



**MEMORANDUM**

May 7<sup>th</sup>, 2013

**TO:** BCDC Commissioners and Alternates  
Lawrence Goldzband, Executive Director, BCDC  
Steve Goldbeck, Chief Deputy Director, BCDC

**FROM:** Edwin M. Lee, Mayor of San Francisco   
Monique Moyer, Director of the Port of San Francisco

**SUBJECT:** Piers 30-32 Revitalization Act (AB 1273)

**Executive Summary**

On behalf of the City of San Francisco and its Port, we are pleased to provide this memorandum to assist you in your consideration of the Piers 30-32 Revitalization Act (AB 1273) at your May 16<sup>th</sup>, 2013 meeting.

The bill, proposed by Assemblymember Phil Ting at the City's request, and developed in consultation with the staffs of the State Lands Commission ("SLC") and BCDC, is an amendment to existing state legislation related to development of Piers 30-32, AB 1389 (Shelley), enacted in 2001.<sup>1</sup> In AB 1389, the California Legislature, acting in its capacity as trustee of lands subject to the common law public trust for commerce, navigation and fisheries ("Public Trust" or "Trust"), found that Piers 30-32 were no longer physically capable of supporting most Public Trust uses without substantial modification and repair, and authorized major private office and non-trust retail development in conjunction with a cruise terminal on the Piers as a way to incentivize needed private investment.

After the enactment of AB 1389, the cruise terminal project was abandoned due to higher than anticipated substructure repair costs, and the Port ultimately selected Pier 27 as the site of its new cruise terminal. The new cruise terminal is anticipated to begin cruise terminal operations in the fall of 2014. Piers 30-32 have further deteriorated, and other proposed efforts to develop them have also failed due to the high substructure costs, which now far exceed the market value of the site. The multi-purpose event venue that the Golden State Warriors basketball team ("Warriors") recently proposed presents the Port with its best and perhaps only opportunity to preserve and improve Piers 30-32, and make it a major waterfront destination for residents and visitors alike.

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<sup>1</sup> AB 1389 was amended in 2003 by AB 605 (Assemblymember Leland Yee).

The proposed amendments to AB 1389 under AB 1273 would update the Legislature's findings to reflect these changed circumstances and set standards for the proposed development of the Piers that, if met, would satisfy Public Trust requirements. Setting Public Trust policy for the use of tidelands is the province of the Legislature. Through AB 1389, the Legislature has already set specific Trust policy for Piers 30-32 to address the unique challenges faced by that site, rather than delegate that policy function to a state, regional or local agency. It is therefore appropriate for the Legislature to revise and update the Trust policy for the Piers in light of current changed circumstances.

Importantly, the bill would not otherwise affect the public review and approval process by any public agency, including BCDC. The project remains subject to analysis pursuant to the California Environmental Quality Act ("CEQA") and to the approval by the Port Commission, the Board of Supervisors, BCDC, and various state resource agencies.

The City, its Port - and the Office of Assemblymember Ting have been consulting with the staffs of both the SLC and BCDC, as well as the Assembly Natural Resources Committee and the California Attorney General's Office, in the drafting of the bill. The guidance and input received through those consultations has been extremely helpful and has resulted in amendments to the bill text. We will continue working with both agencies to make further refinements to the bill as it moves forward.

Regarding the scheduled BCDC Commission hearing and possible action on May 16th, 2013, we respectfully request that the BCDC Commission remain neutral on AB 1273, recognizing the Legislature's status as the ultimate trustee of Public Trust lands, and direct staff to continue to engage in discussions with City and Port staff regarding potential amendments to AB 1273 that would further BCDC policy interests.

We hope this memorandum provides a helpful overview of the project and the bill, and corrects misunderstandings that have been stated by some project opponents as to what the bill does and does not do.

## **Background**

### 1. The Piers 30-32 Site

The project site ("Site") is a 13-acre pier structure just south of the Bay Bridge. The Site was originally built in the early 1900s as two separate piers, which were joined together in the 1950s. But the pier sheds were lost in a fire in the 1980s, and all that remains today is the substructure and decking. The Site is currently only safe to be used for surface parking for cars and light trucks and the occasional lay berthing of cruise, United States Navy and other vessels.

Piers 30-32 have a limited remaining useful life and would require a substantial capital investment to repair the substructure, bring the piers up to modern seismic standards and preserve the piers. The Golden State Warriors' recent site investigations suggest the cost to rehabilitate the piers for any use would likely exceed \$100 million. Port staff

believes that this cost would render open space and most types of mixed use development at the Site financially infeasible. An independent appraisal of the Site and Seawall Lot 330 indicates that the market value of the two sites combined is substantially lower than the estimated substructure repair costs for the Site.

In the absence of development, Port engineers currently estimate that the piers have about 10 years of remaining life. Significant portions of the piers are already restricted in terms of heavy truck access. As structural conditions deteriorate, it is likely that the piers will be closed, requiring the Port to fence off the Site to protect the public. The City and its Port are concerned about the notion of fencing off the 13 acre Site and the attractive nuisance the Site could become under such circumstances. Port engineers have estimated that the cost to remove Piers 30-32 at \$45 million, based on recent projects such as Pier 36 removal. Since it is not an activity that generates revenues, pier removal is among the most difficult funding challenges the Port faces.

The current surface parking use is not a desirable use on the waterfront, particularly given its location adjacent to the Brannan Street Wharf and the Brannan Street Open Water Basin designated under BCDC's Special Area Plan for the San Francisco Waterfront ("SAP"). The Port's Waterfront Land Use Plan identifies Piers 30-32 as a major, mixed-use development opportunity site. The City and its Port believe that mixed use development of the Site that preserves the piers in furtherance of the Public Trust is the best way to promote the public's enjoyment of the waterfront at this location. However, the Port has undertaken numerous unsuccessful attempts to develop the Site in accordance with the Waterfront Plan's objectives, including the Bryant Street Pier Project (discussed below) and the recent effort related to the 34<sup>th</sup> America's Cup. In each of those two instances the private project sponsor abandoned its plans due to much higher than expected costs to repair the Piers 30-32 substructure.

The proposed multi-purpose venue represents the best opportunity since the adoption of the Waterfront Land Use Plan to solve the high substructure costs to save the piers. When it was adopted, the Waterfront Land Use Plan contemplated the potential for developing an arena in the South Beach/Rincon Point Subarea of Port property at the current location of AT&T Park, which is only within a few blocks of the Site. The Site provides a beautiful, vibrant and easily accessible place for the public from all over the Bay Area and beyond the Bay Area to enjoy and is easily accessible by multiple modes of public transportation including BART, MUNI, CalTrain, and ferry service.

## 2. The Bryant Street Pier Project and AB 1389

After the Port's adoption of the Waterfront Land Use Plan, the Port and BCDC undertook a joint planning process that culminated in the approval of the SAP by BCDC in 2000, along with Port Commission approval of conforming amendments to the Waterfront Land Use Plan.

Contemporaneously, the Port and BCDC contemplated the development of a modern, two-berth, mixed use cruise terminal at Piers 30-32. The Port negotiated a lease with San Francisco Cruise Terminal, LLC ("SFCT"), an affiliate of Lend Lease, for the

development of the resulting Bryant Street Pier Project. The Bryant Street Pier Project consisted of the proposed 2-berth 100,000 square foot James R. Herman Cruise Ship Terminal on Piers 30-32, 325,000 square feet of office space and 200,000 square feet of retail shops, 300,000 square feet of open space, a two acre Brannan Street Wharf adjacent to the Site, and removal of approximately 175,000 square feet of dilapidated piers.

The project also included a 136 unit condominium project with 16 below-market rate units on ½ acre portion of Seawall Lot 330, a parcel of Port-owned land directly across the Embarcadero from Piers 30-32 and subject to the Public Trust.

The substantial private office and non-trust retail components of the Bryant Street Pier Project were not, by themselves, uses consistent with the Public Trust, but they were necessary to finance the overall project, which included repair of the piers, public open space and a new cruise terminal, all of which furthered the Public Trust.

In light of the unique circumstances at Piers 30-32, and the Public Trust policy issues raised by the proposed project, the Port, in consultation with SLC staff and the California Attorney General's Office, determined that action by the California Legislature as the ultimate trustee of the Public Trust was appropriate and pursued legislation in 2001 with input from SLC staff and the Attorney General's Office.

The resulting legislation, AB 1389 (Statutes 2001, Chapter 489), attached as Exhibit A, included the following major provisions:

- Findings affirming the BCDC SAP.
- Findings that the Piers 30-32 substructure is “physically no longer capable of serving most trust-related purposes without substantial modification and repair,” that the Port must conserve its funds to support uses for which private investment is not economical, and that the inclusion of general office provides a needed incentive for private investment in the piers.
- A finding that the Legislature, in authorizing the project, was acting “in the exercise of its retained power as trustee of the public trust, and in view of the unique circumstances existing at Pier 30-32.”
- Authorization for the Port to develop a cruise ship terminal, other maritime facilities, and general retail and general office space at Piers 30-32 subject to the following conditions:
  - The development includes a modern two-berth cruise ship terminal and a public access component that meets the requirements of the SAP and the San Francisco Bay Plan as interpreted by BCDC and that also offers expanded Bay views and public access.

- Prior to submitting a major permit application to BCDC for the cruise ship terminal development, the Port, after review by or on behalf of BCDC, approves the final design concept for the Brannan Street Wharf.
  - Prior to the issuance of a BCDC permit for the cruise ship development project, the Port must demonstrate to the satisfaction of BCDC, and the State Attorney General's Office, that it has encumbered all funds necessary for completion of the Brannan Street Wharf and has placed the funds in a segregated account. The Port and BCDC are required to enter into an agreement that provides for the Port to fund, design, and construct the Brannan Street Wharf consistent with a specified timetable.
  - The amount of office space in the development does not exceed 300,000 leasable square feet - all of which must be above ground level - and designed to include public spaces and public access. (The legislation also permits an additional 25,000 square feet of general office space, under specified circumstances.)
  - The development includes a marketing program to maximize office space occupied by trust-related tenants over the life of the development.
  - The amount of retail uses is at least 40% of the amount of office, and at least half is "trust" retail.
- Authorization for BCDC to approve the project "notwithstanding the Special Area Plan and the Bay Plan requirement for findings of consistency with the public trust doctrine and the Burton Act," and otherwise retaining BCDC's jurisdiction to approve or deny the project.
  - Findings that a portion of Main Street within Seawall Lot 330 was no longer useful for Public Trust purposes, and authorization for the Port to sell the street in connection with an exchange lifting the trust from Seawall Lot 330.

As is the case with all Public Trust-related legislation sought by the City and its Port, City and Port staff closely negotiated the provisions of AB 1389 and AB 605<sup>2</sup> with the staffs of SLC, BCDC and the California Attorney General's Office.

In 2003, the Port Commission and the Board of Supervisors ultimately approved the Bryant Street Pier project. In 2005, BCDC approved a major permit for the project.

In 2004, following an exchange that lifted the Public Trust from a portion of Seawall Lot 330, SFCT commenced construction on a portion of Seawall Lot 330 to develop the Watermark condominium project. And the Brannan Street Wharf project, which the Port

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<sup>2</sup> AB 605 (Assemblymember Leland Yee, 2003) was clean up legislation amending AB 1389. The legislation deleted "indoor public assembly" from the the definition of "non-trust retail."

funded in part from the proceeds of the sale of the Watermark site at a cost far in excess of that contemplated in 2000, is now nearly completed. The Brannan Street Wharf project, undertaken entirely by the Port and not SFCT as planned, also included a significant repair of the adjacent sea wall.

But SFCT ultimately abandoned the lease for Piers 30-32 when it discovered higher than projected substructure costs to improve the Site. The Port marketed the project, but could not find another developer to take it over.

The City contemplated the Site as a major venue for development in connection with the 34<sup>th</sup> America's Cup. Site investigation uncovered significant substructure repair costs at the piers. After the America's Cup Event Authority and the City decided not to pursue a major development component as part of the America's Cup and to instead pursue less costly fixes to the pier to allow temporary use, the Warriors asked the City if they could evaluate Piers 30-32 as a potential home for the team in San Francisco, with full knowledge of the cost of substructure repairs needed to make the piers safe and sustainable for years to come.

#### 4. The Proposed Multi-Purpose Event Venue Project

The proposal to bring the Warriors back to San Francisco was announced on May 22, 2012. On August 9, 2012, the Port Commission authorized City and Port staff to enter into an Exclusive Negotiation Agreement for Piers 30-32 and Seawall Lot 330 with GSW Arena LLC ("GSW"), an affiliate of the entity that owns the Warriors, to build a new privately financed state-of-the-art multi-purpose facility capable of being used as an event venue and for other public assembly uses, including conventions, Warriors' home games and other purposes, together with related public infrastructure, public access improvements and other improvements (the "Project").

Immediately following the May 2012 announcement, City and Port staff initiated outreach to representatives of SLC, BCDC and the California Attorney General's Office to present the proposed Project, initiate a discussion regarding the Project's Public Trust attributes, and seek guidance regarding Project design. The input received from SLC and BCDC has resulted in significant changes in the use program and design of the Project to increase the Project's Public Trust benefits. The elements of the Project and how they contribute to those benefits are discussed in more detail below.

#### 5. Consideration of the Public Trust at Piers 30-32

Any use or development of Piers 30-32 must address the Public Trust because the Site is over tide and submerged lands ("tidelands"). Tidelands are sovereign in character and are held in trust for the people of the State for purposes of commerce, navigation and fisheries. As such, the common law places certain limits on how such lands can be used.

Traditionally, these uses were understood as those related to navigation, commerce and fisheries, such as fishing, swimming, bathing, recreation, boating, shipping, and

maritime-related uses. However, “[t]he public uses to which tidelands are subject are sufficiently flexible to encompass changing public needs.” (Marks v. Whitney (1971) 6 Cal.3d 251, 259.) This includes a variety of uses ranging from preservation of land in its natural state (*id.*) to convention centers (Haggerty v. City of Oakland (1958) 161 Cal.App.2d 407, 413), to restaurants, hotels, and visitor-serving retail uses that promote public enjoyment of the waterfront (Martin v. Smith (1960) 184 Cal.App.2d 571).

Despite a century and a half of case law, there is no published case in California holding that a particular use of Public Trust land is prohibited. However, it is commonly understood that certain uses – especially residential – are directly contrary to the principles underlying the Trust and are prohibited. (See *City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 538 (Clark, J., dissenting) (“under the trust tidelands may be filled and used for commercial and recreational purposes but not residential purposes”).)

The general standard for determining a prohibited use under the case law is whether the use would impair or interfere with Trust purposes. (See *San Pedro, Los Angeles and Salt Lake Railroad Company v. Hamilton* (1911) 161 Cal. 610, 620 (trustee could lease portions of tidelands “for any lawful purpose not injurious to the harbor or an inconvenience to commerce”); *Boone v. Kingsbury* (1929) 206 Cal. 148, 183 (oil and gas extraction leases permitted because they would not “substantially impair the paramount public interest” in the trust lands).)

Although the case law is sparse, formal and informal opinions of the Attorney General and the SLC over the years provide a framework for understanding the aspects of a use that would tend to promote or to interfere with Trust purposes. This framework is still evolving to address the changing needs of urban waterfronts (such as San Francisco’s) that have moved from their roots as centers for maritime commerce. But it has been the Port’s practice to work with the California Attorney General’s Office, SLC, and BCDC early in the review process for major projects to identify, on a case-by-case basis, any use and design elements of the project that can be modified to better promote the purposes of the Public Trust.

The Port undertook that early consultation process in connection with the proposed venue Project. City and Port staff, along with Deputy City Attorneys and special outside Public Trust counsel have been meeting with the staffs of SLC, BCDC and the Attorney General’s office to identify Public Trust issues and how the project can be modified to better address those issues. The Port’s analysis of how the Project, as recently modified, furthers Public Trust purposes is below:

#### A. Site Challenges

The Project should be viewed in the context of the Site and its history, including its current use as a surface parking lot, the prior development efforts that have been undertaken and failed at the Site, and the likely outcome if the Project does not proceed, which is the continued deterioration and eventual obsolescence of Piers 30-32. In its current condition, the Site is unable to support Public Trust purposes, and its

further deterioration would create a liability for the Port and the Public Trust and interfere with the public's enjoyment of the waterfront in this location. Absent private infrastructure investment, these piers would crumble into the Bay.

