

**CALENDAR ITEM
C37**

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**CONSIDER APPROVAL OF A TRUST LANDS USE REPORT PURSUANT TO
CHAPTER 275, STATUTES OF 2006, CITY OF PITTSBURG,
CONTRA COSTA COUNTY**

TRUSTEE:

City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

INTRODUCTION:

All tide and submerged lands, granted or ungranted, as well as navigable rivers, sloughs, etc., are impressed with the Common Law Public Trust. The Public Trust is a sovereign public property right held by the State or its delegated trustee for the benefit of all the people. This right limits the uses of these lands to water-related commerce, navigation, fisheries, open space, recreation, or other recognized Public Trust purposes. The California State Lands Commission (Commission) has been given the responsibility to manage the Public Trust lands in the state, and to represent the state's and the public's residual interest and rights in tide and submerged lands legislatively granted in trust to local governmental entities (Public Resources Code Sections 6301, et seq.).

Chapter 275, Statutes of 2006 granted, in trust, to the city of Pittsburg (City), all of the right, title, and interest of the State held by the State by virtue of its sovereignty in and to all tidelands and submerged lands, whether filled or unfilled, situated within the boundaries of the City as such boundaries existed on January 1, 2007. Pursuant to Chapter 275, Statutes of 2006, the City, as trustee, is required to submit to the Commission a Trust Lands Use Report (Report) for its review and approval.

The Report submitted by the City provides an explanation of the types of uses proposed for the lands legislatively granted to the City. In addition, the Report also outlines the City's responsibilities related to its role as Trustee, on behalf of the State of California and the Commission, in managing its Public Trust lands. The Report represents what the City proposes will be the general land uses of its granted Public Trust lands. As specific projects are proposed, Commission staff

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will continue to exercise its oversight jurisdiction in reviewing those specific projects for consistency with the Public Trust Doctrine and the City's granting statutes.

The Pittsburg City Council unanimously approved the Report on January 20, 2009.

THE PUBLIC TRUST DOCTRINE AND LEGISLATIVELY GRANTED PUBLIC TRUST LANDS:

Traditional Public Trust uses are considered to include water-related commerce, navigation, and fisheries. Harbor development is a classic example of a public trust use, potentially encompassing all three. And, although courts have recognized that the Public Trust Doctrine is flexible and that it includes water-related public serving and recreational uses, as well as environmental protection, open space, and preservation of scenic areas, the overarching principle of the Public Trust Doctrine is that trust lands and trust assets belong to the statewide public and are to be used to benefit the statewide public rather than for local community or municipal purposes.

The same holds true for legislatively granted public trust lands and assets managed by a local government. Commencing in 1851 and continuing to the present, the California Legislature has periodically transferred sovereign Public Trust lands to local governmental entities for management purposes. The majority of legislative grants of tidelands are held in trust for Public Trust purposes, including water-related commerce, navigation and fisheries. However, the terms of these grants can vary.

As to any particular trustee, the terms of the trust must be derived from both the original and all supplementary and amendatory legislation, as well as general legislation applying to all such trust grants. The usual granting language utilized by the Legislature has the effect of conveying the State's legal title to the described tide and submerged lands, subject to certain terms and conditions and subject to the statutory and Common Law Public Trust. The effect of the legislative grant is, therefore, to create a trust in which the grantee is trustee, and the State is the trustor, and the people of the State are the beneficiaries of the trust. The grantee is a trustee, both as to the lands themselves and as to the proceeds derived therefrom [*City of Long Beach v. Morse*, 31 Cal. 2d 254, 257 (1947)]. The trust is for the benefit of the entire State [*Mallon v. City of Long Beach*, 44 Cal. 2d 199, 209 (1955)]. The use of trust lands and revenues derived therefrom for non-trust purposes is a violation of the trustee's fiduciary duty to the trust and its beneficiaries.

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In addition to the Common Law judicial protections given public trust lands and assets laid down by both federal and state courts, the people of California have adopted several Constitutional restrictions on the state and local governments in their handling of these statewide public assets. Specifically, **California Constitution Article X §3** (adopted in 1879 as Article XV, §3) prohibits the sale of tidelands within two miles of a city to private parties. **Article XVI, § 6** prohibits the state from making a gift of public monies or thing of value to any municipal corporation [*Mallon* at 211].

In addressing what constitutes an appropriate use to which Public Trust lands may be dedicated, California courts have made it clear that water dependent uses related to commerce, navigation, fisheries, and other water-related uses or activities, such as public access and use for water-related recreation, and ecological preservation for scientific study and wildlife habitat (*Marks v. Whitney* (1971) 6 Cal.3rd 151), as well as those uses that are necessary and incidental to accomplish or promote those [Public Trust] uses (*Haggerty v. City of Oakland* (1958) 161 C.A.2d 404), are consistent with the land use requirement of the trust. Ancillary visitor serving facilities, such as restaurants and hotels, have also received judicial approval because they enhance and facilitate the public's enjoyment of trust lands, by providing public accommodation (*Martin v. Smith* (1960) 184 Cal. App. 2d 571). When analyzing the consistency of expenditure of public trust funds for specific uses, the trustees of public trust lands must exercise caution so as not to violate their fiduciary duties to the trust or violate the State Constitution.

ANALYSIS OF THE TRUST LANDS USE REPORT:

The Report details the City's proposed uses for its Public Trust lands and adjacent uplands. Historically, according to the Report, the City's waterfront was utilized for docking, fishing, canning, and shipping of coal. While the majority of the Public Trust lands legislatively granted to the City are submerged lands, there are also portions that are filled, waterfront property.

According to the Report, the City is committed to utilizing its Public Trust lands "in a manner consistent with the Public Trust and the legislative granting statute." The uses projected for the City's Public Trust lands are categorized as: 1) Land Preservation and Open Space; 2) Recreational/Visitor Oriented; 3) Management of Existing Residential Development; and 4) Commerce/Economic Development.

It is important to note that the existing residential developments mentioned above are adjacent to the water, but are located on non-public trust lands, are not included with the City's trust grant and, according to the City, were included in the Report solely to present a complete overview of the waterfront. In addition,

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there are several private recreational docks constructed without appropriate permit/authority, but according to the Report, the City will bring these docks into compliance or the City will require these private recreational docks to be removed.

Land Preservation and Open Space Uses

According to the Report, the City's public lands, including Public Trust lands and adjacent uplands, include a significant amount of open space and conserved natural resource and wildlife refuge areas. For example, Riverview Park, which includes both Public Trust lands and City-owned uplands, consists of four acres of open space, offers public access to the waterfront, including shoreline trails, a floating pier, fishing facilities, picnic areas and a children's playground area. In addition, the City's Public Trust lands also include 172 acres of tidal wetlands and a 30-acre beaver pond.

The Report describes the City's desire to include its Public Trust lands in its efforts to open the shoreline for more recreational uses and generally give the public more access to the waterfront by potentially providing fishing piers and additional small boat access. Such efforts to manage Public Trust lands in these ways are generally consistent with the Public Trust Doctrine. However, not all open space/park uses are consistent with the Public Trust Doctrine. Recreational uses, including open space and public parks, which have no relation to the water and do not provide a statewide benefit, but primarily serve the local community, are not uses consistent with the Public Trust Doctrine.

Recreational/Visitor-Oriented Uses

According to the Report, the Pittsburg Marina is one of the City's treasured recreational/visitor serving uses of waterfront property and consists of approximately 588 berthing slips, a 24-hour public launch ramp (free of charge for public use), on-site boat haul out service (available as needed), public fuel docks (open seven days a week), seasonal fishing charters, Delta cruises, live bait shop/market, and extensive waterfront access for passive recreational use. According to the Report, the City's redevelopment agency recently invested approximately \$7 million to renovate and improve the Marina.

Marinas, associated marine services and other visitor-serving amenities are generally consistent with the Public Trust Doctrine and the City's granting statutes. However, general retail uses, which have no relationship to the water, serve the local citizenry and are not visitor-serving are uses inconsistent with the Public Trust Doctrine. Alternatively, commercial retail uses which are visitor-serving, catering to the statewide general public, and are water-related, may be considered incidental and necessary in promoting the public's use of public trust

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lands and hence would be considered consistent with the Public Trust Doctrine. Also, general civic/cultural uses that are not water-related and are not visitor-serving in nature are not appropriate Public Trust uses as such uses cater to the local community and do not serve the statewide general public.

