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## CHAPTER 588

An act to repeal Chapter 310 of the Statutes of 1913, Chapter 417 of the Statutes of 1925, Chapter 483 of the Statutes of 1947, Chapter 117 of the Statutes of 1957, Chapter 1501 of the Statutes of 1957, Sections 10 and 11 of Chapter 11 of the Statutes of 1962, Chapter 63 of the Statutes of 1962 of the First Extraordinary Session, and Chapter 24 of the Statutes of 1963, relating to tidelands and submerged lands of the City of Vallejo.

[Approved by Governor September 18, 2004. Filed with  
Secretary of State September 18, 2004.]

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

SECTION 1. As used in this act, the following definitions apply:

(a) "City" means the City of Vallejo, a municipal corporation of the State of California, in Solano County.

(b) "Public trust purposes" means purposes related to commerce, navigation, and fisheries, water-oriented recreation, and preservation of land in a natural state.

(c) "Granting statutes" means Chapter 310 of the Statutes of 1913, Chapter 417 of the Statutes of 1925, Chapter 483 of the Statutes of 1947, Chapter 117 of the Statutes of 1957, Chapter 1501 of the Statutes of 1957, Sections 10 and 11 of Chapter 11 of the Statutes of 1962, Chapter 63 of the Statutes of 1962 of the First Extraordinary Session, and Chapter 24 of the Statutes of 1963.

(d) "Exchange statutes" means Chapter 895 of the Statutes of 1980 and Chapter 299 of the Statutes of 2003.

SEC. 2. It is the intent of the Legislature, in enacting this act, to do all of the following:

(a) Repeal and supercede prior granting statutes governing the City of Vallejo's administration, as trustee, of all tide and submerged lands and lands underlying inland navigable water within the boundaries of the City of Vallejo that were previously granted to the city by the State of California, into a single grant.

(b) Confirm in the City of Vallejo all of the state's right, title, and interest to tide and submerged lands and lands underlying inland navigable waters within the boundaries of the City of Vallejo that were previously granted by the granting statutes, and to amend the conditions and set forth the uses and purposes established for the city's government, management, and control of those lands.

(c) Convey to the City of Vallejo, and to its successors, all of the state's right, title, and interest to any remaining tide and submerged lands, and lands underlying inland navigable waters within the present boundaries of the City of Vallejo not heretofore conveyed, including that property established as public trust lands by the Mare Island Property Settlement and Exchange Agreement, and to provide for the city's government, management, and control of those lands.

(d) Expressly repeal the granting statutes and supercede those statutes by the enactment of a single statute providing for the grant of lands to the City of Vallejo.

SEC. 3. The Legislature hereby finds and declares all of the following:

(a) Since the admission of the State of California into the United States, certain tide and submerged lands have been, and are now held, in trust by the state for the benefit of all California residents for the purposes of commerce, navigation, fisheries, water-oriented recreation, and preservation of land in a natural state. The state is required to govern, administer, and control those lands for public trust purposes. The state is authorized, when the interests of the public trust require it, to grant and convey to municipalities limited and defined areas of public trust lands along with the power to govern, control, improve, and develop those lands in the interests of all of the inhabitants of the state for public trust purposes.

(b) The State of California, pursuant to the granting statutes, has conveyed certain tide and submerged lands and lands lying under inland navigable waters to the city, in furtherance of public trust purposes, and has provided for the administration, management, and control of those lands by the city. The State of California, pursuant to Chapter 43 of the Statutes of 1854, Chapter 81 of the Statutes of 1897, and Chapter 1452 of the Statutes of 1963, granted to the United States those tide and submerged lands adjacent to lands held by the United States for military purposes, including lands used for the development of the Mare Island Naval Shipyard.

(c) The United States Navy closed the Mare Island Naval Shipyard in 1996, and has conveyed, and will convey, certain lands lying within the boundaries of the former Mare Island Naval Shipyard to the city pursuant to the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Sec. 2687, and following, as amended). Upon closure of the former Mare Island Naval Shipyard, and by the terms of the state grants, the State of California claimed a right of reversion to all lands lying under the shipyard that were previously conveyed to the United States for military purposes. The State Lands Commission, acting under the auspices of the State of California, and in cooperation with the City Council of the City of Vallejo, approved the Mare Island Property Settlement and Exchange Agreement, which was recorded on March 26, 2002, as Instrument Number 02-37955 in the Recorder's Office, County of Solano, State of California (hereafter the agreement). That agreement settled the state's public trust title claims at the former Mare Island Naval Shipyard, and provided for an exchange of trust lands for nontrust lands of equal or greater value, in accordance with the requirements of Section 6307 of the Public Resources Code. The agreement was confirmed as valid, and title to the former Mare Island Naval Shipyard was quieted in accordance with the terms and conditions of that agreement, when implemented, pursuant to the judgment entered in *City of Vallejo v. State of California*, Solano County Superior Court Case No. 19710 (January 6, 2003), recorded on April 15, 2003, as Document Number

200300058313 in the Recorder's Office, County of Solano, State of California.