## B. Maritime Uses

The Port's finger piers were originally constructed for maritime use. When the Port examines potential development at these piers, it always looks first to maritime use of the available berths. Piers 30-32 have an advantage for maritime use, in that it has a naturally deep-water berth at its eastern edge that can accommodate deep-draft vessels such as cruise ships without the need for dredging.

### *i. Fireboat Station*

The proposed Project includes a new fireboat station for the San Francisco Fire Department. The City's fireboats have operated on San Francisco Bay for over one hundred years, providing the Fire Department with the ability to respond to fires along the shoreline and emergency situations on San Francisco Bay. The City's fireboats are equipped to pump Bay water into the City's Auxiliary Water Supply System, which provides redundancy to the City's capability to deliver high-pressure water to fight fires. The Fire Department provides mutual aid to other jurisdictions on the Bay that lack on-water emergency response capability as well as support to the U.S. Coast Guard.

The San Francisco Fire Department is in the process of acquiring a third, 88-foot Type 2 Fireboat with quicker response time, increased pumping capacity and expanded capabilities to respond to a variety of on-water emergency situations, including oil spill response. Simultaneously, the Fire Department is in the process of designing a new fire station that can berth three vessels and meet modern operating standards. The Fire Department requires a station located in close proximity to the Bay Bridge in order to provide appropriate on-water and land response times.

Co-locating the fireboat station at the Site will have the added benefits of siting emergency response personnel immediately adjacent to the multi-purpose venue and its associated visitors, providing a 24-hour a day public presence on the piers, accelerating completion of the new station and reducing the cost that otherwise will be required to build a pier sufficiently large to berth three vessels.

Co-location will also have the benefit of avoiding the new Bay fill that would be required to build a new pier or expand the existing station at Pier 22 ½ to meet the Fire Department's requirements. In response to input from BCDC staff, the design team has made significant revisions to its initial designs for the fire boat station to minimize or eliminate the need for new fill while at the same time allowing for public access and minimizing the impacts of the facility on Bay views. The innovative new design incorporates the station directly into the podium structure for the venue, avoiding a separate structure and keeping the pier perimeter open to the public with unobstructed views of the water.

## *ii. Tertiary Cruise and Deep Draft Vessel Berthing*

The proposed Project includes a deep draft berth on the east end of Piers 30-32 for cruise vessel and other temporary berthing. The Port has utilized the east berth of Piers 30-32 for tertiary cruise berthing when other Port cruise berths (Pier 35 and Pier 27) are booked or not available for use. The Port also has used the berth to host United States Navy vessels, most notably in connection with Fleet Week and the Annual Leadership Seminar, which engages high ranking military officers and first responders from Federal, State and Bay Area agencies. The east face of the pier is one of the Port's few naturally deep berths; due to fast currents in this area of the waterfront, the berth is self-scouring and does not require dredging.

Cruise use at this location is temporary in nature. The berth is equipped with yokohama fenders to allow vessels to berth at the Site, but there is little other permanent equipment at the Site. Maritime and cruise staff deliver tents to the Site for processing passengers disembarking vessels, including U.S. Customs and Border Patrol operations. The Site is used for *port-of-call* cruise berthing, when vessels stop in San Francisco to allow passengers to visit the City, as opposed to full-service *turn-arounds* when passengers disembark and embark with their luggage.

The City and its Port envision the continued use of the east berth when the City enjoys triple or quadruple-headers (days when three or four cruise ships are berthed), or when two vessels call on San Francisco simultaneously that are too large to use Pier 35, in which case, the vessels would berth first at the Port's primary berth at Pier 27 and then at Piers 30-32. In 2012, the Port enjoyed three triple-headers. In 2013, there are no triple-headers scheduled, because both Pier 27 and Piers 30-32 are either under construction or in use for the 34<sup>th</sup> America's Cup, and the Port is only operating Pier 35 as a cruise facility.

Piers 30-32 are also used for Fleet Week. In 2012, the USS Makin Island, an amphibious assault carrier with a 28' draft, berthed at Piers 30-32 and was available for public tours. As in 2011, the USS Makin Island hosted a multi-day Senior Leadership Seminar focused on humanitarian assistance and disaster response preparedness. The Seminar was attended by numerous flag officers of the U.S. Navy, U.S. Marine Corps, U.S. Army and U.S. Coast Guard. It was also attended by senior officials of numerous Federal, State and local agencies such as FEMA, U.S. Army Corps of Engineers, Regional Water Quality Control Board, and fire, sheriff and police departments. Fleet Week operations require a high level of security; City staff and GSW are still conducting due diligence to determine the compatibility of the multi-purpose venue and Fleet Week.

After consulting with Port Maritime staff and the Port's Maritime Commerce Advisory Committee, GSW recently agreed to redesign the multi-purpose venue at Piers 30-32 to accommodate tertiary cruise berthing by moving the facility back 50' from the east edge of the pier.

## *iii. Water-Oriented Transportation*

GSW, the City and its Port are examining two forms of water-oriented transportation to and from the Site: water taxis and ferries.

On September 11, 2012, the Port Commission authorized the Executive Director to enter into two Landing Rights License Agreements with San Francisco Water Taxi and Tidelands Marine Group, Inc., respectively. San Francisco Water Taxi operates a hop-on, hop-off service along the San Francisco waterfront and Tidelands Marine Group operates an on-call service between San Francisco and other points along San Francisco Bay. The Landing Rights License Agreements provide access to landing facilities at South Beach Harbor, Pier 1½ and Hyde Street Harbor. The proposed Project at Piers 30-32 would incorporate landing facilities for water taxi service.

GSW, the City and its Port are also examining ferry-excursion access to the Site. Landing facilities would likely be incorporated along the north berth of Pier 30. The feasibility of this use is dependent on further discussions with ferry operators, including San Francisco Bay Water Emergency Transit Authority (“WETA”) and Golden Gate Ferry. Both operators currently utilize the Ferry Building for regular ferry service; Golden Gate Ferry also provides ballpark service to AT&T Park, which has seasonal ferry access. Locating ferry service at Piers 30-32 will require further market demand analysis; examining whether ferry patrons can walk from the Ferry Building; and analysis of the cost of installing and maintaining ferry floats at Piers 30-32 and the impact of these floats on pier perimeter public access.

### C. Public Assembly

The core non-maritime element of the Project – an approximately 17,000-seat multi-purpose event venue – would provide a year-round destination and gathering place for visitors at a key location on the waterfront well served by public transportation that is presently a surface parking lot and does not provide meaningful public access. The venue would host approximately 200 public assembly events annually including the 43+ home basketball games of its anchor tenant (the Warriors), music concerts, family performances, and trade shows.

The iconic, Bay-oriented architecture of the venue would help define the San Francisco waterfront and attract the public to the Site. Public access elements would be incorporated directly into the structure itself, including a public ramp encircling the venue and a viewing area and restaurant near the top of the structure, which would provide unique views both into the venue from the outside and of the Bay and the Bay Bridge from inside the venue, and a new way for the public to experience the Bay.

Public assembly venues over water have a history in California. One of the most well known is AT&T Park in San Francisco. The ballpark, which SLC determined to be consistent with the Public Trust, shares many of the features of the proposed venue that were considered important to the Trust analysis: a major waterfront attraction with free, continuous public access around the perimeter of the Site, and accessible by several transportation modes, including water-transportation. The main difference between the

two structures from a Public Trust perspective is that the ballpark events are outdoor, while events at the Piers 30-32 venue would be indoor. The ability of some patrons to enjoy views of the Bay during ballgames was one of the factors that SLC considered in its findings.

In response to input from SLC and BCDC staff, the Warriors have revised the venue design to remove 750 seats and add a glass curtain to allow patrons to view the Bay Bridge from their seats during games. Non-ticketed visitors would be able to see into the arena during games, similar to the “knot hole” fences at AT&T Park. Thus, though the indoor experience would differ from the outdoor experience at the ballpark, the sense of being on the water and oriented toward the Bay would be similar.

In addition, there are several examples of indoor public assembly uses on tide and submerged lands in other parts of California. Contemporary examples include the convention centers in San Diego and Long Beach, and the Long Beach Arena, which hosts sporting events, concerts, and trade shows. The Port is confident that the Piers 30-32 Project will be far more successful than these projects at integrating with its waterfront location and creating public access to the water. The venue would share more similarities with historic indoor public assembly venues that defined some of the great seaside communities in the last century, such as the La Monica Ballroom in Santa Monica, and the Long Beach Municipal Auditorium. There are no formal Attorney General or SLC determinations or court decisions of which we are aware regarding the Public Trust consistency of any of these structures, but they serve as illustrative examples of what has worked (and what has not worked) in terms of waterfront public assembly uses in California.

The City and its Port have also examined examples of indoor public assembly located at waterfront locations throughout the world. Iconic examples include the Sydney Opera House, the Oslo Opera House, and the Boston Museum of Contemporary Art, all of which demonstrate that inspired architectural treatment can attract people to urban waterfronts. Attracting people to the waterfront and to enjoy San Francisco Bay is a core component of the Port’s Public Trust mission, and the Port believes this Project will achieve that objective, just as the ballpark project did.

Exhibit B includes examples of public assembly uses that are (or have been) located on trust property in California and on urban waterfronts around the world.

#### D. Public Access and Open Space

The proposed Project includes more than 50% public open space, including perimeter public access on Piers 30-32.

The BCDC SAP sets forth specific policies for public access on large piers, including at least 35% public access on piers such as Piers 30-32 and the following specific provisions:

Large Piers (Piers 30-32, and Piers 27-29 if redeveloped as a Large Pier)<sup>3</sup>:

- i) large Piers should have a higher proportion of their area devoted to public access and open space than Finger Piers;
- ii) public access provided should consist of:
  - perimeter access
  - significant park(s)/plaza(s) on the pier perimeter
  - additional areas, e.g., small parks or plazas integrated into the perimeter access
  - significant view corridors to the Bay from points on the pier which by their location have more of a relationship to the water than to the project
  - the Bayside History Walk (on Pier 29)
- iii) public open spaces within the interior of large piers that do not provide physical or visual proximity to the Bay should not be included in the determination of maximum feasible public access to be provided on the pier.

The Port has been working with BCDC since 2000 to plan and fund a network of major public plazas along the Northeastern Waterfront at periodic, 5-7 minute walking intervals, including the Brannan Street Wharf. The Brannan Street Wharf is a \$25 million public plaza required by the SAP, due to open for public use in July 2013. The site was planned as a major public benefit in association with mixed use development of Piers 30-32 provided for in both the Waterfront Land Use Plan and the SAP.

In the view of the City and its Port, the public investment in the Brannan Street Wharf will be enhanced by development at Piers 30-32 that provides for public access and open space on the piers that is compatible with the Wharf and replaces the current surface parking use of Piers 30-32. The conceptual design for the Piers 30-32 open space includes perimeter public access around Piers 30-32, with a width of approximately 25' in most places. Also, by providing a destination, Piers 30-32 will draw more visitors to the waterfront to use the Brannan Street Wharf, encouraging more public interaction with the waterfront and furthering the Public Trust purpose of that project.

The proposed Project includes a wide public stairway and network of ramps that rise to a public plaza fronting the multi-purpose venue at a level of 35' feet and rising to an upper plaza at 55' at the north side of Pier 30. This elevated public access encloses the multi-purpose venue operations, the proposed practice courts, service, loading and mechanical space and a community room, and parking to serve the facility. In response to concerns raised by BCDC about the amount of on-site parking, the number of spaces has been reduced from 630 to approximately 500.

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<sup>3</sup> This is an excerpt from SAP Geographic Specific Policies related to Public Access.

The multi-purpose venue itself includes a proposed public access ramp as part of the structure that rises from pier level to a public access facility near the top of the facility to provide unique views of the Bay from multiple vantage points as well as views into the facility. The current proposal includes a restaurant at the top of the ramp that will provide a destination that will attract visitors and allow them to relax and enjoy stunning views of the Bay from a vantage point that is not available today.

The nature and design of the planned public access and plaza areas will be varied, incorporating different forms of landscaping and hardscape, including natural stormwater management features to treat stormwater runoff before it enters the Bay. The Port and BCDC design review process will examine the proposed design of the public access and plaza areas in detail, including programming for these public areas to facilitate use by the public. Opportunities exist for outdoor performance areas involving the outdoor stairs facing south onto the Brannan Street Open Water Basin.

Both the design of the public access and public plaza areas and the associated programming of these areas will determine the consistency of the Project with SAP policies through the BCDC Major Permit process. The City and its Port believe that the most recent design of the open space plan, which increases the total pier area devoted to open space from 50% to 53%, will be one of the most exciting and attractive public spaces on the waterfront, and is a major Public Trust benefit of the Project.

#### E. Other Trust Uses

The Project will include other Public Trust uses, including a retail component (both within the multi-purpose venue and along the Embarcadero) of primarily restaurants and other visitor-serving uses, relocation of the historic Red's Java House within the Site, and installation of stormwater management features to treat stormwater consistent with the Port's Stormwater Management Design Guidelines and the requirements of the San Francisco Bay Regional Water Quality Control Board.

Currently, stormwater falling on Piers 30-32 runs untreated directly to San Francisco Bay. Improvements that will provide treatment for 13 acres of hardscape will improve the health of San Francisco Bay.

AB 1389 authorized unlimited retail development on the Site, provided at least half was Trust retail. The Bryant Street Pier project included approximately 200,000 sf of retail, of which about half was non-Trust. The proposed Project includes only 90,000 of retail (reduced from 105,000), most of which will be restaurants or other trust-consistent (visitor-serving) retail, along with some retail supporting the venue. The retail component of the Project will help activate and draw visitors to the site year-round, including days when the multi-purpose venue is not hosting events.

#### F. Overall Trust Benefits of the Project.

In light of the above, the proposed Project, as it has been modified in response to the valuable input from BCDC and SLC staffs, would greatly further the purposes of the Public Trust. It would preserve Piers 30-32 despite substructure costs that have been prohibitive to all prior development proposals. It would create a new public assembly venue with inspired architecture and a sense of place on what today is a fenced off parking lot. It would create acres of new and engaging open space on and around the piers, affording vantage points of the Bay not available on the waterfront today. It would provide a needed location for a new fireboat station of regional importance without the need to create any new Bay fill. It will provide another connection for water-based transit and preserve the piers' valuable, natural deep water berth. And it will improve water quality. The combination of these elements results in a project that is far more oriented toward the public than the Bryant Street Pier Project, and more successful in promoting the objectives of the Public Trust.

#### 6. AB 1273 – Piers 30-32 Revitalization Act

The unique challenges involved with Piers 30-32 and the adjacent Seawall Lot 330 have caused the Legislature to set Public Trust policy with respect to those sites. Though we believe the proposed Project is even better from a Public Trust perspective than the Bryant Street Pier Project authorized by AB 1389 (and the Port has achieved a major objective of that project by building a new cruise terminal at another location), it is not consistent with the requirements in Section 5 of that statute as currently written, which contemplate a cruise terminal facility and major private office and retail uses. Because the Legislature has already specifically exercised its reserved authority as trustee with respect to Piers 30-32 and Seawall Lot 330, and given the complexities faced by the Port regarding development of the Site, asking the Legislature to set Trust policy in light of the current proposal is appropriate. This view is echoed by Jennifer Lucchesi, Executive Officer of SLC, in an April 26 letter to Assemblymember Ting.

The Piers 30-32 Revitalization Act (AB 1273) (attached as Exhibit C) would amend AB 1389 to reflect the changed circumstances that have occurred since the legislation was originally enacted in 2001, including the abandonment of the prior cruise terminal proposal and other proposals to develop the Site, the construction of a new primary cruise terminal at Pier 27, recent (2011) legislation pertaining to the adjacent Seawall Lot 330, and the proposed multi-purpose venue project.