Commercial/Economic Development Uses

According to the Report, the majority of the industrial waterfront area is underutilized at this time and it is the City's desire to attract and expand industrial uses which require access to the City's Public Trust lands. There may also be potential contamination and environmental issues that need to be addressed. According to the Report, it is the City's intention to maintain the industrial use and character of this historical stretch of the waterfront while encouraging the development of "clean" industries and supporting the modernization of all industrial uses in the area to reduce both air and water pollutant levels, as well as the reclamation and reuse of contaminated industrial sites. The City has begun the important process of removing blighted conditions along the waterfront and continues to explore potential industrial/commercial operations.

As stated throughout this staff report, Public Trust lands must be used for uses that are water-dependent or water-related and serve the statewide public. A strictly industrial or commercial use without any connection to the water would be an inconsistent Public Trust use.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that these activities are not subject to the provisions of the CEQA because they are not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

2. These activities involve lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq., but such activities will not affect those significant lands.

CONCLUSION/STAFF RECOMMENDATION:

In conclusion, staff recommends that the Commission approve the City's Trust Land Use Report. According to the Report, which was adopted unanimously by the City Council in January 2009, the City is committed to using its Public Trust lands in a manner consistent with the Public Trust Doctrine and the City's granting statutes. In

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addition, as stated previously, as specific projects are proposed, Commission staff will continue to exercise its oversight responsibility by working with the City in reviewing those specific projects for consistency with the Public Trust Doctrine and the City's granting statutes.

EXHIBIT:

- A. City of Pittsburg Trust Land Use Report

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITIES ARE NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITIES ARE NOT A PROJECT AS DEFINED BY THE PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.
2. FIND THAT THESE ACTIVITIES ARE CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.
3. APPROVE THE CITY OF PITTSBURG'S TRUST LAND USE REPORT, IDENTIFIED AS EXHIBIT A, AS ATTACHED AND MADE A PART HEREOF.

City of Pittsburg Trust Lands Use Report Amended April 7, 2009

Introduction

In accordance with existing legislative law, Assembly Bill 2324 (Chapter 275, 2006), all tidelands and submerged lands, whether filled or unfilled, situated within the boundaries of the City of Pittsburg as those boundaries exist on January 1, 2007, have been granted to the City of Pittsburg for public trust purposes for the benefit of all the people of the state. As Trustee, the City of Pittsburg will oversee the Trust Lands for public trust purposes related to the preservation of lands in their natural state for scientific study, open space, wildlife habitat and recreational and visitor-oriented uses; as well as, purposes related to commerce, navigation and fisheries.

In accordance with the legislative bill and in conformity with the public trust, the City of Pittsburg has prepared the following Trust Lands Use Report. Pittsburg's Trust Lands Use Report provides an explanation of the types of uses planned and/or proposed for the granted lands and the associated statewide benefits to be derived from such uses. In addition, the Trust Lands Use Report also outlines Pittsburg's responsibilities related with its role as Trustee and conservator for the granted lands on behalf of the State of California and the State Lands Commission.

The granted trust lands will be used in a manner consistent with the Public Trust and the legislative granting statute.

Brief History – Pittsburg's Land Use

As explained in the City's General Plan, much of Pittsburg's current land use pattern can be traced to its heritage as an industrial center of Contra Costa County. The City's historic downtown and industrial center are near water and real transportation corridors – the Sacramento River and the Burlington Northern & Santa Fe (Union Southern Pacific) railroads. Over time, as the City grew southward, auto-oriented residential subdivisions became dominant and regional streets and highways such as State Route 4 became major transportation routes. The Southern Pacific Railroad is the dividing line between the gridiron street network of older portions of the City and the larger-scale industrial parks, commercial centers and newer residential developments. The relatively small-scale downtown gives way to larger, predominately single-use areas as one moves south through the City.

Pittsburg is known for its industries, including but not limited to: steel, petroleum and biochemical production. Major industries originally located their operations along New York Slough to facilitate shipping. Industrial uses continue to dominate Pittsburg's waterfront to date. Major manufacturing operations such as USS/POSCO and the Dow

Chemical plant are located along the eastern waterfront, while the Pittsburg Municipal Marina dominates the western end.

Uses Planned and/or Projected for the Trust Lands

All granted tidelands and submerged lands along Pittsburg's waterfront are shown on the comprehensive map attached as Exhibit "A", which will be used as a reference tool throughout this report. The uses planned and/or projected for the Trust Lands have been categorized as follows:

- Land Preservation and Open Space Uses
- Recreational / Visitor Oriented Uses
- Management of Existing Residential Development Uses
- Commerce / Economic Development Uses

Land Preservation and Open Space Uses

The granted waterfront lands along Pittsburg's city boundary lines start and end with open space, conserved natural resource and wildlife refuge areas (identified by green boundary lines and labeled "Open Space" on Exhibit "A"). Traveling east along the New York Slough, Pittsburg's city boundary begins at Riverview Park. Riverview Park is approximately 4 acres of open space, with a wide variety of amenities. Riverview Park offers public access to the waterfront in the form of shoreline trails, a floating pier and fishing facilities, picnic areas, and a small playground space for young children to enjoy, as well as, preserved marsh land and a natural wildlife refuge.

Continuing east, the City's waterfront boundary ends at the approximate 471-acre Dow Wetlands. The Dow Wetlands includes 172 acres of tidal wetlands, a 30-acre beaver pond and a diverse range of habitats; including, but not limited to: riparian zones, uplands/grasslands, mudflats, freshwater/brackish tidal marsh, freshwater ponds and open water. The Dow Wetlands preserve is home to more than 130 species of birds, located along the Pacific Flyway migratory route. In addition, the preserves provide a sanctuary for the threatened Black Shouldered Kites and Northern Harrier species; as well as, the endangered Salt Marsh Harvest Mouse, Mason's Lilaopsis and Suisun Aster species.

Dow's 30-member team of employees, retirees and community members routinely improve, enhance and restore the preserve with the following efforts: planting trees, shrubs and wildflowers; monitoring nesting site improvements for migrating birds; constructing and maintaining road improvements, docks, raptor platforms, a viewing platform, Kestrel birdhouses and a recycle water irrigation system, including a windmill that pumps water to native oak trees and a bird forage field that yields crops of sunflowers, barley and corn to attract additional wildlife. All of these projects are continual, ongoing efforts to conserve and enhance the preserve for the wildlife that inhabit the wetlands and to raise public awareness and appreciation about wildlife and environmental stewardship.

Dow has many key partnerships and collaborations within the Eastern Contra Costa County and abroad, that make many valuable programs offered at the Dow Wetlands possible. These programs include the University of California (Berkeley) Environmental Science Teaching Program, the Elementary Environmental Science Workshops, the Lindsay Wildlife Museum Field Trips, the Bi-annual Community Environmental Fairs and a permanent 'green' structure that will house a Center for Science and Environmental Education that is currently being planned on site at the Dow Wetlands, to be fully equipped with laboratory apparatus and classroom materials, to benefit three local school districts, the regional park system and local junior colleges. The public benefit of the wetlands is tremendous. Approximately 2,500 elementary students tour the wetlands each year and approximately 500 attend an environmental workshop each spring. Each year, approximately 300-400 high school students perform community service at the wetlands and approximately 100 college students conduct field experiments. Thousands visit the Dow Wetlands every year to enjoy the natural preserves and wildlife habitat. The preserve is open daily to the general public for passive recreational enjoyment with easy public access and no entry fees required.

In addition to the two open space areas that mark the beginning and end of Pittsburg's city boundaries, Brown's Island Regional Shoreline is an additional open space / regional preserve granted within Pittsburg's Trust Lands. The primary purpose of any regional preserve area is the conservation of natural resources, such as those available on Brown's Island Regional Shoreline. Brown's Island is only accessible by boat, but offers many beautiful views of the preserved natural land and wildlife refuge for migrating shorebirds.

Pittsburg would like to encourage and promote future efforts to make Brown's Island Regional Shoreline more accessible to the general public, creating a greater use of the existing regional open space. Boating excursions for passive recreational uses, including nature walks along the shoreline to enjoy the beautiful Delta views and the existing wildlife in their natural habitat, would be a positive use of the open space. Brown's Island could also serve as a natural resource for wetlands educational programs, similar to those currently available at the Dow Wetlands preserve.

An example of support that Pittsburg may offer to this effort is to provide informational kiosks along the waterfront and downtown areas that would inform visitors of the various resources and programs available at Brown's Island. Additionally, Pittsburg's Municipal Marina could potentially house the location for the island's boating excursions, enabling public access to the preserve. Increasing the accessibility and utilization of the regional open space would be of great value to the region. These efforts would require a considerable collaboration of efforts between the City, East Bay Regional Park District and many other partners. It is important to note that Brown's Island Regional Shoreline is currently leased to the East Bay Regional Park District (EBRPD) and a portion of the island is owned by the Port of Stockton.

