

## **Senate Bill No. 792**

### **CHAPTER 203**

An act to repeal Section 5006.8 of the Public Resources Code, to repeal Section 3 of Chapter 2 of the Statutes of 1958 of the First Extraordinary Session, to repeal Chapter 1046 of the Statutes of 1998, to repeal Chapter 464 of the Statutes of 2002, and to repeal Chapter 435 of the Statutes of 2003, relating to tidelands and submerged lands.

[Approved by Governor October 11, 2009. Filed with  
Secretary of State October 11, 2009.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 792, Leno. Tidelands and submerged lands: City and County of San Francisco: Hunters Point Naval Shipyard and Candlestick Point.

(1) Existing law grants to the City and County of San Francisco the right, title, and interest of the State of California in and to certain tidelands and submerged lands in trust for certain purposes. The State Lands Commission has jurisdiction over tidelands and submerged lands of the state.

The Hunters Point Shipyard Conversion Act of 2002 granted to, and vested in, the San Francisco Redevelopment Agency, all of the state's right, title, and interest in the Hunters Point trust lands, and, upon conveyance by the federal government to the agency, in appurtenances located on Hunters Point submerged lands, subject to the public trust and the terms and conditions of the act. The Hunters Point Shipyard Public Trust Exchange Act approved an exchange of public trust lands within the Hunters Point Shipyard, whereby certain trust lands that meet specified criteria and are not useful for public trust purposes are freed from the public trust and may be conveyed into private ownership, and certain other lands that are not public trust lands and that are useful for public trust purposes are made subject to the public trust. Existing law authorizes the Director of Parks and Recreation to enter into agreements concerning the development of a project in the City and County of San Francisco and partly within the Candlestick Point State Recreation Area.

This bill would repeal the Hunters Point Conversion Act of 2002 and the Hunters Point Shipyard Public Trust Exchange Act. The bill would also repeal the provision authorizing the Director of Parks and Recreation to enter into agreements concerning that project in the City and County of San Francisco.

This bill instead would grant to, and vest in, the San Francisco Redevelopment Agency, all of the state's right, title, and interest in Candlestick Point and the former Hunters Point Naval Shipyard trust lands, as revised, and, upon conveyance by the federal government to the agency,

in appurtenances located on Hunters Point submerged lands, subject to the public trust, and the terms and conditions of this bill.

This bill would also approve an exchange of public trust lands within the lands conveyed, whereby certain trust lands or interests in lands that meet specified criteria and are not now useful for public trust purposes will be freed from the public trust and may be conveyed into private ownership, and certain other lands or interests in lands that are not now public trust lands and that are useful for public trust purposes will be made subject to the public trust.

The bill would require the agency to deposit all moneys collected by the agency arising out of the use or operation of any of the trust lands into a special fund maintained by the agency. The bill would require the agency to prepare an annual statement of financial conditions and operations and to submit the statement to the State Lands Commission each year on or before October 1.

The bill would authorize the Director of Parks and Recreation to enter in an agreement to transfer to the agency or the City and County of San Francisco an interest in state property held by the department within the Candlestick Point State Recreation Area upon the director making certain findings.

This bill would provide that upon the termination of the redevelopment plan for the project area, consisting of the former shipyard, the Hunters Point submerged lands, and Candlestick Point, or by January 1, 2050, whichever is earlier, the agency shall transfer any trust lands in which it holds fee title to the city, unless the commission approves a later date.

(2) The bill would state findings and declarations of the Legislature regarding the need for special legislation.

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

SECTION 1. The following definitions apply for purposes of this act:

(a) “1958 Act” means Chapter 2 of the Statutes of 1958 of the First Extraordinary Session.

(b) “Agency” means the San Francisco Redevelopment Agency, or any successor redevelopment agency with jurisdiction over the project area.

(c) “Applicable statutory trust” means either of the following:

(1) Where the agency is the trustee, the terms and conditions of the state’s trust grant to the agency under this act.

(2) Where the city is the trustee, the Burton Act trust.

(d) “BCDC” means the San Francisco Bay Conservation and Development Commission.

(e) “Burton Act” means Chapter 1333 of the Statutes of 1968, as amended.

(f) “Burton Act lands” means all those lands within the project area, or immediately adjacent to the project area, owned in fee by the city and held subject to the Burton Act.

(g) “Burton Act transfer agreement” means that certain agreement dated January 24, 1969, between the state and the city, relating to the transfer of the Port of San Francisco from the state to the city, and any amendments to that agreement in accordance with its terms.

(h) “Burton Act trust” means the statutory trust imposed by the Burton Act, and any additional restrictions on use and alienability created by the Burton Act transfer agreement, by which the state conveyed to the city, in trust and subject to certain terms, conditions, and reservations, the state’s interest in certain tidelands, including filled lands, and lands dedicated or acquired by the city as assets of the trust. The Burton Act trust does not include the requirements of Section 12 of the Burton Act.

(i) “Candlestick Point” means all that real property situate in the City and County of San Francisco, State of California, described as follows:

Beginning at the intersection of the northeasterly line of Underwood Avenue (formerly 21st Avenue, 80 feet wide) with the southeasterly line of Arelious Walker Drive (formerly F Street, or Fitch Street, 64 feet wide); thence southwesterly along the southeasterly line of said Arelious Walker Drive 1400 feet to a point laying on the northeasterly line of Bancroft Avenue (formerly 26th Avenue, 80 feet wide), said point being also the most westerly corner of the lands designated and shown as “Parcel 1” on that certain map entitled “Record of Survey – Hunters Point Shipyard” and filed in Book “Z” of Maps, at pages 135 through 147, Document No. 2000-G845126 in the office of the City and County of San Francisco Recorder; thence southeasterly along the northeasterly line of said Bancroft Avenue 2592 feet to the northeasterly extension of the northwesterly line of Boalt Street (formerly B Street, 64 feet wide); thence southwesterly along said extension and said northwesterly line of said Boalt Street 35 feet to a point laying on the boundary of those certain lands commonly known as “Candlestick Point State Recreation Area” and described under Exhibit “1” in that certain Quitclaim Deed from the City and County of San Francisco to the State of California, recorded in the office of County Recorder of said county in Book D633 of Official Records, at Image 1952; thence generally southwesterly, southeasterly, southerly and westerly along said boundary of said “Candlestick Point State Recreation Area”, in all of its courses, to a point on the San Francisco – San Mateo County boundary line as said line is shown on that certain Board of Tide Land Commissioners map entitled “Map of the Salt Marsh and Tide Lands and Lands Lying Under Water South of Second Street”, a copy of which is filed in Map Book “W”, pages 46 and 47, in the office of the City and County of San Francisco Recorder, from which point the point of beginning of said boundary described in said Exhibit “1” bears North 44°39’58” East 103.85 feet, more or less; thence westerly along said county line 15 feet, more or less, to the southeasterly line of Harney Way as shown on that certain map entitled “Map Showing the Opening of Harney Way from Jamestown Avenue to County Line”, filed January 28, 1965, in Map Book “U” at pages 64 and 65, in the office of the City and County of San Francisco Recorder; thence continuing westerly along said county line 178.79 feet; thence leaving said county line

North 44°39'58" East 592.16 feet; thence North 45°36'16" East 300.04 feet; thence North 56°25'37" East 104.39 feet; thence North 61°40'38" East 137.37 feet; thence North 76°48'21" East 159.25 feet to a point laying at the westerly terminus of the course labeled "North 86°19'02" West 87.60 feet" on the northerly line of Harney Way as shown on that certain Final Map entitled "Map of San Francisco Executive Park II", filed in Map Book "X", pages 8 through 11, Document No. D168468, in the office of the City and County of San Francisco Recorder; thence easterly along the northerly line of said Harney Way, in all of its courses, to the southwesterly line of the lands of Leonoudakis as described in that certain document filed in the office of the City and County of San Francisco in Reel I751 of Official Records, at Image 599, Document No. 2004-H839983, (Lot 008, Assessor's Block 5023); thence northwesterly along said southwesterly line to the southeasterly line of the lands of Leonoudakis as described in that certain document filed in the office of the City and County of San Francisco in Reel I751 of Official Records, at Image 598, Document No. 2004-H839982, (Lot 8, Assessor's Block 4977); thence southwesterly and northwesterly along the southeasterly and southwesterly lines of said lands of Leonoudakis to the most southerly corner of the lands of the City and County of San Francisco designated and shown as Lot 6 on Assessor's Block 4977; thence northwesterly and northeasterly along the southeasterly and northwesterly lines of said lands of the City and County of San Francisco to the southwesterly corner of Lot 276, as shown on that certain Parcel Map filed in Parcel Map Book 45 at page 10, Document No. 2001-G962714, in the office of the City and County of San Francisco Recorder; thence northwesterly along the boundary of said Lot 276, in all of its courses, to the most northerly corner of said lot, being also a point laying on the southwesterly line of Jamestown Avenue; thence northwesterly along the southwesterly line of Jamestown Avenue 135 feet, more or less, to a point; thence northeasterly and perpendicular to the last course 89 feet to the intersection of the southeasterly line of Coronado Street with the northeasterly line of Jamestown Avenue as shown on that certain map entitled "Map Showing the Widening and Extension of Jamestown Avenue from Hunters Point Expressway to Redondo Street" filed in Map Book "U" at pages 60 through 63, in the office of the City and County of San Francisco Recorder; thence southeasterly along said northeasterly line of Jamestown Avenue 725 feet, more or less, to a point; thence northeasterly along a line laying parallel and 350 feet southeasterly of the southeasterly line of Griffith Street (formerly G Street, 64 feet wide), 660 feet to the Line of Ordinary High Tide of 1869 as said line is shown, but not labeled, on that Board of Tide Land Commissioners Block Map No. 9 filed in Map Book "W" at pages 11 through 13, in the office of the City and County of San Francisco Recorder; thence northeasterly along said line, in all of its courses, to the southwesterly line of the lands of the San Francisco Housing Authority designated and shown as Lot 20 on Assessor's Block 4884; thence northwesterly along a line laying parallel with and distant 100 feet northeasterly of the northeasterly line of Gilman Avenue (formerly 31st