(d) The settlement of title to tide and submerged lands at Mare Island Naval Shipyard, and the conveyance of those lands to the city, as trustee of all of the state's right, title, and interest in, those lands within the boundaries of the city held by the state by virtue of its sovereignty in and to all tide and submerged lands and lands lying under inland navigable waters, together with the right to govern, control, improve, and develop or retain the lands in their natural state, will result in great advantage and benefit to all the inhabitants of the state.

(e) The State of California, pursuant to the exchange statutes, negotiated, and is authorized to negotiate, exchanges with the City of Vallejo for lands of equal or greater value that impose the public trust on certain lands while terminating the public trust with respect to the lands exchanged by the state. Those exchanges remain beneficial and will maximize the benefits to the public trust.

SEC. 4. The State of California hereby grants and conveys to the city, and to its successors, all the right, title, and interest of the state held by virtue of its sovereignty in, and to, all the tide and submerged lands and lands lying under inland navigable waters within the present boundaries of the city for public trust purposes, except for those lands currently leased to the Wildlife Conservation Board, the Department of Fish and Game, and the United States Fish and Wildlife Service; lands transferred to the Department of Education for the California Maritime Academy pursuant to Chapter 840 of the Statutes of 1945 and Chapter 135 of the Statutes of 1947; and lands that are subject to the Mare Island Property Settlement and Exchange Agreement referenced in subdivision (c) of Section 3 of this act until those lands are confirmed as public trust lands through implementation of the agreement described in Section 5.

SEC. 5. As to the lands that are the subject of the Mare Island Property Settlement and Exchange Agreement described in subdivision (c) of Section 3 of this act, the disposition of those lands is to be governed by that agreement. When each public trust parcel that is covered by that agreement is conveyed by deed from the state to the city pursuant to the terms of the agreement, that parcel shall thereafter be held by the city as public trust land pursuant to the terms of this act and the public trust. Once conveyed to the city, the use of those parcels of land shall be limited to those uses contained in Section 3 of the Public Agency Lease, recorded on March 26, 2002, as Instrument Number 02-379555 in the Recorder's Office, County of Solano, State of California.

SEC. 6. The lands hereby granted and conveyed to the city pursuant to this act shall be held by the city, and its successors, in trust for uses consistent with the public trust. Those lands may be used for the construction, reconstruction, repair, and maintenance of any

transportation, utility, or other infrastructure that is incidental, necessary, or convenient for any uses consistent with the public trust. Those lands shall be held by the city, or its successors, subject to the following conditions:

(a) The city, or its successors, shall not grant, convey, or otherwise alienate those lands, or any part thereof, to any individual, firm, or corporation for any purpose, except as provided in this act. However, the city, or its successors, may grant franchises on or lease those lands, or any part thereof, for limited periods not to exceed a maximum period of 66 years, for purposes consistent with the public trust. Those franchises or leases may be subject to any terms or conditions that may be imposed by the city that are deemed by the city to be necessary for municipal purposes. The city shall collect and retain rents from those leases, and any and all rents and revenues received from trust lands and trust assets, hereinafter referred to as "trust revenues." Those trust revenues shall be expended only for those uses and purposes consistent with the public trust. The purpose of this requirement is to provide for the segregation of funds derived from the use of trust lands in order to ensure that they are expended only to enhance the lands in accordance with the trust uses and purposes upon which the trust lands are held.

(b) On or before October 1 of each year, the trustee of those lands described in subdivision (a) shall file with the State Lands Commission a detailed statement of all trust revenues and expenditures relating to its use of trust lands and trust assets, including obligations that have been incurred, but not yet paid, covering the fiscal year preceding submission of the statement. This statement shall be prepared according to generally accepted accounting principles and may take the form of an annual audit prepared by or for the trustee.

(c) There is hereby reserved in the people of the State of California the right to fish in the waters on which trust lands may front with the right of convenient access to those waters for fishing purposes.

(d) The state shall have the right to use without charge, any transportation, landing, or storage improvements, betterments, or structures constructed upon the trust lands for any vessel or other watercraft or railroad owned or operated by, or under contract to, the state. The state's use of those facilities shall be governed by the trustee's rules and regulations.

(e) The lands herein granted and conveyed to the city are subject to the express reservation and condition that the state may at any time in the future use those lands, or any portion thereof, for highway purposes without compensation to the city, or its successors or assignees, or any person, firm, or public or private corporation claiming any right to those lands, except that in the event improvements have been placed with legal authority upon the property taken by the state for highway purposes,

compensation shall be made to the person entitled thereto for the value of the interest in the improvements taken or the damages to that interest.

(f) The State of California shall reserve all rights to any remains or artifacts of archaeological or historical significance and to all minerals and mineral rights in the lands now known to exist or hereafter discovered, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and the perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the State of California or to its successors and assignees. Notwithstanding Section 6401 of the Public Resources Code, any mineral right retained pursuant to this section shall not include the right of the state or its successors or assignees in connection with any mineral reservation, removal, or disposal activity, to do either of the following:

(1) Enter upon, use, or damage the surface of the lands or interfere with the use of the surface by any grantee or by the grantee's successor or assignees.