In accordance with the Delta Protection Act of 1992, the California Delta Protection Commission (DPC) is required to review and approve all proposed General Plan amendments affecting land within the designated primary zone protected by the Delta Protection Act (DPA). Brown's Island, located along the northeastern shore of Suisun Bay, lies within the DPC's primary zone. As mandated by the DPA, Pittsburg's adopted

General Plan and any future development that may be approved or proposed under the General Plan, must be consistent with DPC's land use and resource management plan and must not result in any of the following actions:

- Wetland or riparian loss;
- Degradation of water quality;
- Increased nonpoint source pollution;
- Degradation or reduction of Pacific Flyway habitat;
- Reduced public access, provided the access does not infringe on private property rights;
- Increased flood hazard for the public;
- Adverse impact to agricultural lands or increase to the potential for vandalism, trespassing, or the creation of public private nuisance on public or private land;
- Degradation or impairment of levee integrity; and
- Adverse impact on navigation.

In addition to Pittsburg's compliance with the Delta Protection Act, Pittsburg's General Plan outlines the City's goals to provide parks that reflect the diversity of Pittsburg's natural setting, including its valuable waterways and topography, preserving natural features in open space areas (even active recreational facilities) including areas of riparian and other wildlife habitat, creeks and drainage ponds. As further detailed within Pittsburg's General Plan, the preservation of natural features in various park facilities and open space areas reflect the setting in which the City has developed and plans to provide a refreshing variety to existing urban landscape.

Pittsburg's General Plan goals also include the creation and maintenance of valuable trails that provide access to regional open spaces, as well as, connections to various neighborhoods within the City. An example of this effort is the creation of the Eight Street Linear Park, which provides a linear greenway throughout one of the City's older neighborhoods near the old downtown area, that connects to other multi-use trails along the waterfront. Connecting neighborhoods to recreational park facilities and open space areas is an important community enrichment focus of the City in its future planning objectives to create a higher quality of life, utilizing the existing, valuable open space acreage and making it more accessible to the local residents.

All of the proposed uses will be greatly enhanced by being able to include the Trust Lands as part of the planned opportunity to open the shoreline for more recreational uses and generally give the public more access to the waterfront. Some proposals being considered are fishing piers and additional small boat access. Discussions have taken place with Los Medanos Community College to operate an Aquatic Educational Center using the Trust Lands for access to the river.

Recreational / Visitor Oriented Uses

The Pittsburg Municipal Marina ("Marina") is one of the City's treasured recreational / visitor oriented uses of waterfront property (identified by blue boundary lines and labeled "Recreational" on Exhibit "A"). As discussed within the City's General Plan, historically

Pittsburg's waterfront was utilized for docking, fishing and canning, and shipping of coal. This portion of the Delta shoreline adjacent to Pittsburg's downtown now consists of a small-craft municipal marina. The Marina is located at the confluence of the Sacramento and San Joaquin Rivers, strategically located to offer boaters easy access to the upper Delta region with its maze of channels and sloughs and to the San Francisco Bay with its diverse aquatic and wetland habitats.

The Marina consists of an approximate 588 berthing slips offered at very competitive rates, a 24-hour public launch ramp free of charge for public use, on-site haul out service available as needed, public fuel docks open seven days a week, seasonal fishing charters and delta cruises, a live bait shop / market and extensive waterfront access for passive recreational use, such as walking, jogging, bicycling, picnicking and fishing. The Marina is easily accessible by public transportation, with many amenities available to the public year round and free of charge.

The City of Pittsburg's Redevelopment Agency recently invested an approximate \$7 million to renovate and improve the Marina. Renovations included significant dredging of the waterway, pole and piling replacements, expansion of existing berthing slips, installation of power pedestals with electricity, telephone and water connections, installation of a new fueling system, construction of new restroom facilities built to current ADA regulations and considerable shore-side improvements including an impressive new promenade. This considerable investment in the renovation of the Marina has increased the public's accessibility to the waterfront and protected the future viability of the Marina and the valuable services made available to the community.

In addition to the City's continued efforts to protect the viability of Marina operations, Pittsburg also continues to strive toward the protection of its waterways. Pittsburg's Marina prides itself on operating the Marina in an environmentally conscious manner. One example of the Marina acting as an environmental steward is its partnership with a local disposal company to assist in the disposal of unwanted vessels. This effort has successfully reduced the number of vessels dumped in our Delta waterways each year, reducing the hazards they create for navigation, water quality and wildlife habitat.

In connection with the Marina's environmentally conscious operations, the Marina has been certified by the Clean Marinas' California Program as a "Clean Marina". Pittsburg received certification as a "Clean Marina" in April 2007 as recognition for its efforts to provide clean facilities to the boating community and protect the State's waterways from pollution. This certification was obtained after a full review and inspection of the Marina by an independent team that determined that day-to-day activities and operations were enhancing the environment and water quality through the use of Best Management Practices (BMP) as set by the Clean Marinas' California Program. Furthermore, the program also verified that the Marina is educating, training and encouraging boaters to protect the environment and water quality through their routine use of the same BMPs. These important efforts have created a cumulative reduction of water pollution that may have otherwise been carried into the State's waterways.

Clearly, Pittsburg values and protects its Marina and corresponding waterway. With one of the oldest downtowns in all of Contra Costa County and one of the few downtowns with shoreline access, Pittsburg understands the importance of tying this downtown to the

Marina waterfront for the best and highest use of the waterfront area for recreational / visitor oriented uses. It is Pittsburg's desire to create a visitor destination and neighborhood marine /commercial center that would attract heavy pedestrian activity, making the Marina and adjacent downtown a true destination point to draw visitors to the area and allow the public at large to come and enjoy the beautiful Delta views, public shoreline access and array of services and amenities available to them.

As discussed in the City's General Plan, the waterfront location and marine recreation opportunities can draw visitors from the region, while downtown's commercial storefronts can provide them with supplies, eating establishments and activities for a day away from home. The City envisions a pedestrian-oriented, mixed-use village atmosphere that has a walk-able layout with many pedestrian amenities and increased public access to the shoreline and views of Browns Island. The envisioned layout would encompass both a focus on visitor attractions, as well as, traditional marine services. It is the opinion of the City that a well-designed marine / commercial style development could capitalize on the provision of public access to the shoreline, creating both the best and highest use of the City's Marina, Delta shoreline and adjacent, historic downtown.

In 2006, the City adopted a Marina Master Plan on Resolution No. 06-10511, which detailed the envisioned improvements discussed within the City's General Plan for the marine / commercial style development include clearing public views of the waterfront and southern hills, increasing pedestrian amenities, strengthening transitions between land uses, increasing landscaping and planting more street trees and providing increased pedestrian connections to and vistas of the Suisun bay / New York Slough waterfront. As further discussed within the City's General Plan, a potential terminus on Harbor Street could provide an unobstructed view of the Delta with a 30-foot wide promenade to the waterfront, which could serve as a public park or square, providing the City with a tremendous opportunity to enhance the visual connection to the waterfront area and maximizing public accessibility to the shoreline. In addition to the widening of pedestrian pathways, improvements would also include way-finding signage, pleasant landscaping and improved street lighting. It is the intention of the City to continue its pursuit of the overall vision of connecting the waterfront / Marina area with its core downtown.

Management of Existing Residential Development Uses

Bay Harbor Park is the only existing residential development truly located along the New York Slough waterfront within Pittsburg's City boundary lines (identified by purple boundary lines and labeled "Residential" on Exhibit "A"). The Bay Harbor Park development was completed in 1983. It consists of well maintained town homes, all located within walking distance to the Pittsburg Municipal Marina. A small portion of these homes line the waterfront that overlooks the Delta shoreline. This section of the shoreline consists of tule burns and rip rap. There is no beach access or pathways along this rugged waters edge, however, the City is aware of a number of private recreational docks that have been constructed by homeowners without permits or lease agreements with California State Lands Commission. The City intends to address this issue with homeowners, who will be required to either obtain proper permits and lease agreements or deconstruct and remove the docks.

The only other residential development with access to Delta waters is Marina Park (also identified by purple boundary lines and labeled “Residential” on Exhibit “A”). The Marina Park development was completed in 1991. This development also consists of well maintained town homes, all located within walking distance to the Pittsburg Municipal Marina. A large portion of these homes line the Pelican Loop Channel that feeds into the immediate Delta waters, however, this channel is not included within the Trust Lands being addressed within this Trust Lands Use Report.