Avenue, 80 feet wide), being also the southwesterly line of said lands of the San Francisco Housing Authority, to the northwesterly line of Hawes Street (formerly H Street, 64 feet wide); thence northeasterly along said northwesterly line of Hawes Street 1020 feet to the northeasterly line of Carroll Avenue (formerly 27th Avenue, 80 feet wide); thence southeasterly along said northeasterly line of Carroll Avenue 728 feet to a point laying on the southeasterly line of Griffith Street (formerly G Street, 64 feet wide), said point laying also at a deflection in the northwesterly boundary of said “Candlestick Point State Recreation Area”; thence in a general northerly and westerly direction, along the boundary of said “Candlestick Point State Recreation Area” as described under Exhibit “1” in said Quitclaim Deed recorded in the office of the City and County of San Francisco Recorder, in Book D633 of Official Records, at page 1952, the following courses: northeasterly along said southeasterly line of Griffith Street 760 feet to the southwesterly line of Yosemite Avenue (formerly 24th Avenue, 80 feet wide); thence northwesterly along said southwesterly line of Yosemite Avenue to the point of beginning of that parcel of land described in the Quitclaim Deed from the United States of America to Julio and Anita Ricci, recorded March 8, 1961 in Book A235, page 208 of Official Records of the City and County of San Francisco; thence northeasterly, parallel with the southeasterly line of Ingalls Street (formerly I Street), 80 feet to a point laying on the northeasterly line of Yosemite Avenue distant thereon southeasterly 205 feet from said southeasterly line of Ingalls Street, said point being the most westerly corner of that certain parcel of land described as Parcel 3523 in the Grant Deed dated November 30, 1979 from R.C. Scarver and Terese Scarver to the State of California recorded February 8, 1980 as Document No. 73057 in Book C942, page 746 of Official Records of the City and County of San Francisco; thence northeasterly along the northwesterly line of said parcel to the most northerly corner of said parcel, said point laying in the southwesterly line of Wallace Avenue (formerly 23rd Avenue, 80 feet wide); thence northeasterly, parallel with said southeasterly line of Ingalls Street, 80 feet to the most westerly corner of the land described as Parcel 3 in the deed from Hibernia Bank to Mike Garza recorded December 20, 1977 in Book C488, page 303 of Official Records of the City and County of San Francisco, said point laying on the northeasterly line of Wallace Avenue, distant thereon 205 feet southeasterly of said southeasterly line of Ingalls Street; thence southeasterly along said northeasterly line of Wallace Avenue to the southeasterly line of Hawes Street (formerly H Street, 64 feet wide); thence northeasterly along said southeasterly line of Hawes Street, 464 feet to the southwesterly line of Underwood Avenue (formerly 21st Avenue, 80 feet wide); thence leaving said “Candlestick Point State Recreation Area” boundary, northeasterly 80 feet to the northeasterly line of said Underwood Avenue; thence southeasterly along the northeasterly line of said Underwood Avenue 75 feet to a point laying on said “Candlestick Point State Recreation Area” boundary; thence along said “Candlestick Point State Recreation Area” boundary the following courses: northeasterly along a line parallel and distant 75 feet southeasterly

from said southeasterly line of Hawes Street, 200 feet to the southwesterly line of Thomas Avenue (formerly 20th Avenue, 80 feet wide); thence southeasterly along said southwesterly line of Thomas Avenue, to the northwesterly line of Griffith Street (formerly G Street, 64 feet wide); thence southwesterly along said northwesterly line of Griffith Street, 200 feet to the northeasterly line of Underwood Avenue (80 feet wide); thence southeasterly along said northeasterly line of Underwood Avenue 664 feet to the northwesterly line of said Arelious Walker Drive; thence leaving said “Candlestick Point State Recreation Area” boundary, northeasterly along said northwesterly line of Arelious Walker Drive, 280 feet to the northeasterly line of said Thomas Avenue; thence southeasterly along said northeasterly line of Thomas Avenue, 64 feet to a point laying on the boundary of said “Candlestick Point State Recreation Area”; thence southwesterly along said boundary and the southeasterly line of said Arelious Walker Drive, 280 feet to the Point of Beginning.

Excepting therefrom any portion lying outside said City and County of San Francisco.

(j) “City” means the City and County of San Francisco, a charter city and county, and includes the City and County of San Francisco acting by and through its Port Commission.

(k) “Commission” means the State Lands Commission.

(l) “Community Redevelopment Law” means Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code.

(m) “Department” means the Department of Parks and Recreation.

(n) “Director” means the Director of Parks and Recreation.

(o) “Hillside open space” means that area of land so designated as depicted in the diagram in Section 25 of this act.

(p) “Hunters Point submerged lands” means all that real property situate in the City and County of San Francisco, State of California, described as follows:

Beginning at the intersection of the northeasterly prolongation of the southeasterly line of Earl Street (64 feet wide) with the 1948 Bulkhead Line as shown on the map entitled “Real Estate Summary Map NAVFAC Drawing No. 1045757” on file at the Department of the Navy, WESTDIV, San Bruno, California; thence southeasterly along said 1948 Bulkhead Line and the northeasterly line of that certain property conveyed in declaration of taking, Civil Action No. 22147 as shown on said summary map to a line parallel with and 450 feet southeasterly of the southeasterly line of Boalt Street (64 feet wide); thence southwesterly along said parallel line to the northeasterly line of the land described in the deed filed in Book 3677 of Official Records at page 349 in the Office of the County Recorder of said county, said northeasterly line being the arc of a curve, concave southwesterly and having a radius of 1,800 feet; thence southeasterly and southerly along said arc to the southeasterly prolongation of the northeasterly line of Evans Avenue (80 feet wide); thence northwesterly along said prolongation and said northeasterly line of Evans Avenue to the 1941 Bulkhead Line as shown on said summary map; thence southerly along said 1941 Bulkhead Line to

the northeasterly line of that certain property conveyed in declaration of taking, Civil Action No. 36272 as shown on said summary map; thence southeasterly along said northeasterly line to said 1948 Bulkhead Line as shown on said summary map; thence southerly along said 1948 Bulkhead Line to the line dividing the City and County of San Francisco from the County of San Mateo; thence easterly along said county line to the United States Pierhead Line as shown on the map entitled “Hunters Point Naval Shipyard, General Development Map, Key Map No. 1174922” on file at the Department of the Navy, Western Division San Bruno, California; thence northeasterly and northwesterly along said Pierhead Line as shown on said General Development Map to said northeasterly prolongation of the southeasterly line of said Earl Street (64 feet wide); thence southwesterly along said prolongation of the southeasterly line of said Earl Street to the said 1948 Bulkhead Line and the point of beginning.

(q) “Project” means the integrated development of a combination of uses on Candlestick Point and the shipyard, including, but not limited to, residential, commercial, public trust, and recreational uses, in accordance with the redevelopment plan.

(r) “Project area” means the shipyard, Hunters Point submerged lands, and Candlestick Point.

(s) “Proposition G” means Proposition G, also known as the “Mixed Use Development Project for Candlestick Point and Hunters Point Shipyard,” approved by the voters of the city in June 2008.

(t) “Public trust” or “trust” means the common law public trust for commerce, navigation, and fisheries.

(u) “Redevelopment plan” means the Hunters Point Shipyard Redevelopment Plan, and those portions of the Bayview-Hunters Point Redevelopment Plan pertaining to the redevelopment of Candlestick Point, adopted by the agency pursuant to Chapter 4.5 (commencing with Section 33492) of the Community Redevelopment Law, as those plans may be amended from time to time.

(v) “Reserved street area” means a portion of the reserved streets.

(w) “Reserved streets” means all those portions of the trust lands that were reserved to the state for street purposes by the Board of Tidelands Commissioners pursuant to the “Act to survey and dispose of certain salt marsh and tide lands belonging to the State of California,” Chapter 543 of the Statutes of 1868, as depicted on the map entitled “Map of the Salt Marsh and Tide Lands and Lands Lying Under Water South of Second Street and Situate in the City and County of San Francisco” prepared by the Board of Tide Land Commissioners and dated March 19, 1869.

