

**Senate Bill No. 2049**

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Passed the Senate August 30, 2000

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*Secretary of the Senate*

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Passed the Assembly August 25, 2000

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2000, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Section 1 of Chapter 594 of the Statutes of 1917, relating to public trust lands, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 2049, Perata. Naval Air Station Alameda Public Trust Exchange Act.

Existing law grants to the City of Alameda all the right, title, and interest of the State of California, in and to all the salt marsh, tide, and submerged lands within the boundaries of the city in trust for prescribed uses and upon express conditions.

This bill would enact the Naval Air Station Alameda Public Trust Exchange Act, the purpose of which would be to facilitate the productive reuse of lands comprising the former Naval Air Station (NAS) Alameda in a manner that will further the purposes of the public trust for commerce, navigation, and fisheries. The bill would authorize the State Lands Commission to carry out an exchange of public trust lands within the NAS property, in accordance with the requirements of the bill, and would require the commission to establish appropriate procedures for effectuating the exchange.

The bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. This act shall be known, and may be cited, as the Naval Air Station Alameda Public Trust Exchange Act.

SEC. 2. Section 1 of Chapter 594 of the Statutes of 1917 is amended to read:

Sec. 1. There is hereby granted to the City of Alameda (hereafter "city"), a municipal corporation of the State of California, and to its successors, all the right, title, and interest of the State of California, held by the state by



virtue of its sovereignty, in and to all the salt marsh, tide and submerged lands, whether filled or unfilled, within the present boundaries of the city, and situated below the line of mean high tide of the Pacific Ocean, or of any harbor, estuary, bay, or inlet within the boundaries, to be forever held by the city, and by its successors, in trust for the uses and purposes, and upon the following express conditions:

(a) The city shall be the public trust administrator for all lands granted to it pursuant to this act (hereafter “granted lands”), and may use, conduct, operate, maintain, manage, administer, regulate, improve, lease, and control the lands and do all things necessary in connection with the lands that are in conformance with the terms of this act and the public trust for commerce, navigation, and fisheries.

(b) The granted lands shall be used by the city and its successors, solely for the establishment, improvement, and conduct of a harbor, and for the construction, maintenance, and operation thereon of wharves, docks, piers, slips, quays, warehouses, factories, storehouses, equipment, parking areas, streets, highways, bridges, pedestrian ways, landscaped areas, public buildings, public assembly and meeting places, convention centers, parks, museums, playgrounds, public recreation facilities (including, without limitation, public golf courses, marinas, restaurants, hotels, commercial recreation facilities, entertainment facilities and attractions), and any other utilities, structures, and appliances, provided the facilities are incidental to, or necessary or convenient for, the promotion, benefit, and accommodation of the purposes of the public trust.

(c) The city, or its successors, may not grant, convey, give, or alienate the granted lands, or any part thereof, to any individual, firm, or corporation for any purpose, except as provided in this section or otherwise provided by the Legislature. This subdivision shall not be construed as prohibiting the conveyance of any lands within the former Naval Air Station Alameda, including lands previously granted to the city and subsequently



transferred to the United States, to the Alameda Reuse and Redevelopment Authority (hereafter “ARRA”) by the United States or the city, or as prohibiting the conveyance of any of those lands to the city by the United States or the ARRA.

(d) Notwithstanding the foregoing restriction on alienation, the city, or its successors, may grant franchises, permits, privileges, licenses, easements, or leasehold interests (hereafter collectively referred to as “leases”) in connection with the lands, or any part thereof, for limited periods, for purposes consistent with the trusts upon which the lands are held by the State of California and this grant, for a term not exceeding 66 years. The city may establish other terms, conditions, and reservations in the leases, including a right to terminate with reversion to the city upon termination of any and all improvements thereon, as long as the terms, reservations, and conditions are consistent with the public trust and this act. The leases may include reservations for streets, sewer outlets, gas and oil mains, water systems, electric cables and wires, and other municipal purposes and uses deemed necessary by the city, upon compensation being made for the injury and damage done to any improvement or structure thereon.

(e) All moneys collected by the city arising out of the use or operation of any of the granted lands, including all revenues derived from leases or other rights to use or occupy the lands, shall be deposited into a special fund maintained by the city. The money in or belonging to the fund may be used only for uses and purposes consistent with the public trust for navigation, commerce, and fisheries, and the requirements of this act.