There are no other residential developments that exist within Pittsburg’s city boundary lines that are located along or have access to the Delta waters / shoreline; nor are there any planned or proposed residential developments to be located along the Pittsburg waterfront in the foreseen future. With the exception of the open space / recreational areas previously discussed in this report, the majority of the remaining Pittsburg waterfront within the Trust Lands granted by AB 2324 has been long-term leased by the California State Lands Commission to private owners and operators of waterfront parcels for commercial / industrial use.

Commerce / Economic Development Uses

As discussed earlier in the report, Pittsburg is known for its industrial heritage, which has included the production of biochemicals, steel and petroleum. Many of Pittsburg’s major industries originally located operations along the waterfront to facilitate shipping. The availability of deep-water port facilities and rail spurs are a definite advantage of doing business in Pittsburg still today. Many industrial manufacturers continue to dominate Pittsburg’s waterfront to date, most with long-term leases entered into decades ago with the California State Lands Commission for use of the tidelands and submerged lands located adjacent to their properties.

It is Pittsburg’s intention to maintain the industrial use and character of this historical stretch of the City’s waterfront (identified by red boundary lines and labeled “Commerce / Economic Development” on Exhibit “A”), while encouraging the development of “clean” industries and supporting the modernization of all industrial uses in the area to reduce both air and water pollutant levels; as well as, the reclamation and reuse of contaminated industrial sites. As discussed within the City’s General Plan, the City intends to assume a leadership role in enhancing environmental quality in the City by coordinating the remediation of former industrial and commercial sites and facilitating their redevelopment, acting as both a catalyst and facilitator, particularly where upfront private sector investment is unlikely due to perceived or actual environmental constraints or liabilities.

The Trust Lands are critical to the development of the upland areas of the City. There are currently four major Trust Land Leases along the industrial shoreline. The City believes that attracting and expanding of industrial uses require that access to the Trust Lands be maintained and enhanced. As an example the lease with Tesoro Refinery to ship petroleum coke from their refinery using their pier could be enhanced by upgrading the pier and finding other companies that could share the use of the pier, thus creating additional employment for our citizens. The City is currently in discussions with

companies that have that need. USS/POSCO Industries also has a lease with State Lands for the use of the Trust Lands to conduct their steel business. They have recently partnered with a new manufacturer of steel pipe to share their pier to import steel from Korea. This new steel mill will create 200 new high skilled jobs and use the Trust Lands Lease as a multiplier to create new industry and jobs. The City believes that there are other opportunities to attract new industry by using the Trust Lands for access to the world marketplace.

There are currently three major properties that comprise approximately 2/3rds of the entire industrial waterfront area. The majority of this land is underutilized at this time. There may also be potential contamination and environmental issues that may need to be addressed. It is Pittsburg's desire to work collaboratively with all three of the land owners at a future date to act as both a catalyst and a facilitator to assist in the reclamation, reuse and redevelopment of these valuable waterfront parcels, consistently encouraging and supporting necessary development to benefit the entire region.

Delta Diablo Sanitation's property is the last site on the eastern end of Pittsburg's historic industrial waterfront area, bordering Dow's open space wetlands, where Pittsburg city limits end and Antioch city limits begin. Delta Diablo Sanitation owns approximately 15.5 acres of land along Pittsburg's waterfront and has a long term lease agreement with the California State Lands Commission for the use of the tidelands and submerged lands adjacent to their waterfront property; however, Delta Diablo Sanitation does not operate any facilities from this site. It is Pittsburg's understanding that the only existing use of this site is to provide an environmental storm water outflow source, leaving the majority of the property vacant and unused.

Moving west along the waterfront is Dow Chemical ("Dow"). Dow is a chemical manufacturing facility that has been in operation since the turn of the century and is one of the City's largest employers, employing approximately 500 highly paid, skilled employees. Dow produces several different chemical products from raw materials received by truck and/or rail. Dow's end products are shipped to customers within the United States via truck and/or rail. Dow has a long term lease agreement with the California State Lands Commission for the use of the tidelands and submerged lands adjacent to their waterfront property, as well as, a usable marine terminal dock on site. It is Pittsburg's understanding that Dow's marine terminal is either underutilized or unused entirely at this time. A new company from Canada, K2 Industries, will soon invest over \$100 million dollars to construct a commercial bleach plant and plan to revive and expand Dow's Terminal on the Trust Lands.

Continuing west along the waterfront is USS/POSCO (formerly US Steel) that has also been in operation since the turn of the century and is the City's largest employer, employing approximately 900 highly paid, skilled union employees. The steel mill was originally US Steel, but in 1985 formed a joint venture with POSCO to form USS/POSCO and invested an approximate \$400 million in the facility, making it one of the most modern steel mills in the United States. USS/POSCO is currently in a long term lease agreement with California State Lands Commission for the tidelands and submerged lands and has a very active marine terminal that currently receives approximately 4 to 5 ships per month, primarily from South Korea. Raw steel material is imported from South Korea, processed / manufactured in Pittsburg and the final product

is then shipped out by truck and/or rail to customers within the United States. US Steel owns the approximate 500-acre property and is currently utilizing less than half of the property. (Bordering the USS/POSCO waterfront property is GWF Power, a peaker power plant that sells power to the California power grid and currently holds a lease for the use of tidelands and submerged lands with California State Lands Commission.)

Pittsburg is pleased to report that the City has recently assisted in the recruitment of a major steel manufacturer, United Spiral Pipe, LLC ("USP"), who has made a \$100 million investment in the development of a 340,000 square foot manufacturing facility being built on a portion of the underutilized USS/POSCO site, just adjacent to the USS/POSCO waterfront property. Raw materials will be imported and off loaded from cargo ships at the USS/POSCO dock and USP will manufacture that raw material into the final steel pipe products that will then be transported out by rail from the Pittsburg facility to their final locations. USP is expected to create approximately 200 high paying, union jobs for the community, is projected to produce an approximate \$300 million in annual sales and an estimated \$150,000 in tax increment dollars annually to our Redevelopment Agency. This important industrial development project illustrates the significant benefits the region stands to gain from the continued efforts to transform Pittsburg's historic industrial waterfront from blighted, underutilized, vacant and/or contaminated properties into highest and best potential uses. None of these expansions could take place without use of the Trust Lands that give access to the world market place.

Several large sites along the City's industrial waterfront stretch have high commercial or industrial redevelopment potential, however, a large portion of these sites have been identified as Spills, Leaks, Investigations and Cleanup Sites (SLIC) or as sites that have leaking underground storage tanks (USTs). As proposed in the City's General Plan, Pittsburg could potentially work with the California Environmental Protection Agency's Department of Toxic Substances Control (DTSC) to determine the eligibility of these lands for the Voluntary Cleanup Program (VCP) for the oversight of and signing off on specific remediation activities for voluntary participants. While there are no financial inducements for upfront costs associated with site assessment or remediation from the State, Pittsburg could use tax increment financing and the Polanco Act to undertake the work and facilitate redevelopment. Sites that have been identified as SLICs or USTs include portions of USS/POSCO and Dow Chemical properties.

In addition to the industrial waterfront sites that have been identified as SLICs or USTs, there are other numerous industrial properties along the City's waterfront that significantly contribute to the existing blighted conditions of the area. Numerous properties remain vacant and/or underutilized. Other properties either have current or previous operations that have negatively affected the local air and/or water quality in our community.

One such example is the Tesoro Refining and Marketing Company ("Tesoro"), who operates a marine loading terminal and stevedoring facility along Pittsburg's waterfront that accepted petroleum coke via truck and then loaded that coke onto ocean-going bulk transport ships (property identified and labeled "Tesoro" on Exhibit "A"). The Tesoro facility covers approximately 13 acres and is located along the southern shore of the New York Slough that feeds into the Suisun Bay. Tesoro has held a long-term lease

agreement with State Lands Commission for the use of the tidelands and submerged lands adjacent to their property.

The sole function of Tesoro's Pittsburg facility has been to store and export Tesoro's fluidized petroleum coke, manufactured at the Tesoro plant in Martinez, California. As a result of Tesoro's operations on the Pittsburg property, airborne coke particulates have been deposited periodically on City properties and waters adjacent to the Tesoro facility, including the Marina and nearby business and residential communities, negatively impacting the quality of our air and waterways. The City began working aggressively in collaboration with various regional environmental agencies to find resolution.

A collaborative effort was made between the City, Agency, the California Regional Water Quality Control Board ("CRWQCB"), the Bay Area Air Quality Management District and Baykeeper agencies to protect and preserve the quality of air and water within our communities. In connection with the numerous recommendations and/or requirements of the various environmental agencies, and in consideration of the mutual interests of the City, Agency and Tesoro, a Memorandum of Understanding ("MOU") was created and entered into, to set forth a framework of cooperation to facilitate a cooperative relationship with Tesoro to progress toward the elimination of open storage of petroleum coke and the elimination of future deposits of airborne coke particulates on land and/or water to protect the citizens and the environment. The MOU clearly outlined the numerous obligations of Tesoro and successfully established a specific timeline for the elimination of open storage of petroleum coke at the Pittsburg waterfront facility.