(x) “Shipyard” or “Hunters Point Shipyard” means all that real property situate in the City and County of San Francisco, State of California, described as follows:

Beginning at the intersection of the southeasterly line of Fitch Street (64 feet wide) with the northeasterly line of Palou Avenue (80 feet wide), said intersection also being in the southerly line of the Lands of Lowpensky as described in that document filed in the Office of the County Recorder of

said County in Book D238 Official Records at page 80; thence easterly along the southerly line of said Lands of Lowpensky to the southeasterly corner of the said Lands of Lowpensky being also the southwesterly corner of the Lands of the Regents of University of California as described in that document filed in the Office of the County Recorder of said County in Book C562 Official Records at page 582; thence easterly, northerly and northwesterly along the southerly, easterly and northeasterly lines of said Lands of the Regents to the northwesterly corner of said Lands of the Regents and also being the northeasterly corner of said Lands of Lowpensky. Thence northwesterly along the northeasterly line of said Lands of Lowpensky to the most westerly corner of said Lands of Lowpensky, being also a point in the northeasterly line of said Palou Avenue; thence northwesterly along the northeasterly line of said Palou Avenue to the southeasterly line of Griffith Street (64 feet wide); thence northeasterly along the southeasterly line of said Griffith Street 200 feet to the southwesterly line of Oakdale Avenue (80.00 feet wide); thence northwesterly along the southwesterly line of said Oakdale Avenue, 32 feet to the centerline of said Griffith Street; thence northeasterly along the centerline of said Griffith Street 600 feet to the centerline of McKinnon Avenue (80 feet wide); thence southeasterly along the centerline of said McKinnon Avenue 664 feet to the centerline of said Fitch Street (64 feet wide); thence northeasterly along the centerline of said Fitch Street 320 feet to the northeasterly line of La Salle Avenue (80 feet wide); thence southeasterly along the northeasterly line of said La Salle Avenue, 632 feet to the northwesterly line of Earl Street (64 feet wide) and an angle point in the northwesterly boundary of Inchon Village as shown on the "Map of Inchon Village" filed in the Office of the County Recorder of said County in Book 17 of Condominium Maps at pages 112 through 130; thence southwesterly along the northwesterly boundary of said Inchon Village to the centerline of McKinnon Avenue (80 feet wide) and the most northerly corner of the Lands of Crisp Building, Inc., described in that certain document filed in the Office of the County Recorder of said County in Book D767 Official Records at page 1051; thence southwesterly, southeasterly and northeasterly along the northwesterly, southwesterly and southeasterly lines of said Lands of Crisp Building, Inc. to the most easterly corner of said Lands of Crisp Building, Inc., being also the most southerly corner of the land shown on the "Parcel Map of Inchon and Solomon Village" filed in the Office of the County Recorder of said County in Book 17 of Parcel Maps at page 77 and the centerline of said McKinnon Avenue; thence northeasterly along the southeasterly line of said Inchon and Solomon Village to the most easterly corner of said Inchon and Solomon village and the southwesterly line of Innes Avenue (80.00 feet wide); thence northwesterly along the southwesterly line of said Innes Avenue 641 feet to the centerline of said Earl Street (64 feet wide); thence northeasterly along the centerline of said Earl Street 40 feet to the centerline of said Innes Avenue; thence southeasterly along the centerline of said Innes Avenue 32 feet to the southeasterly line of said Earl Street; thence northeasterly along the southeasterly line of said Earl Street and its prolongation 3,151 feet to



the 1948 Bulkhead Line as shown on the map entitled “Real Estate Summary Map NAVFAC Drawing No. 1045757” on file at the Department of the Navy, WESTDIV, San Bruno, California; thence southeasterly along said 1948 Bulkhead Line and the northeasterly line of that certain property conveyed in declaration of taking, Civil Action No. 22147 as shown on said summary map 2,553 feet more or less to a point on a line parallel with and 450 feet southeasterly of the southeasterly line of Boalt Street (64 feet wide), thence southwesterly along said parallel line a distance of 52 feet more or less to the northeasterly line of the land described in the deed filed in Book 3677 of Official Records at page 349 in the Office of the County Recorder of said County, said northeasterly line being the arc of a curve, concave southwesterly and having a radius of 1,800 feet; thence southeasterly and southerly along said arc to the southeasterly prolongation of the northeasterly line of Evans Avenue (80 feet wide); thence northwesterly along said prolongation and said northeasterly line of Evans Avenue, to the 1941 Bulkhead Line as shown on said summary map; thence southerly along said 1941 Bulkhead Line, to the northeasterly line of that certain property conveyed in declaration of taking, Civil Action No. 36272 as shown on said summary map; thence southeasterly along said northeasterly line to said 1948 Bulkhead Line as shown on said summary map; thence southerly along said 1948 Bulkhead Line to the line dividing the City and County of San Francisco from the County of San Mateo; thence westerly along said county line 127 feet more or less to the southeasterly prolongation of the northeasterly line of Bancroft Avenue (80 feet wide); thence northwesterly along said prolongation and said northeasterly line of said Bancroft Avenue 7,484 feet more or less to the southeasterly line of said Fitch Street (64 feet wide); thence northeasterly along the southeasterly line of said Fitch Street 2,800 feet to the point of beginning.

(y) “State” means the State of California.

(z) “State property” means the property or interests in property owned by the state located within the project area, and includes both proprietary land and sovereign land.

(aa) “State recreation area” means the Candlestick Point State Recreation Area.

(ab) “Tidelands” means tide and submerged lands.

(ac) “Trustee” means the owner and trust administrator of trust lands granted pursuant to this act or the Burton Act, and is either the agency, with respect to lands owned by the agency, or the city, with respect to lands owned by the city.

(ad) “Trust lands” means all lands, including tide and submerged lands, within the project area that are presently, or upon conveyance out of federal ownership will be, subject to the public trust. Following a trust exchange, trust lands shall include all lands within the project area that have been impressed with the trust pursuant to the exchange, and shall not include any lands that have been removed from the trust pursuant to the exchange.

SEC. 2. The Legislature finds and declares all of the following:

(a) The purpose of this act is to facilitate the productive reuse of the lands within the areas of San Francisco known as Candlestick Point and the former Hunters Point Naval Shipyard in a manner that furthers the purposes of the public trust and the Community Redevelopment Law. To effectuate this purpose, this act grants the state's sovereign interest in the lands comprising the shipyard to the agency upon the transfer of those lands out of federal ownership, and approves and authorizes the commission, provided that it makes the necessary findings supporting the exchange, to carry out an exchange of lands that will place or confirm the public trust on lands within the project area with substantial value for the public trust, and terminate the public trust in project area lands that are no longer useful for trust purposes. This act also authorizes the director on behalf of the department to enter into an agreement to transfer certain lands within the Candlestick Point State Recreation Area to the agency or the city, provided that the agreement provides an overall benefit to the state recreation area and meets certain other conditions set forth in this act.

(b) The project area, including both the shipyard and Candlestick Point, encompasses lands that were historically tidelands subject to the public trust, as well as historic uplands that were not subject to the trust. Beginning in 1861, certain of the area's tidelands were conveyed into private ownership by the state pursuant to various state statutes. Portions of those tidelands were subsequently filled and reclaimed. The trust status of portions of the reclaimed tidelands is uncertain. Due to differences in the various statutes authorizing the conveyance of certain portions of the tidelands into private ownership, as well as other historical circumstances, some of the reclaimed tidelands, including lands located well inland from the current shoreline, have remained subject to the public trust, while other reclaimed tidelands, including most of the lands adjacent to the shoreline, may have been freed from the trust. In addition, a portion of the lands that are subject to the trust consist of reserved streets that were mapped but never built, and a railroad right-of-way, forming a grid pattern that is not consistent with the existing or planned street system for the lands, and most of these lands are no longer useful for trust purposes.

(c) In 1939, the United States began acquiring lands for purposes of constructing and operating what came to be known as the Hunters Point Naval Shipyard. The shipyard was used primarily as a United States Navy industrial operation for the modification, maintenance, and repair of ships. The shipyard was closed in 1974, resulting in adverse economic impacts on the economic base of the surrounding Bayview Hunters Point neighborhood. Pursuant to Section 2824(a) of the National Defense Authorization Act for fiscal year 1991, as amended by Section 2834 of the National Defense Authorization Act for fiscal year 1994, the United States Navy is authorized to convey the shipyard, or portions of the shipyard, to the city or to a local reuse authority approved by the city. The agency is the approved local reuse authority for the shipyard. Pursuant to a 2004 conveyance agreement with the agency, the United States Navy has conveyed

a portion of the shipyard to the agency and has agreed to transfer the remainder to the agency following hazardous materials remediation.

(d) The state's sovereign interest in the filled tidelands at Candlestick Point consists primarily of reserved streets and portions of a former railroad right-of-way. In 1958, the state, through the 1958 Act, authorized the sale of a portion of these lands to the city for the purpose of developing a sports stadium. The state received consideration for the sale. The intent of the 1958 Act was to terminate the public trust on the transferred lands, but the statute required that the lands be used only for purposes of general statewide interest. Pursuant to the 1958 Act, the city acquired the lands free of the trust and constructed the stadium commonly referred to as Candlestick Park, which is now nearing the end of its useful life.