(f) The State of California shall have the right, together with the city if there is no lessee or licensee, or together with the lessee or licensee, if there is a lessee or licensee, to use, without charge, all wharves, docks, piers, slips, quays, or other improvements constructed on the granted lands or any part thereof, for any vessel or other watercraft, or railroad, owned or operated by the State of California.



(g) No discrimination in rates, tolls, or charges for use or in facilities for any use or service in connection with wharves, docks, piers, slips, or quays, or property operated by the city, or property leased, the use of which is dedicated by the lessee or licensee for a public use, shall ever be made, authorized, or permitted.

(h) There is hereby reserved in the people of the State of California the right to fish in the waters on which the lands may front, with the right of convenient access to the waters over the lands for that purpose. The enjoyment of access and right to fish shall be regulated by ordinance of the city so as not to interfere, obstruct, retard, or limit the right of navigation or the rights of lessees or licensees under lease or license given.

(i) The state hereby reserves all subsurface mineral deposits, including oil and gas deposits, together with the right of ingress and egress on the granted lands for exploration, drilling, and extraction of mineral, oil, and gas deposits. Those mineral rights, including the right of ingress and egress, shall not be exercised in a manner that would disturb or otherwise interfere with any lease of or on the granted lands. However, any lease of property shall contain a provision specifying at least one point from which, and the manner in which, the right of ingress or egress to subsurface deposits may be exercised, which point or points may be outside the area of the lease, provided the point or points are adequate to permit the rights reserved to the state to be exercised.

(j) Nothing in this act shall impair or affect any rights or obligations arising from leases conferring the right to use, occupy, or conduct operations upon or within the granted lands, provided the leases were lawfully entered into, consistent with any applicable public trust or other restrictions on use, prior to the effective date of this act.

SEC. 3. The following definitions apply for purposes of this act.

(a) “ARRA” means the Alameda Reuse and Redevelopment Authority, a joint powers agency.

(b) “City” means the City of Alameda.



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

(d) “Granting act” means Chapter 348 of the Statutes of 1913, an act entitled “An act granting to the city of Alameda the salt marsh, tide and submerged lands of the State of California, including the right to wharf out therefrom to the city of Alameda, and regulating the management, use, and control thereof,” approved June 11, 1913, as subsequently amended, modified, or augmented by Chapter 594 of the Statutes of 1917, Chapter 538 of the Statutes of 1927, Chapter 15 of the Statutes of 1953, Chapter 1028 of the Statutes of 1955, and this act.

(e) “NAS Property” means those parcels of land lying in the city and county of Alameda, State of California, and more particularly described as follows:

PARCEL 1, A parcel of land, forming a portion of that area commonly known as Naval Air Station Alameda, described as follows:

BEGINNING at a point on the United States Bulkhead Line, said point identified as Point “K” as said line and point are delineated and so designated upon that certain map entitled, “Harbor Line Survey San Francisco Bay, 1910” Sheet No. 6 originally filed in the United States Engineer’s Office, Customs House, San Francisco and currently on file in the public records of Alameda County, said Bulkhead Line also being the northerly boundary of those lands acquired by the United States of America from Central Pacific Railway Company, et al as described in the final judgment of Civil Action No. 22463-S filed in the District Court of the United States in and for the Northern District of California, Southern Division on January 11, 1944;

1. Thence southeasterly along said Bulkhead Line and said northerly boundary to a point on the westerly boundary of Parcel 2 of those lands acquired by the War Department from the City of Alameda, California, by an act, H.R. 12661 Public, No. 514-71st Congress approved July 3, 1930 (46 Stat. 857) and known as Benton Field as transferred from the War Department to the Navy



Department by Executive Order No. 7467, dated October 7, 1936;

2. Thence northerly along the westerly boundary of said Parcel 2 to the northerly boundary line of the City of Alameda;

3. Thence easterly along said boundary of the City of Alameda and the northerly boundary of said Parcel 2 to the northeast corner of said Parcel 2 and the easterly boundary of the lands conveyed by Todd Shipyards Corporation to the United States of America by quitclaim deed recorded June 27, 1995, at series number 95140151 official records of Alameda County;