AB 1273 would retain the basic structure of AB 1389, but would make the following key changes:

- Eliminates the authorization for 300,000 square feet of non-trust general office development.
- Authorizes the use of the Piers 30-32 Trust lands for a project that includes a multi-purpose venue, subject to CEQA compliance, and provided the Port finds that certain conditions are met, including the following:

- The project is designed to attract people to the waterfront, increase public enjoyment of the Bay, encourage public trust activities, and enhance public use of trust assets and resources on the waterfront.
- The project provides multiple significant views of the Bay Bridge and the Bay from a variety of elevations and vantage points, including views of the Bridge from certain seating areas inside the venue.
- The venue is located to minimize interference with public views of the Bay to the extent feasible.
- The venue provides free public access to all to exterior portions of the building (subject to reasonable security limitations), and public views into the venue from the outside.
- The project is designed to achieve and enhance maximum feasible public access to, and minimum fill in, the Bay consistent with the McAteer Petris Act, the Bay Plan, and the SAP.
- The project includes significant public plazas accessible by pedestrian promenades that encourage use and provide a variety of views.
- The project includes full perimeter access by the public year-round (with limited exceptions) and an interpretive program.
- A significant and appropriate maritime program consistent with the SAP, which shall include at least the following:
  - A City fireboat station (or other maritime uses on the north berth)
  - Deep draft berthing on the east edge of the piers
  - Facilities for direct access to the water, or water-oriented recreational uses, on the south side
  - Water-transit docking (water taxi, ferry, or both)
- Any non-maritime office is capped at 70,000 sf and used only in connection with other on-site users.
- Parking is limited to 500 spaces, is out of view, and does not interfere with pedestrians or public access.
- Retail is either visitor-serving or venue-supporting.
- The site is made available at least 15 days (and the venue 3 days) per year to the Port for Trust-consistent events, including low-cost visitor-serving events.

- A public community room is available for free or low cost to the statewide public.
- The project is required to comply with a sea-level rise plan.
- Development approved on Seawall Lot 330 includes hotel or other visitor serving uses.
- Requires the Port to submit a report to SLC every 5 years describing the maritime program and the use of the venue and the site for trust events, and to develop an implementation plan if SLC determines certain requirements are not being met.
- Expressly provides that the act does not alter the Port's CEQA obligations.
- Sunsets if the project is not approved within 10 years of the act's effective date.
- Allows the Port to sell Seawall Lot 330 under AB 418 even if the 34<sup>th</sup> America's Cup race is not held in San Francisco, provided the sale proceeds are dedicated to the Piers 30-32 substructure, public access, or maritime improvements.
- Allows certain acts undertaken pursuant to the bill to be validated by a court.

The City and Port believe that the amendments to AB 1389 made by AB 1273 strengthen the requirements for Public Trust consistency. A primary cruise terminal would no longer be part of the Piers 30-32 development, but the Project would still preserve Piers 30-32 as a maritime facility, including a home for the City's fireboat operations and retention and use of the deep water east berth. The public nature of the Site would be significantly enhanced by replacing 300,000 square feet of private office space with a public assembly venue designed to attract the public to the waterfront. The legislation also provides requirements for the venue structure itself, ensuring that it will have Bay orientation, including views of the Bay from within the venue, and a strong public access component independent of ticketed events.

It has been suggested that it is somehow improper to seek a legislative determination as to whether a project meeting these criteria is a proper use of the Public Trust lands at Pier 30-32, and that the SLC or BCDC, not the Legislature, should be the ones to make the determination of whether the Project is Trust consistent. This reflects a fundamental misunderstanding of the role of the Legislature as trustee of the State's Public Trust lands, especially in light of past Legislative action affecting the Site.

The ultimate responsibility for determining how Public Trust lands should be used rests with the Legislature. "The administration of the trust by the state is committed to the Legislature." (City of Long Beach v. Mansell (1970) 3 Cal.3d 462, 482 n.17.)

“The power of the state to control, regulate and utilize its navigable waterways and the lands lying beneath them, when acting within the terms of the trust, is absolute . . . .

It is a political question, within the wisdom and power of the Legislature, acting within the scope of its duties as trustee, to determine whether public trust uses should be modified or extinguished.”

(Marks v. Whitney, 6 Cal.3d at 260-261.)

It is true that the Legislature has often delegated some degree of its authority as trustee to public entities such as SLC, BCDC, and local grantees such as the Port. In those cases, the Legislature often sets forth broad policy standards by which that authority is to be exercised.

In San Francisco, for example, the Legislature designated its trustee authority to the Port, subject to the terms and conditions of the Burton Act, which provides broad authority for the Port to approve and undertake uses on the Public Trust lands granted to it. In addition, the Legislature enacted the McAteer-Petris Act as an exercise of the Public Trust with respect to Public Trust lands within San Francisco Bay, establishing a Public Trust policy for those lands of minimizing fill and providing maximum feasible public access. This policy is implemented through BCDC’s permitting authority.

But the Legislature always reserves the power to exercise the Public Trust in particular instances as the circumstances may require. That is particularly true in cases like Piers 30-32, which involves complicated, unique circumstances that make it difficult to utilize the property for the benefit of the Public Trust without specific policy direction. The Legislature is the appropriate body to give that direction.

The Legislature has already given such direction for Piers 30-32, through AB 1389. AB 1273 would amend this direction to address current circumstances and the current Project. The proposed bill, like AB 1389, is focused only on the issue of the Public Trust, and like that statute, it expressly states that it does not affect any other aspect of BCDC’s jurisdiction.

In the BCDC staff report dated May 3<sup>rd</sup>, 2013, some statements were made regarding this aspect of the legislation that appears to reflect a misunderstanding of the bill and its effect. On page 2, the report states that the bill “waives all legislative or regulatory determinations of consistency of the public trust doctrine that otherwise would be required absent such legislation, including those required by BCDC and the State Lands Commission.” AB 1273 would not “waive” any legislative determination regarding the Public Trust, but would itself constitute such a legislative determination for projects meeting the requirements of the statute, which, as described above, is appropriate.

The Port is statutorily responsible under the Burton Act for ensuring trust consistency of projects on Port property. BCDC has also adopted Bay Plan and SAP policies calling for a Trust consistency finding as part of its permit approval process. AB 1273 would

deem these trust consistency requirements of the Port and BCDC satisfied if the Port finds a project on Piers 30-32 meets the requirements set forth in the bill. There are no regulatory determinations of Public Trust consistency that would be required by SLC for the Project at this Site absent the legislation, so the suggestion in the May 3<sup>rd</sup>, 2013 report that SLC approval authority would be affected by AB 1273 is incorrect.

The report's statement that "passage of AB 1273 would deem the major feature of the project – the basketball arena – consistent with the public trust" is also not accurate. The bill does not speak to the trust consistency of any particular element of the Project in isolation. Rather, it looks at the Project as a whole – including the open space and maritime uses that would be created as part of the Project, as well as the specific design of the venue and its relationship to this unique location – and the special context of Piers 30-32, which includes the current dilapidated condition of the piers, the extraordinary costs associated with their repair or removal, and the history of failed attempts to develop other uses at the Site. Section 4 of the bill specifically states that the bill sets no precedent for any other site or project:

The Legislature further finds and declares that the following unique circumstances exist at Pier 30-32 on the San Francisco waterfront, and that therefore, this act sets no precedent for any other location or project in the state, including on the San Francisco waterfront or in San Francisco Bay.

The bill sets Public Trust standards for the overall project at Piers 30-32, and does not set a precedent for this Site or any other site or with respect to any other use.

In addition, the bill expressly preserves BCDC major permit approval authority for the Project. The Port understands that as part of that process, it will need to demonstrate to BCDC that the Project complies with the requirements of the McAteer-Petris Act and is consistent with all applicable policies of the Bay Plan and the SAP (other than policies relating to the Public Trust-consistency determination in the bill). The Port believes that this demonstration can be made with the Project as redesigned and we look forward to continuing these discussions with your staff.

## **Conclusion**

AB 1273 is working its way through the Assembly, its house of origin. The bill will next be considered by the Assembly Appropriations Committee. The City and its Port expect a floor vote on the bill by May 31<sup>st</sup>, 2013. The legislation will then move to several policy committees in the Senate.

As the City and its Port, along with Assemblymember Ting, have consistently stated, the City remains open to further amendments to the bill to address policy considerations that the public, SLC and BCDC have raised. We invite BCDC to engage in a discussion regarding potential amendments before taking a position on the bill.

Regarding the scheduled BCDC Commission hearing and possible action on May 16<sup>th</sup>, 2013, we respectfully request that the BCDC Commission remain neutral on AB 1273,

recognizing the Legislature's status as ultimate trustee of Public Trust lands, and direct BCDC staff to engage in discussions with City and Port staff regarding potential amendments to AB 1273 that would further BCDC policy interests.

**Exhibits**

Exhibit A – AB 1389, as subsequently amended by AB 605

Exhibit B – Examples of Waterfront Public Assembly Uses

Exhibit C – Proposed Piers 30-32 Revitalization Act (AB 1273), as currently amended

cc: Assemblymember Phil Ting  
Lieutenant Governor Gavin Newsom, Chair, California State Lands Commission  
State Controller John Chiang, Member, California State Lands Commission  
Ana J. Matosantos, Director of Finance, Member, California State Lands  
Commission  
Jennifer Lucchesi, Executive Officer, California State Lands Commission

**EXHIBIT A**

**AB 1389**

**(AS SUBSEQUENTLY AMENDED BY AB 605)**

**EXHIBIT A**  
**Pier 30-32/Seawall 330 Trust Legislation**

AB 1389 (Stats 2001, Ch. 489)  
AB 605 (Stats. 2003, Ch. 68)

SEC. 1 For purposes of this chapter, the following terms have the following meanings:

(a) "BCDC" means the San Francisco Bay Conservation and Development Commission established pursuant to Section 66620 of the Government Code.

(b) "Bay jurisdiction" means the jurisdiction, powers, and duties of BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code within the area defined in subdivision (a) of Section 66610 of the Government Code.

(c) "Bay Plan" means the San Francisco Bay Plan as adopted and administered by BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, including all amendments thereto.

(d) "Boundary of the Port of San Francisco" means that line defining the boundary of "Parcel A" in the description of the lands transferred in trust to the City and County of San Francisco pursuant to Chapter 1333 of the Statutes of 1968, recorded on May 14, 1976, in Book C169, pages 573 to 664, inclusive, in the City and County of San Francisco Recorder's Office.

(e) "Brannan Street Wharf" means a major San Francisco waterfront park in the area of Piers 34 and 36, as identified in the Special Area Plan.

(f) "Burton Act" means Chapter 1333 of the Statutes of 1968, as amended.

(g) "Burton Act trust" means the statutory trust imposed by the Burton Act (Chapter 1333 of the Statutes of 1968, as amended), pursuant to which the state conveyed to the City and County of San Francisco, in trust, by transfer agreement, and subject to certain terms, conditions, and reservations, the state's interest in certain tide and submerged lands.

(h) "City" means the City and County of San Francisco.

(i) "McAteer-Petris Act" means Title 7.2 (commencing with Section 66000) of the Government Code.

(j) "Public trust" or "trust" means the public trust for commerce, navigation, and fisheries.

(k) "Port" means the City and County of San Francisco acting by and through the San Francisco Port Commission.

(l) "San Francisco Bay" means those areas defined in Section 66610 of the Government Code.

(m) "San Francisco waterfront" means those portions of the area transferred to the port pursuant to the Burton Act that also lie within the area defined in subdivisions (a) and (b) of Section 66610 of the Government Code.

(n) "Seawall Lot 330" means that parcel of property located in San Francisco identified on that certain map entitled SUR 790, and shown on Page 318 of the City and County of San Francisco 100 Scale Ownership Maps, which is on file with the city's Bureau of Street Use and Mapping.

(o) "Shoreline band jurisdiction" means the jurisdiction, powers, and duties of BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code to regulate uses within the area defined in subdivision (b) of Section 66610 of the Government Code to ensure, in part, maximum feasible public access, as prescribed in Section 66632.4 of the Government Code.

(p) "Special Area Plan" means the San Francisco Waterfront Special Area Plan, dated July 20, 2000, adopted by BCDC, as amended from time to time.

(q) "Street" means those lands located within the South Beach/China Basin Planning area of the San Francisco waterfront at Seawall Lot 330, and also lying within Parcel A of those lands transferred to the City and County of San Francisco pursuant to the Burton Act, as recorded May 14, 1969, in Book C 169 at Pages 573 to 664, inclusive, in the San Francisco Recorder's office, as more particularly described as that portion of Main Street, located between Bryant Street and the Embarcadero, vacated per Ordinance 14-93 on January 11, 1993, on file with the San Francisco Bureau of Street Use and Mapping, in Book 10, Page 94. All streets and street lines described in the preceding sentence are in accordance with that certain map entitled SUR 790, and shown on Page 318 of the City and County of San Francisco 100 Scale Ownership Maps, on file with the City's Bureau of Street Use and Mapping.

(r) "Waterfront Land Use Plan" means the Waterfront Land Use Plan, including the Waterfront Design and Access Element, adopted by the port pursuant to Resolution No. 97-50, as amended from time to time.

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

(a) In 1965, the Legislature adopted the McAteer-Petris Act to protect and enhance the San Francisco Bay and its natural resources. The McAteer-Petris Act grants BCDC regulatory authority over further filling in San Francisco Bay through exercise of its bay jurisdiction, and limits that activity to (1) water-oriented uses that meet specified criteria; (2) minor fill that improves shoreline appearance or public access; and (3) activities necessary for the health, safety and welfare of the public in the entire bay area. The McAteer-Petris Act also authorizes BCDC to require the provision of maximum feasible

access to the bay consistent with the project over a 100-foot shoreline band through the exercise of its shoreline band jurisdiction.

(b) In 1969, pursuant to the Burton Act, the state conveyed by transfer agreement certain state tide and submerged lands to the Port. The lands are held by the Port in trust for purposes of commerce, navigation, and fisheries, and are subject to the terms and conditions specified in the Burton Act and the public trust. During the three decades since passage of the Burton Act, issues have arisen concerning the application of the McAteer-Petris Act to the piers along the San Francisco waterfront. To address those issues, BCDC and the Port undertook two intensive and careful planning processes, which lasted over nine years.

(c) The first process culminated in 1997 with the adoption by the Port of the Waterfront Land Use Plan and with the adoption by the Board of Supervisors of the City and County of San Francisco and the Planning Commission of the City and County of conforming amendments to the City's General Plan and Planning Code.

(d) In July 2000, after the second five-year cooperative process involving the Port, BCDC, the Save San Francisco Bay Association, and numerous interested community groups and individuals, was completed, the Port adopted further amendments to the Waterfront Land Use Plan. BCDC also adopted amendments to the Special Area Plan which is incorporated into, and made a part of, the San Francisco Bay Plan, to create consistent plans for the area of the San Francisco waterfront between Pier 35 and China Basin. At the present time, the Waterfront Land Use Plan addresses specific McAteer-Petris Act issues relating to public access and the preservation and enhancement of open water as a bay resource in this area. The plan also defines public access opportunities on each pier in this area and calls for the removal of certain additional piers to enhance water views and create additional bay surface area.

(e) A major objective of the joint effort described in subdivisions (b), (c), and (d) is to establish a new criterion in the San Francisco Bay Plan that would permit fill on the San Francisco waterfront in an area where a Special Area Plan has been adopted by BCDC for uses that are consistent with the public trust and the Burton Act trust. The Special Area Plan for the area between Pier 35 and China Basin should provide for all of following:

(1) The nature and extent of maximum feasible public access for the piers including perimeter access, a history walk on most piers, and other significant access features on piers where appropriate.

(2) Two major public plazas, the Brannan Street Wharf adjacent to Pier 30-32 and another in the vicinity of Pier 27.

(3) A public planning process to lead to the creation of a third major public plaza in the Fisherman's Wharf area.

(4) The removal of certain piers to uncover additional bay surface.