(e) In 1968, the Legislature enacted the Burton Act, which granted the state's remaining interest in tidelands within the city, including the state's sovereign interests in the portion of Candlestick Point outside of the stadium site, to the city, subject to the public trust and the Burton Act trust. In 1973, the Legislature authorized the department to acquire and develop real property at Candlestick Point for the state park system. The state subsequently acquired private lands along the shoreline of Candlestick Point to create the Candlestick Point State Recreation Area. In 1984, the city conveyed back to the state those lands within the state recreation area boundaries that the city had acquired under the 1958 Act and the Burton Act. The state recreation area was the first California state park unit developed in an urban environment and is a critical component of the state park system. At present, however, much of the state recreation area is underutilized and in need of substantial restoration and improvement.

(f) The shipyard and Candlestick Point are adjacent to one another and are located on either side of South Basin, with a common boundary at Yosemite Slough. Together, they comprise approximately 760 acres and make up the largest area of underused land in the city. The shipyard, once a source of economic opportunity for the surrounding Bayview Hunters Point community, has stood dilapidated and abandoned for over 30 years and now stands as a barrier to public health, open space, and the waterfront, and a blight on one of San Francisco's poorest communities. The revitalization of Candlestick Point has been contemplated for over 10 years to create much needed economic and public benefits, affordable housing for Bayview Hunters Point residents, and other tangible benefits to the Bayview Hunters Point community. The stadium at Candlestick Point is nearing the end of its useful life and is in need of replacement, the nearby public housing development at Alice Griffith requires a complete rebuilding, and the restoration and improvement of the adjoining state recreation area has been a long-time goal of the state, the city, and the Bayview Hunters Point community.

(g) Until 2007, efforts to redevelop the shipyard and Candlestick Point proceeded separately from one another. In 1997, the agency and the city adopted the Hunters Point Shipyard Redevelopment Plan to provide for the economic revitalization of the shipyard upon its transfer out of federal

ownership. In anticipation of the transfer of the shipyard to the agency, the Legislature enacted the Hunters Point Shipyard Conversion Act of 2002 (Chapter 464 of the Statutes of 2002), and the Hunters Point Shipyard Public Trust Exchange Act (Chapter 435 of the Statutes of 2003), which together granted in trust to the agency all of the state's sovereign interest in certain lands within and adjacent to the shipyard and authorized a shipyard-wide public trust exchange, subject to certain terms and conditions.

(h) Chapter 1046 of the Statutes of 1998, which repealed and added Section 5006.8 of the Public Resources Code, was enacted for the purpose of facilitating the redevelopment of Candlestick Point in accordance with Propositions D and F, which were approved by voters of the city on June 3, 1997. Those measures authorized development of a stadium, retail and entertainment center, and associated support uses on the site. In 2006, the city and the agency adopted the Bayview Hunters Point Redevelopment Plan, which included provision for a stadium project consistent with Propositions D and F. Subsequently, the primary tenants of the stadium, the San Francisco Forty Niners, announced their intention to build a new stadium in a location other than Candlestick Point.

(i) In 2007, the city and the agency undertook a new, integrated planning effort for the shipyard and Candlestick Point, which resulted in the adoption of a conceptual framework for development. The conceptual framework calls for a mixed use project on the project area that will provide, among other things, much needed parks and open space, including a major renovation of the state recreation area to enhance access by residents and visitors to the waterfront; new business and employment opportunities; new housing opportunities affordable for residents of the neighboring Bayview Hunters Point community; a site for a new sports stadium on the shipyard, with alternative uses if the San Francisco Forty Niners elect to build a new stadium elsewhere; and other economic and public benefits for the community and the city as a whole and the statewide public.

(j) In June 2008, the voters of the city approved Proposition G, the "Mixed Use Development Project for Candlestick Point and Hunters Point Shipyard." Proposition G repealed Propositions D and F and promulgated city policy encouraging the timely development of the project area with a mixed-use project including: over 300 acres of public park and open space; between 8,500 and 10,000 homes; about 700,000 square feet of retail space; about 2,150,000 square feet of green office, science and technology, research and development, and industrial space; a possible arena or other public performance site; a site in the shipyard for a new stadium for the San Francisco Forty Niners; and additional green office, science and technology, research and development, and industrial space, or additional housing, if a new stadium is not built. Proposition G specifically contemplated a mix of stacked flats, attached town homes and, in appropriately selected locations, low-rise, mid-rise, and high-rise towers, to help ensure the economic feasibility of the development and provide a varied urban design. Proposition G also made it city policy that the project be consistent with the following objectives: producing tangible community benefits for residents of the

Bayview Hunters Point neighborhood and the city; reconnecting the shipyard and Candlestick Point with the Bayview Hunters Point neighborhood and protecting the Bayview Hunters Point neighborhood character for existing residents; producing substantial new housing, both affordable and market-rate, and encouraging the rebuilding of the Alice Griffith Housing Development; incorporating environmental sustainability; encouraging the San Francisco Forty Niners to remain in San Francisco; and requiring the project to be financially sound, with or without a new stadium.

(k) This legislation is necessary for the successful redevelopment of the project area and to realize the resulting public benefits, including, but not limited to, the elimination of blight, the provision of affordable housing, the creation of new public open space, and increased public access to the waterfront. This legislation is also needed to improve the configuration of the public trust lands in furtherance of trust purposes.

(l) The existing configuration of trust and nontrust lands within the project area is such that the purposes of the public trust cannot be fully realized. A substantial portion of the reclaimed trust lands are interior lands that have been cut off from access to navigable waters, or are reserved streets laid out in a grid pattern that is not useful to the trust. Most of these lands are no longer needed or required for the promotion of the public trust. Other lands within the project area adjacent to the waterfront or otherwise of high value to the public trust are currently not subject to the public trust. Absent a trust exchange, substantial portions of the lands within the shipyard that are located along the waterfront or are otherwise of high value to the public trust would be free of the public trust, would not be required to be put to uses consistent with the public trust, and could be cut off from public access. In addition, certain interior lands not useful for trust purposes would be restricted and could not be used for residential or other nontrust uses essential to the redevelopment of the project area.

(m) A trust exchange resulting in the configuration of trust lands substantially similar to that depicted on the diagram in Section 25 of this act maximizes the overall benefits to the trust, without interfering with trust uses or purposes. Following the exchange, the entire waterfront within the project area, as well as certain interior lands that have high trust values, will be subject to the public trust. The lands that will be removed from the trust pursuant to the exchange have been cut off from navigable waters, are no longer needed or required for the promotion of the public trust, and constitute a relatively small portion of the granted lands within the city. This act requires the commission to ensure that the lands added to the trust pursuant to the exchange have a monetary value equal to or greater than the monetary value of the lands taken out of the trust.

(n) Several historic buildings in the shipyard have been identified by the State Historic Preservation Officer as contributors to the Hunters Point Commercial Drydock Historic District. These contributor buildings convey a sense of the shipyard's early maritime history, enhance the open-space experience along the waterfront, and should be preserved and restored. Uses of the contributor buildings that support their preservation and restoration,

but which are not otherwise consistent with the trust, may be authorized under certain conditions set forth in this act.

(o) The hillside open space provides substantial value to the trust as an open space and recreational resource affording exceptional views of San Francisco Bay and the waterfront. To protect the trust value of the hillside open-space area, it is important that significant view corridors to the waterfront be protected and adequate public access be provided in the manner set forth in this act.

(p) The state recreation area is presently in need of substantial improvement, restoration, and reconfiguration. A substantial portion of the park currently serves as a parking area for stadium events. In other areas, the park does not contain enough land adjacent to the shoreline to provide the desired level of public access. The park lacks needed improvements, and many of the improvements that do exist are in a state of disrepair. Proposition G calls for improving and restoring the state recreation area, including enhancing access to the waterfront for public use, providing views of San Francisco Bay, and extending the Bay Trail system through the park. This act approves a reconfiguration of the state recreation area and to that end authorizes the director to enter into an agreement for the transfer of state recreation area lands to the agency or the city in exchange for park improvements, funding for park operation and maintenance, lands to be added to the state recreation area, and other consideration, provided the agreement will result in an overall benefit to the park and meets the other requirements of this act regarding the transfer of state recreation area lands.

(q) This legislation advances the statewide purposes of the Community Redevelopment Law and the public trust, and is in the best interests of the people of this state.

SEC. 3. Section 5006.8 of the Public Resources Code is repealed.

SEC. 4. Chapter 464 of the Statutes of 2002, The Hunters Point Shipyard Conversion Act of 2002, as amended by Chapter 435 of the Statutes of 2003, is repealed.

SEC. 5. Chapter 435 of the Statutes of 2003, The Hunters Point Shipyard Public Trust Exchange Act, is repealed.

SEC. 6. (a) All of the state's right, title, and interest, acquired by virtue of its sovereignty, in any trust lands in which the agency holds or acquires fee title, is hereby granted to and vested in the agency, subject to the public trust and the terms and conditions of this act.

(b) Upon conveyance by the federal government to the agency of any piers or other appurtenances located in part on Hunters Point submerged lands, the grant of the state's right, title, and interest in the Hunters Point submerged lands to the city pursuant to the Burton Act is revoked, and all of the state's right, title, and interest in those lands is granted to and vested in the agency, subject to the public trust and the terms and conditions of this act.