4. Thence southerly along last said easterly boundary to the most northerly corner of that certain parcel of land described as Parcel 1 of the lands acquired by the United States of America from the Regents of the University of California, a corporation, et al as described in Final Judgement of Civil Action No. 21988-S filed in the District Court of the United States in and for the Northern District of California, Southern Division on June 11, 1942, and the south line of Main Street;

5. Thence southerly along the easterly boundary of said Parcel 1 and said south line of Main Street and the westerly line of Main Street to the northeastern corner of the lands acquired by the United States of America from Louis M. MacDermot, et al as described in Final Judgement of Civil Action No. 23109-G filed in the District Court of the United States in and for the Northern District of California, Southern Division December 12, 1944;

6. Thence continuing southerly along the western line of Main Street and the eastern boundary of the lands acquired by the United States of America as described in Final Judgement of Civil Action No. 23109-G to the intersection with the south line of Pacific Avenue;

7. Thence leaving said western line of Main Street and continuing easterly along the eastern boundary of said lands acquired by the United States of America as described in Final Judgement of Civil Action No. 23109-G to a point 65.00 feet westerly of and measured at right



angles from said eastern line of Main Street as shown on that certain map entitled, “Bay View Tract, Alameda, California” filed in map Book 7 at Page 33, Official Records of Alameda County;

8. Thence running in a southerly direction along a line parallel with and 65.00 feet westerly of, and measured at right angles from said eastern line of Main Street and along the easterly boundary of said lands acquired by the United States of America as described in Final Judgement of Civil Action No. 23109-G to the northeasterly corner of Lot 12 of Section 10, Township 2 South, Range 4 West as shown on that certain Map No. 2 of Salt Marsh and Tide Lands situate in the County of Alameda, in the State of California, dated 1871, G.F. Allardt, Engineer, prepared by order of the Board of Tide Land Commissioners;

9. Thence continuing southerly along the said easterly boundary of the lands acquired by the United States of America as described in Final Judgement of Civil Action No. 23109-G and the eastern line of said Lot 12 and Lot 21 of said Section 10 to the southeast corner of said Lot 21;

10. Thence northwesterly along the south line of said Lot 21 and the south line of Lots 22, 23, 10, and 9 of said Section 10 and the south line of Lot 16 of Section 9 as shown on said Map No. 2 to the most westerly corner of said Lot 16, said point also being corner #11 lying on the eastern boundary of the lands acquired by the War Department from the City of Alameda, California, by an act, H.R. 12661 Public, No. 514-71st Congress approved July 3, 1930 (46 Stat. 857) and known as Benton Field as transferred from the War Department to the Navy Department by Executive Order No. 7467, dated October 7, 1936, and also being the eastern boundary of land depicted and described on the map and metes and bounds description entitled, “United States Naval Air Station Alameda, California,” filed September 20, 1938, in Book 29 at Page 20 Official Records of Alameda County;

11. Thence southwesterly along last said eastern boundary to point No. 12 as shown on last said map and the boundary line between Alameda County and City and the City and County of San Francisco;



12. Thence northwesterly along the western boundary of the lands acquired by the War Department from the City of Alameda, California, by an act, H.R. 12661 Public, No. 514-71st Congress approved July 3, 1930 (46 Stat. 857) and known as Benton Field as transferred from the War Department to the Navy Department by Executive Order No. 7467, dated October 7, 1936, and the western boundary of the lands acquired by the United States of America from the City of Alameda by grant deed filed November 26, 1937, in Book 3583 at Page 1, Official Records of Alameda County, also being the boundary line between Alameda County and City and the City and County of San Francisco, to the southeasterly corner of the land acquired by the United States of America from the City and County of San Francisco as described in Final Judgement of Civil Action No. 35276 filed in the District Court of the United States in and for the Northern District of California, Southern Division September 10, 1964;

13. Thence westerly along the southern boundary of last said land acquired by the United States of America from the City and County of San Francisco to the western boundary of last said land, last said boundary also being on the United States Pierhead line extending between stations 161 and 159 as said line is shown on that certain map entitled "Department of the Army, Corps of Engineers, Office of the District Engineer, San Francisco, California, San Francisco Bay, California, Harbor Lines, Oakland-Alameda," dated February 13, 1948, Drawing No. 1-4-19;