(2) Conduct any mining activities of any nature whatsoever above a plane located five hundred feet below the surface of the lands without permission of any grantee of the lands or the grantee's successors or assignees.

(g) In the management, conduct, operation, and control of the trust lands or any improvement, or structures on that land, the trustee or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith nor shall the trustee discriminate against or unlawfully segregate any person or group of persons on account of sex, race, color, creed, national origin, ancestry, or physical handicap for any use or service in connection herewith.

(h) Those lands shall be improved by the city without expense to the State of California, except that nothing contained in this act shall preclude the city from accepting and retaining any grant of funds or subvention from the state or other governmental agencies made available for the purpose of aiding in the development of those lands for any public purpose consistent with the promotion and accommodation of commerce, navigation, fisheries, water-oriented recreation, or preservation of land in a natural state.

SEC. 7. (a) Subject to the requirements for approval by the State Lands Commission specified in subdivision (b), whenever it is determined by the city that any portions of the tide or submerged lands granted to the city pursuant to this act have been filled and reclaimed, cut off from access to the waters of San Pablo Bay and Mare Island Strait, constitute a relatively small portion of the tide and submerged lands granted to the city, and are no longer needed or required for the promotion of the public trust purposes and the granted lands trust, and that there will not be a substantial interference with the public trust uses

and purposes, the city may terminate the public trust over those portions of the tidelands and exchange those portions of the tidelands, or any interest in those lands, with any state agency, political subdivision, person, entity, or corporation, or the United States, or any agency thereof, for lands or interests in lands of equal or greater value, if those lands granted are used for public trust purposes.

(b) An exchange and trust termination under subdivision (a) shall not be effective until the State Lands Commission, at a regular open meeting with the proposed exchange and trust termination as a properly scheduled agenda item, does both of the following:

(1) Finds that the lands or interests in lands to be acquired by the city and the value of the public trust interest to be created by agreement of the city are of a value equal to or greater than the value of the tidelands for which they are to be exchanged and the value of the tidelands over which the public trust will be terminated.

(2) Adopts a resolution approving the proposed exchange and trust termination, which finds and declares that the tidelands to be exchanged and over which the public trust will be terminated have been filled and reclaimed, are cut off from access to the waters of San Pablo Bay, Mare Island Strait, and the Straits of Carquinez, constitute a relatively small portion of the tide and submerged lands granted to the city, and are no longer needed or required for the promotion of the public trust; and that there will not be a substantial interference with the public trust uses and purposes that will ensue by virtue of the exchange of the trust lands and the trust termination. As to any such exchange and trust termination, upon the close of escrow, or other event completing the exchange and trust termination, the tidelands to be exchanged and with respect to which the public trust is to be terminated shall thereupon be free from the public trust.

(c) Any lands acquired by the city for public trust purposes shall thereafter be held by the city pursuant to the terms of this act.

(d) The provisions of this act are not exclusive with respect to the settlement or litigation of titles and boundaries of lands within either the present waterway or granted lands. This act does not impair nor alter the existing procedural or substantive rights or disabilities of any person or entity claiming title to, or an interest in, any lands in the present waterway and the granted lands in the defense or prosecution of any proceeding now or hereafter instituted under the laws of this state, nor affect the applicability of those lands with respect to any other provision of law.

SEC. 8. (a) Any party to an exchange agreement entered into pursuant to this act may bring an action under Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure to quiet title and to confirm the validity of that agreement as if the

agreement had been entered into pursuant to Section 6307 or 6357 of the Public Resources Code. No action shall be brought later than 90 days after the recording of the executed agreement.

(b) Notwithstanding subdivision (b) of Section 764.080 of the Code of Civil Procedure, a person, not a party to an exchange agreement entered into pursuant to this act seeking to bring an action challenging the validity of the agreement, shall file that action no later than 180 days after the recording of the executed agreement.

(c) Any exchange agreement entered into pursuant to this act shall be conclusively presumed to be valid, unless held invalid in an appropriate proceeding in a court of competent jurisdiction commenced within the time limits specified in this section.

SEC. 9. Chapter 310 of the Statutes of 1913 is repealed.

SEC. 10. Chapter 417 of the Statutes of 1925 is repealed.

SEC. 11. Chapter 483 of the Statutes of 1947 is repealed.

SEC. 12. Chapter 117 of the Statutes of 1957 is repealed.

SEC. 13. Chapter 1501 of the Statutes of 1957 is repealed.

SEC. 14. Sections 10 and 11 of Chapter 11 of the Statutes of 1962 are repealed.

SEC. 15. Chapter 63 of the Statutes of 1962 of the First Extraordinary Session is repealed.

SEC. 16. Chapter 24 of the Statutes of 1963 is repealed.

SEC. 17. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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