(5) The creation and funding of a special fund within the Port to finance the removal of the selected piers and the construction and maintenance of those public plazas.

(6) A historic preservation mechanism to ensure preservation of important historic resources on the piers.

(7) The ability of the Port to repair, improve, or use the piers not designated for removal between Pier 35 and China Basin for any purpose consistent with the Burton Act, the public trust and the Special Area Plan.

(f) The San Francisco waterfront, which has been the subject of this planning process, provides benefits to the entire bay area, and serves as a unique destination for the region's public. These regionwide benefits include enjoyment of a unique, publicly owned waterfront that provides special maritime, navigational, recreational, cultural, and historical benefits that serve the bay area. Accordingly, the adoption by BCDC, and the ratification by the Legislature, of the Special Area Plan, as amended, is necessary to protect the health, safety, and welfare of the public in the entire bay area for purposes of subdivision (f) of Section 66632 of the Government Code.

SEC. 3. The Legislature also hereby finds and declares all of the following with respect to Seawall Lot 330 and the street:

(a) The lands comprising the street are tide and submerged lands that have been filled and reclaimed, and were reserved to the state solely for street purposes.

(b) The filled and reclaimed tide and submerged lands constituting the street have been filled and reclaimed for, and in connection with, a highly beneficial plan of improvement for harbor development.

(c) The street is not used, suitable, or necessary for navigation purposes and is not necessary, or used for street purposes.

(d) The street or any interests in the street that are to be sold by the city, and over which the Burton Act trust and the public trust will be terminated, constitute a relatively small portion of the granted tide and submerged lands.

(e) Section 3 of Article X of the California Constitution permits the sale to any city, county, city and county, municipal corporation, private person, partnership, or corporation of tidelands reserved to the state solely for street purposes, which tidelands the Legislature finds and declares are not used and not necessary for navigation purposes, subject to such conditions as the Legislature may impose to protect the public interest.

(f) The existence of the street limits the potential development of Seawall Lot 330. The proposed sale will be consistent with Section 3 of Article X of the California Constitution, if all of the following conditions are met:

(1) The consideration for the sale of the street, pursuant to Section 3 of Article X of the California Constitution, shall be the fair market value of those lands or interests in the lands.

(2) The street to be sold by the city and over which the public trust or the Burton Act trust, or both trusts, will be terminated has been filled and reclaimed, and the street consisting entirely of dry land lying above the present line of mean high tide is no longer needed or required for the purposes of the public trust or the Burton Act trust.

(3) The street to be sold by the city and over which the public trust or the Burton Act trust, or both trusts, will be terminated has been cut off from direct access to the waters of San Francisco Bay by past filling of intervening property for a major roadway (the Embarcadero), which has provided, and will continue to provide, lateral public access to the water.

(4) The street was reserved to the state for street purposes and is not used or necessary for navigation purposes. Therefore, in accordance with Section 3 of Article X of the California Constitution, that street can and should be conveyed into private ownership for uses consistent with, and in furtherance of, this act.

(5) The sale of the street shall occur only in conjunction with a simultaneous exchange of the state's sovereign title in Seawall Lot 330 pursuant to Chapter 310 of the Statutes of 1987, according to the terms and conditions required by the State Lands Commission, or other disposition of the state's sovereign title in Seawall Lot 330 approved by the State Lands Commission or the Legislature.

(g) It is therefore the intent of the Legislature, subject to the terms and conditions set forth in this act to authorize the city to dispose of the street for private use free from the public trust or the Burton Act trust.

SEC. 4. The Legislature further finds and declares that the following unique circumstances exist at Pier 30-32 on the San Francisco waterfront, and that therefore, this act sets no precedent for any other location or project in the state:

(a) The Pier 30-32 platform bayward of the Embarcadero consists of an obsolete, pile-supported pier structures that are physically no longer capable of serving most trust-related purposes without substantial modification and repair.

(b) San Francisco is the center of northern California's cruise activity. The need for a new cruise ship terminal has been recognized for over 40 years, most recently in a 1998 assessment by the Port that found that cruise industry experts considered the present terminal at Pier 35 on the San Francisco waterfront to be inferior to other cruise

terminals in the United States. That assessment also concluded that the existing San Francisco passenger terminal at Pier 35 cannot accommodate modern cruise ships. Without a new passenger terminal, California stands to lose a significant portion of the cruise ship business it presently enjoys, which would also adversely affect the many maritime industries dependent on a healthy cruise industry.

(c) The Port's 1998 assessment evaluated alternative locations for a new cruise ship terminal and concluded that Pier 30-32 was the most viable site for a new cruise terminal in San Francisco because of dredging, site configuration, and development considerations.

(d) The Waterfront Land Use Plan and the Special Area Plan recognize that the development of Pier 30-32 and the surrounding area within the South Beach/China Basin subarea identified in the Waterfront Land Use Plan would further the public trust purposes of increasing maritime activities and expanding public use and enjoyment of the waterfront on trust lands at this location.

(e) The Port has solicited proposals and has chosen a developer for a mixed-use development at Pier 30-32, the primary purposes of which are to promote waterborne transportation at the port by constructing the James R. Herman International Cruise Terminal at Pier 30-32, and to further public use and enjoyment of the tidelands at this location by providing boat berths, public access, and substantial ground floor commercial public trust uses.

(f) In addition to being a destination for cruise ships, the planned improvements include berthing facilities for waterborne transit, such as water taxis and commercial excursion and recreational boats that will promote local waterborne transit and establish the proposed development at Pier 30-32 as a water-side destination for recreational boating.

(g) The Brannan Street Wharf will lie adjacent to Pier 30-32. Pursuant to the Special Area Plan implementation requirements, the approval and construction of the proposed development at Pier 30-32 requires that the construction of Phase I of the Brannan Street Wharf be completed no later than five years after the issuance of a certificate of occupancy for the major reuse of Pier 30-32, and that the entire Brannan Street Wharf be completed no later than 15 years after issuance of a certificate of occupancy for the major reuse of Pier 30-32, if grant funds or other funding are available, or 20 years if not. The Brannan Street Wharf will provide an essential recreational element to serve the public trust as provided in the Special Area Plan. Accordingly, it is desirable that the construction of the Brannan Street Wharf be accelerated.

(h) The Port is committed to the construction of the Brannan Street Wharf earlier than required under the Special Area Plan through investment of approximately fifteen million dollars (\$15,000,000) for the removal of 175,000 square feet of pile-supported fill

and development of public access improvements, to be funded primarily by revenue from port operations, including the development of Pier 30-32.

(i) The proposed development of a cruise ship terminal at Pier 30-32 will require a substantial capital investment to improve the piles and decking. The Port must conserve port revenue to support those maritime uses and public improvements for which private investment is not economical. Therefore, the Port cannot directly fund all necessary capital improvements to construct new needed maritime facilities, including a new passenger terminal and associated improvements.

(j) Under applicable regulations, and due to the limited, seasonal (May through September) nature of the cruise ship operation, cruise ships will use the cruise terminal only approximately 65 to 100 days per year.

(k) The inclusion of public access structures, a lagoon, transient boat berthing, commercial public trust uses, together with a new passenger terminal, promotes the trust objectives of furthering maritime commerce and improving public access and use on the San Francisco waterfront.

(l) The inclusion of upper level general office space at Pier 30-32 is proposed because it provides a needed incentive for private investment. To the extent the office space is not occupied by trust tenants, it is not a trust use, notwithstanding its importance as a financial inducement.

SEC. 5. The Legislature, in the exercise of its retained power as trustee of the public trust, and in view of the unique circumstances existing at Pier 30-32 on the San Francisco waterfront and the considerable statewide public benefit and promotion of maritime transportation that will be brought about by the construction of a new passenger cruise ship terminal, improvements to berthing facilities for waterborne transit, a lagoon, improved public access and commercial public trust uses on this site, hereby authorizes the Port to approve a cruise ship terminal development on the San Francisco waterfront at Pier 30-32, which would include general office use and general retail use, if all of the following conditions are met:

(a) The development includes a modern two-berth cruise ship terminal.

(b) The development includes a public access component that meets the requirements of the Special Area Plan and the San Francisco Bay Plan as interpreted by BCDC and that also offers expanded bay views and public access.

(c) Prior to submitting a major permit application to BCDC for the cruise ship terminal development, the Port, after review by or on behalf of BCDC, approves the final design concept for the Brannan Street Wharf.

(d) Prior to the issuance of a BCDC permit for the cruise ship terminal development, the Port demonstrates, to the satisfaction of BCDC and the Attorney General's office,

that it has irrevocably encumbered all of the funds deemed necessary for the completion of the Brannan Street Wharf and has placed the funds in a segregated account guaranteed to be available to be drawn upon for the construction of the Brannan Street Wharf, and the Port and BCDC enter into an enforceable agreement that provides for the Port to fund, directly or through grant funding, or both, design, and construct the Brannan Street Wharf consistent with the following timetable:

(1) The Port shall complete preliminary engineering drawings for the Brannan Street Wharf and prepare and submit to BCDC a financing plan approved by the Port indicating funding sources and estimated construction costs at the time the construction of the cruise ship terminal development commences.

(2) The Port shall complete Phase 1, the northern portion of the Brannan Street Wharf (in the area of Pier 34), as described in the Special Area Plan contemporaneously with the construction of the cruise terminal development.

(3) The Port shall remove Pier 36 and complete the Brannan Street Wharf no later than five years after commencement of construction of the cruise ship terminal development.

(e) The amount of office space in the development does not exceed 300,000 leasable square feet, all of which shall be above the ground level. This office space shall also be designed to contribute to a development design that includes public spaces and promotes visual and public access. An additional 25,000 leasable square feet of space in the cruise ship terminal building may be used for general office use until the earlier of either of the following:

(1) Fourteen years from the first date of occupancy.

(2) When home berthing ships above 5,000 passenger berth capacity call for 15 days per year for two consecutive years.

(f) The development includes a marketing program designed to maximize the amount of general office space occupied by trust-related tenants over the life of the development.

(g) The cruise ship terminal development, if approved by BCDC, complies with the requirements set forth in this subdivision. For purposes of this subdivision only, "trust retail" means visitor serving public trust retail and restaurant use. "Nontrust retail" means other retail and theatre uses. The amount of trust retail leasable space shall be equal to or greater than the nontrust retail leasable space. The amount of trust retail leasable space, nontrust retail leasable space, and visitor serving trust use converted from trust or nontrust retail, as approved by BCDC, shall be at least 40 percent of the total amount of office leasable space.

SEC. 6. The Legislature finds and declares that the 2000 amendments of the San Francisco Bay Plan and the Special Area Plan by BCDC are authorized under subdivision (f) of Section 66632 of the Government Code as necessary to protect the health, safety, and welfare of the public in the entire Bay Area, and BCDC's actions with respect to those amendments are hereby ratified and confirmed.

SEC. 7. Notwithstanding the Special Area Plan and the Bay Plan requirement for findings of consistency with the public trust doctrine and the Burton Act trust, BCDC is authorized to approve the cruise ship terminal development as provided in this act. Except as provided in Section 14 of this act, nothing in this act is intended to limit the discretion of BCDC to approve or deny permits for the projects described in this act in a manner consistent with the McAteer-Petris Act, the Bay Plan, the Special Area Plan, and this act, or to limit the discretion of BCDC to enforce permits issued for the projects described in this act.

SEC. 8. (a) For the purpose of effectuating the sale of the street, including the conveyance of the street by the city, free of the public trust and the Burton Act trust, the State Lands Commission may convey to the city by patent all of the rights, title, and interest held by the state by virtue of its sovereign trust title to the street, including any public trust interest or Burton Act reservation or trust interest, not heretofore conveyed, subject to any reservations the State Lands Commission determines appropriate.

(b) In any case where the state, pursuant to this act, conveys filled tidelands and submerged lands transferred to the city pursuant to the Burton Act, the state shall reserve 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, any such 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:

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

(2) 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 any grantee of the lands or the grantee's successors or assignees.

SEC. 9. The city may, pursuant to Section 3 of Article X of the California Constitution, sell the street to any private person, partnership, or corporation, with the approval of the State Lands Commission, if the city first finds that the sale is consistent with the legislative findings and declarations set forth in Section 3. That sale shall not be effective unless and until the State Lands Commission, at a regular open meeting with

the proposed sale of the street as a properly scheduled agenda item, does or has done, all of the following:

(a) Finds, or has found, that the consideration for the sale of the street pursuant to Section 3 of Article X of the California Constitution shall be the fair market value of the street.

(b) Adopts, or has adopted, a resolution approving the sale that finds and declares that the street 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 or the Burton Act trust, and that no substantial interference with the public trust or Burton Act trust uses and purposes will ensue by virtue of the sale. The resolution shall also declare that the sale is consistent with the findings and declarations in Section 3, and the sale is in the best interests of the state and city. Upon adoption of the resolution, or at a time that is specified in the resolution, the street shall thereupon be free from the public trust and the Burton Act trust.

(c) Finds, or has found, that the sale of the street shall occur only in conjunction with a simultaneous exchange of the state's sovereign title in Seawall Lot 330 pursuant to Chapter 310 of the Statutes of 1987, according to the terms and conditions required by the State Lands Commission, or other disposition of the state's sovereign title in Seawall Lot 330 approved by the State Lands Commission or the Legislature, and that the proceeds for that sale will be devoted to trust-related capital improvements by the Port.

SEC. 10. Sales made by the city pursuant to this act are hereby determined to be of statewide significance and importance and, therefore, any ordinance, charter provision, or other provision of local law inconsistent with this act is not applicable to those sales.

SEC. 11. Any agreement for the sale of, and trust termination over, the street pursuant to this act 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. Any such proceeding shall be commenced within 60 days after the recording of the agreement.

SEC. 12. The State Lands Commission and the city may modify any description and plat prepared and recorded pursuant to the Burton Act, as amended, and Section 11 of that certain agreement relating to the transfer of the Port of San Francisco from the state to the city and dated January 24, 1969, and to record the modified description and plat in the office of the recorder of the city.

SEC. 13. 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 by the parties to any agreement regarding a street sale or exchange of land entered into pursuant to this act or pursuant to Chapter 310 of the Statutes of 1987 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 whether the agreement meets the requirements of this act, Chapter 310 of the Statutes of 1987, Sections 3 and 4 of Article X of the California Constitution, and any other law applicable to the validity of the agreement.

SEC. 14. The authorization contained in Section 5, and any lease, permit, development approval, or other entitlement for use, including any BCDC permit, for the cruise ship terminal development that is dependent upon that authorization is not affected by the failure of the Port to perform any obligation under the BCDC agreement referred to in subdivision (d) of Section 5, and that authorization and the lease, permit, development approval, or other entitlement for use shall remain in full force and effect. BCDC may enforce the agreement referred to in subdivision (d) of Section 5 by specific performance or by any other enforcement remedy in the McAteer-Petris Act, except for revocation of any BCDC permit issued for the cruise terminal development.

435154.2

477630.1

**EXHIBIT B**

**EXAMPLES OF WATERFRONT PUBLIC ASSEMBLY USE**

## Exhibit B: Examples of Public Assembly Uses on Urban Waterfronts<sup>1</sup>

### 1. AT&T Park<sup>2</sup>

AT&T Park (originally Pacific Bell Park) was completed in 2000 at an estimated cost of \$357 million pursuant to a ground lease and disposition and development agreement between the City through the Port and a development affiliate of the San Francisco Giants. The ballpark is located on a 12.5 acre site and has a seating capacity of 41,503. The facility has also hosted football games (college bowls, high school playoffs, University of California at Berkeley's 2011 season), soccer games, snowboarding/big air competitions, the Guitar Hero world tour, American Idol tryouts, broadcasts of the San Francisco Opera, among other events.

Several of the factors that led the California State Lands Commission to determine that the project would further the purposes of the public trust for commerce, navigation and fisheries include:

- the low right field wall provides Bay views;
- the project includes a public waterfront promenade along Mission Creek;
- the public can watch part of games through right field wall's archways at no cost;
- McCovey cove features kayaking, paddleboarding;
- Golden Gate Ferry provides ferry service to/from games; and
- the project was part of a larger restoration of China Basin, including marinas.