14. Thence northerly along said western boundary of the land acquired by the United States of America from the City and County of San Francisco as described in Final Judgement of Civil Action No. 35276 to the boundary line between Alameda County and City and the City and County of San Francisco and the western boundary of said lands acquired by the United States of America from the City of Alameda by grant deed filed November 26, 1937, in Book 3583 at Page 1, Official Records of Alameda County;



15. Thence northerly along last said western boundary, also being the boundary line between Alameda County and City and the City and County of San Francisco, to a point on said United States Pierhead line as said line is shown on that certain map entitled “Department of the Army, Corps of Engineers, Office of the District Engineer, San Francisco, California, San Francisco Bay, California, Harbor Lines, Oakland-Alameda,” dated February 13, 1948, Drawing No. 1-4-19;

16. Thence in a northeasterly direction along the western boundary of said lands acquired by the United States of America from the City of Alameda by grant deed filed November 26, 1937, in Book 3583 at Page 1, Official Records of Alameda County and said United States Pierhead line to the most western corner of said lands acquired by the United States of America from Central Pacific Railway Company, et al as described in the Final Judgement of Civil Action No. 22463-S filed in the District Court of the United States in and for the Northern District of California, Southern Division on January 11, 1944;

17. Thence northeasterly along the westerly line of said lands acquired by the United States of America from Central Pacific Railway Company, and along said United States Pierhead line to a point on the United States Bulkhead line as said line is delineated on that certain map entitled, “Harbor Line Survey San Francisco Bay, 1910” Sheet No. 6 originally filed in the United States Engineer’s Office, Customs House, San Francisco and currently on file in the public records of Alameda County;

18. Thence easterly along said Bulkhead Line and the northerly boundary of said lands acquired by the United States of America from Central Pacific Railway Company, to the point of beginning.

EXCEPTING THEREFROM any portion of the above-described lands lying within the City and County of San Francisco.

PARCEL 2, A parcel of land, forming a portion of that area commonly known as Naval Air Station Alameda, bounded on the south by the United States Bulkhead Line



as shown on the map entitled, “Harbor Line Survey San Francisco Bay, 1910” Sheet No. 6 originally filed in the United States Engineer’s Office, Customs House, San Francisco, and currently on file in the public records of Alameda County, said Bulkhead Line also being the northerly boundary of those lands acquired by the United States of America from Central Pacific Railway Company, et al as described in the Final Judgement of Civil Action No. 22463-S filed in the District Court of the United States in and for the Northern District of California, Southern Division on January 11, 1944; on the east by the westerly boundary of those lands acquired by the War Department from the City of Alameda, California, by an act, H.R. 12661 Public, No. 514-71st Congress approved July 3, 1930 (46 Stat. 857) and known as Benton Field as transferred from the War Department to the Navy Department by Executive Order No. 7467, dated October 7, 1936; on the north by the northerly boundary of the City of Alameda, and on the west by the northeasterly prolongation of the westerly boundary of those lands acquired by the United States of America from Central Pacific Railway Company, et al as described in the Final Judgement of Civil Action No. 22463-S filed in the District Court of the United States in and for the Northern District of California, Southern Division on January 11, 1944, said westerly boundary also being the United States Pierhead line as shown on that certain map entitled Department of the Army, Corps of Engineers, Office of the District Engineer, San Francisco, California, San Francisco Bay, California Harbor Lines, Oakland-Alameda,” dated February 13, 1948, Drawing No. 1-4-19 to the intersection of said prolongation with the northerly boundary of the City of Alameda.

PARCEL 3, The lands, forming a portion of that area commonly known as Naval Air Station Alameda, described in the lease between the City of Alameda and the United States of America and filed with the Department of the Navy at document number NOy(R)-54077.

