminate title uncertainties, (ii) allow for the intended use and development of the Gateway Development Area, (iii) assist in the elimination of blight, and (iv) promote job creation and economic development; and

WHEREAS, the Oakland Army Base Redevelopment Project Area Environmental Impact Report ("EIR") was certified on July 31, 2002, by the City of Oakland, acting as a Lead Agency, and subsequently reviewed, considered and approved by OBRA, the Oakland Redevelopment Agency and the Port of Oakland, each acting as a Responsible Agency, and said EIR considered the foregoing Public Trust exchange and related matters; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970, the CEQA Implementing Guidelines and the City of Oakland's Environmental Review Regulations have been satisfied with the previous certification of the EIR and no supplemental or subsequent EIR is required; now, therefore, be it

RESOLVED: That the City Council hereby fully supports the Oakland Army Base Public Trust Exchange Act (SB 1435) and requests the California Legislature to adopt and the Governor to sign the legislation as expeditiously as possible; and be it

FURTHER RESOLVED: That the City Manager is hereby authorized to take all necessary actions to support the passage of SB 1435 and to accomplish the intent of this resolution; and be it

FURTHER RESOLVED: That the City Manager is further authorized to negotiate and enter into a Public Trust boundary settlement and exchange agreement with the State Lands Commission that is consistent with the terms of SB 1435 and this Resolution; and be it

FURTHER RESOLVED: That the City Manager is further authorized to negotiate and enter into an amendment to the Memorandum of Agreement with the Port of Oakland to eliminate the Cash-Out Remedy on the condition that the City of Oakland secures the benefits set forth in the agreement; and be it

FURTHER RESOLVED: That the City Council finds and determines that this Resolution complies with CEQA, the CEQA Implementing Guidelines and the City of Oakland's Environmental Review Regulations, and the Agency Administrator shall cause to be filed a Notice of Determination.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND
PRESIDENT DE LA FUENTE

NOES-
ABSENT-
ABSTENTION-

ATTEST: _____

CEDA FLOYD

City Clerk and Clerk of the City Council
of the City of Oakland, California

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CITY COUNCIL

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OFFICE OF THE CITY CLERK
OAKLAND REDEVELOPMENT AGENCY

RESOLUTION No. _____ C.M.S.

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RESOLUTION SUPPORTING STATE LEGISLATION REGARDING A PUBLIC TRUST LAND EXCHANGE AT THE FORMER OAKLAND ARMY BASE AND AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO AN EXCHANGE AGREEMENT WITH THE STATE LANDS COMMISSION AND TO TAKE ALL OTHER NECESSARY ACTIONS TO EFFECTUATE THE EXCHANGE

WHEREAS, the Oakland Base Reuse Authority ("OBRA"), on July 31, 2002, adopted the Final Reuse Plan for the Oakland Army Base ("Reuse Plan") which sets forth the intended uses and development of land at the former military base; and

WHEREAS, the Reuse Plan provides that most of the land west of Maritime Street and a portion of the land east of Maritime Street will be developed by the Redevelopment Agency with a variety of uses to stimulate job creation and economic development (the "Gateway Development Area"), while most of the land east of Maritime Street and a portion of the land west of Maritime Street will be developed by the Port of Oakland ("Port") to expand its maritime terminals and reconfigure and expand the Port's rail facility through its New Intermodal Facility project (the "Port Development Area"); and

WHEREAS, there is uncertainty regarding the extent to which the lands within and adjacent to the former Oakland Army Base are subject to the public trust for navigation, fisheries and commerce ("Public Trust") and such uncertainty presents, among other things, obstacles to the productive reuse and redevelopment of the property consistent with the Reuse Plan; and

WHEREAS, the State Lands Commission has indicated that, although there exists a dispute regarding the current boundary between Public Trust and non-Public Trust lands, it would be appropriate to assume, for purposes of negotiating a boundary settlement and property exchange, that the portion of the former Army Base west of Maritime Street is currently subject to the Public Trust and that the portion of the former Army Base east of Maritime Street is currently not subject to the Public Trust; and

WHEREAS, the intended use and development of the Gateway Development Area cannot be accomplished unless most the land west of Maritime Street is freed from the Public Trust restrictions on, among others, development and alienation; and

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WHEREAS, land within the Port Development Area east of Maritime Street is adjacent to the Port's existing terminals and is needed by the Port to increase its terminal capacity; and

WHEREAS, California law allows the State Legislature to authorize the State Lands Commission to perform a Public Trust boundary settlement and an exchange of Public Trust land for non-Public Trust land if certain specified findings can be made, including, but not limited to, a determination that the value of the lands exchanged into the Public Trust equals or exceeds the value of the lands exchanged out of the Public Trust; and