<sup>1</sup> The research into examples of public assembly uses on urban waterfronts was performed by Shute, Mihaly and Weinberger, outside special counsel specializing in Public Trust law.

<sup>2</sup> Sources: [sanfrancisco.giants.mlb.com/sf/ballpark/index.jsp](http://sanfrancisco.giants.mlb.com/sf/ballpark/index.jsp); Wikipedia.

## 2. Santa Monica Pier<sup>3</sup>

Santa Monica Pier consisted of two adjoining piers. The first, a long, narrow Municipal Pier opened in 1909. The pier was designed to carry sewer pipes past surf and had no amenities, but nonetheless attracted crowds. The second short, wide pier was built in 1916 to support an amusement park (one of six amusement piers in this area in the early 1900's). A carousel was built on the pier in 1922 which was later rebuilt in the Loof Hippodrome on the pier (famous as part of the "Sting" in 1973). Other rides included the Blue Streak Racer roller coaster. The La Monica Ballroom, with a capacity of 5,000, opened in 1924 for concerts and dancing and was the largest ballroom on the West Coast. After use as a roller skating rink, the Ballroom was closed in 1962.

The pier has been partially destroyed by storms several times and rebuilt. The pier and its substructure were almost completely rebuilt from 1987 to 1990, with an amusement park, fishing, outdoor entertainment and restaurants. It hosts weekly movie screenings and concerts in the summer that are free to the public.



<sup>3</sup> Sources: [www.SantaMonicaPier.org](http://www.SantaMonicaPier.org); [www.santamonicalandmarks.com/landmk32.html](http://www.santamonicalandmarks.com/landmk32.html); [en.wikipedia.org/wiki/Santa\\_Monica\\_Pier](http://en.wikipedia.org/wiki/Santa_Monica_Pier).

### 3. Long Beach Municipal Auditoriums<sup>4</sup>

The first Long Beach Municipal Auditorium was built on a pier in 1905. With a capacity 6,000, the facility was primarily used for concerts. In 1913, at an event with an estimated 10,000 attendees, a portion of the facility tragically collapsed.

The second Long Beach Municipal Auditorium was built on fill from 1928 to 1932 and surrounded by a breakwater called the Rainbow Pier. The facility was used for convention and performance purposes. Major stars such as Harry James, Glen Miller and Judy Garland performed at the facility to crowds as large as 11,000. The lagoon between the auditorium and breakwater was filled as part of the Tidelands Filling Project in the late 1950's and 1960's. The auditorium was demolished in 1975 as part of the Convention and Entertainment Center project.



**First Municipal Auditorium**



**Second Municipal Auditorium**

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<sup>4</sup> Sources: [www.millikanalumni.com/Pike/MunicipalAud.html](http://www.millikanalumni.com/Pike/MunicipalAud.html); [scottymoore.net/longbeach.html](http://scottymoore.net/longbeach.html).

#### 4. Long Beach Arena<sup>5</sup>

The Long Beach Arena is the 3<sup>rd</sup> version of a public performance space on the Long Beach waterfront, built on fill in 1962. The facility hosts sports (1984 Olympics, basketball playoffs), concerts, and conventions. The arena has a capacity of 13,500 and 75,000 square feet of exhibition space, with the world's largest mural (depicting marine life) on the exterior. The facility was constructed and is periodically renovated with public trust revenues from oil/gas leases.

This facility is not part of an active, engaged waterfront district and is not necessarily a precedent for other projects. The Arena is surrounded on two sides by large surface parking lots, and the man-made lagoon in front of the Arena is separated from the actual waterfront by a 6-lane roadway (East Shoreline Dr.) and additional parking lots. The current Arena is thus less representative of an accessible public space that draws people to the waterfront and enhances their experience of the water than the second municipal auditorium was in its heyday.



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<sup>5</sup> Sources: [www.longbeachcc.com/](http://www.longbeachcc.com/) ; [maps.google.com/](https://maps.google.com/); [en.wikipedia.org/wiki/Long\\_Beach\\_Convention\\_and\\_Entertainment\\_Center](https://en.wikipedia.org/wiki/Long_Beach_Convention_and_Entertainment_Center).

## 5. Long Beach Convention and Entertainment Center<sup>6</sup>

Construction of the Long Beach Convention and Entertainment Center commenced in 1962. The venue is constructed on filled tidelands and offers more than 400,000 square feet of meeting and exhibit space, including lounges, 34 meeting rooms, the Grand Ballroom, three Exhibition Halls, the Long Beach Arena, the Center Theater, and the Terrace Theater. The concourse and lobby offer harbor views and the facility's pedestrian walkway links hotels, shops and restaurants with the harbor.

As noted above, a 6-lane road and extensive surface parking separate the Convention Center and Arena from much of the Long Beach waterfront.



<sup>6</sup> Sources: [www.longbeachcc.com/](http://www.longbeachcc.com/) ; [maps.google.com/](https://maps.google.com/);  
[en.wikipedia.org/wiki/Long\\_Beach\\_Convention\\_and\\_Entertainment\\_Center](https://en.wikipedia.org/wiki/Long_Beach_Convention_and_Entertainment_Center).

## 6. San Diego Convention Center<sup>7</sup>

The original convention center building was constructed on filled tidelands in 1989, with a significant expansion in 2001. The convention center includes 615,701 square feet of total exhibit space and 204,114 square feet of overall meeting space. The facility is located in the Marina district of downtown San Diego near the Gaslamp Quarter. Most of the area between the convention center and the waterfront is occupied by surface parking lots and a street. A grand staircase bridges a parking area to connect the convention center's terraces to a waterfront promenade along a marina. The convention center is managed by the San Diego Convention Center Corporation, a non-profit public benefit corporation. The facility includes Sails Pavilion with roof made of Teflon-coated fiberglass "sails" intended to reflect San Diego's maritime history and proximity to the San Diego shore.



<sup>7</sup> Sources: [www.visitsandiego.com/facilityinformation/](http://www.visitsandiego.com/facilityinformation/); maps.google.com/.

## 7. Sydney Opera House<sup>8</sup>

The Sydney Opera House opened in 1973, and was designated as a UNESCO World Heritage Site in 2007 in recognition of its exceptional combination of architecture and waterfront setting. The Opera House is located on Bennelong Point, surrounded on three sides by the harbor and on the fourth by the Royal Botanic Gardens, northeast of the Sydney central business district. The site includes multiple venues, and is home to Opera Australia, the Australian Ballet, the Sydney Theatre Company and the Sydney Symphony Orchestra. With an indoor seating capacity of 2,679, the facility hosts 1,500 performances each year attended by 1.2 million people.

The Opera House is surrounded by substantial open public spaces, of which the large stone-paved forecourt area with the adjacent monumental steps is regularly used as a large-scale, open air performance space. The site also hosted parts of 2000 Olympic triathlon.



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<sup>8</sup>Sources: [www.sydneyoperahouse.com/About/Venues.aspx](http://www.sydneyoperahouse.com/About/Venues.aspx). Image from [alloffacts.blogspot.com/2011/08/australia-is-one-in-this-world-that-can.html](http://alloffacts.blogspot.com/2011/08/australia-is-one-in-this-world-that-can.html).

## 8. Oslo Opera House<sup>9</sup>

The Oslo Opera House, designed by Snohetta (the same architect retained by the Golden State Warriors), opened in 2008. The facility is located adjacent to downtown Oslo, constructed on a contaminated, former industrial site. It is the first building in a comprehensive urban development project for the area.

The Opera House includes 3 performance spaces, totaling 414,000 square feet. The main venue seats 1,364. The roof is open to the public and created new open space in central Oslo. Both it and the foyer also host concerts. The Opera House is home to the Norwegian National Opera and Ballet and National Opera Theatre in Norway. The interior windows and exterior public space designed to maximize views of water.



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<sup>9</sup> Sources: [www.operaen.no/en/Learn-more/About-the-Opera-House/#section2134203](http://www.operaen.no/en/Learn-more/About-the-Opera-House/#section2134203). Image from [www.wired.com/culture/design/magazine/16-12/pl\\_design](http://www.wired.com/culture/design/magazine/16-12/pl_design).

## 9. Vancouver Convention Center<sup>10</sup>

The Vancouver Convention Center provides 466,500 square feet of meeting space across two main buildings, with 90,000 square feet of retail along a public waterfront promenade. It provides 440 underground public parking spaces, which are integrated into the facility. The architecture is designed to frame and reflect marine environment and includes a green roof and a roof that incorporates fabric sails.

The Convention Center is surrounded by open space, plazas, walkways, and bike paths bring the total project footprint to 14 acres of land and 8 acres over water. The adjacent Jack Poole Plaza hosts outdoor, public events and was home to the Olympic cauldron for the 2010 Winter Olympics. It is available for use by The facility is adjacent to the main cruise ship terminal for city and region. The convention cent served as media center for 2010 Winter Olympics.



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<sup>10</sup> Sources: [vancouverconventioncentre.com/thefacilities](http://vancouverconventioncentre.com/thefacilities).

## 10. Boston Institute of Contemporary Art<sup>11</sup>

The Boston Institute of Contemporary Art opened in 2006. The facility fronts directly on Boston Harbor on two sides. The building is 65,000 square feet, cantilevered to extend to water's edge. The facility was chosen to anchor the Fan Pier development due to its ability to draw visitors to the waterfront year-round. Its café opens directly onto an adjacent 3,500 square feet public plaza that is part of Boston's 47-mile HarborWalk. The theater on the 2<sup>nd</sup> and 3<sup>rd</sup> floors has glass walls fronting Boston Harbor that suspend viewers almost above the Harbor, making it the dominant presence in the space.



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<sup>11</sup> Sources: [www.icaboston.org/about/thenewica/](http://www.icaboston.org/about/thenewica/). Image from [www.skyscrapercity.com/showthread.php?t=321914](http://www.skyscrapercity.com/showthread.php?t=321914).

## 11. Copenhagen Opera House<sup>12</sup>

The Copenhagen Opera House opened in 2005. The facility was donated to Denmark by the co-founder of Maersk shipping line. The 440,000 square foot facility is home of the Royal Danish Theater; it seats up to 1,703. The opera house is located on an island in downtown Copenhagen and is designed to maximize views of nearby landmarks. The glass front of the facility provides views of surrounding harbor.



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<sup>12</sup> Sources: [kglteater.dk/](http://kglteater.dk/); [en.wikipedia.org/wiki/Copenhagen\\_Opera\\_House](http://en.wikipedia.org/wiki/Copenhagen_Opera_House). Image from [www.coltinfo.co.uk/projects/theatres/copenhagen-opera-house/](http://www.coltinfo.co.uk/projects/theatres/copenhagen-opera-house/).

## 12. Chicago Navy Pier<sup>13</sup>

Chicago's Navy Pier opened in Lake Michigan, just east of Chicago's downtown, in 1916. At 3,300 feet, it was then the longest pier in the world. From the outset, the Municipal Pier, later renamed the Navy Pier, incorporated both commercial shipping and public entertainment, particularly public gathering spaces where visitors could enjoy Lake Michigan and escape summer heat. The Pier housed soldiers, recruits, and Red Cross units during World War I. After the war, it was home to its own streetcar line, theater, restaurants, and hospital. The 1921 Pageant of Progress drew nearly a million visitors during 15 days of events on the Pier and the 1933 World's Fair drew 1,500 conventions and 1.5 million visitors to the Pier's facilities. Early recreational facilities included picnicking areas, dining pavilions, a dance hall, auditorium, and children's playground. An average of 3.2 million visitors frequented the Pier during its "golden age" in the 1920s.

During the 1930's, the Pier housed various New Deal agencies. The Navy operated training programs from the Pier throughout World War II. Between 1946 and 1965 and the University of Illinois opened a branch campus on the pier.

The Pier was one of two venues that hosted large-scale trade shows and exhibits in Chicago during the 1950s. In 1959, construction of the South Dock widened the Pier by 100 feet. By 1964, at its peak, the Pier docked 250 overseas ships annually.



Fire destroyed the original McCormick Place, the Pier's major convention facility, in 1967, although it was rebuilt and reopened four years later. In 1976, the Grand Ballroom underwent a major renovation, although the Pier was still considered underutilized.

In 1989, the Metropolitan Pier and Exposition Authority was created by state legislation to manage and operate the Pier and McCormick Place. It repositioned the Pier as a recreational destination and completed a \$150 million Navy Pier redevelopment project that included the 1,500-seat outdoor Skyline Stage and ferris wheel. The redeveloped Pier reopened in 1995, featuring a mix of year-round entertainment, shops, restaurants, attractions and exhibition facilities. Over the next five years, the Pier added the 525-seat Chicago Shakespeare Theater, the Smith Museum of Stained Glass Windows, and a six-story parking garage and it began a recurring tradition of hosting Chicago's tall ships festival. By 1997, annual attendance was estimated at 7 million visitors.

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<sup>13</sup> Sources: <http://www.navypier.com>, [http://en.wikipedia.org/wiki/Navy\\_Pier](http://en.wikipedia.org/wiki/Navy_Pier).

By 2007, local and regional publications were naming the Navy Pier as the city's prime tourist attraction.

In 2010, at the direction of the state legislature, the Metropolitan Pier and Exposition Authority Trustees recommended that the Navy Pier be leased to a newly formed not-for-profit corporation – Navy Pier Inc. – that would separately govern and manage the Pier.

**EXHIBIT C**

**PROPOSED PIERS 30-32 REVITALIZATION ACT (AB 1273)**

AMENDED IN ASSEMBLY APRIL 24, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1273**

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**Introduced by Assembly Member Ting**

February 22, 2013

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An act to amend Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, and 14 of Chapter 489 of the Statutes of 2001, relating to tidelands and submerged lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 1273, as amended, Ting. Tidelands and submerged lands: City and County of San Francisco: Pier 30-32: multipurpose venue.

(1) Under existing law (the Burton Act), the state granted certain lands to the City and County of San Francisco in trust for purposes of commerce, navigation, and fisheries, and subject to specified terms and conditions relating to the operation of the Port of San Francisco. Existing law (the McAteer-Petris Act) establishes the San Francisco Bay Conservation and Development Commission and requires the commission to regulate fill and development within a specified area in San Francisco Bay. Existing law declares specified lands along the San Francisco waterfront to be free from the public trust for commerce, navigation, and fisheries, as provided, and authorizes the San Francisco Port Commission to approve a cruise ship terminal development, other maritime facilities, and commercial and office space on a specified area of the San Francisco waterfront. Existing law authorizes the State Lands Commission to convey to the City and County of San Francisco all of the rights, title, and interest held by the state in trust to specified lands

along the waterfront, but prescribes terms and conditions for the use of those lands in connection with the cruise ship terminal development, as provided.

This bill would revise the above-described authorization for the conveyance of lands for use for a cruise ship terminal development to instead authorize the San Francisco Port Commission to approve a *mixed-use* development on the San Francisco waterfront at Pier 30-32, which would include a multipurpose venue, if specified conditions are met. The bill would authorize the State Lands Commission to convey to the City and County of San Francisco all of the rights, title, and interest held by the state in trust to specified lands along the waterfront, but would prescribe terms and conditions for the use of those lands in connection with a multipurpose venue, as described. The bill would make conforming changes with regard to the revised authorization.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco with respect to the development of Pier 30-32.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Pier 30-32 Revitalization Act.
- 3 SEC. 2. Section 1 of Chapter 489 of the Statutes of 2001, as
- 4 amended by Section 1 of Chapter 68 of the Statutes of 2003, is
- 5 amended to read:
- 6 Sec. 1. For purposes of this chapter, the following terms have
- 7 the following meanings:
- 8 (a) "AB 418" means Chapter 477 of the Statutes of 2011.
- 9 (b) "America's Cup" means the 34th America's Cup.
- 10 (c) "BCDC" means the San Francisco Bay Conservation and
- 11 Development Commission established pursuant to Section 66620
- 12 of the Government Code.
- 13 (d) "Bay jurisdiction" means the jurisdiction, powers, and duties
- 14 of BCDC pursuant to Title 7.2 (commencing with Section 66600)
- 15 of the Government Code within the area defined in subdivision
- 16 (a) of Section 66610 of the Government Code.
- 17 (e) "Bay Plan" means the San Francisco Bay Plan as adopted
- 18 and administered by BCDC pursuant to Title 7.2 (commencing

1 with Section 66600) of the Government Code, including all  
2 amendments thereto.