PARCEL 4, A parcel of land described as follows:



BEGINNING at the NE corner of Lot 12 of Section 10, T2S, R4W, as shown on that certain Map No. 2 of Salt Marsh and Tide Lands situate in the County of Alameda, State of California, dated 1871, G.F. Allardt, Engineer, prepared by order of the Board of Tide Land Commissioners;

1. Thence northerly along the northerly prolongation of the easterly line of said Lot 12 to the easterly right-of-way line of Central Avenue;

2. Thence northerly along the easterly right-of-way line of Central Avenue and the northerly prolongation to the northerly right-of-way line of Pacific Avenue;

3. Thence westerly along said northerly right-of-way line of Pacific Avenue to the easterly right-of-way line of Main Street;

4. Thence northerly along said easterly right-of-way line of Main Street to the southerly right-of-way line of Atlantic Avenue;

5. Thence easterly along said southerly right-of-way line of Atlantic Avenue to the southerly prolongation of the easterly line of the Southern Pacific Railroad Right of Way;

6. Thence northerly along said southerly prolongation and said easterly line of the Southern Pacific Railroad Right of Way and the northerly prolongation thereof to the southerly right-of-way of Singleton Avenue;

7. Thence westerly along said southerly right-of-way line of Singleton Avenue to a point on the easterly right-of-way line of said Main Street;

8. Thence northerly and westerly along said easterly right-of-way line of Main Street to the easterly boundary of said lands acquired by the War Department from the City of Alameda, California, by an act, H.R. 12661 Public, No. 514-71st Congress approved July 3, 1930 (46 Stat. 857) and known as Benton Field as transferred from the War Department to the Navy Department by Executive Order No. 7467, dated October 7, 1936, and the easterly boundary of the lands conveyed by Todd Shipyards Corporation to the United States of America by quitclaim



deed recorded June 27, 1995, at series number 95140151 official records of Alameda County;

9. Thence southerly along last said easterly boundary to the most northerly corner of that certain parcel of land described as Parcel 1 of the lands acquired by the United States of America from the Regents of the University of California, a corporation, et al as described in Final Judgement of Civil Action No. 21988-S filed in the District Court of the United States in and for the Northern District of California, Southern Division on June 11, 1942 and the south line of Main Street;

10. Thence southerly along the easterly boundary of said Parcel 1 and said south line of Main Street and westerly line of Main Street to the northeastern corner of the lands acquired by the United States of America from Louis M. MacDermot, et al as described in Final Judgement of Civil Action No. 23109-G filed in the District Court of the United States in and for the Northern District of California, Southern Division December 12, 1944;

11. Thence continuing southerly along the western line of Main Street and the eastern boundary of the lands acquired by the United States of America as described in Final Judgement of Civil Action No. 23109-G to the intersection with the south line of Pacific Avenue;

12. Thence leaving said western line of Main Street and continuing easterly along the eastern boundary of said lands acquired by the United States of America as described in Final Judgement of Civil Action No. 23109-G to a point 65.00 feet westerly of and measured at right angles from said eastern line of Main Street as shown on that certain map entitled, "Bay View Tract, Alameda, California" filed in Map Book 7 at Page 33, Official Records of Alameda County;

13. Thence running in a southerly direction along a line parallel with and 65.00 feet westerly of and measured at right angles from said eastern line of Main Street and along the easterly boundary of said lands acquired by the United States of America as described in Final Judgement of Civil Action No. 23109-G to the point of beginning.



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

SEC. 4. The Legislature hereby finds and declares as follows:

(a) The purpose of this act is to facilitate the productive reuse of the lands comprising the former Naval Air Station Alameda in a manner that will further the purposes of the public trust for commerce, navigation, and fisheries. To effectuate this purpose, this act approves, and authorizes the commission to carry out, an exchange of lands under which certain nontrust lands on the NAS property with substantial value for the public trust would be placed into the public trust, and certain other lands presently subject to the public trust but no longer useful for trust purposes would be freed from trust restrictions. This act also delegates to the ARRA and to the city, as specified in this act, the responsibility of administering the public trust on lands within the NAS property.