(c) The agency shall hold the trust lands in trust for the benefit of all the people of the state for purposes of commerce, navigation, and fisheries, and for other public trust purposes, subject to the terms and conditions of this

act. Any trust lands held by the agency pursuant to this act shall not be subject to the Burton Act trust.

SEC. 7. Notwithstanding Section 6359 of the Public Resources Code or any other provision of law, the grant of the state's interest in trust lands to the agency pursuant to this act shall be deemed effective as follows:

(a) On January 1, 2010, with respect to trust lands held in fee by the agency on that date.

(b) With respect to trust lands acquired by the agency after January 1, 2010, upon the agency's acquisition of those lands.

(c) With respect to the Hunters Point submerged lands, upon conveyance by the federal government to the agency of any piers or other appurtenances located in part on the Hunters Point submerged lands, at which time any prior grant of the state's right, title, and interest in the Hunters Point submerged lands to the city pursuant to the Burton Act shall be deemed revoked and the lands shall cease to be subject to the Burton Act trust.

SEC. 8. (a) The agency may use, conduct, operate, maintain, manage, administer, regulate, improve, lease, and control (collectively referred to as "use") the trust lands and do all things necessary in connection with that authority that conform with the terms of this act and the public trust. Except as provided in this act, the agency shall use the trust lands only in a manner that is consistent with, necessary and convenient for, or incidental or ancillary to, the purposes of the public trust.

(b) In the management, conduct, operation, and control of the trust lands, or any improvements, betterments, or structures on the trust lands, the agency shall make no discrimination in rates, tolls, or charges for a use or service in connection with that management.

SEC. 9. The agency shall not grant, convey, give, or alienate the trust lands, or any part of the lands, to an individual, firm, corporation, or governmental agency (not including the commission) for any purpose, except as provided in this act or as otherwise provided by statute.

SEC. 10. There is reserved in the people of the state the right to hunt and fish in and over the waters on the trust lands, together with the right of convenient access to the waters over the trust lands for those purposes.

SEC. 11. The state shall reserve from the grant made in Section 6 of this act, and from any other conveyance pursuant to this act of the state's interest, or any portion of the state's interest, in any lands, all minerals and all mineral rights in the lands of every kind and character now known to exist or hereafter discovered, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the state or to its successors and assignees, except that, notwithstanding the Burton Act or Section 6401 of the Public Resources Code, this reservation shall not include the right of the state or its successors or assignees in connection with any mineral exploration, removal, or disposal activity, to do either of the following:

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

However, a lease, franchise, permit, or license of the property shall contain a provision specifying at least one point from which, and the manner in which, the right of ingress or egress to the subsurface deposits may be exercised, which point or points may be outside the area of the leasehold, franchise, permit, or license, as long as the point or points are adequate to permit the rights reserved to the state to be exercised.

(b) Conduct any mining activities of any nature whatsoever above a plane located 500 feet below the surface of the lands without the prior written permission of a grantee of the lands or the grantee's successors or assignees.

SEC. 12. The state has the right to use, without charge, any transportation, land or storage improvements, wharves, docks, piers, slips, quays, or other improvements constructed upon the trust lands, for a vessel or other watercraft, aircraft, or railroad owned or operated by the state.

SEC. 13. (a) The state reserves the right to amend, modify, or revoke any and all rights in the trust lands granted to the agency under this act.

(b) No amendment or revocation, in whole or in part, of the granted rights in the trust lands, or any transfer of trust lands between the agency and the city, shall impair or affect the rights or obligations of third parties, including debt, security, or bond holders, lessees, lenders for value, and holders of contracts conferring the right to the use or occupation of, or the right to conduct operations upon or within, the trust lands, arising from leases, contracts, or other instruments lawfully entered into prior to the effective date of the amendment, revocation, or transfer. For purposes of this section, the term "bonds" includes, without limitation, tax increment bonds, revenue bonds, certificates of participation, and any other bonds or forms of indebtedness secured by or payable from, in whole or in part, revenues derived from trust lands.

(c) If a lease, contract, or other instrument described in subdivision (b) is in effect on the effective date of an amendment or revocation of the granted rights in the trust lands, the state, at its option exercised by and through the commission, may succeed to the agency's interest in the lease, contract, or instrument. Otherwise, the agency's interest in the instrument, property, and revenue shall continue during the term or other period during which the instrument shall remain in effect. If a lease, contract, or other instrument described in subdivision (b) is in effect on the effective date of a transfer of trust lands between the agency and the city, the transferee shall succeed to the transferor's interest in the lease, contract, or other instrument, unless the agency and the city agree otherwise. An action taken by the state, or a transfer of trust lands between the agency and the city, shall not cause the agency or the city to breach or default under a lease, contract, or instrument in effect on the effective date of an amendment or a revocation. All bonds or securities issued by the agency or the city and payable out of revenues from the trust lands shall continue to be so payable, directly or indirectly, and secured in all respects as provided in the proceedings for their issuance, and the revenues of the trust lands shall be pledged and applied to the payment of the bonds or securities in all respects as though no amendment or revocation had taken place.



SEC. 14. The agency may grant franchises, permits, privileges, licenses, easements, or leasehold interests (leases) in connection with the trust lands, or any part of the trust lands, each for a term not exceeding 66 years. A lease of the trust lands shall be solely for uses that are consistent with, necessary and convenient for, or incidental or ancillary to, the purposes of the public trust, except that a lease may be entered into for other uses if the agency has made all of the following determinations:

(a) There is no immediate trust-related need for the property proposed to be leased.

(b) The proposed lease is of a duration of no more than five years and provides that the agency shall have the right to terminate the lease in favor of trust uses as trust needs arise.

(c) The proposed lease prohibits the construction of new structures or improvements on the subject property that, as a practical matter, could prevent or inhibit the property from being converted to a permissible trust use if necessary.

(d) The proposed use of the leased property would not interfere with commerce, navigation, fisheries, or any other existing trust use or purpose.

SEC. 15. (a) Notwithstanding any other provision of this act or the Burton Act, the buildings, or any portion of a building, identified by the State Historic Preservation Officer as contributors to the Hunters Point Commercial Drydock Historic District, commonly known as the Gatehouse (Building 204), Pumphouse 2 (Building 205), Pumphouse 3 (Building 140), and the Tool and Paint Building (Building 207), may be used or leased for purposes not otherwise consistent with the public trust, provided the trustee makes a finding that there are no trust uses available that would allow for the restoration and preservation of the space. A lease renewal, extension, or granting of a new lease for a nontrust purpose shall require a new finding that no trust uses are then available that would allow for the restoration and preservation of the building, or a part of it.

(b) If a building described in subdivision (a) is used for a nontrust purpose, and is remodeled, renovated, or used in a manner that is inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings, the building shall be put to a public trust use from the commencement of the inconsistent remodel, renovation, or use, unless the continued nontrust use is authorized to continue under Section 14 of this act, if the agency is the trustee, or under the Burton Act, if the city is the trustee.

(c) If a building described in subdivision (a) is demolished, subsequent use of the land and any replacement structure shall be consistent with the public trust and the applicable statutory trust.

SEC. 16. (a) The agency shall deposit all moneys collected by the agency arising out of the use or operation of any of the trust lands, including all revenues derived from leases or other rights to use or occupy the lands, into a special fund maintained by the agency. The agency shall use the money

in or belonging to the fund only for uses and purposes consistent with the public trust and the requirements of this act.

(b) The agency shall prepare an annual statement of financial conditions and operations and submit it to the commission each year on or before October 1. The statement shall include a statement of all revenues and expenditures related to trust lands and trust assets, including obligations incurred, but not yet paid.

(c) The requirements of this section implement and do not supersede the requirements of Section 6306 of the Public Resources Code.

SEC. 17. (a) The agency may exchange portions of the trust lands with a state agency, political subdivision, person, entity, or corporation, or the United States or a political subdivision of the United States, for other lands, if the agency determines, and the commission adopts a resolution finding and declaring, all of the following:

(1) The portions of the trust lands or interests in lands to be exchanged out of the trust have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay and are no longer in fact tidelands or submerged lands or navigable waterways, are relatively useless for trust purposes, and constitute a relatively small portion of the granted lands within the city.

(2) The lands or interests in lands to be acquired by the agency have a monetary value equal to or greater than the value of the lands for which they are to be exchanged and are useful for the particular trust purposes authorized by this act.

(3) No substantial interference with trust uses and purposes, including public rights of navigation and fishing, will ensue by virtue of the exchange.

(4) The lands or interests in lands to be acquired by the agency in the exchange will provide a significant benefit to the public trust.

(5) The exchange is otherwise in the best interest of the state.

(b) Upon adoption of the resolution by the commission, the lands conveyed by the agency shall be free from the public trust, and the lands received by the agency in exchange shall be held subject to the public trust and to the terms of this act.

(c) The exchange authority granted by this section shall be in addition to, and shall not operate as a limitation on, the exchange authority granted by Sections 20 to 25, inclusive, of this act.