By July 2009, Tesoro will cease operations at the Pittsburg waterfront facility and has already contracted the services of neighboring Koch Carbon (property identified and labeled "Koch Carbon" on Exhibit "A"), a state of the art coke storage facility, that utilizes the Best Available Technology ("BAT") as defined by the Regional Water Quality Control Board of the San Francisco Bay region, to begin storing Tesoro's delayed coke. The City has been working successfully to facilitate the elimination of future airborne coke contaminates from the Tesoro storage facility operations, effectively protecting and preserving the quality of air and water for our communities. It is the intention of the City of Pittsburg to continue to act as the environmental steward in regards to all Trust Lands, as deemed necessary for the protection of the quality of our local air and waterways on behalf of the California State Lands Commission, as well as, our local Pittsburg community.

In addition to Pittsburg's responsibility to protect the environment, Pittsburg has a very important responsibility to protect the economic vitality of the City. Working toward the removal of blight and the achievement of the best and highest use of Pittsburg waterfront properties is paramount to the City in its role as Trustee of the granted waterfront lands. Pittsburg has already begun the important process to remove blighted conditions along the waterfront, beginning with the first industrial property on the western end, located next to the Bay Harbor Park residential development, moving easterly along Pittsburg's waterfront up to the border of GWF's property line. These properties are included in the crucial formation of Pittsburg's Redevelopment Agency's Block 073 UDA to begin the important transformation of the blighted properties that will result in future reduction of both air and water pollutants, the reclamation and reuse of contaminated sites and the utilization of valuable waterfront land at its potentially best and highest use. Critical to

the success of these efforts will be the well planned use of Trust Lands to provide access to the water which makes attracting and expanding industrial uses much more desirable.

In 2006, Pittsburg's Redevelopment Agency ("Agency") held a Public Hearing to form a Unified Development Area ("UDA") to include a number of parcels along the City's historic industrial waterfront. The general location of Block 073 UDA is north of East Third Street, between Harbor Street and Columbia Street, consisting of approximately thirty-eight (38) acres (Block 073 UDA properties are highlighted in yellow on Exhibit "A"). The purpose of this UDA designation is to assist the Agency in the elimination of the existing blighted conditions; including, but not limited to the following:

- Vacant, underutilized lots;
- Incompatible land uses;
- Irregular or inadequately shaped lots; and
- Potential environmentally challenged lots.
- Trust Lands that are currently utilized.

Designation of Block 073 UDA and potential future redevelopment will assist the Agency in achieving the goals of the Agency's Implementation Plan for the Los Medanos Project area 2004-2009; including, but not limited to the following:

- Promote and assist in the development of blighted, underutilized and/or vacant parcels;
- Provide utility and circulation infrastructure improvements throughout the Project Area.
- Improve the quality and mix of uses in the downtown area and encourage business growth, development and investment;
- Create a mixed use downtown plan focusing on attractive visual, economic, social and recreational needs for community revitalization; and
- Attract highly needed services to the downtown area through the development of downtown projects;

As discussed by the Agency in Resolution 06-1138, assembly of the parcels was necessary in order to take advantage of Block 073 UDA's prime location, within walking distance to the Marina, historic downtown and waterfront. Block 073 UDA's has the potential to be redeveloped into a variety of uses. Potential uses may include, but are not limited to the following: marine / commercial and/or port / industrial uses. However, a significant level of remediation will be necessary in the redevelopment of the parcels within Block 073 UDA due to the long-term history of various industrial uses on site. In addition, Tesoro is not expected to cease operations on site until July 2009; therefore, demolition and remediation efforts are not expected to begin on the Tesoro site prior to July 2009. Potential development projects within Block 073 UDA that would include the Tesoro property could not begin development until after July 2009 and after all required Public Hearings, Permitting, Planning Commission and City Council actions have occurred. The Agency's Executive Director / Pittsburg's City Manager has been authorized to pursue development in Block 073 UDA pursuant to the Agency Plan, Implementation Plan and Rules for Business Tenant Preference and Owner Participation in the Redevelopment Project Area.

In efforts to determine the highest and best potential use of Block 073 UDA to stimulate the local economy, while assuring no significant impacts to the City's environmental resources, Pittsburg contracted the professional services of Moffatt & Nichol in 2007 to identify the possible maritime and/or industrial activities that would be economically viable in Pittsburg. Moffatt & Nichol's Waterfront Planning Study ("Study") identified five (5) activities that have potential for economic viability in Pittsburg. These activities are as follows:

- Manufacturing of steel products;
- Auto imports and processing;
- Bio-diesel fuel production or distribution;
- Transfer of Municipal Solid Waste to barges; and
- Delivery of Light Rail Vehicles by barge.

The Study explains that the viability of bio-diesel production/distribution depends on implementation of recent regulations on carbon dioxide emissions and the shipment of Municipal Solid Waste or Light Rail Vehicles by barge are activities that have less potential and ultimately will depend upon the interest of relevant stakeholders. It is the manufacturing of steel products and the importation of automobiles that appear to have the greatest potential for viable port activity in Pittsburg. As the Study illustrates, in addition to the deep water access, the industrial waterfront area also has valuable access to BNSF (Union Southern Pacific) railroads and as much as 200 acres of unused or underutilized land for industrial activity. All of these potential uses require well planned and thoughtful use of Trust Lands.

While USS/POSCO does own a considerable portion of land along the industrial waterfront, there are several other major land owners. In addition to the steel mill, there are also two petcoke terminals, two power plants and a variety of other commercial / industrial operations. As discussed earlier in this report, it is Pittsburg's intention to work collaboratively with land owners toward the elimination of the existing blighted conditions and the advancement of industrial activities to stimulate the local economy.

Pittsburg has been exploring many potential port activities locally and abroad in collaboration with major land owners and potential investors. Several expeditions have been made overseas to China, Japan and Korea from 2006 to date. Pittsburg continues to explore and discover many potential industrial/commercial activities and operations for viable port activities in the continued pursuit of job creation, revenue generation and economic stability for the region.

Pittsburg's focus on job creation, revenue generation and economic stability stems from the severe 'jobs to housing' imbalance in Pittsburg and the entire eastern Contra Costa County. As explained in the City's General Plan, the ideal 'jobs to housing' ratio is 1.0. Pittsburg's ratio of .74 is a clear indicator that a large number of residents work outside of the City, which explains our considerable issues with traffic congestion and economic leakage. Pittsburg, as well as other East County cities, serve merely as bedroom communities and lack vital employment centers for its residents. As stated in the City's General Plan, the primary focus of Pittsburg's Economic Development Strategy will be to

improve the City's ability to carve out more than its share of the new jobs expected and rebalance the 'jobs to housing' ratio. The importance of Pittsburg's evolution beyond a bedroom community cannot be overstated and provides an important understanding of Pittsburg's pursuit of the best and highest use and redevelopment of its valuable industrial waterfront. This is truly the greatest opportunity for job creation for the residents and economic vitality for the City.

