

CHAPTER 898

An act to amend Section 1 of, and to add Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 to, Chapter 497 of the Statutes of 1959, relating to tidelands and submerged lands granted in trust to the County of Marin.

[Approved by Governor September 19, 1975 Filed with
Secretary of State September 19, 1975]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of Chapter 497 of the Statutes of 1959 is amended to read:

Section 1. There is hereby granted to the County of Marin, and to its successors, all of the right, title, and interest of the State of California, held by said state by virtue of its sovereignty or by patent from the United States of America pursuant to an act of Congress (9 Stat. 519) approved September 28, 1850, in and to all of the salt marsh and tide and submerged lands, filled or unfilled, bounded and described as follows:

Parcel A

All that land within the unincorporated area of the County of Marin, lying within Richardson Bay as shown upon the Board of Tide Land Commissioners' "Map No. 1 of the Salt Marsh and Tide Lands Situate in the County of Marin, State of California" dated 1870, on file in the office of the State Lands Commission at Sacramento, designated as Saucelito Basin and those areas designated as Brickyard, Oyster, Salt Works, Rosedale and Coyote Canals and that portion of Saucelito Canal lying southeasterly from Courses Nos. 160 and 161 of "Meanders at Ordinary High Tide" as tabulated on Table 1 of said Map No. 1, and those areas designated as Monterey, Sonoma, Waldo, Myrtle, Yuba, Grove, Eureka, Pescadero, Madrona, Manzanita, Teutonia, Oro, Fresno, Shasta, Yolo, Parepa, Pohono, Esmeralda, Tulare, Owyhee, Coyote and Canal Streets, and all the street areas normal to the aforementioned streets at present known and referred to as Tomales, Bolinas, Petaluma, Humboldt, Donahue and Railroad Avenues, including Railroad Avenue lying between Coyote Canal and Rosedale Canal and each of the undesignated areas

lying between Railroad Avenue and Blocks 169, 195 and 232.

Parcel B

All that land lying within Gallinas Canal (including the north and south forks thereof) as shown on the Board of Tide Land Commissioners' "Map No. 3 of Salt Marsh and Tide Lands Situate in the County of Marin, State of California" dated 1871 on file in the office of the State Lands Commission at Sacramento, lying westerly from a line drawn between the southeasterly end of Course No. 1 and the northeasterly end of Course No. 87 as said courses are tabulated on said Map No. 3 in the Table entitled "Meanders of Gallinas Canal".

Parcel C

All that land within Richardson Bay and within the City of Belvedere designated upon the Board of Tide Land Commissioners' "Map No. 1 of Salt Marsh and Tide Lands Situate in the County of Marin, State of California" dated 1870, on file in the office of the State Lands Commission at Sacramento, as Middle and East Canals and that portion of Sausalito Basin more particularly described as follows:

Beginning at the most westerly corner of Lot 382 as shown upon said Map No. 1 thence running southeasterly along the southwesterly lines of Lots 382, 388, 389 and 390 to the beginning of Course No. 328 of the "Meanders at Ordinary High Tide" as tabulated in Table I of said Map No. 1; thence continuing southeasterly along the "Meanders at Ordinary High Tide" to the southeasterly end of Course No. 342; then westerly to the northeasterly end of Course No. 47 of the "Meanders of the Line of Nine Ft. Depth at the Lowest Tide" as tabulated in Table III of said Map No. 1; then southwesterly along said Course No. 47 to a point on the southwesterly limits of the City of Belvedere; then northwesterly along said limits of the City of Belvedere to the point of beginning.

Parcel D

A parcel of land in Marin County, California, lying adjacent to and northerly of the north fork of Gallinas Canal and being a portion of Lot 17, Sec. 16, and Lot 24, Sec. 15, T2N R6W MDM as shown on Board of Tide Land Commissioners Map No. 3 of Salt Marsh and Tide Lands situate in the County of Marin, State of California approved July 12, 1871, said parcel being more particularly described as follows:

Bounded on the north by the southerly line of Tideland Survey No. 88 and on the east, south and west by the northerly line of the North Fork of Gallinas Canal as said canal is shown on said Board of Tide Lands Commissioners Map No. 3.
Said parcel contains 1.67 acres more or less.