3 (f) “Brannan Street Wharf” means a major San Francisco  
4 waterfront park in the area of Piers 34 and 36, as identified in the  
5 Special Area Plan.

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

8 (h) “Burton Act trust” means the statutory trust imposed by the  
9 Burton Act (Chapter 1333 of the Statutes of 1968, as amended),  
10 pursuant to which the state conveyed to the City and County of  
11 San Francisco, in trust, by transfer agreement, and subject to certain  
12 terms, conditions, and reservations, the state’s interest in certain  
13 tide and submerged lands.

14 (i) “City” means the City and County of San Francisco.

15 (j) ~~“McAteer-Petris”~~ “*McAteer-Petris Act*” means Title 7.2  
16 (commencing with Section 66000) of the Government ~~Code Code~~,  
17 *as that act may be amended from time to time*.

18 (k) “Public trust” or “trust” means the common law public trust  
19 for commerce, ~~or navigation~~ *navigation*, and fisheries.

20 (l) “Port” means the City and County of San Francisco acting  
21 by and through the San Francisco Port Commission.

22 (m) “San Francisco Bay” means those areas defined in Section  
23 66610 of the Government Code.

24 (n) “San Francisco waterfront” means those portions of the area  
25 transferred to the ~~port~~ *Port* pursuant to the Burton Act that also lie  
26 within the area defined in subdivisions (a) and (b) of Section 66610  
27 of the Government Code.

28 (o) “Seawall Lot 330” means that parcel of property, *or any*  
29 *portion thereof*, located in San Francisco identified on that certain  
30 map entitled SUR 790, and shown on Page 318 of the City and  
31 County of San Francisco 100 Scale Ownership Maps, which is on  
32 file with the city’s Bureau of Street Use and Mapping.

33 (p) “SB 815” means Chapter 660 of the Statutes of 2007, as  
34 amended.

35 (q) “Shoreline band jurisdiction” means the jurisdiction, powers,  
36 and duties of BCDC pursuant to Title 7.2 (commencing with  
37 Section 66600) of the Government Code to regulate uses within  
38 the area defined in subdivision (b) of Section 66610 of the  
39 Government Code to ensure, in part, maximum feasible public  
40 access, as prescribed in Section 66632.4 of the Government Code.

1 (r) “Special Area Plan” means the San Francisco Waterfront  
2 Special Area Plan, dated July 20, 2000, adopted by BCDC, as  
3 amended from time to time.

4 (s) “Street” means those lands located within the South  
5 Beach/China Basin Planning area of the San Francisco waterfront  
6 at Seawall Lot 330, and also lying within Parcel A of those lands  
7 transferred to the City and County of San Francisco pursuant to  
8 the Burton Act, as recorded May 14, 1969, in Book C 169 at Pages  
9 573 to 664, inclusive, in the San Francisco Recorder’s office, as  
10 more particularly described as that portion of Main Street, located  
11 between Bryant Street and the Embarcadero, vacated per Ordinance  
12 14-93 on January 11, 1993, on file with the San Francisco Bureau  
13 of Street Use and Mapping, in Book 10, Page 94. All streets and  
14 street lines described in the preceding sentence are in accordance  
15 with that certain map entitled SUR 790, and shown on Page 318  
16 of the City and County of San Francisco 100 Scale Ownership  
17 Maps, on file with the City’s Bureau of Street Use and Mapping.

18 (t) “Trust retail uses” means visitor-serving retail and  
19 restaurant establishments and similar retail uses that facilitate  
20 and encourage public use of the waterfront.

21 (†)

22 (u) “Waterfront Land Use Plan” means the Waterfront Land  
23 Use Plan, including the Waterfront Design and Access Element,  
24 adopted by the port pursuant to Resolution No. 97–50, as amended  
25 from time to time.

26 SEC. 3. Section 2 of Chapter 489 of the Statutes of 2001 is  
27 amended to read:

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

29 (a) *Tide and submerged lands in California are held in trust*  
30 *for the enjoyment and use by the people of the state pursuant to*  
31 *the common law public trust doctrine. Public trust lands may be*  
32 *used for water-related purposes, including, but not limited to,*  
33 *commerce, navigation, fishing, swimming, general recreation,*  
34 *open space, and wildlife habitat.*

35 (a)

36 (b) In 1965, the Legislature adopted the ~~McAteer-Petris~~  
37 ~~McAteer-Petris~~ Act to protect and enhance the San Francisco Bay  
38 and its natural resources. ~~The McAteer-Petris Act~~ Among other  
39 things, the McAteer-Petris Act grants BCDC regulatory authority  
40 over further filling in San Francisco Bay through exercise of its

1 bay jurisdiction, and limits that activity to (1) water-oriented uses  
2 that meet specified criteria; (2) minor fill that improves shoreline  
3 appearance or public access; and (3) activities necessary for the  
4 health, safety and welfare of the public in the entire bay area. The  
5 McAteer-Petris Act also ~~authorizes~~ *mandates* BCDC to require  
6 the provision of maximum feasible access to the bay *and its*  
7 *shoreline* consistent with ~~the a project over a 100-foot shoreline~~  
8 ~~band through the exercise of its shoreline band jurisdiction.~~

9 (c) *In 1969, the Legislature received and acted upon the BCDC's*  
10 *report and recommendations from a three-year study of the San*  
11 *Francisco Bay. The resulting Bay Plan contains, among other*  
12 *things, BCDC's policies to guide use and protection of all areas*  
13 *within BCDC's jurisdiction, including the bay and the 100-foot*  
14 *shoreline band, and ensures that proposed projects, among other*  
15 *things, minimize bay fill and provide maximum feasible public*  
16 *access to the bay.*

17 (b)

18 (d) In 1969, pursuant to the Burton Act, the state conveyed by  
19 transfer agreement certain state tide and submerged lands to the  
20 Port. The lands are held by the Port in trust for purposes of  
21 commerce, navigation, and fisheries, and are subject to the terms  
22 and conditions specified in the Burton Act and the public trust.  
23 During the ~~three~~ *four* decades since passage of the Burton Act,  
24 issues have arisen concerning the application of the ~~McAteer-Petris~~  
25 *McAteer-Petris* Act to the piers along the San Francisco waterfront.  
26 To address those issues, BCDC and the Port undertook two  
27 intensive and careful planning processes, which lasted over nine  
28 years.

29 (e)

30 (e) The first process culminated in 1997 with the adoption by  
31 the Port of the Waterfront Land Use Plan and with the adoption  
32 by the Board of Supervisors of the City and County of San  
33 Francisco and the Planning Commission of the City and County  
34 of conforming amendments to the City's General Plan and Planning  
35 Code.

36 (f)

37 (f) In July 2000, after the second five-year cooperative process  
38 involving the Port, BCDC, the Save San Francisco Bay  
39 Association, and numerous interested community groups and  
40 ~~individuals~~, *individuals* was completed, the Port adopted further

1 amendments to the Waterfront Land Use Plan. BCDC also adopted  
 2 amendments to the Special Area Plan that is incorporated into, and  
 3 made a part of, the ~~San Francisco Bay Plan~~, to create consistent  
 4 plans for the area of the San Francisco waterfront between Pier 35  
 5 and China Basin. At the present time, the ~~Waterfront Land Use~~  
 6 *Special Area Plan* addresses specific ~~McAteer-Petris~~  
 7 *McAteer-Petris* Act issues relating to public access and the  
 8 preservation and enhancement of open water as a bay resource in  
 9 this area. The plan also defines public access opportunities on each  
 10 pier in this area and calls for the removal of certain additional piers  
 11 to enhance water views and create additional bay surface area.

12 (e)

13 (g) A major objective of the joint effort described in subdivisions  
 14 ~~(b), (c), and (d)~~ *(d), (e), and (f)* is to establish a new criterion in  
 15 the ~~San Francisco Bay Plan~~ that would permit fill on the San  
 16 Francisco waterfront in an area where a Special Area Plan has  
 17 been adopted by BCDC for uses that are consistent with the public  
 18 trust and the Burton Act trust. The Special Area Plan for the area  
 19 between Pier 35 and China Basin ~~should provide~~ *provides, in part,*  
 20 for all of following:

21 (1) The nature and extent of maximum feasible public access  
 22 ~~for to the piers bays and the waterfront~~, including perimeter access  
 23 ~~at the piers, a history walk system of integrated public parks,~~  
 24 ~~promenades, a Bayside History Walk~~ on most piers, and other  
 25 significant access features on piers where appropriate.

26 (2) Two major public plazas, the Brannan Street Wharf adjacent  
 27 to Pier 30-32 and ~~another in the vicinity of~~ *a new plaza at Pier 27.*

28 (3) A public planning process to lead to the creation of a third  
 29 major public plaza in the Fisherman's Wharf area.

30 (4) The *restoration and preservation of significant open water*  
 31 *basins and areas through the removal of certain piers to uncover*  
 32 *additional bay surface and the restriction of new bay fill in open*  
 33 *water basins and areas to minor amounts needed to improve public*  
 34 *access and shoreline appearance and accommodate permissible*  
 35 *water-oriented uses.*

36 (5) The creation and funding of a special fund within the Port  
 37 to finance the removal of the selected piers and the construction  
 38 and maintenance of those public plazas.

39 (6) A historic preservation mechanism to ensure preservation  
 40 *and enhancement* of important historic resources on the ~~piers~~

1 *piers, including the designation of the National Register*  
2 *Embarcadero Historic District.*

3 (7) *The preservation and improvement of existing views and*  
4 *creation of new views of the bay from the shoreline.*

5 ~~(7)~~

6 (8) *The ability of the Port to repair, improve, or use the piers*  
7 *not designated for removal between Pier 35 and China Basin for*  
8 *any purpose consistent with the Burton Act, the public trust and*  
9 *the Special Area Plan.*

10 ~~(f)~~

11 (h) *The San Francisco waterfront, which has been the subject*  
12 *of this planning process, provides benefits to the entire bay area,*  
13 *and serves as a unique destination for the region's public. These*  
14 *regionwide benefits include enjoyment of a unique, publicly owned*  
15 *waterfront that provides special maritime, navigational,*  
16 *recreational, cultural, and historical benefits that serve the bay*  
17 *area. Accordingly, the adoption by BCDC, and the ratification by*  
18 *the Legislature, of the Special Area Plan, as amended, is necessary*  
19 *to protect the health, safety, and welfare of the public in the entire*  
20 *bay area for purposes of subdivision (f) of Section 66632 of the*  
21 *Government Code.*

22 ~~(g)~~

23 (i) *The Port is a valuable public trust asset, a vibrant and*  
24 *world-renowned tourist destination, and a vital component of the*  
25 *regional, state, and national economies. The Port faces unique*  
26 *challenges in implementing the Waterfront Land Use Plan and*  
27 *Special Area Plan. Deferred maintenance on the Port's numerous*  
28 *historic piers and other structures, together with limitations on*  
29 *revenue generating opportunities, has caused deteriorating*  
30 *conditions along the San Francisco waterfront. The estimated*  
31 *Port's estimate of the cost of implementing the Port's its capital*  
32 *plan is over two billion dollars (\$2,000,000,000), which*  
33 *substantially exceeds the projected revenues of the Port available*  
34 *for these purposes. A purpose of this act is to further the public*  
35 *trust by facilitating the Port's implementation of the important*  
36 *parts of the Waterfront Land Use Plan, the Special Area Plan, and*  
37 *the Port's capital plan, subject to environmental review, as required*  
38 *under the California Environmental Quality Act (Division 13*  
39 *(commencing with Section 21000) of the Public Resources Code).*  
40 *estimated by the Port to be available for these purposes.*

1 SEC. 4. Section 3 of Chapter 489 of the Statutes of 2001 is  
2 amended to read:

3 Sec. 3. The Legislature also hereby finds and declares all of  
4 the following with respect to Seawall Lot 330 and the street:

5 (a) The lands comprising the street are tide and submerged lands  
6 that have been filled and reclaimed, and were reserved to the state  
7 solely for street purposes.

8 (b) The filled and reclaimed tide and submerged lands  
9 constituting the street have been filled and reclaimed for, and in  
10 connection with, a highly beneficial plan of improvement for harbor  
11 development.

12 (c) The street is not used, suitable, or necessary for navigation  
13 purposes and is not necessary, or used for street purposes.

14 (d) The street or any interests in the street that are to be sold by  
15 the city, and over which the Burton Act trust and the public trust  
16 will be terminated, constitute a relatively small portion of the  
17 granted tide and submerged lands.

18 (e) Section 3 of Article X of the California Constitution permits  
19 the sale to any city, county, city and county, municipal corporation,  
20 private person, partnership, or corporation of tidelands reserved  
21 to the state solely for street purposes, which tidelands the  
22 Legislature finds and declares are not used and not necessary for  
23 navigation purposes, subject to those conditions that the Legislature  
24 may impose to protect the public interest.

25 (f) The existence of the street limits the potential development  
26 of Seawall Lot 330. The proposed sale will be consistent with  
27 Section 3 of Article X of the California Constitution, if all of the  
28 following conditions are met:

29 (1) The consideration for the sale of the street, pursuant to  
30 Section 3 of Article X of the California Constitution, shall be the  
31 fair market value of those lands or interests in the lands.

32 (2) The street to be sold by the city and over which the public  
33 trust or the Burton Act trust, or both trusts, will be terminated has  
34 been filled and reclaimed, and the street consisting entirely of dry  
35 land lying above the present line of mean high tide is no longer  
36 needed or required for the purposes of the public trust or the Burton  
37 Act trust.

38 (3) The street to be sold by the city and over which the public  
39 trust or the Burton Act trust, or both trusts, will be terminated has  
40 been cut off from direct access to the waters of San Francisco Bay

1 by past filling of intervening property for a major roadway (the  
2 Embarcadero), which has provided, and will continue to provide,  
3 lateral public access to the water.

4 (4) The street was reserved to the state for street purposes and  
5 is not used or necessary for navigation purposes. Therefore, in  
6 accordance with Section 3 of Article X of the California  
7 Constitution, that street can and should be conveyed into private  
8 ownership for uses consistent with, and in furtherance of, this act.

9 (g) It is therefore the intent of the Legislature, subject to the  
10 terms and conditions set forth in this act to authorize the city to  
11 dispose of the street for private use free from the public trust or  
12 the Burton Act trust.

13 (h) In 2003, the Port and the State Lands Commission entered  
14 into an exchange agreement pursuant to Chapter 310 of the Statutes  
15 of 1987 by which a portion of Seawall Lot 330 was freed from the  
16 public trust and the Burton Act trust and was sold for fair market  
17 value, the proceeds from which were dedicated to construction of  
18 the Brannan Street Wharf. The Legislature enacted SB 815 in 2007,  
19 which lifted the public trust and the Burton Act trust use restrictions  
20 from the remainder of Seawall Lot 330, including the street, until  
21 2094. In 2011, the Legislature enacted AB 418 *in part* to facilitate  
22 the America's Cup, which, subject to certain conditions, freed the  
23 remainder of Seawall Lot 330, including the street, from the public  
24 trust and authorized the Port to sell Seawall Lot 330 at fair market  
25 value, ~~value~~ subject to the approval of the State Lands Commission  
26 ~~Commission's approval.~~ *This*

27 (i) *This* section does not limit the effect of, or the authority  
28 granted to, to the Port by *by*, SB 815 and AB 418 with respect to  
29 Seawall Lot 330, including the street.