AB 2324 REQUIREMENTS – OUTLINED

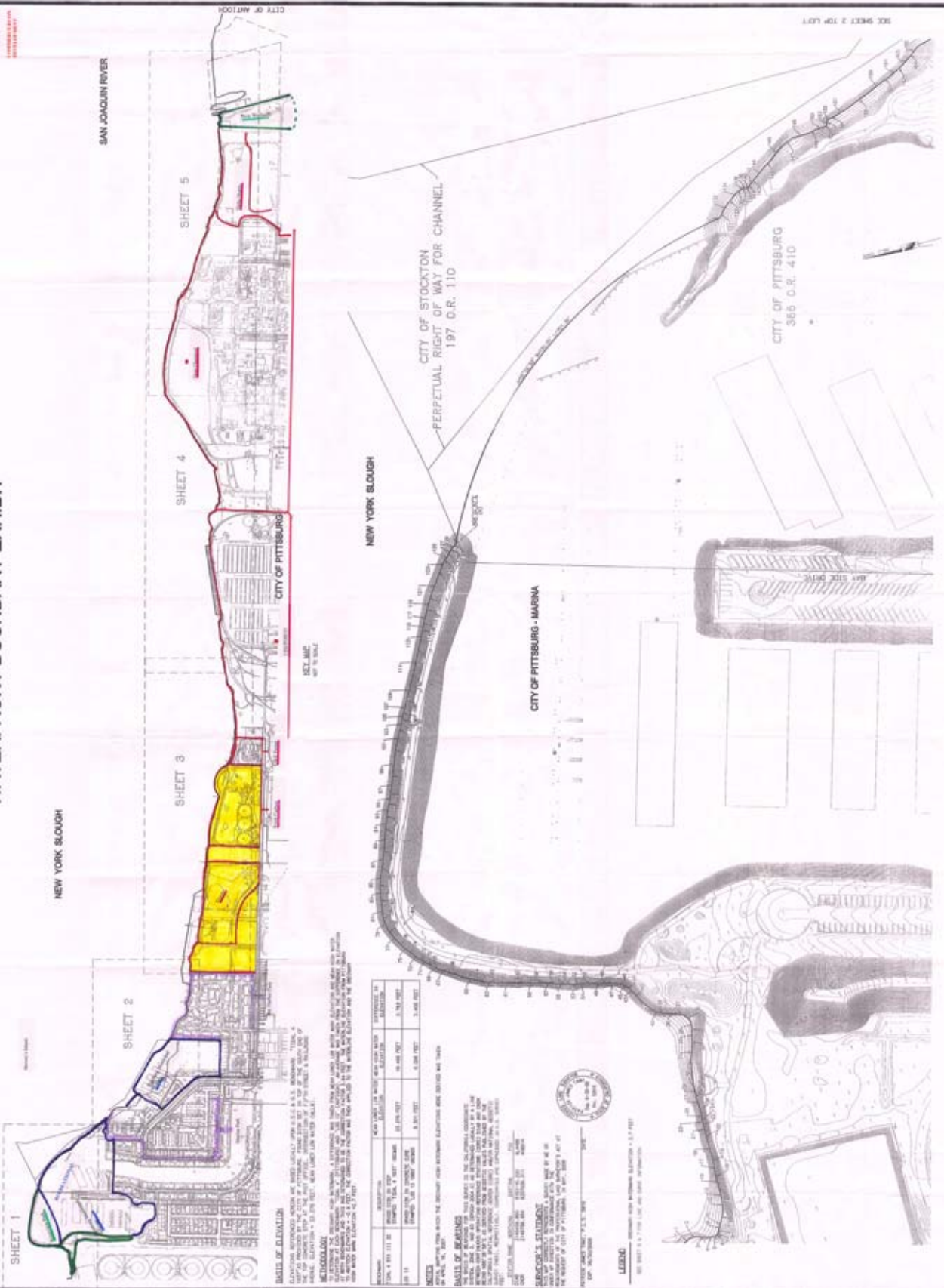
In accordance with AB2325, the pages that follow include an outline of the following: Goals; Implementation Schedule; Community/Statewide Benefit; and Methods of Financing.

SUMMARY OF LEASES

Attached as a reference to this Trust Lands Use Report is the "Summary of Leases Transferred to the City of Pittsburg Pursuant to Chapter 275, Statutes of 2006" (Exhibit "B"). All revenues from the following four (4) existing lease agreements between California State Lands Commission and the respective Lessees will continue to be paid directly to California State Lands Commission, as agreed: 1) USS/POSCO Industries; 2) Tesoro Refining and Marketing Company; 3) Dow Chemical Company; and 4) Isle Capital Corporation. All other future revenues from lease agreements for Trust Lands will be properly accounted for by the City of Pittsburg's Finance Department in accordance with AB 2324.

**Numerous excerpts from the City's General Plan were cited throughout this report.*

CITY OF PITTSBURGH WATERFRONT BOUNDARY EXHIBIT



SHEET 1

SHEET 2

SHEET 3

SHEET 4

SHEET 5

NEW YORK SLOUGH

SAN JOAQUIN RIVER

CITY OF PITTSBURGH

CITY OF STOCKTON
197 O.R. 110

CITY OF PITTSBURGH - MARINA
366 O.R. 410

PERPETUAL RIGHT OF WAY FOR CHANNEL

SEE SHEET 2 TOP LEFT

BASIS OF ELEVATION
ELEVATIONS SHOWN ON THIS MAP ARE BASED ON THE NATIONAL DATUM OF 1983. ALL ELEVATIONS ARE IN FEET ABOVE MEAN SEA LEVEL. THE DATUM POINT FOR THIS PROJECT IS THE BENCH MARK AT THE CORNER OF THE INTERSECTION OF THE MAIN CANAL AND THE SAN JOAQUIN RIVER. THE ELEVATION OF THIS BENCH MARK IS 10.00 FEET ABOVE MEAN SEA LEVEL.

NOTICE
THIS MAP IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION OR OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF THE ENGINEER. THE ENGINEER ASSUMES NO LIABILITY FOR ANY DAMAGE OR INJURY TO PERSONS OR PROPERTY ARISING FROM THE USE OF THIS MAP. THE USER OF THIS MAP SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE ENGINEER'S OFFICE IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS MAP.

SECTION	LENGTH	AREA	VOLUME
SECTION 1	100.00 FEET	10,000.00 SQ. FEET	1,000,000.00 CU. FEET
SECTION 2	100.00 FEET	10,000.00 SQ. FEET	1,000,000.00 CU. FEET
SECTION 3	100.00 FEET	10,000.00 SQ. FEET	1,000,000.00 CU. FEET
SECTION 4	100.00 FEET	10,000.00 SQ. FEET	1,000,000.00 CU. FEET
SECTION 5	100.00 FEET	10,000.00 SQ. FEET	1,000,000.00 CU. FEET

SCALE OF DRAWINGS
PLAN: 1" = 100' (VERTICAL SCALE: 1" = 10')

LEGEND
SOLID LINE: CITY OF PITTSBURGH BOUNDARY
DASHED LINE: PERPETUAL RIGHT OF WAY FOR CHANNEL
HATCHED AREA: CITY OF PITTSBURGH - MARINA

PROFESSIONAL SEAL
[Seal of the State of California, Professional Engineer]

DATE
[Date of the drawing]

PROJECT
CITY OF PITTSBURGH WATERFRONT BOUNDARY EXHIBIT

SCALE
1" = 100'

DATE
[Date of the drawing]

PROJECT
CITY OF PITTSBURGH WATERFRONT BOUNDARY EXHIBIT

SCALE
1" = 100'

DATE
[Date of the drawing]

PROJECT
CITY OF PITTSBURGH WATERFRONT BOUNDARY EXHIBIT

SCALE
1" = 100'

DATE
[Date of the drawing]

PROJECT
CITY OF PITTSBURGH WATERFRONT BOUNDARY EXHIBIT

SCALE
1" = 100'

DATE
[Date of the drawing]

PROJECT
CITY OF PITTSBURGH WATERFRONT BOUNDARY EXHIBIT

SCALE
1" = 100'

DATE
[Date of the drawing]

SHEET 1 OF 7 SHEETS

SCALE 1" = 100'