(b) In 1913, the state granted by legislative act certain tide and submerged lands to the city in trust for purposes of commerce, navigation, and fisheries and subject to the terms and conditions specified in that act. The original 1913 grant prohibited the alienation of the granted lands. In 1917, the grant was amended to allow the city to convey some or all of the granted lands to the United States for public purposes of the United States. Beginning in 1930, the city approved several transfers of portions of the granted lands to the United States Navy for purposes of constructing and operating what came to be known as the Naval Air Station Alameda. Certain portions of the transferred tide and submerged lands were subsequently filled and reclaimed by the Navy in furtherance of its plan for development of a naval air station. The Navy also acquired lands for NAS Alameda that were historically uplands and thus not subject to the public trust. In addition, a portion of the NAS property was comprised of granted lands that remained under city ownership and were leased to the Navy. These lands continue to be subject to the public trust.



(c) In 1993, the Defense Base Closure and Realignment Commission recommended closure of Naval Air Station Alameda under the Defense Base Closure and Realignment Act of 1990, and the station was closed operationally in April of 1997. As authorized by federal law, the Navy is in the process of transferring certain portions of the NAS property under a no-cost Economic Development Conveyance to the ARRA, the local reuse authority for the NAS Alameda. At a future date, the ARRA may convey some or all of the transferred lands to the city. Another portion of the NAS property is planned to be transferred from the Navy to the United States Fish and Wildlife Service. All former and existing tide and submerged lands on the NAS property for which the public trust has not been terminated will be subject to the public trust upon their release from federal ownership. The portion of the NAS property owned by the city and formerly leased to the Navy will remain under city ownership subject to the public trust.

(d) The existing configuration of trust and nontrust lands on the NAS property is such that the purposes of the public trust cannot be fully realized. Certain filled and reclaimed tidelands on the NAS property have been cut off from access to navigable waters and are no longer needed or required for the promotion of the public trust, or any of the purposes set forth in the granting act. Other lands on the NAS property directly 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 waterfront on the NAS property would be free of the public trust and could be cut off from public access, while certain nonwaterfront lands not useful for trust purposes would be restricted to trust-consistent uses.

(e) A trust exchange resulting in the configuration of trust lands substantially similar to that depicted on the diagram in Section 11 of this act maximizes the overall benefits to the trust, without interfering with trust uses or purposes. Following the exchange, all lands within the NAS property adjacent to the waterfront 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, constitute a relatively small portion of the granted lands, and are no longer needed or required for the promotion of the public trust. The commission shall ensure that the lands added to the trust pursuant to the exchange are of equal or greater value than the lands taken out of the trust.

(f) The reuse of public trust lands on former military bases presents a number of challenges not normally faced in the public trust administration of active waterfronts. In the case of the NAS property, a number of buildings were constructed on former tidelands during the period of federal ownership, when the public trust was effectively in abeyance. Certain of these buildings, which are now in various stages of their useful lives, were built by the Navy for nontrust purposes. Where the buildings lie on lands that will be subject to the public trust following the exchange authorized by this act, the conversion of the lands underlying these buildings to trust uses should proceed in a manner that will enable the people of this state to benefit from the substantial investments made in the buildings without hindering the overall goal of preserving the public trust.

(g) An important element of the trust exchange is the north-south access corridor between the San Francisco Bay and the Oakland Estuary. The corridor serves as a direct physical and visual link between the two waterways. The roads and greenways within the corridor provide public access to and between the northern and southern waterfronts of the NAS property. This corridor should remain open to the public as an access way. In addition, a number of buildings constructed within the corridor during the period of federal ownership, which were built for nontrust purposes, retain substantial historic value as contributory structures to the Naval Air Station Alameda Historic District. The character of these buildings conveys a sense of the historic naval base and enhances the open-space experience at the base.



SEC. 5. (a) The Legislature hereby approves an exchange of public trust lands within the NAS property, whereby certain public trust lands that are not now useful for public trust purposes are conveyed free of the public trust and certain other lands that are not now public trust lands and that are useful for public trust purposes are made subject to the public trust, resulting in a configuration of trust lands that is substantially similar to that shown on the diagram in Section 11 of this act, provided the exchange complies with the requirements of this act. The exchange is consistent with, and furthers the purposes of, the public trust and the granting act.

(b) The commission is authorized to carry out an exchange of public trust lands within the NAS property, in accordance with the requirements of this act. Pursuant to this authority, the commission shall establish appropriate procedures for effectuating the exchange. The procedures shall include procedures for ensuring that lands are not exchanged into the trust until any necessary hazardous materials remediation for those lands has been completed, and may include, if appropriate, procedures for completing the exchange in phases.