30 SEC. 5. Section 4 of Chapter 489 of the Statutes of 2001 is  
31 amended to read:

32 Sec. 4. The Legislature further finds and declares that the  
33 following unique circumstances exist at Pier 30-32 on the San  
34 Francisco waterfront, and that therefore, this act sets no precedent  
35 for any other location or project in the ~~state:~~ *state, including on*  
36 *the San Francisco waterfront or in San Francisco Bay:*

37 (a) The Pier 30-32 platform bayward of the Embarcadero  
38 consists of obsolete, pile-supported pier structures that are  
39 physically no longer capable of serving most trust-related purposes  
40 without substantial modification and repair. The pier is an

1 approximately 13-acre facility centrally located along the  
2 waterfront and with a natural deep water berth along its east face.  
3 However, the poor structural condition of Pier 30-32 currently  
4 limits the use of the pier to automobile parking and occasional,  
5 temporary use as a tertiary berth for cruise ships and other deep  
6 draft vessels. The pier has a limited remaining useful life. The Port  
7 estimates that the cost of removing the pier would exceed forty-five  
8 million dollars (\$45,000,000).

9 (b) Preserving Pier 30-32 requires a substantial capital  
10 investment to improve the piles and decking to modern seismic  
11 standards. ~~The estimated~~ *Port estimates that the* cost of  
12 rehabilitating the pier substantially exceeds ~~its~~ *the Port's estimates*  
13 *of the pier's* fair market value. The Port does not have adequate  
14 funding in its 10-year capital plan for the costs to improve or to  
15 remove the pier due to limited Port resources and competing Port  
16 priorities, including completion of a new international cruise  
17 terminal at Pier 27 and the preservation of historic maritime  
18 resources in the Port's jurisdiction. The Port must conserve Port  
19 revenue to support those maritime uses and public improvements  
20 for which private investment is not economical. ~~Therefore, it is~~  
21 ~~not feasible for the Port to directly fund all necessary capital~~  
22 ~~improvements to preserve the pier and construct new, needed~~  
23 ~~maritime or other public trust facilities on Pier 30-32.~~

24 (c) Over the past decade, the Port has sought to preserve and  
25 develop Pier 30-32 through public-private partnerships. In 2001,  
26 the Legislature authorized the development of Pier 30-32 with a  
27 new cruise ship terminal, office space, and retail space. The need  
28 for a new cruise ship terminal has been recognized for over 40  
29 years. A 1998 assessment by the Port found that cruise industry  
30 experts considered the present terminal at Pier 35 on the San  
31 Francisco waterfront to be inferior to other cruise terminals in the  
32 United States. That assessment also concluded that the existing  
33 San Francisco passenger terminal at Pier 35 cannot accommodate  
34 modern cruise ships. The Port's 1998 assessment evaluated  
35 alternative locations for a new cruise ship terminal and concluded  
36 that Pier 30-32 was the most viable site for a new cruise terminal  
37 in San Francisco because of ~~dredging~~ *its position adjacent to deep*  
38 *water*, site configuration, and development considerations. The  
39 Port solicited proposals and selected a developer for a cruise ship  
40 terminal at Pier 30-32. The developer subsequently abandoned

1 that project after determining that the financial investment required  
2 to improve the substructure of Pier 30-32 was cost prohibitive,  
3 and no other developer could be found who was willing to accept  
4 assignment of the development rights for the project. The Port has  
5 since identified Pier 27 as the preferred location for its new cruise  
6 ship terminal in San Francisco, and construction of the terminal  
7 building is currently underway.

8 (d) In 2011, the America's Cup Event Authority proposed to  
9 improve Pier 30-32 to host racing teams and hospitality facilities  
10 during the America's Cup in 2013, and to acquire long-term  
11 development rights to Pier 30-32. Those planned facilities were  
12 ultimately relocated to other piers due primarily to the cost of  
13 rehabilitating the substructure of Pier 30-32.

14 (e) The Waterfront Land Use Plan and the Special Area Plan  
15 recognize that the development of Pier 30-32 and the surrounding  
16 area within the South Beach/China Basin subarea identified in the  
17 Waterfront Land Use Plan would further the public trust purposes  
18 of increasing maritime activities and expanding public use and  
19 enjoyment of the waterfront on trust lands at this location.

20 (f) The Port now proposes a mixed-use development at Pier  
21 30-32, ~~the primary proposes of which are to~~ (1) *will* further public  
22 use, access, and enjoyment of the tidelands and surrounding water  
23 at this location by providing a multipurpose venue for events and  
24 public assembly, coupled with public access, open space,  
25 ~~commercial public trust uses, and parking serving the uses on Piers~~  
26 ~~30-32 and visitors to the waterfront, and~~ (2) *preserve and enhance*  
27 ~~maritime uses and water-oriented recreational activities at the site~~  
28 *and venue-supporting or trust retail uses; significant maritime*  
29 *facilities, including an occasional berthing area for large vessels;*  
30 *bay-oriented recreational activities; and limited ancillary parking*  
31 *as reasonably necessary to meet the visitor-serving needs of the*  
32 *mixed-used development, including the multipurpose venue, all of*  
33 *which are designed to preserve and improve public and visual*  
34 *access to the bay and its shoreline.*

35 ~~(g) In addition to providing a destination for events, public~~  
36 ~~assembly, and public access to the bay, the planned improvements~~  
37 ~~include maritime facilities on the pier. Possible improvements~~  
38 ~~include a new facility for the city's fire boats; berthing facilities~~  
39 ~~for waterborne transit, such as water taxis, ferries, or commercial~~  
40 ~~excursion boats; recreational water sports access, such as a public~~

1 kayak launch area; periodic, temporary berthing for deep draft  
2 vessels on the east side of the pier, and other berthing facilities.  
3 New maritime facilities will promote local waterborne transit and  
4 may establish the proposed development at Pier 30-32 as a  
5 waterside destination for recreational boating.

6 (h) ~~The city's fire boats have operated on the San Francisco~~  
7 ~~Bay since 1878 and have provided critical fire protection services~~  
8 ~~to the city in situations like the Loma Prieta earthquake when the~~  
9 ~~ability of the fire boats to pump bay water to fight fires saved a~~  
10 ~~significant portion of San Francisco's Marina District, as well as~~  
11 ~~the recent fire at Pier 29. In addition, the city's fire boat operation~~  
12 ~~provides unique rescue and response services on the San Francisco~~  
13 ~~Bay that are of regionwide significance. The current fire boat~~  
14 ~~station at Pier 22 ½ is no longer sufficient to serve the needs of the~~  
15 ~~operation. A new fire boat facility at Pier 30-32 would provide an~~  
16 ~~opportunity to improve and expand fire boat operations.~~

17 (i)

18 (g) Pier 30-32 is ideally situated to provide public access to *and*  
19 *enjoyment of* the waterfront *and bay*. It is within walking distance  
20 of the Ferry Building, the San Francisco Giants baseball stadium,  
21 and regional transit hubs, including the ~~proposed~~ Transbay Transit  
22 ~~Center~~, *Center, which is under construction*, has unmatched views  
23 of the Bay *and the Bay Bridge*, and is immediately adjacent to the  
24 Brannan Street Wharf project, which will provide a  
25 58,700-square-foot pile-supported park over the bay, consistent  
26 with the Special Area Plan. The Port committed to the construction  
27 of the Brannan Street Wharf earlier than required under the Special  
28 Area Plan through investment of approximately twenty-five million  
29 dollars (\$25,000,000) for the removal of 175,000 square feet of  
30 pile-supported fill and development of public access improvements  
31 . The Brannan Street Wharf project is currently under construction  
32 and is anticipated to be completed by June 2013. The value of the  
33 Brannan Street Wharf as a recreational resource is diminished by  
34 the current condition and use of Pier 30-32, which ~~presents visual~~  
35 ~~blight and~~ cannot support dedicated public access on the pier *and*  
36 *full realization of the Brannan Street Wharf Open Water Basin*.

37 (j)

38 (h) The inclusion of *significant* public access improvements,  
39 maritime facilities, and ~~commercial public venue-supporting or~~  
40 ~~trust retail uses~~, together with a new multipurpose ~~venue~~, *venue*

1 *for events that bring people from around the state to the waterfront*  
2 *to use and enjoy the public trust assets of San Francisco, enhances*  
3 *and promotes the trust objectives uses of furthering maritime*  
4 *commerce and improving public access and use on the San*  
5 *Francisco waterfront the tidelands location.*

6 ~~(k)~~

7 *(i) The estimated Port estimates the cost of the construction of*  
8 *the substructure and related improvements required to make Pier*  
9 *30-32 useable for the proposed mixed-use development is in excess*  
10 *of one hundred twenty million dollars (\$120,000,000), which*  
11 *significantly exceeds the Port's appraised fair market value of the*  
12 *pier. The project proposes Port plans to finance the substructure*  
13 *costs with private capital, capital and the following public revenue*  
14 *sources: the proceeds from the sale or lease of Seawall Lot 330*  
15 *pursuant to AB 418, rent credits for the lease of Pier 30-32 to the*  
16 *developer of the venue, property tax increment from an*  
17 *infrastructure financing district, and possibly special taxes from a*  
18 *community facilities district. The multi-purpose Construction of*  
19 *the multipurpose venue structure itself will be entirely privately*  
20 *financed and will not require any expenditure of money from the*  
21 *city's general fund, or from other city or Port funds, for its*  
22 *construction funds.*

23 *(j) There are presently few visitor-serving amenities in the*  
24 *vicinity of Pier 30-32. The Port's efforts to develop its property*  
25 *for hotel use have been unsuccessful. The development of the*  
26 *multipurpose venue at Pier 30-32 and the termination of the trust*  
27 *use restrictions at Seawall Lot 330 would create substantial new*  
28 *demand for visitor-serving uses at that location and would make*  
29 *those uses financially feasible as part of an overall residential and*  
30 *mixed-use development at Seawall Lot 330. Also, Seawall Lot 330*  
31 *presents an opportunity to enhance the trust value of the project*  
32 *on Pier 30-32 by attracting more people to the waterfront and*  
33 *providing accommodations to people from both the San Francisco*  
34 *region and other areas of the state through visitor-serving uses,*  
35 *which may include visitor-serving retail, restaurants or hotel use,*  
36 *or any combination of these.*

37 SEC. 6. Section 5 of Chapter 489 of the Statutes of 2001, as  
38 amended by Section 2 of Chapter 68 of the Statutes of 2003, is  
39 amended to read:

1     Sec. 5. (a) The Legislature, in the exercise of its retained power  
2 as trustee of the public trust, and in view of the unique  
3 circumstances existing at Pier 30-32 on the San Francisco  
4 waterfront and the considerable statewide public benefit and  
5 promotion of the public trust that will be brought about by the  
6 preservation, *improvement, and modernization* of the pier,  
7 construction of a new multipurpose venue *for events and public*  
8 *assembly*, establishment of maritime uses, ~~and improved public~~  
9 ~~access and commercial public access, public use and enjoyment of~~  
10 ~~the site, establishment of venue-supporting or trust retail uses on~~  
11 ~~this the site, and additional public trust benefits~~, hereby authorizes  
12 the Port to approve a *mixed-use* development on the San Francisco  
13 waterfront at Pier 30-32 that includes a multipurpose ~~venue~~, *venue*  
14 *for events and public assembly* if the Port finds that all of the  
15 following conditions are met:

16     (1) *The mixed-use development is designed to attract people to*  
17 *the waterfront, increase public enjoyment of the San Francisco*  
18 *Bay, encourage public trust activities, and enhance public use of*  
19 *trust assets and resources on the waterfront.*

20     (a)

21     (2) (A) ~~The venue facility mixed-use development~~ is designed  
22 to provide ~~vantage points offering multiple significant views of~~  
23 ~~the Bay Bridge, Bridge and the San Francisco Bay, or both, Bay~~  
24 ~~from a variety of elevations and vantage points, including~~  
25 ~~significant views of the Bay Bridge and the San Francisco Bay~~  
26 ~~from the interior concourses on the south and east sides of the~~  
27 ~~multipurpose venue and views of the venue, and Bay Bridge from~~  
28 ~~certain seating areas, and, consistent with programming needs of~~  
29 ~~events, the areas within the multipurpose venue.~~

30     (B) *The multipurpose venue facility is located to minimize*  
31 *interference with public views of San Francisco Bay to the extent*  
32 *feasible.*

33     (C) ~~The multipurpose venue facility shall provide~~ provides free  
34 public access to patrons and nonpatrons alike to *exterior* portions  
35 of the building ~~on the east side of the venue~~, from which the public  
36 can view the San Francisco Bay, subject to reasonable limitations  
37 based on security. *In addition, to encourage the public to come to*  
38 *the bay's edge, the design of the multipurpose venue shall provide*  
39 *significant free public views of the inside of the multipurpose venue*  
40 *from the outside, and the operator of the multipurpose venue shall*

1 *be required to allow the public to view the inside of the*  
2 *multipurpose venue from the outside during events whenever*  
3 *feasible.*

4 (3) *The mixed-use development is designed to achieve and*  
5 *enhance maximum feasible public access to and minimum fill in*  
6 *the bay in a manner that is consistent, as determined by BCDC in*  
7 *its separate permit process, with the Special Area Plan, the*  
8 *McAteer-Petris Act, and the Bay Plan.*

9 ~~(b) The development includes a public access component that~~  
10 ~~meets the requirements of the Special Area Plan and the San~~  
11 ~~Francisco Bay Plan as interpreted by BCDC, provides new public~~  
12 ~~vantage points on the north, east, and south sides of Pier 30-32~~  
13 ~~from which to view San Francisco Bay, and provides continuous~~  
14 ~~public access around the entire perimeter of Pier 30-32 (configured~~  
15 ~~as necessary to accommodate use by the fire boat station, berths,~~  
16 ~~or other maritime uses on the pier edge, to the extent each of those~~  
17 ~~uses is incorporated into the development) and between Pier 30-32~~  
18 ~~and the Brannan Street Wharf.~~

19 (4) *The mixed-use development includes significant public plazas*  
20 *open to the public on a substantially permanent basis that can be*  
21 *accessed via public pedestrian promenades at the site that*  
22 *encourage public use of the site and provide a variety of views of*  
23 *the San Francisco Bay and the San Francisco cityscape.*

24 (5) *The mixed-use development includes continuous public*  
25 *access around the perimeter of Pier 30-32 open to the public year*  
26 *round, with limited exceptions for temporary safety-, security-,*  
27 *and maritime-based interruptions, and includes an interpretive*  
28 *program to enhance the public's enjoyment of the site.*

29 ~~(e) The Brannan Street Wharf project, as described in the Special~~  
30 ~~Area Plan, shall be substantially complete and open to the public~~  
31 ~~prior to approval of the Pier 30-32 development.~~

32 ~~(d)~~

33 (6) *The mixed-use development includes a significant and*  
34 *appropriate maritime program that provides for maritime uses*  
35 *along the north and east edges of Pier 30-32, which uses may*  
36 *include, without limitation, which shall be consistent with the*  
37 *Special Area Plan and shall include, but is not limited to:*

38 (1)

1 (A) A city fire station and berthing facilities for city fire boats,  
2 *or, in lieu thereof, one or more other maritime uses on the north*  
3 *side of Pier 30-32.*

4 ~~(2)~~

5 (B) Facilities for berthing at the east end of Pier 30-32, including  
6 facilities that can accommodate periodic use by cruise or other  
7 deep draft vessels, *or other facilities that promote the deep water*  
8 *berth at Pier 30-32.*

9 ~~(3)~~

10 ~~(C) Direct~~Facilities that enable direct public access to the water  
11 ~~in the form of a launch for by human-powered vessels, subject to~~  
12 ~~feasibility and public safety considerations vessels or swimmers,~~  
13 ~~if feasible, on the south side of Pier 30-32, or water-oriented~~  
14 ~~recreational uses facing the Brannan Street Wharf open water~~  
15 ~~basin.~~

16 ~~(4) Guest berths that accommodate private vessels for day use.~~

17 ~~(5) Water-based transit facilities, including water taxi and ferry~~  
18 ~~landings.~~

19 ~~(e) The development provides for the use of the south edge of~~  
20 ~~Pier 30-32 by recreational craft or other maritime uses, which may~~  
21 ~~include, without limitation, the types of facilities referenced in~~  
22 ~~paragraphs (2) to (5), inclusive, of subdivision (d), or for public~~  
23 ~~access or public water-oriented recreational uses facing the Brannan~~  
24 ~~Street Wharf open water basin.~~