SEC. 18. Upon written agreement between the agency and the city, acting by and through its Port Commission, the agency may transfer to the city some or all of the trust lands in which the agency holds fee title, provided that the commission has approved the transfer. All of the right, title, and interest granted to the agency under this act in any lands transferred to the city under this section shall, upon transfer, be granted to and vest in the city. The city shall hold the transferred lands subject to the public trust and shall assume authority as trustee over those lands. Lands transferred to the city pursuant to this section shall be subject to the Burton Act trust and shall cease to be subject to the terms and conditions of this act, except that Sections 13 and 15 of this act shall remain applicable to those lands. Nothing

in this section shall preclude the city from including trust lands held by the city as part of an exchange authorized by this act.

SEC. 19. (a) Notwithstanding the restriction on alienation in the Burton Act or any other provision of law, upon approval by the commission, the city may transfer to the agency some or all of the Burton Act lands. All of the right, title, and interest granted to the city under the Burton Act in any lands transferred to the agency under this section shall, upon transfer, be granted to and vest in the agency. The agency shall hold the transferred lands subject to the public trust and the requirements of this act, and shall assume authority as trust administrator over those lands. Lands transferred to the agency under this section shall cease to be subject to the Burton Act trust.

(b) Notwithstanding subdivision (a), no later than the date on which the redevelopment plan terminates as to the entirety of the project area or January 1, 2050, whichever is earlier, the agency shall transfer any trust lands in which it holds fee title to the city and the city shall become the sole grantee of the trust lands, unless the commission approves a later date by which the agency shall transfer trust lands to the city. The city shall hold the transferred trust lands subject to the Burton Act trust and the lands shall cease to be subject to the terms and conditions of this act, except that Sections 13 and 15 of this act shall remain applicable to those lands. This subdivision shall not apply to any trust lands for which fee title is held by the state. This subdivision shall not affect the rights and obligations of the agency pursuant to the Community Redevelopment Law.

SEC. 20. The Legislature hereby approves an exchange of public trust lands within the project area, whereby certain trust lands that meet the criteria set forth in this act and therefore are not now useful for public trust purposes will be freed from the public trust and of the associated restrictions on use and alienation, and certain other lands that are not now public trust lands and that are useful for public trust purposes will be made subject to the public trust, provided that the commission determines that the exchange furthers the public trust and approves the exchange and that all of the following conditions are met:

(a) The exchange results in a configuration of trust lands substantially similar to that shown on the diagram in Section 25 of this act.

(b) The lands to be subject to the public trust are configured so as to be accessible from the streets as finally configured in the project area.

(c) The exchange otherwise complies with the requirements of this act.

(d) The exchange is consistent with and furthers the purposes of the public trust and this act.

SEC. 21. All lands exchanged into the trust under this act shall be held by the trustee subject to the public trust and the applicable statutory trust, and all lands exchanged out of the trust under this section shall be free of the public trust and the applicable statutory trust.

SEC. 22. The precise boundaries of the lands to be taken out of the trust and the lands to be put into the trust pursuant to the exchange shall be determined by the trustee or trustees with authority over the lands to be

exchanged, subject to the approval of the commission. The commission is authorized to settle by agreement with the trustees any disputes as to the location of the mean high tide line in its last natural state, the boundaries of tidelands conveyed into private ownership pursuant to various statutes, and any other boundary lines which the commission deems necessary to effectuate the exchange.

SEC. 23. (a) The commission is authorized to approve an exchange of public trust lands within the project area that meets the requirements of this act. Pursuant to this authority, the commission shall establish appropriate procedures for effectuating the exchange. The procedures shall include, but are not limited to, provisions for ensuring that lands or interests in lands at the shipyard are not exchanged into the trust until either of the following has occurred:

(1) All remedial action necessary to protect human health and the environment with respect to the hazardous substances on the land has been completed as determined by the United States Environmental Protection Agency, the California Department of Toxic Substances Control, and the regional water quality control board, pursuant to the Federal Facilities Agreement for the shipyard dated January 22, 1992, as amended, and the United States has provided a warranty in accordance with Section 9620(h)(3)(A) of Title 42 of the United States Code.

(2) The United States has obtained a warranty deferral, approved by the Governor in accordance with Section 9620(h)(3)(C) of Title 42 of the United States Code, involving land for which the commission has determined to execute a certificate of acceptance of title, and the commission finds that sufficient liability measures and implementation measures will be in place upon the completion of the exchange. Prior to approving a warranty deferral, the Governor and the Department of Toxic Substances Control, the regional water quality control board, or other appropriate state oversight agency with expertise in hazardous materials remediation shall confer and consult with the commission to reasonably ensure that the terms of the warranty deferral and underlying documents and agreements provide sufficient standards and financial assurances to ensure that the remediation of any affected trust lands will be completed in a manner consistent with the intended public trust use of these lands and in a reasonable period of time.

(b) The commission may not approve the exchange of any trust lands unless it finds all of the following:

(1) The portions of the trust lands or interests in lands to be exchanged out of the trust have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay and are no longer in fact tidelands or submerged lands or navigable waterways, are relatively useless for public trust purposes, and constitute a relatively small portion of the granted lands within the city.

(2) The lands or interests in lands to be impressed with the public trust have a monetary value equal to or greater than the monetary value of the lands or interests in lands to be exchanged out of the trust. In the event that the monetary value of the lands or interests in lands to be exchanged out of

the trust is greater than the monetary value of the lands or interests in lands to be exchanged into the trust, the commission may consider a deposit of funds into the Land Bank Fund established pursuant to Section 8610 of the Public Resources Code to be held solely for acquisition of property, in an amount equal to the difference in value.

(3) No substantial interference with trust uses and purposes, including public rights of navigation and fishing, will ensue by virtue of the exchange.

(4) The lands or interests in lands impressed with the public trust will provide a significant benefit to the public trust and are useful for the particular trust purposes authorized by this act.

(5) The configuration of trust lands within the project area upon completion of the exchange is substantially similar to the configuration shown on the diagram in Section 25 of this act, includes all lands within the project area that are presently below mean high tide, and consists of lands suitable to be impressed with the public trust.

(6) The final layout of streets in the project area will provide access to the public trust lands and be consistent with the beneficial use of the public trust lands.

(7) Streets and other transportation facilities located on public trust lands shall be designed to be compatible with the public trust and to serve primarily public trust purposes of access to shoreline improvements and shoreline circulation rather than serving nontrust purposes.

(8) Any surveys or legal descriptions required for the parcels in conjunction with the exchange shall be approved by the commission.

(9) Each trustee who owns or will own fee title in any of the lands to be exchanged has approved the exchange.

(10) The exchange otherwise complies with the requirements of this act.

(11) The exchange is consistent with and furthers the purpose of the public trust and this act.

(12) The exchange is otherwise in the best interest of the statewide public.

(c) The commission may impose additional conditions on the exchange authorized by this act if the commission determines that these conditions are necessary to protect the public trust. At a minimum, the commission shall ensure all of the following:

(1) The streets and other transportation facilities located on trust lands are designed to be compatible with the public trust.

(2) The trust values of the hillside open space are preserved. To this end, the commission shall ensure all of the following:

(A) The final trust configuration maintains reasonable public pedestrian and vehicular access between the hillside open space and the waterfront, and in addition, between the top of the hillside open space and other areas of the city.

(B) View corridors are maintained and protected so that visitors to the hillside open space can enjoy substantial vistas of San Francisco Bay.

(C) Direct vehicular and pedestrian access from the lower portions of the shipyard to the top of the hillside open space area is provided.

(D) No liability to owners of adjacent upslope property, for subjacent support or otherwise, is created by virtue of the trustee's taking title to the hillside open space.

(E) No moneys from the trust fund described in Section 16 of this act may be used to provide direct benefit to the residential development or to other uses of the nontrust portion of the hilltop area adjacent to the hillside open space, or to offset or mitigate impacts caused by those uses.

(F) Street parking on the parkway adjacent to the top of the hillside open space may not be restricted for residential parking and shall remain accessible to the public for regional and statewide use. In addition, adequate parking areas accessible to the public to support regional and statewide use of the hillside open space shall be dedicated in an area adjacent to the lower portion of the hillside open space. Public access to the hillside open space and the availability of parking accessible to the public shall be publicized with appropriate signage.

(d) For purposes of effectuating the exchange authorized by this section, the commission is authorized to do all of the following:

(1) Receive and accept on behalf of the state any lands or interest in lands conveyed to the state by the parties to the exchange agreement, including lands that are now and that will remain subject to the public trust.

(2) Convey by patent all of the right, title, and interest of the state in lands that are to be free of the public trust and applicable statutory trust, upon completion of an exchange of lands as authorized by this act and as approved by the commission.

(3) Convey to the trustee or trustees by patent all of the right, title, and interest of the state in lands that are to be subject to the public trust and the applicable statutory trust upon completion of an exchange of lands as authorized by this act and as approved by the commission, subject to the terms, conditions, and reservations as the commission may determine are necessary to meet the requirements of this act.

(4) Receive and accept from the department any lands or interests in lands within the state recreation area, as it may be reconfigured by the director pursuant to Section 26, that are to be subject to the public trust upon completion of an exchange of lands as authorized by this act and as approved by the commission.