WHEREAS, the Redevelopment Agency, at its meeting of October 23, 2001, passed Resolution No. 01-73 C.M.S. that, among other things, authorizes the Agency Administrator to work with OBRA, the Port of Oakland and the State Lands Commission to resolve all issues related to the Public Trust at the former Oakland Army Base so as to allow for the implementation of the Reuse Plan; and

WHEREAS, the Redevelopment Agency, at its meeting of October 29, 2002, passed Resolution No. 02-80 C.M.S. thereby authorizing the Agency Administrator to negotiate and enter into a Memorandum of Agreement with the Port of Oakland, OBRA and the City of Oakland ("Port MOA") that, among other things, provides that the parties work together to accomplish a Public Trust exchange and that OBRA/Agency can transfer the Gateway Development Area to the Port at fair market value if the Public Trust exchange is not completed (the "Cash-Out Remedy"); and

WHEREAS, the Agency Administrator worked with OBRA and the Port on a proposal to remove the Public Trust designation from approximately 98 acres of land west of Maritime Street (including 12 acres of land adjacent to the former base that is west of Maritime Street) and to impose the Public Trust designation on approximately 131 acres of land east of Maritime Street as set forth on the map attached hereto; and

WHEREAS, there are several parcels of former Army Base land adjacent to the lands conveyed to OBRA by the Army that are also subject to trust-related uncertainties and for which it may be in the public interest to include in the Public Trust exchange; and

WHEREAS, certain parcels of land within the Gateway Development Area west of Maritime Street will, after the contemplated Public Trust exchange is completed, remain subject to the Public Trust and will be developed as a park or other open space so as to allow public access to the San Francisco Bay and shoreline; and

WHEREAS, State legislation entitled the Oakland Army Base Public Trust Exchange Act has been introduced in the State Legislature as Senate Bill 1435 ("SB 1435") which will authorize the State Lands Commission to negotiate and enter into a Public Trust boundary settlement and exchange agreement as set forth above; and

WHEREAS, the current version of SB 1435 provides, among other things, that the State Lands Commission shall not approve the exchange unless the Memorandum of Agreement with the Port is amended to eliminate the Cash-Out Remedy; and

WHEREAS, it is in the best interests of the Redevelopment Agency to support passage of SB 1435 in order to (i) eliminate title uncertainties, (ii) allow for the intended use and development of the Gateway Development Area, (iii) assist in the elimination of blight, and (iv) promote job creation and economic development; and

WHEREAS, the Oakland Army Base Redevelopment Project Area Environmental Impact Report ("EIR") was certified on July 31, 2002, by the City of Oakland, acting as a Lead Agency, and subsequently reviewed, considered and approved by OBRA, the Oakland Redevelopment Agency, and the Port of Oakland, each acting as a Responsible Agency, and said EIR considered the foregoing Public Trust exchange and related matters; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970, the CEQA Implementing Guidelines and the City of Oakland's Environmental Review Regulations have been satisfied with the previous certification of the EIR and no supplemental or subsequent EIR is required; now, therefore, be it

RESOLVED: That the Redevelopment Agency hereby fully supports the Oakland Army Base Public Trust Exchange Act (SB 1435) and requests the California Legislature to adopt and the Governor to sign the legislation as expeditiously as possible; and be it

FURTHER RESOLVED: That the Agency Administrator is hereby authorized to take all necessary actions to support the passage of SB 1435 and to accomplish the intent of this resolution; and be it

FURTHER RESOLVED: That the Agency Administrator is further authorized to negotiate and enter into a Public Trust boundary settlement and exchange agreement with the State Lands Commission that is consistent with the terms of SB 1435 and this Resolution; and be it

FURTHER RESOLVED: That the Agency Administrator is further authorized to negotiate and enter into an amendment to the Memorandum of Agreement with the Port of Oakland to eliminate the Cash-Out Remedy on the condition that the Agency secures the benefits set forth in the agreement; and be it

FURTHER RESOLVED: That the Redevelopment Agency finds and determines that this Resolution complies with CEQA, the CEQA Implementing Guidelines and the City of Oakland's Environmental Review Regulations, and the Agency Administrator shall cause to be filed a Notice of Determination.

IN SESSION, OAKLAND, CALIFORNIA, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND
PRESIDENT DE LA FUENTE

NOES-
ABSENT-
ABSTENTION-

ATTEST: _____
CEDA FLOYD

City Clerk and Clerk of the Redevelopment Agency
of the City of Oakland, California

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