SEE SHEET 2 TOP LEFT

CITY OF PITTSBURGH

CITY OF STOCKTON

CITY OF PITTSBURGH - MARINA

PERPETUAL RIGHT OF WAY FOR CHANNEL

NEW YORK SLOUGH

SAN JOAQUIN RIVER

CITY OF PITTSBURGH

SEE SHEET 2 TOP LEFT

CITY OF PITTSBURG - PROPOSED TRUST LANDS USES

GOALS	IMPLEMENTATION SCHEDULE	COMMUNITY / STATEWIDE BENEFITS	METHODS OF FINANCING
OPEN SPACE			
<p>1. Riverview Park</p> <p>The City of Pittsburg will continue to maintain the Riverview Park facilities and open space reserve.</p>	<p>Riverview Park is currently maintained by Pittsburg's Parks & Recreation Department.</p>	<p>Pittsburg's continued maintenance of Riverview Park will provide valuable public access to the waterfront in the form of shoreline trails, a floating pier and fishing facilities, picnic areas and a small playground space for young children to enjoy, as well as, preserved marsh land and natural wildlife refuge.</p>	<p>Funds necessary to maintain Riverview Park are included in Pittsburg's annual budgets that cover the costs for the maintaining City parks.</p>
<p>2. Dow Wetlands</p> <p>The City of Pittsburg intends to continue to collaborate and partner with Dow Chemical in support of the Dow Wetlands' preserve programs.</p>	<p>Pittsburg staff will continue to attend meetings with Dow and help facilitate various programs with the Pittsburg Unified School District and Los Medanos College.</p>	<p>Pittsburg's continued support and collaboration with Dow on the wetlands will help to strengthen and sustain the 471-acre nature preserve, protecting the plant life and wildlife sanctuary, children's environmental science workshops, fieldtrips and fairs, as well as, the free public access for passive recreational enjoyment.</p>	<p>No specific funds need to be designated by the City in order to participate / collaborate on environmental and educational programs. Attending meetings, assisting with brainstorming and networking with Dow and various educational institutions is merely a contribution of the City's staff time to an important cause.</p>
<p>3. Brown's Island</p> <p>The City of Pittsburg intends to support making Brown's Island more accessible to the general public, whereas, it is currently only accessible by boat. The City would like to see boating excursions operated to increase public access to the Island. Pittsburg's Marina could potentially house the location for the island's boating excursion departures. The City could also provide helpful informational kiosks at Marina and downtown locations, informing the public about Brown's Island. The City would also encourage the creation of educational programs to be offered at Brown's Island, similar to those offered at the Dow Wetlands.</p>	<p>While an implementation schedule does not exist at this time, Pittsburg is interested in recruiting an interested party to offer the boating excursions to Brown's Island and may offer support as deemed necessary to enable this project. Once boating excursions were in operation, Pittsburg would like to network with the school district to pursue possible educational opportunities that may exist on the island for children.</p>	<p>Pittsburg's encouragement and promotional efforts to make Brown's Island more accessible to the general public through boating excursions from the Pittsburg Marina would create a greater use of existing regional open space for passive recreational uses for the general public, rather than its current use and accessibility only to the boating community. Community / statewide benefits to the general public would include the ability to enjoy nature walks along the shoreline, to enjoy the beautiful Delta views and the existing wildlife in their natural habitat. Additional benefits could also include various educational programs regarding the natural resources found on Brown's Island.</p>	<p>Budgeted funds have not been designated because we do not have an interested operator as of this date, however, future assistance could potentially be provided in the form of either free or reduced berthing fees at the Pittsburg Marina for a specified period of time to assist the operator in getting established. Once the excursions were in operation, the Pittsburg Marina could also commit to keeping the kiosks stocked with informational brochures, etc., assisting with the promotion of the excursions to Brown's Island.</p>

CITY OF PITTSBURG - PROPOSED TRUST LANDS USES			
GOALS	IMPLEMENTATION SCHEDULE	COMMUNITY / STATEWIDE BENEFITS	METHODS OF FINANCING
RECREATIONAL / VISITOR ORIENTED USES			
<p>4. <u>Pittsburg Municipal Marina</u></p> <p>The Pittsburg Municipal Marina will continue to maintain and improve its "clean" Marina operations, the condition of Marina facilities and waterways and the public's overall accessibility to the waterfront. Pittsburg will also continue to increase pedestrian amenities, street lighting and landscaping and way-finding signage to further connect the waterfront to the downtown, striving to increase the public views of the waterfront.</p>	<p>The approximate \$7 million renovation has already been completed and continued efforts to maintain the improvements are underway by Marina staff, who continually strive to further improve operations and facilities. Additional pedestrian amenities, street lighting and landscaping and way-finding signage efforts are still in the final planning and implementation stages, which are all a part of the major revitalization effort being completed by Pittsburg's Redevelopment Agency in Pittsburg's downtown area, just adjacent to the Pittsburg Marina.</p>	<p>The many benefits offered at the Marina are as follows: 588 berthing slips offered at very competitive rates, a 24-hour public launch ramp free of charge for public use, on-site haul out service available as needed, public fuel docks open seven days a week, seasonal fishing charters and delta cruises, a live bait shop / market and extensive waterfront access for passive recreational use, such as walking, jogging, bicycling, picnicking and fishing. The Marina is easily accessible by public transportation, with many amenities available to the public year round and free of charge. With Pittsburg's continued revitalization of the Marina's adjacent downtown, it is Pittsburg's intention for the area to become a visitor destination and neighborhood marine / commercial center to allow the public at large to come and enjoy the beautiful Delta views, public shoreline access and array of services and amenities available to them.</p>	<p>The Marina has an approximate annual operating budget in the amount of \$1.8 million that will support the efforts and goals mentioned. The Redevelopment Agency's entire revitalization effort at the Marina's downtown is estimated to be in excess of \$300 million dollars, a portion of which will include the improvements in street lighting and landscaping, way-finding signage, public access, services and amenities, creating a visitor destination and neighborhood marine / commercial center.</p>
RESIDENTIAL DEVELOPMENT USES			
<p>5. <u>Bay Harbor Park / Marina Park</u></p> <p>The City intends to contact Bay Harbor Park homeowners who have illegally constructed docks in the tidelands and/or submerged lands and require them to either obtain proper permits and lease agreements or deconstruct and remove the docks.</p>	<p>It is Pittsburg's intention to have this matter resolved by December 2009.</p>	<p>Maintaining control over the Delta waterways, protects the effects on water quality, safety, navigation, fishing and all other recreation uses for the benefit of the public.</p>	<p>No special financing or budgeting of funds is expected in the resolution of this matter.</p>

CITY OF PITTSBURG - PROPOSED TRUST LANDS USES			
GOALS	IMPLEMENTATION SCHEDULE	COMMUNITY / STATEWIDE BENEFITS	METHODS OF FINANCING
COMMERCE / ECONOMIC DEVELOPMENT USES			
<p>6. Historic Industrial Waterfront.</p> <p>It is Pittsburgh's intention to maintain the industrial use and character of the historical stretch of the City's waterfront, while encouraging the development of "clean" industries and supporting the modernization of all industrial uses in the area to reduce both air and water pollutant levels, as well as, the reclamation and reuse of contaminated, blighted, underutilized sites.</p>	<p>Pittsburg's goal to maintain and improve its historic industrial waterfront is currently being implemented and continually progressing toward success. Pittsburg will continue to assume a leadership role over time to enhance environmental quality in the City by coordinating the remediation of former industrial and commercial sites and facilitating their redevelopment, acting as both a catalyst and facilitator, particularly where upfront private sector investment is unlikely due to perceived or actual environmental constraints or liabilities. Pittsburg will also continue its aggressive efforts to pursue the best and highest uses for the currently underutilized, blighted waterfront properties.</p>	<p>The local and statewide benefits of a prosperous, modern industrial waterfront is economic stability, job creation and protection of our natural environmental resources.</p>	<p>City and Agency staff time spent on the general pursuit of maintaining and improving the historic industrial waterfront is included within normal Economic and Redevelopment Department budgets. As specific projects are created, necessary funding will be budgeted to support that particular development project.</p>
<p>7. Tesoro - Memorandum of Understanding</p> <p>It is Pittsburgh's desire to have Tesoro cease its current open storage of petroleum coke operations at the Pittsburgh waterfront site, to eliminate the airborne coke particulates that have been deposited periodically on City properties and waters adjacent to the Tesoro facility.</p>	<p>In accordance with the Memorandum of Understanding between Tesoro and the City of Pittsburgh, Tesoro is required to cease current open storage of petroleum coke operations at the site by July 2009.</p>	<p>The elimination of future airborne coke contaminates from the Tesoro storage facility operations, will effectively protect and preserve the quality of our air and waterways.</p>	<p>Funds necessary to create the Memorandum of Understanding have already been expended. Continued monitoring of Tesoro's compliance with the MOU is estimated to be a minor cost of staff time.</p>

CITY OF PITTSBURG - PROPOSED TRUST LANDS USES

GOALS	IMPLEMENTATION SCHEDULE	COMMUNITY / STATEWIDE BENEFITS	METHODS OF FINANCING
<p>8. <u>Block 073 UDA</u></p>	<p>In 2006, the Agency held a Public Hearing and formed Block 073 UDA. During 2006-07, the Agency contracted Moffatt & Nichol to assist Pittsburg in identifying the best and highest uses for the waterfront's Block 073 UDA. Moffatt & Nichol's Waterfront Planning Study identified 5 port activities that have potential for economic viability in Pittsburg, listing the manufacturing of steel products and the importation of automobiles as appearing to have the greatest potential. From 2006 to date, Pittsburg has been exploring many potential port activities locally and abroad, collaborating efforts with major land owners and potential investors and have made several expeditions overseas to China, Japan and Korea. Pittsburg continues to explore and discover many potential industrial/commercial activities and operations for viable port activities on Block 073 UDA.</p>	<p>Viable port activities within Block 073 UDA will improve the currently blighted, underutilized waterfront properties, create significant, high paying jobs and generate considerable revenues to create economic stability for the local community and State of California.</p>	<p>Funds necessary to create Block 073 UDA, as well as, continued exploration and pursuit of the elimination of existing blighted conditions and creation of highest and best use of the valuable waterfront UDA properties are provided by the City of Pittsburg's Redevelopment Agency. As future projects and expeditions develop, specific Agency funds will be appropriated.</p>
<p>9. <u>Jobs to Housing Imbalance</u></p>	<p>Continue consistent pursuit of business attraction both locally and abroad, such as the recent successful recruitment of United Spiral Pipe, who is expected to create approximately 200 high paying, union jobs for the community. In 2008-09 fiscal year, create a strong Economic Development Strategy to aggressively recruit large businesses to create the vital employment centers the community currently lacks.</p>	<p>The transformation of the City of Pittsburg from a bedroom community to a vital employment center will create valuable jobs, considerable revenue and services, ease traffic congestion and economic leakage.</p>	<p>Budgeted funds for the positions within the City's Economic Development / Redevelopment Department supports Pittsburg's major business attraction efforts. As specific expenditures occur in particular attraction / development projects, additional funding will be allocated at that time.</p>