To be forever held by said county, and its successors, in trust for

the uses and purposes and upon the express conditions following, to wit, except that Parcel D shall be used only for park, recreation, or open-space uses:

(a) That said lands shall be used by said county, and its successors, for purposes in which there is a general statewide interest as follows:

(1) For the establishment, improvement and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of commerce and navigation.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities.

(3) For the establishment, improvement and conduct of an airport and heliport or aviation facilities, including but not limited to approach, takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.

(4) For the construction, reconstruction, repair and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary or convenient for the promotion and accommodation of any of the uses set forth in this section.

(5) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including but not limited to public golf courses, and for all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(6) For the establishment, improvement and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities, and for the construction, reconstruction, repair, maintenance and operation of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any of such uses, including but not limited to snackbars, cafes, restaurants, motels, hotels, launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways,

pedestrian ways and landscaped areas.

(7) For the establishment, preservation, restoration, improvement, or maintenance of intertidal and subtidal marine biological reserves, the protection of wildlife habitats, the improvement, protection, and conservation of the wildlife and fish resources and the ecology of the area, the providing of open-space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the granted lands and the area, control of dredging or filling of the granted lands, or both, prevention of pollution of the granted lands, restoration and maintenance of shellfish and related fishery resources, development of nature study trails and areas, exhibits, research projects, preservation of areas of unique marine phenomena for water sports, and the natural beauty and biological resources and activities related thereto, subject to the prior approval of the Fish and Game Commission as to those matters which are subject to regulation by the commission pursuant to the Fish and Game Code.

(8) For any other uses or purposes of statewide, as distinguished from purely local or private, interest and benefit which are in fulfillment of those trust uses and purposes described in this act.

(9) For the acquisition of property and the rendition of services reasonably necessary to the carrying out of the uses and purposes described in this section, including the amortization or debt service of any capital improvement funding program which is consistent with the terms and conditions set forth in this act.

(b) Said county, or its successors shall not, at any time, grant, convey, give or alienate said lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that said county, or its successors, may grant franchises thereon for limited periods, not exceeding 55 years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, not exceeding 55 years, for purposes consistent with the trusts upon which said lands are held by the State of California, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from such leases, franchises and privileges. Such lease or leases, franchises and privileges may be for any and all purposes which shall not interfere with commerce and navigation.

Nothing contained in this paragraph (b) shall be deemed to affect the validity or term of any franchise granted by said county under the Broughton Act, and any such franchise shall be effective with respect to said lands when title thereto passes to said county hereunder.

(c) Said lands shall be improved without expense to the state; provided, however, that nothing contained in this act shall preclude expenditures for the development of said lands for any public purpose not inconsistent with commerce, navigation and fisheries, by the state, or any board, agency or commission thereof, when authorized or approved by the county, nor by the county of any funds

received for such purpose from the state or any board, agency or commission thereof.

(d) The county may conduct such dredging operations to remove accumulated spoils as are necessary to maintain navigable channels. The county shall secure a permit from the State Lands Commission to conduct any such dredging operation, and shall comply with all conditions which the State Lands Commission may impose, but shall not be obligated to pay the state royalties for the spoils removed in the course of such dredging if the State Lands Commission determines that the quality of the spoils and the amounts involved have no significant economic value.

(e) In the management, conduct, operation and control of said lands or any improvements, betterments, or structures thereon, the county or its successors shall make no discrimination in rates, tolls or charges for any use or service in connection therewith.

(f) The State of California shall have the right to use without charge any transportation, landing or storage improvements, betterments or structures constructed upon said lands for any vessel or other watercraft or railroad owned or operated by the State of California.