25 (D) *Water-transit docking or berthing facilities for water taxis,*  
26 *ferries, or both.*

27 ~~(f)~~

28 (7) Any nonmaritime office space ~~provided~~ on Pier 30-32 is  
29 *limited to 70,000 square feet, and any nonmaritime office space*  
30 *provided on Pier 30-32 is for use only by the primary tenants of*  
31 *the multipurpose venue, or is ancillary to venue for events and*  
32 *public assembly, the use of the multipurpose venue, the supporting*  
33 *or trust retail uses on Pier 30-32, and the operation and*  
34 *management of the open space, space and other public facilities*  
35 *on Pier 30-32.*

36 ~~(g)~~

37 (8) ~~At least half of all~~All retail venues on Pier 30-32 ~~is are~~  
38 *limited to venue-supporting or trust retail uses. For purposes of*  
39 ~~this subdivision only, “trust retail” means visitor serving public~~  
40 ~~trust retail and restaurant use.~~

1 (h)

2 (9) Any parking included on Pier 30-32 is *limited to 500 spaces*,  
3 located under active uses on Pier 30-32, substantially screened  
4 from public view, and designed ~~to avoid~~ *so that ingress and egress*  
5 *avoids* material interference with pedestrian, wheelchair, and  
6 bicycle traffic along Herb Caen Way and *material interference*  
7 *with* the public's access to and use of the open space on the surface  
8 of the pier. *Parking shall be designed to accommodate visitors to*  
9 *the site and shall not be reserved for residential use.*

10 (10) *Public trust-consistent events, uses, and programming are*  
11 *offered regularly at the site of the mixed-use development. The site*  
12 *shall be made available to the Port or its designee for those events*  
13 *on at least 15 days per year, including at least three days on which*  
14 *the multipurpose venue shall be made available to the Port or its*  
15 *designee for those events. These events shall include free and*  
16 *low-cost visitor-serving events.*

17 (11) *A public community room is available at the site for free*  
18 *or low-cost use by members of the public statewide, without*  
19 *preference to local residents or organizations.*

20 (12) *The development of the site is required to be consistent*  
21 *with a plan to address anticipated sea-level rise through year*  
22 *2050, which shall include enforceable strategies incorporating an*  
23 *adaptive management approach to sea-level rise for the duration*  
24 *of the ground lease term.*

25 (13) *The development approved for Seawall Lot 330 includes*  
26 *a hotel or other visitor-serving uses that the Port finds will*  
27 *materially enhance public trust uses on Pier 30-32 and the San*  
28 *Francisco waterfront.*

29 (b) (1) *If a multipurpose venue for events and public assembly*  
30 *is approved and constructed on Pier 30-32, the Port shall submit*  
31 *and present at a properly noticed public State Lands Commission*  
32 *meeting a trust program report to the State Lands Commission,*  
33 *no later than five years from the date of the opening of the*  
34 *multipurpose venue, and every five years thereafter through the*  
35 *term of the ground lease for the multipurpose venue, that contains*  
36 *all of the following information:*

37 (A) *A list and description of the trust-related events and*  
38 *programming that have occurred at the site of the mixed-use*  
39 *development and in the multipurpose venue over the preceding*  
40 *five-year period, including the dates on which the events occurred*

1 *or the multipurpose venue was made available for those events,*  
2 *and identifying any free and low-cost visitor-serving events.*

3 *(B) A description of the efforts made by the Port, its tenants,*  
4 *and subtenants to publicize the availability of Pier 30-32, including*  
5 *the multipurpose venue, for trust-related events and other efforts*  
6 *undertaken to solicit such events.*

7 *(C) A description of the maritime program on those portions of*  
8 *Pier 30-32 within the purview of the Port or the City, including a*  
9 *list of the facilities constructed, identification of any tenants,*  
10 *licensees, or other operators of the maritime facilities, and a*  
11 *description of the nature and frequency of the maritime use.*

12 *(D) A description of the tenants and use of the nonmaritime*  
13 *office space and the use of the public community room on Pier*  
14 *30-32.*

15 *(E) Any other information specifically requested by the State*  
16 *Lands Commission that pertains to the City or Port program of*  
17 *trust uses for Pier 30-32 and that is reasonably obtainable by the*  
18 *City or Port.*

19 *(2) (A) The Port, and the City, if applicable, shall work*  
20 *cooperatively with the executive officer of the State Lands*  
21 *Commission to develop an implementation plan if the executive*  
22 *officer of the State Lands Commission, upon review of the trust*  
23 *program report, determines both of the following:*

24 *(i) That Pier 30-32 is not being used for at least 13 trust-related*  
25 *events annually at the site as a whole or is not being used for at*  
26 *least three trust-related events annually at the multipurpose venue*  
27 *as specified in paragraph (10) of subdivision (a); or, that the City*  
28 *or the Port has not implemented the maritime program for Pier*  
29 *30-32 for its intended purposes, as specified in paragraph (6) of*  
30 *subdivision (a).*

31 *(ii) That the Port, or the City, as applicable, has not taken*  
32 *effective action to achieve the objectives specified in clause (i).*

33 *(B) The executive officer of the State Lands Commission shall*  
34 *provide written notice to the Port and the City of a determination*  
35 *under subparagraph (A) requiring the development of an*  
36 *implementation plan, including the basis for that determination.*  
37 *An implementation plan developed pursuant to this paragraph*  
38 *shall ensure that the objectives of clause (i) of subparagraph (A)*  
39 *are met for the next five-year reporting period and shall be*  
40 *consistent with the terms and conditions set forth in governmental*

1 *approvals for development of the project and in then-existing leases*  
2 *and other contracts affecting use of the site, including rights of*  
3 *leasehold mortgagees under those contracts. In accordance with*  
4 *this subparagraph, the implementation plan may include a plan*  
5 *for improving outreach, publicity, or marketing efforts for trust*  
6 *events or to attract maritime operators or users.*

7 (3) *In conjunction with the Port's report required in paragraph*  
8 *(1), the tenant of the multipurpose venue shall submit and, if*  
9 *requested by the executive officer of the State Lands Commission,*  
10 *present at a properly noticed public State Lands Commission*  
11 *meeting, an informational report to the State Lands Commission*  
12 *describing how the event program at the multipurpose venue is*  
13 *meeting the objectives for use of that venue set forth in paragraph*  
14 *(2) of subdivision (a).*

15 SEC. 7. Section 6 of Chapter 489 of the Statutes of 2001 is  
16 amended to read:

17 Sec. 6. The Legislature finds and declares that the 2000  
18 amendments of the ~~San Francisco~~ Bay Plan and the Special Area  
19 Plan by BCDC are authorized under subdivision (f) of Section  
20 66632 of the Government Code as necessary to protect the health,  
21 safety, and welfare of the public in the entire bay area, and BCDC's  
22 actions with respect to those amendments are hereby ratified and  
23 confirmed.

24 SEC. 8. Section 7 of Chapter 489 of the Statutes of 2001, as  
25 amended by Section 3 of Chapter 68 of the Statutes of 2003, is  
26 amended to read:

27 Sec. 7. Any *legislative or regulatory* requirement for findings  
28 of consistency with the public trust doctrine or the Burton Act trust  
29 under the Special Area Plan, the Bay Plan, or any other applicable  
30 statute, regulation, or plan shall be deemed satisfied if the Port has  
31 made a finding that the Pier 30-32 development is consistent with  
32 the requirements of Section ~~6 5~~ of the ~~Pier 30-32 Revitalization~~  
33 ~~Act this act~~. ~~Except as provided in this section, with respect to a~~  
34 ~~finding of consistency with the public trust doctrine, nothing in~~  
35 ~~that this act is intended to limit the authority and discretion of~~  
36 ~~BCDC to approve or deny permits for the projects multiuse~~  
37 ~~development plan on Pier 30-32 generally described in that this~~  
38 ~~act in a manner consistent with the McAteer-Petris Act, the Bay~~  
39 ~~Plan, and the Special Area Plan, and that act, or to including the~~  
40 ~~authority and discretion of BCDC to impose conditions on the~~

1 *permits for the project. This act shall not limit the authority and*  
2 *discretion of BCDC to enforce permits issued for the projects*  
3 *described in ~~that~~ this act.*

4 SEC. 9. Section 8 of Chapter 489 of the Statutes of 2001 is  
5 amended to read:

6 Sec. 8. (a) For the purpose of effectuating the sale of the street,  
7 including the conveyance of the street by the city, free of the public  
8 trust and the Burton Act trust, the State Lands Commission may  
9 convey to the city by patent all of the rights, title, and interest held  
10 by the state by virtue of its sovereign trust title to the street,  
11 including any public trust interest or Burton Act reservation or  
12 trust interest, not heretofore conveyed, subject to any reservations  
13 the State Lands Commission determines appropriate.

14 (b) In any case in which the state, pursuant to this act, conveys  
15 filled tidelands and submerged lands transferred to the city pursuant  
16 to the Burton Act, the state shall reserve all minerals and all mineral  
17 rights in the lands of every kind and character now known to exist  
18 or hereafter discovered, including, but not limited to, oil and gas  
19 and rights thereto, together with the sole, exclusive, and perpetual  
20 right to explore for, remove, and dispose of those minerals by any  
21 means or methods suitable to the state or to its successors and  
22 assignees, except that, notwithstanding the Burton Act, or Section  
23 6401 of the Public Resources Code, any such reservation shall not  
24 include the right of the state or its successors or assignees in  
25 connection with any mineral exploration, removal, or disposal  
26 activity, to do either of the following:

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

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

34 (c) This section does not require the state, the city, or the Port  
35 to reserve mineral rights in any portion of Seawall Lot 330,  
36 including any portion of the street, that is conveyed pursuant to  
37 AB 418.

38 SEC. 10. Section 9 of Chapter 489 of the Statutes of 2001 is  
39 amended to read:

1 Sec. 9. The city may, pursuant to Section 3 of Article X of the  
2 California Constitution, sell the street to any private person,  
3 partnership, or corporation, with the approval of the State Lands  
4 Commission, if the city first finds that the sale is consistent with  
5 the legislative findings and declarations set forth in Section 3. That  
6 sale shall not be effective unless and until the State Lands  
7 Commission, at a regular open meeting with the proposed sale of  
8 the street as a properly scheduled agenda item, does or has done,  
9 all of the following:

10 (a) Finds, or has found, that the consideration for the sale of the  
11 street pursuant to Section 3 of Article X of the California  
12 Constitution shall be the fair market value of the street.

13 (b) Adopts, or has adopted, a resolution approving the sale that  
14 finds and declares that the street has been filled and reclaimed, is  
15 cut off from access to the waters of San Francisco Bay, and is no  
16 longer needed or required for the promotion of the public trust or  
17 the Burton Act trust, and that no substantial interference with the  
18 public trust or Burton Act trust uses and purposes will ensue by  
19 virtue of the sale. The resolution shall also declare that the sale is  
20 consistent with the findings and declarations in Section 3, and the  
21 sale is in the best interests of the state and city. Upon adoption of  
22 the resolution, or at a time that is specified in the resolution, the  
23 street shall thereupon be free from the public trust and the Burton  
24 Act trust.

25 (c) Finds, or has found, that the proceeds for the sale of the  
26 street will be devoted to trust-related capital improvements by the  
27 Port.

28 (d) This section does not apply to a conveyance of any portion  
29 of Seawall Lot 330, including the street, that is made pursuant to  
30 AB 418.

31 SEC. 11. Section 11 of Chapter 489 of the Statutes of 2001 is  
32 amended to read:

33 Sec. 11. A deed, patent, agreement, or other instrument  
34 executed in furtherance of this act, or an action of the state, the  
35 city, or the Port to approve the use, lease, or conveyance of any  
36 portion of port property subject to this act, or to approve project  
37 agreements, grant entitlements, or permits, or issue bonds or other  
38 indebtedness in connection with the use and development of that  
39 property in accordance with this act, shall be conclusively  
40 presumed to be valid, unless held to be invalid in an appropriate

1 proceeding in a court of competent jurisdiction to determine the  
2 validity of the instrument, agreement, or approval commenced  
3 within 60 days after the recording of the instrument or agreement,  
4 or the recording of a memorandum evidencing the instrument or  
5 agreement, or, in the case of an approval, within 60 days after the  
6 approval.

7 SEC. 12. Section 13 of Chapter 489 of the Statutes of 2001 is  
8 amended to read:

9 Sec. 13. (a) An action may be brought under Chapter 4  
10 (commencing with Section 760.010) of Title 10 of Part 2 of the  
11 Code of Civil Procedure to establish title to any lands conveyed  
12 pursuant to this act or by the parties to any agreement regarding a  
13 street sale or exchange of land entered into pursuant to this act or  
14 pursuant to Chapter 310 of the Statutes of 1987 to confirm the  
15 validity of the agreement. Notwithstanding Section 764.080 of the  
16 Code of Civil Procedure, the statement of decision in the action  
17 shall include a recitation of the underlying facts and a determination  
18 whether the conveyance or agreement meets the requirements of  
19 this act, and, if applicable, Chapter 310 of the Statutes of 1987,  
20 Sections 3 and 4 of Article X of the California Constitution, and  
21 any other law applicable to the validity of the conveyance or  
22 agreement.

23 (b) For purposes of Section 764.080 of the Code of Civil  
24 Procedure, and unless otherwise agreed in writing, an agreement  
25 entered into pursuant to this act shall be deemed to be entered into  
26 on the date it is executed by the executive officer of the ~~commission~~  
27 *State Lands Commission*, who shall be the last of the parties to  
28 sign prior to the signature of the Governor. The effective date of  
29 the agreement shall be deemed to be the date on which it is  
30 executed by the Governor pursuant to Section 6107 of the Public  
31 Resources Code.

32 (c) An action may be brought under Chapter 9 (commencing  
33 with Section 860) of Title 10 of Part 2 of the Code of Civil  
34 Procedure to determine the legality and validity of a deed, patent,  
35 agreement, or other instrument executed in furtherance of or  
36 authorized by this act, or an action of the city or Port to use, lease,  
37 or convey any property, or to approve project agreements, grant  
38 entitlements, or permits, or issue bonds or other indebtedness in  
39 connection with the use and development of that property, in  
40 accordance with this act. Prior to the filing of an action, the

1 Attorney General and the executive officer of the ~~commission~~  
2 *State Lands Commission* shall be provided written notice of the  
3 action and a copy of the complaint. An action authorized by this  
4 subdivision may be combined with an action authorized by  
5 subdivision (a).

6 SEC. 13. Section 14 of Chapter 489 of the Statutes of 2001 is  
7 amended to read:

8 Sec. 14. (a) This act does not alter the obligations of the city  
9 or the Port under the California Environmental Quality Act  
10 (Division 13 (commencing with Section 21000) of the Public  
11 Resources Code), including any obligation to consider alternatives  
12 to a project proposed for Pier 30-32 or Seawall Lot 330.

13 (b) *If a mixed-use development at Pier 30-32 that includes a*  
14 *multipurpose venue for events and public assembly meeting the*  
15 *conditions of Section 5 of this act has not been approved within*  
16 *10 years of the effective date of this act, the provisions of Section*  
17 *5 and Section 7 of this act shall become inoperative as of the date*  
18 *that is 10 years from the effective date of this act.*

19 SEC. 14. For purposes of this act, subdivision (d) of Section  
20 ~~9 of Chapter 477 of the Statutes of 2011 of AB 418~~ shall not apply  
21 to any sale of Seawall Lot 330 if the proceeds of the sale are  
22 applied to the cost of rehabilitating the Pier 30-32 substructure or  
23 the cost of constructing maritime or public access improvements  
24 on Pier 30-32.

25 SEC. 15. The Legislature finds and declares that a special law  
26 is necessary and that a general law cannot be made applicable  
27 within the meaning of Section 16 of Article IV of the California  
28 Constitution because of the unique circumstances applicable only  
29 to the trust lands described in this act.