(c) 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 commission. The commission shall not approve the exchange of any trust lands unless and until all of the following occur:

(1) The commission finds that the configuration of trust lands on the NAS property upon completion of the exchange will not differ significantly from the configuration shown on the diagram in Section 11 of this act, and includes all existing tide and submerged lands within the NAS property.

(2) The commission finds that, with respect to the trust exchange as finally configured and phased, the value of the lands to be exchanged into the trust is equal to or greater than the value of the lands to be exchanged out of the trust.



(3) The commission finds that, with respect to the trust exchange as finally configured and phased, the lands to be taken out of the trust have been filled and reclaimed, are cut off from access to navigable waters, are no longer needed or required for the promotion of the public trust, and constitute a relatively small portion of the lands originally granted to the city, and that the exchange will not result in substantial interference with trust uses and purposes.

(4) The exchange is approved by the entity or entities that, under the provisions of the granting act and this act, would be responsible for administering the public trust with respect to the lands to be exchanged into the trust, and those lands are accepted by such entity or entities subject to the public trust and the requirements of the granting act.

(d) The exchange authorized by this act is subject to additional conditions that the commission determines are necessary for the protection of the public trust. At a minimum, the commission shall establish conditions to ensure all of the following:

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

(2) The north-south corridor described in subdivision (g) of Section 4 of this act functions as a public access corridor.

(3) Lands are not exchanged into the trust until any necessary hazardous materials remediation for those lands has been completed.

(e) All former or existing tide or submerged lands within the NAS property for which the public trust has not been terminated, either by express act of the Legislature or otherwise, and any lands exchanged into the trust pursuant to this act, shall be held, whether by the ARRA or by the city, subject to the public trust and the requirements of the granting act. Notwithstanding the provisions of the granting act, during any period in which those lands are held by the ARRA, the ARRA, rather than the city, shall be the public trust administrator for the



lands, and shall have the same powers, and be subject to the same requirements, as would the city under the granting act.

(f) Any lands exchanged out of the trust pursuant to this act shall be deemed free of the public trust and the requirements of the granting act.

(g) For purposes of effectuating the exchange authorized by this act, the commission is authorized to do the following:

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

(2) Convey to the ARRA or the city by patent all of the right, title, and interest of the state in lands 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.

(3) Convey to the ARRA or the city by patent all of the right, title, and interest of the state in lands that are to be subject to the public trust, the terms of this act, and the granting act 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 that the commission determines are necessary to meet the requirements of subdivisions (d) and (e).

SEC. 6. (a) (1) Notwithstanding the provisions of the granting act, the contributory historic buildings on the NAS property, commonly known as the Administration Building (Building 1), the Fire Station (Building 6), the Gatehouse (Building 30), and the Hangar (Building 39), may be used for any purpose, whether or not the purpose is itself consistent with the public trust or the uses permitted under the granting act, provided that both of the following are satisfied:

(A) Any remodel or reconstruction of the buildings is consistent with the Guide to Preserving the Character of the Naval Air Station Alameda Historic District, pursuant to the Memorandum of Agreement between the city, the



Navy, and the State Historic Preservation Officer, as implemented by city resolution or ordinance.

(B) With respect to the Administration Building, the Fire Station, and the Gatehouse only, the buildings remain open and accessible to the public.

(2) If any of the buildings described in paragraph (1) of subdivision (a) are remodeled, renovated, or used in a manner that is inconsistent with the applicable conditions established by that paragraph as implemented by the exchange agreement, the building or buildings may continue to be used for any purpose for a period of 10 years from the commencement of the inconsistent remodel, renovation, or use, to allow for the amortization of tenant improvements. Thereafter, the building or buildings shall be used in a manner consistent with the public trust and the granting act.

(3) If any of the buildings described in paragraph (1) of subdivision (a) are demolished, subsequent use of the land and any replacement structures shall be consistent with the public trust and the granting act.