(g) There is hereby reserved to the people of the State of California the absolute right to fish in the waters of said lands with the right of convenient access to said waters over said lands for said purposes.

(h) There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in said land, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said land.

(i) The lands herein described are granted subject to the express reservation and condition that the state may at any time in the future use said lands or any portion thereof for highway purposes without compensation to the county, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements, betterments or structures have been placed upon the property taken by the state for said purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements, betterments or structures taken or the damages to such interest.

(j) The State Lands Commission shall, at the cost of the county, survey and monument the granted lands and record a description and plat thereof in the office of the County Recorder of Marin County.

(k) That within 10 years from November 10, 1969, parcels A, B, and C, and within 10 years from January 1, 1976, parcel D, shall be substantially improved, restored, preserved, or maintained by said county without expense to the state, and if the State Lands Commission determines that the county has failed to improve, restore, preserve, or maintain said lands as herein required, all right,

title, and interest of said county in and to all lands granted by this act shall cease and all right, title, and interest in said lands shall revert and rest in the state. All restoration, preservation, or maintenance shall be effected in accordance with a plan therefor, approved by the State Lands Commission.

SEC. 2. Section 2 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 2. The county shall establish a separate tidelands trust fund or funds in such manner as may be approved by the State Lands Commission and the county shall deposit in the fund or funds all moneys received directly from, or indirectly attributable to, the granted lands in the county. An annual statement of financial condition and operations, to conform with such requirements as the State Lands Commission may prescribe, shall be submitted to the State Lands Commission each year by the county on or before September 30th of each year for the preceding fiscal year.

SEC. 3. Section 3 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 3. Notwithstanding any other provision of law to the contrary, the county, acting either alone or jointly with another local or state agency, may use revenues accruing from or out of the use of the granted lands for any or all of the following purposes; provided, that they comply with the terms of the trust and are matters of statewide, as distinguished from local or purely private, interest and benefit:

(a) For the establishment, improvement and conduct of harbors, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient, for the promotion and accommodation of commerce and navigation.

(b) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities.

(c) For the establishment, improvement, and conduct of airport and heliport or aviation facilities, including but not limited to approach takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance, and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.

(d) For the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary or convenient for the promotion and accommodation of any of the uses set forth in Section

1 of this act.

(e) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including but not limited to public golf courses, and for all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(f) For the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of such uses, including, but not limited to, snackbars, cafes, cocktail lounges, restaurants, motels, hotels, and other forms of transient living accommodations open to the public, launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas.

(g) For the establishment, preservation, restoration, improvement, or maintenance of intertidal and subtidal marine biological reserves, the protection of wildlife habitats, the improvement, protection, and conservation of the wildlife and fish resources and the ecology of the area, the providing of open-space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the granted lands and the area, control of dredging or filling of the granted lands, or both, prevention of pollution of the granted lands, restoration and maintenance of shellfish and related fishery resources, development of nature study trails and areas, exhibits, research projects, preservation of areas of unique marine phenomena for water sports, and the natural beauty and biological resources and activities related thereto, subject to the prior approval of the Fish and Game Commission as to those matters which are subject to regulation by the commission pursuant to the Fish and Game Code.

(h) For any other uses or purposes of statewide, as distinguished from purely local or private, interest and benefit which are in fulfillment of those trust uses and purposes described in this act.

(i) For the acquisition of property and the rendition of services reasonably necessary to the carrying out of the uses and purposes described in this section, including the amortization or debt service of any capital improvement funding program which is consistent with the terms and conditions set forth in this act.

SEC. 4. Section 4 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 4. Such revenues may be deposited in one or more reserve

funds for use in accordance with the terms and conditions set forth in this act.