(5) Transfer to the department any lands or interests in lands within the state recreation area, as it may be reconfigured by the director pursuant to Section 26, that are to be free of the public trust upon completion of an exchange of lands as authorized by this act and as approved by the commission.

(e) The exchange authorized by this section may include lands adjacent to the project area to the extent consistent with the purposes of this act and approved by the commission. Lands outside the project area that are impressed with the trust as part of an exchange authorized by this act shall be deemed trust lands for purposes of this act.

(f) If the department holds an interest in any of the lands to be received or conveyed by the exchange authorized by this section, the department shall be a party to the exchange agreement.

(g) Nothing in this act shall be construed as conditioning or otherwise limiting the authority of the state, the city, or the agency to undertake a public trust exchange or other conveyance authorized by any other provision of law, including, but not limited to, Section 17 of this act.

SEC. 24. An exchange of public trust land pursuant to Section 23 of this act may proceed in multiple phases, provided that with respect to each phase, the commission, in addition to the findings required by Section 23 of this act, finds both of the following:

(a) The cumulative monetary value of all of the lands or interests in lands exchanged into the trust in the proposed phase and completed phases is equal to or greater than the cumulative monetary value of all of the lands or interests in lands exchanged out of the trust in the proposed phase and completed phases. If, in connection with the approval of the exchange agreement or a completed phase of the exchange, the commission has previously determined the value of any lands that have been or are proposed to be exchanged, the commission, for purposes of making the finding required by this subdivision, shall utilize the value of those lands as previously determined by the commission, adjusted for inflation using an appropriate inflation index as determined by the commission.

(b) The lands or interests in lands exchanged into the trust at each phase are configured in a way that furthers the purposes of the overall exchange, including, but not limited to, having access to streets as finally configured in the project area.

SEC. 25. The following diagram is a part of this act:

PRINTER PLEASE NOTE: TIP-IN MATERIAL TO BE INSERTED



SEC. 25.2. If the commission has not approved the trust exchange authorized by Section 23 of this act by January 1, 2020, Section 20 and Sections 22 to 25, inclusive, of this act shall terminate and shall no longer be effective, unless an extension not to exceed five years is approved by the commission.

SEC. 25.5. (a) For purposes of Section 3 of Article X of the California Constitution, the Legislature hereby finds and declares that the reserved streets in Candlestick Point were reserved to the state solely for street purposes, and that those portions of the reserved streets that are found by the commission to meet the criteria set forth in paragraph (1) of subdivision (b) are no longer useful or necessary for navigation purposes.

(b) The trustee may, pursuant to Section 3 of Article X of the California Constitution, sell any portion of the reserved street areas within Candlestick Point free of the public trust and the applicable statutory trust. A sale made pursuant to this section shall not be effective unless and until the commission, at a regular open meeting with the proposed sale as a properly scheduled agenda item, finds all of the following:

(1) The reserved street area has been filled and reclaimed, is cut off from access to the waters of San Francisco Bay, and is no longer needed or required for the promotion of the public trust, and no substantial interference with the public trust uses and purposes will ensue by virtue of the sale.

(2) Termination of the trust in the reserved street area occurs in conjunction with or subsequent to a land exchange authorized by this act and approved by the commission.

(3) Termination of the trust in the reserved street area is substantially consistent with the proposed trust land configuration depicted in Section 25 of this act, as finally approved by the commission.

(4) The trustee will receive consideration for the sale equal to or greater than the fair market value of the land or interest sold.

(c) Any moneys received by the trustee for a sale pursuant to this section shall be deposited in a separate account in the fund required by Section 16 of this act or Section 4 of the Burton Act, and shall be expended only for acquisition of lands by the trustee or public access improvements on trust lands, or other uses and purposes consistent with the public trust and applicable statutory trust as determined by the commission. The funds in the special account may not be expended for overhead or administration costs by the trustee.

(d) The total reserved street area sold pursuant to this section shall not be more than 20 percent of the total reserved street areas in Candlestick Point.

(e) For purposes of this section, the term “sale” includes, without limitation, a sale, lease, transfer, or other conveyance of land or interest in land.

(f) Nothing in this section shall be construed as imposing additional requirements or limitations on the conveyance of reserved street areas free of the public trust and applicable statutory trust as part of an exchange authorized by this act or otherwise authorized by law.

(g) The Legislature hereby finds that the conditions set forth in this section will protect the public interest in accordance with Section 3 of Article X of the California Constitution.

SEC. 26. (a) The Legislature hereby approves a reconfiguration of the state recreation area in substantial conformance with the diagram included as Section 27 of this act, provided that the requirements of this section are met. Notwithstanding any other provision of law, the director may authorize the removal of land from the state recreation area, and may enter into an agreement to convey to the agency or the city an interest in the state property so removed, provided that the director makes in writing all of the following findings:

(1) (A) The state will receive consideration consisting of the forms set forth in paragraph (2) and having a value that equals or exceeds the greater of either of the following:

(i) The fair market value of the state property conveyed.

(ii) Fifty million dollars (\$50,000,000). If the state property is to be conveyed in phases pursuant to paragraph (3) of subdivision (h), the minimum consideration under this clause shall be prorated for the state property conveyed at each phase, in proportion to the total area of state property to be conveyed under the agreement.

(B) The consideration referenced in clause (ii) of subparagraph (A) is not intended to be reflective of the fair market value of the property and shall not be used as a basis for determining value in any appraisal of the property.

(2) The form of consideration for the state property conveyed pursuant to paragraph (1) consists of the following:

(A) The provision of future funding for the operation and maintenance of the state recreation area.

(B) The cost of planning and constructing improvements to the state recreation area that enhance its use as a public park, which may include, without limitation, walking and biking trails, picnic facilities, recreational equipment, piers, overlooks, visitor centers, amphitheaters, entryways, restrooms, concession facilities, site furnishings, landscaping, habitat restoration, infrastructure, and improvements to protect the state recreation area from the effects of sea level rise, provided that these sea level rise improvements primarily benefit the state recreation area.

(C) Land within the project area to be added to the state recreation area.

(D) The amount of any reimbursement paid to the state by or on behalf of the city or the agency for the state's legal, transactional, planning, or other costs associated with actions carried out pursuant to this section.

(E) Monetary consideration, if determined appropriate by the director and if the monetary consideration received under this paragraph is dedicated and used for planning, improvement, maintenance, or operation of the state recreation area.

(3) The agreement will provide an overall benefit to the state recreation area and will further the objective of preserving the park's natural, scenic, cultural, and ecological values for present and future generations.

(4) The reconfiguration of the state recreation area will substantially conform to the configuration shown on the diagram included as Section 27 of this act, and as more particularly illustrated on the map on file with the city's planning department entitled "Proposed State Park Land Exchange" and dated September 3, 2009, for the area depicted on the map; provided, however, that the director may agree to additional modifications of the park configuration if the modifications are consistent with the overall financial feasibility of the project and the director determines that the modifications are necessary to fulfill the state recreational purposes of the state recreation area, taking into account public access, circulation and parking needs; wildlife habitat values; future sea level rise and the proposed responses thereto; and other relevant factors.

(5) The project, including the reconfiguration of the state recreation area, will not result in a significant adverse effect on biological resources, and will include habitat enhancement measures to benefit migratory birds and other wildlife. In making this determination, the director shall take into consideration any mitigation measures incorporated into the project during the environmental review process pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(6) Any applicable requirements of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. Sec. 4601-4 et seq.) have been satisfied.

(7) It is the intent of this act that approximately 20 percent of the total consideration value required by paragraph (1) be in the form of operation and maintenance funding pursuant to subparagraph (A) of paragraph (2). If the agreement contains a lower amount of operation and maintenance funding, the director shall provide a report to the Legislature explaining the reasons for determining that the lower amount is appropriate in light of the overall benefits of the agreement.

(b) The director shall modify the boundaries of the state recreation area as necessary to reflect any conveyances made pursuant to this section.

(c) Notwithstanding any other provision of law, the director, on behalf of the department, and the commission, may acquire, convey, or transfer real property pursuant to the agreement authorized by this section, provided that the other requirements of this section are met, and the fair market value of any real property acquired or transferred has been determined by an appraisal prepared by the commission or an appraisal approved by the commission or the Real Estate Services Division of the Department of General Services and prepared by an independent appraiser certified by the Office of Real Estate Appraisers pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code. For purposes of compliance with this subdivision, the director may rely on an appraisal prepared in connection with a trust exchange authorized by this act.

(d) If the commission holds an interest in any of the lands to be removed from the state recreation area, the commission shall be a party to any agreement authorized by this section.

(e) The agreement authorized by this section may be combined with a trust exchange agreement authorized by this act. Pursuant to a trust exchange agreement, the department may transfer to the commission any lands or interests in lands within the reconfigured state recreation area that are to be subject to the public trust, and may receive and accept from the commission lands within the reconfigured state recreation area that are to be free of the public trust. Notwithstanding any other provision of law, the commission may lease to the department for state park purposes any trust lands it owns within the reconfigured state recreation area for a term not exceeding 66 years.