(b) (1) Notwithstanding any provision of the granting act, existing buildings or structures on trust lands within the NAS property that were constructed for nontrust purposes during the period of federal ownership and are incapable of being devoted to public trust purposes may be used for other purposes for the remaining useful life of buildings or structures. The remaining useful life of the buildings commonly known as the Plating Shop (Building 32) and the Steam Plant (Building 10) shall be 24 years from the effective date of this act. The city and the commission, by agreement, shall establish the remaining useful life of all other buildings, and structures subject to this subdivision, either individually or by category, provided that in no case shall the useful life of any building or structure be deemed to extend less than 15 years or more than 40 years from the effective date of this act.

(2) The maintenance, repair, or, in the event of a flood, fire, or similar disaster, partial reconstruction of any of the existing buildings or structures described in paragraph



(1), and any structural or other alterations necessary to bring the buildings or structures into compliance with applicable federal, state, and local health and safety standards, including, but not limited to, seismic upgrading, shall be permitted, provided the activities will not enlarge the footprint or the size of the shell of the buildings or structures.

SEC. 7. All moneys arising out of the use or operation of any lands on the NAS property subject to the public trust, including all revenues derived from leases, permits, franchises, privileges, licenses, easements, and rights to use or occupy the trust lands, collected by the public trust administrator responsible for the lands, shall be deposited into a special fund maintained by the trust administrator. The money in or belonging to the fund may be used only for uses and purposes consistent with the public trust for navigation, commerce, and fisheries, the granting act, and this act.

SEC. 8. If the city or ARRA receives title at a future date to any portion of (a) the lands within the NAS property that have been or are intended to be transferred by the Navy to the United States Fish and Wildlife Service, or (b) the lands at issue in *City of Alameda v. Todd Shipyards Corporation* (N.D. Cal. 1986) 632 F.Supp. 333, reconsideration denied, in part, reconsideration granted in part, *City of Alameda v. Todd Shipyards Corporation* (N.D. Cal. 1986) 635 F.Supp. 1447, the lands shall be held by the city or ARRA subject to the public trust and the requirements of the granting act, subject to any applicable exceptions set forth in this act.

SEC. 9. Leases of any of the trust lands granted under the granting act may be entered into for uses other than those consistent with the public trust or requirements of the granting act if the city 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 can be terminated in favor of trust uses as they arise.



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

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

SEC. 10. (a) The state reserves the right to amend, modify, or revoke any and all rights to the lands granted to the city under the granting act.

(b) For purposes of this section, the term “bonds” includes, without limitation, lease revenue bonds and other bonds, lease financing arrangements, and certificates of participation.

(c) No amendment, modification, or revocation, in whole or in part, of the grant in trust provided for in the granting act shall impair or affect the rights or obligations of third parties, including the holders of bonds or securities, 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 granted lands, arising from leases, contracts, or other instruments lawfully entered into prior to the effective date of the amendment, modification, or revocation.

(d) If, at the effective date of any such amendment, modification, or revocation, there are in effect any such leases, contracts, or other instruments, the state, at its option exercised by and through the commission, may succeed to the interest in any such instrument of the city; otherwise, the interest of the city in any instrument then in effect shall continue during the term or other period of time during which the instrument shall remain in effect. All bonds or securities issued by the city and payable out of revenues of the granted 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 property shall be pledged and applied to the payment of the bonds or



securities in all respects as though no amendment, modification, or revocation had taken place.

SEC. 11. The following diagram is a part of this act:



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INSERTED





SEC. 12. The Legislature finds and declares that, because of the unique circumstances applicable only to the lands within the City of Alameda described in this act relating to the closure of Naval Air Station Alameda, 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.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Proceedings leading to the transfer of the NAS property out of federal ownership are nearing completion. In the absence of the exchange authorized by this act, lands within the NAS property of high value to the public trust could be used and developed in a manner that is inconsistent with the public trust and that precludes future conversion to trust uses. In addition, certain of the lands that would be exchanged out of the public trust pursuant to the exchange authorized by this act are proposed to be used for nontrust purposes, the public benefits of which cannot be realized until the authorized exchange is undertaken. To prevent interference with the purposes of the public trust and to avoid prolonged delays in realizing the public benefits of the transfer of NAS Alameda, immediate implementation of the trust exchange process is required. Therefore, it is necessary that this act take effect immediately.



Approved \_\_\_\_\_, 2000

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*Governor*

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