Ordinance authorizing settlement of the lawsuit filed by the California State Lands Commission against the City and County of San Francisco; the lawsuit was filed on July 15, 2014, in San Francisco Superior Court, Case No. CGC-14-540531; entitled California State Lands Commission v. City and County of San Francisco; the lawsuit challenges a 2014 voter Initiative Ordinance, Proposition B, as facially invalid under state law and the City’s Charter; and the settlement requires the City to make public trust findings in certain approvals regarding Port property and to consider amending the Municipal Elections Code to inform voters of the public trust in ballot measures affecting the trust.

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

Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby authorizes the City Attorney to settle the action entitled California State Lands Commission v. City and County of San Francisco, San Francisco Superior Court, Case No. CGC-14-540531, on the following terms: (1) the City acknowledges that it is required to comply with the common law public trust doctrine and California Public Resources Code sections 6009 and 6009.1; (2) the City agrees that when the Board of Supervisors adopts any ordinance or resolution or proposes any Charter amendment that approves a development project on Port of San Francisco trust lands, or that approves substantial land use or zoning changes to those lands, such ordinance, resolution, or Charter amendment shall include findings made by the Board that the ordinance, resolution, or charter amendment is consistent with the common law public trust doctrine and the Burton Act; (3) the City agrees that, when the Port Commission adopts any resolution that approves a development project on Port trust lands, or that...
approves substantial land use or zoning changes to those lands, such resolution shall include findings made by the Port Commission that the resolution is consistent with the common law public trust doctrine and the Burton Act; (4) the City shall present to the Board of Supervisors a proposed ordinance amending the Municipal Elections Code to require that, when voters are presented with a proposed measure that approves a development project on Port trust lands, or that approves substantial land use or zoning changes to those lands, the voter information pamphlet for the measure shall include a statement regarding the public trust doctrine. The settlement agreement further provides that the California State Lands Commission agrees (1) not to challenge the validity of Administrative Code section 61.5.1 as it applies to certain Port development projects; (2) to partner with the Port to advocate for funding to support the Port’s Seawall Earthquake Safety Program; (3) to facilitate affordable housing efforts on historic public trust lands where authorized by law; (4) to waive its right to reimbursement for staff time spent reviewing specified Port development projects; and (5) to dismiss its challenge to Administrative Code section 61.5.1 provided that the City amends the Municipal Elections Code to include a statement regarding the public trust doctrine in the voter information pamphlet for measures affecting Port trust lands. The lawsuit involves the State Lands Commission’s claim that Proposition B, passed by the voters in June 2014 and codified at Administrative Code section 61.5.1, is facially invalid because it is preempted by the Burton Act, sections 6009 and 6009.1 of the California Public Resources Code, and section 4.114 of the Charter.

Section 2. The above-named action was filed in San Francisco Superior Court on July 15, 2014, and the following parties were named in the lawsuit: California State Lands Commission as plaintiff and petitioner and the City and County of San Francisco as defendant and respondent.
APPROVED AS TO FORM AND RECOMMENDED:

DENNIS J. HERRERA
City Attorney

EILEEN MALLEY
PORT GENERAL COUNSEL

RECOMMENDED:

PORT OF SAN FRANCISCO

ELAINE FORBES
EXECUTIVE DIRECTOR

APPROVED:

AMY QUESADA
Secretary, Port Commission
File Number: 180234  
Date Passed: May 01, 2018

Ordinance authorizing settlement of the lawsuit filed by the California State Lands Commission against the City and County of San Francisco; the lawsuit was filed on July 15, 2014, in San Francisco Superior Court, Case No. CGC-14-540531; entitled California State Lands Commission v. City and County of San Francisco; the lawsuit challenges a 2014 voter Initiative Ordinance, Proposition B, as facially invalid under state law and the City's Charter; and the settlement requires the City to make public trust findings in certain approvals regarding Port property and to consider amending the Municipal Elections Code to inform voters of the public trust in ballot measures affecting the trust.

April 18, 2018 Government Audit and Oversight Committee - RECOMMENDED

April 24, 2018 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Stefani, Tang and Yee

May 01, 2018 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Stefani, Tang and Yee

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 5/1/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

Mark E. Farrell  
Mayor

Date Approved  
5/9/18