(f) The requirements of this section shall govern an agreement entered into, or conveyance made pursuant to the agreement, and shall supersede any other provision of law pertaining to the department's authority to acquire or transfer real property, or to enter into an agreement to acquire or transfer real property, including, but not limited to, Article 1 (commencing with Section 11000) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code, and Chapter 1 (commencing with Section 5001) and Chapter 1.695 (commencing with Section 5096.500) of Division 5 of the Public Resources Code, or as those provisions may be hereafter amended.

(g) Notwithstanding anything to the contrary in Section 5002.2 of the Public Resources Code, the department is not required to revise the general plan for the state recreation area prior to taking any action pursuant to this section, including, but not limited to, the approval of an agreement authorized by this section, the acquisition, conveyance or transfer of interests in real property pursuant to such agreement, or the modification of the state recreation area boundary. Nothing in this act shall be construed as exempting the development of new facilities within the state recreation area from compliance with the general plan revision requirements of Section 5002.2 of the Public Resources Code.

(h) (1) Neither the director, on behalf of the department, nor the commission shall convey out-of-state ownership an interest in land within the state recreation area pursuant to this section prior to the receipt by the state of consideration meeting the value requirements of paragraph (1) of subdivision (a), except as provided in this subdivision.

(2) For consideration in the form of construction of future park improvements or in the form of the provision of future funding for operation and maintenance, a binding and enforceable commitment to construct the improvements or to provide the funding shall be deemed to satisfy the requirements of this subdivision if the director determines that adequate financial assurances have been provided to ensure that work will be completed or the funds will be provided, as specified in the agreement. Financial assurances under this paragraph may include, without limitation, performance or other surety bonds, insurance, or financial guarantees.

(3) (A) The agreement may provide for phased conveyances if the total consideration received by the state, or committed in accordance with

paragraph (2) of this subdivision, at or before each phase meets the value requirements of paragraph (1) of subdivision (a) with respect to the state property conveyed in that phase and any prior phases. For purposes of implementing this paragraph, if the consideration is based on fair market value, the director shall use the fair market value of the state recreation area lands as determined by the director at the time the agreement is approved.

(B) If the agreement provides for phased conveyances, the consideration tendered to the state at each phased closing may be in any of the forms set forth in paragraph (2) of subdivision (a), or any combination of those forms, as may be established by the agreement, if the agreement requires consideration meeting all of the requirements of paragraph (2) of subdivision (a) to be tendered prior to the final closing. For purposes of this subparagraph, final closing means a closing after which all of the state property within the state recreation area to be conveyed under the agreement will have been conveyed.

(i) Any monetary consideration received by the department pursuant to an agreement authorized by this section shall be deposited in a separate account maintained by the department and shall be expended only for planning, improvement, maintenance, or operation of the state recreation area.

(j) In order to allow public review of and comment on the findings required by subdivision (a), the director shall cause proposed findings to be published in the California Regulatory Notice Register no less than 30 days prior to making final findings. The director shall also cause the final findings to be published in the California Regulatory Notice Register.

SEC. 27. The following diagram is a part of this act:

PRINTER PLEASE NOTE: TIP-IN MATERIAL TO BE INSERTED

SEC. 27.5. Nothing in this act shall be construed as requiring the director or the commission to enter into any agreement authorized by this act.

SEC. 28. (a) The Legislature finds that the lands conveyed to the city pursuant to the 1958 Act have been cut off from water access, are relatively small in area, have been filled and reclaimed as part of a highly beneficial program of harbor development, and are no longer useful for public trust purposes. The Legislature further finds and confirms that the lands conveyed pursuant to the 1958 Act are free from the public trust.

(b) The Legislature finds and declares that the project will further the important statewide interests in redevelopment, the elimination of blight, the provision of affordable housing opportunities, the generation of new sales tax revenues, property taxes and other tax revenues to the state and state agencies, the creation of thousands of new jobs, and enhanced access of the public to use and enjoy the state recreation area, and that the development of the project will further the statewide purposes contemplated in Section 3 of the 1958 Act. The Legislature further finds and declares that it is necessary and in furtherance of important statewide interests for any restrictions or other encumbrances on title arising from Section 3 of the 1958 Act to be eliminated so as to facilitate disposition of property within the project area in furtherance of development of the project.

(c) At the request of the city or the agency, the executive officer of the commission shall, on behalf of the state, reasonably cooperate with the requesting parties to cause to be prepared and recorded any necessary deeds, patents, agreements, or other instruments for the purpose of removing any deed restrictions or other encumbrances on title arising from Section 3 of the 1958 Act.

SEC. 29. Section 3 of Chapter 2 of the Statutes of 1958 of the First Extraordinary Session is repealed.

SEC. 30. Chapter 1046 of the Statutes of 1998 is repealed.

SEC. 31. An exchange or other agreement made pursuant to this act is hereby found to be of statewide significance and importance. Therefore, no ordinance, charter provision, or other provision of local law inconsistent with this act applies to that exchange or agreement.

SEC. 31.5. (a) Notwithstanding any other provision of law, the requirements of subdivision (f) of Section 10310 of Title 14 of the California Code of Regulations shall be deemed satisfied for any part of the project requiring a BCDC permit if the agency submits in a form acceptable to BCDC an approved development and disposition agreement for the project, any required amendments to the redevelopment plan, and city final approval of all conforming amendments to the city's general plan, planning code, and zoning maps.

(b) Notwithstanding any other provision of law, the requirement of subdivision (g) of Section 66605 of the Government Code and of Section 11721, Appendix F of Title 14 of the California Code of Regulations, that an applicant for a BCDC permit demonstrate adequate legal interest in the underlying property shall be deemed satisfied if the agency submits in a form acceptable to BCDC an agreement authorized by Section 23 or 26 of

this act, provided the agreement is fully executed, all parties with an interest in the property are parties to the agreement, and the terms of the agreement allow the applicant to undertake the proposed construction and uses for which the permit is sought.

(c) This section does not affect BCDC's jurisdiction and authority, or its discretion to approve, disapprove, or condition a permit application subject to this section in accordance with applicable law.

SEC. 32. (a) Nothing in this act may be construed to nullify the city or the agency's obligations for increasing, improving, and preserving the community's supply of low- and moderate-income housing imposed by the Community Redevelopment Law, including, but not limited to, the requirements of Sections 33334.2 and 33413 of the Health and Safety Code.

(b) Nothing in this act shall be construed as creating an exemption from or in any way modifying the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 33. Nothing in this act may be construed to authorize residential uses or other nontrust uses on public trust land except as provided in Sections 14 and 15.

SEC. 33.5. This act shall not be construed as creating a cloud on title to any real property within the project area in which the state has no claim of interest.

SEC. 34. A deed, patent, agreement, or other instrument executed in furtherance of this act, or an action of the city, state, or agency, to approve the use, lease, or conveyance of a city, state, or agency property subject to this act, or any portion thereof, or to approve project agreements, grant entitlements or permits, or issue bonds or other indebtedness in connection with the use and development of that property, shall be conclusively presumed to be valid unless held to be invalid in an appropriate proceeding in a court of competent jurisdiction to determine the validity of the agreement commenced within 60 days after the recording of the agreement.

SEC. 35. (a) An action may be brought under Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure to establish title to any lands conveyed pursuant to this act, or by the parties to any agreement entered into pursuant to this act to confirm the validity of the agreement. Notwithstanding Section 764.080 of the Code of Civil Procedure, the statement of decision in the action shall include a recitation of the underlying facts and a determination as to whether the conveyance or agreement meets the requirements of this act, Sections 3 and 4 of Article X of the California Constitution, if applicable, and any other law applicable to the validity of the agreement.

(b) For purposes of Section 764.080 of the Code of Civil Procedure and unless otherwise agreed in writing, an agreement entered into pursuant to this act shall be deemed to be entered into on the date it is executed by the executive officer of the commission, or, if the commission is not a party, by the director, who shall be the last of the parties to sign prior to the signature of the Governor. The effective date of the agreement shall be



deemed to be the date on which it is executed by the Governor pursuant to Section 6107 of the Public Resources Code.

(c) An action may be brought under Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the legality and validity of a deed, patent, agreement, or other instrument executed in furtherance of or authorized by this act, or an action of the city or agency to use, lease, or convey any property, or to approve project agreements, grant entitlements or permits, or issue bonds or other indebtedness in connection with the use and development of that property. Before the filing of an action, the Attorney General, the director, and the executive officer of the commission shall be provided written notice of the action and a copy of the complaint. An action authorized by this subdivision may be combined with an action authorized by subdivision (a).

SEC. 36. If a provision of this act, or its application to a person, property, or circumstance, is held invalid by a court, the invalidity or inapplicability of that provision shall not affect any other provision of this act or the application of that provision to any other person, property, or circumstance, and the remaining portions of this act shall continue in full force and effect, unless enforcement of this act as so modified by and in response to that invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this act.

SEC. 37. It is the intent of the Legislature that the department shall give strong consideration to keeping open Candlestick Park State Recreation Area any time the department undertakes the process of identifying state parks or state recreation areas for closure, whether seasonal, partial, full, or otherwise. This consideration is based upon the funding provided in Section 26 for operation and maintenance of Candlestick Park State Recreation Area.

SEC. 38. The Legislature finds and declares that, because of the unique circumstances applicable only to the lands described in this act, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.