SEC. 5. Section 5 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 5. As to the expenditure of revenues for any single capital improvement on the granted lands involving an amount in excess of two hundred fifty thousand dollars (\$250,000) in the aggregate, the county shall file with the State Lands Commission a detailed description of such capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith, excepting preliminary planning. The State Lands Commission may, within 90 days after the time of such filing, determine and notify the county that such capital improvement is not in the statewide interest and benefit and is not authorized by the provisions of Section 3 of this act. The State Lands Commission may request the opinion of the Attorney General on the matter, and if it does so, a copy of such opinion shall be delivered to the county with the notice of its determination. In the event the State Lands Commission notifies the county that such capital improvement is not authorized, the county shall not disburse any revenue for, or in connection with, such capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The county is authorized to bring suit against the state for the purpose of securing such an order or adjudication, which suit shall have priority over all other civil matters. Service shall be made upon the Executive Officer of the State Lands Commission and the Attorney General and the Attorney General shall defend the state in such suit. If judgment be given against the state in such suit, no costs shall be recovered against it.

SEC. 6. Section 6 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 6. On June 30, 1978, and at the end of every third fiscal year thereafter, that portion of the county tideland trust revenues in excess of two hundred fifty thousand dollars (\$250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of tidelands trust activities have been made, shall be deemed excess revenues, provided, that any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenue. Capital improvements of the granted lands for purposes authorized by this act may be considered as expenditures for the purpose of determining net revenues; provided, however, that, if made after the effective date of this section, they may be so considered only if made in accordance with Section 5 of this act.

The excess revenue, as determined pursuant to this section, shall be divided as follows: 85 percent to the General Fund in the State Treasury and 15 percent to the county, to be deposited in a trust fund created pursuant to Section 2 of this act for use for any purpose

authorized by Section 3 of this act.

SEC. 7. Section 7 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 7. The State Lands Commission, at the request of the county, shall grant an extension of time, not to exceed 90 calendar days, for filing any report or statement required by this act which was not filed due to mistake or inadvertence.

SEC. 8. Section 8 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 8. In the event that the county fails or refuses to file with the State Lands Commission any report, statement, or document required by any provision of this act within the time period specified by this act, or any extension period granted pursuant to this act, or fails or refuses to carry out the terms of this act, the Attorney General shall, upon the request of the State Lands Commission, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any improvements to, or assets situated upon, the granted lands or derived therefrom. The State Lands Commission shall notify the Chief Clerk of the Assembly and the Secretary of the Senate within 30 days of the occurrence of such failure or refusal and of actions taken as a result thereof.

SEC. 9. Section 9 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 9. The State Lands Commission shall, from time to time, recommend to the Legislature such amendments as it may deem necessary in the terms and conditions of this act.

SEC. 10. Section 10 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 10. The State Lands Commission shall, from time to time, institute a formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning these specific granted lands are being complied with in good faith.

SEC. 11. Section 11 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 11. The State Lands Commission shall, on or before December 31st of each year, report to the Chief Clerk of the Assembly and to the Secretary of the Senate, the full details of any transaction or conditions reported to the commission pursuant to this act which it deems in probable conflict with the requirements of this act, or with any other provision of law.

SEC. 12. Section 12 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 12. The Legislature reserves the right to amend or modify, in whole or in part, the tidelands and submerged lands granted and conveyed in trust pursuant to this act; provided, that the state shall thereupon assume and be bound by all lawful transactions and obligations related to such lands entered into or created by the county during its holding of such lands.

SEC. 13. Section 13 is added to Chapter 497 of the Statutes of 1959, to read:

Sec. 13. The Attorney General, on request by resolution of either house of the Legislature, or upon formal request of the State Lands Commission made only after a noticed public hearing at which the grantee has been given an opportunity to fully express any disagreement with the commission's findings or to describe any extenuating circumstances causing the violation, shall bring an action in the superior court in the County of Marin to compel compliance with the terms and conditions of the grant and any other provision of law including, but not limited to, this act.

SEC. 14. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of the city for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.