CITY OF PITTSBURG - PROPOSED TRUST LANDS USES			
GOALS	IMPLEMENTATION SCHEDULE	COMMUNITY / STATEWIDE BENEFITS	METHODS OF FINANCING
<p>10. USSIPOSCO - Dow Chemical - DDS</p> <p>USS/POSCO, Dow Chemical and Delta Diablo Sanitation (DDS) are the three major land owner's outside of the UDA, that comprise approximately 2/3rd of the entire industrial waterfront area, which is considerably underutilized at this time. It is Pittsburg's goal to work collaboratively with these land owners at a future date to act as both a catalyst and facilitator to assist in the reclamation, reuse and redevelopment of these valuable waterfront parcels, consistently encouraging and supporting necessary development.</p>	<p>There are currently no development projects planned or pending in regards to any of these properties at this time.</p>	<p>The reclamation, reuse and redevelopment of these currently blighted, underutilized waterfront properties will create significant, high paying jobs and generate considerable revenues to create economic stability for the local community and State of California, transforming vacant, unused land into potential best and highest uses of valuable property.</p>	<p>Budgeted funds for the positions within the City's Economic Development / Redevelopment Department supports Pittsburg's major business attraction / development efforts. As future projects and expeditions develop, specific Agency / City funds will be appropriated.</p>
ADMINISTRATION OF LEASE AGREEMENTS			
<p>11. Trust Lands Lease Agreements</p> <p>The City of Pittsburg will administer California State Lands Commission lease agreements and property account for all current and future revenues derived from such agreements for the Trust Lands in accordance with AB 2324.</p>	<p>The City's role as Trustee over the granted lands was put into effect with the passing of AB 2324. As existing lease agreements expire, the City will perform future negotiations of new lease agreements in accordance with AB 2324.</p>	<p>In the administration of the California State Lands Commission lease agreements, the City will look after the State of California's best interests in regards to the leasing of the Trust Lands. The City's Finance Department will assure the proper receipt and record of payments. The City will assure fair and proper negotiation of future leases. The oversight of all lease agreements for the Trust Lands will be handled to the benefit of the State of California, in accordance with AB 2324.</p>	<p>Use of future lease payments negotiated and entered into by the City of Pittsburg could potentially provide financial assistance to the overall efforts to more fully utilize the granted lands along Pittsburg's historic industrial waterfront.</p>

**SUMMARY OF LEASES TRANSFERRED
TO THE CITY OF PITTSBURG PURSUANT TO
CHAPTER 275, STATUTES OF 2006**

NOTE: Each lease must be read on its own as the provisions of each of the leases vary.

**PRC 7643.1 USS-POSCO INDUSTRIES, A CALIFORNIA PARTNERSHIP
Lease Expires November 17, 2031**

PRC 7643.1 is a 25-year General Lease – Industrial Use beginning November 18, 2006, issued to USS-POSCO Industries, a California Partnership, for the operation and maintenance of an industrial wharf, a levee, settling basin and other facilities inherent to the manufacturing of steel (i.e. offloading, storage and processing of hot-rolled coils, producing zinc-galvanized, tin-plated, cold-rolled and chrome-coated steel), bank protection dolphins, the fueling of ships and other ancillary facilities as described in Exhibit B to the lease. The lease premises consist of approximately 14 acres of filled and unfilled sovereign lands in New York Slough.

The annual rent is \$232,137 and is to be adjusted by the CPI annually. On the 5th and 15th year anniversary, the Lessor may, at its option, elect to establish a new reasonable Base Rent through the use of an appraisal of the property.

Lessee is to maintain liability insurance in the amount of \$10,000,000 combined single limit and provide Lessor with a \$1,000,000 performance deposit (which the Lessee has done).

Status: Lease was just issued. Annual rent, bond, and insurance have been received. Annual rent is to be adjusted by CPI by November 18, 2007.

**PRC 2757.1 TESORO REFINING AND MARKETING COMPANY
Lease Expired in 1995**

On July 28, 1961, a 15-year Lease was issued, with two ten-year renewal options, to M & R Services for the operation of an existing wharf and related appurtenances in New York Slough consisting of 2.72 acres of sovereign lands (the current lease area would be approximately five acres). On April 8, 1963, M & R Services changed its name to Diablo Seaway Terminals and subsequently the lease was assigned to Tidewater Oil Company on August 26, 1965. On May 26, 1966, the SLC assigned the lease to Phillips Petroleum Company. On January 15, 1976, the lease was assigned to The Oil Shale Corporation. On March 25, 1976, the SLC renewed the lease for ten years (terminating 1985) and assigned it to Lion Oil Company. Lion Oil Company, a subsidiary of Tosco, merged with Tosco in 1978. Tosco then replaced Lion Oil Company as Lessee. On July 23, 1981, the Commission approved an amendment to the lease to relocate a mooring dolphin, a breasting dolphin

and a walkway. The last renewal period was never officially approved by the Commission, but the lease expired in 1995.

On May 19, 1995, SLC staff received an application from Tosco. On January 30, 2002, the lease was assigned to Ultramar, Inc. and on December 16, 2002, the lease was assigned to Tesoro Refining and Marketing Company, which is the current lessee.

Because of a variety of issues, a new lease has not been issued to date and the lease is currently in holdover status. The holdover rent is \$11,442 per year and may be modified pursuant to the Commission's regulations. The lease requires a \$50,000 surety bond and liability insurance in the amount of \$2,000,000 which are on file.

Status: Determine how to treat under CEQA and negotiate new lease.

**PRC 7872.1 ISLE CAPITAL CORPORATION
Lease Expires December 1, 2026**

PRC 7872.1 is a 30-year General Lease – Industrial Use beginning December 2, 1996, issued to Isle Capital Corporation, a California Corporation, Acting as Trustee, FBO LANC Trust, dba Pittsburg Marine Terminal, for the purpose of constructing, operating and maintaining a dock facility in connection with a dry bulk marine transfer and storage terminal on approximately 6.8 acres of sovereign land in New York Slough.

The annual rent is \$90,000 and is to be adjusted by the CPI annually after the tenth year. On the 10th and 20th anniversary dates, the rent shall be adjusted at the rate prescribed in Lessor's regulations, but in no event to exceed 12% of the appraised value of the Lease Premises (see lease provisions).

Lessee is to maintain a \$500,000 performance deposit and shall maintain liability insurance in the amount of \$5,000,000 which have been submitted. The requirement for the performance deposit has been satisfied through submittal of a Deed of Trust. The Commission approved a sublease between Isle Capital and Koch Carbon, Inc. on February 27, 1996.

Status: New rent review is due to be reviewed and approved by December 2, 2007; if missed, next rent review date to be approved is December 2, 2008.

**CHAPTER LEASE 18 (Statutes of 1929) – DOW CHEMICAL COMPANY
Lease Expired 1995**

In August of 1930, the Legislature enacted Chapter 69, Statutes of 1929) known as Chapter Lease 18.1 and was issued to C.A. Cooper and Company for 40 years (8/14/30 to 8/13/70) with a right of renewal by the Lessee for a further term of 25 years (8/14/70 to 8/13/95) in consideration of \$2,712 per year. The lease covered 61.90 acres of tide and submerged land located in New York Slough. Improvements consisted of an

industrial wharf, including one piling, three dolphins idle salt barge, two Coast Guard navigational lights, industrial wharf, bank protection and maintenance at various sites.

In March 1947, the Commission approved the assignment of the lease to U.S. Steel Corporation. U.S. Steel exercised its option to renew for an additional 25 years; the lease expired on August 13, 1995. On November 1, 1989, U. S. Steel sold the property to Dow Chemical Company.

On April 16, 1990, pursuant to Chapter 1067, Statutes of 1989, a portion of Chapter Lease 18.1 (approximately 40 acres) was transferred to the city of Antioch. The remaining portion is ungranted tide and submerged lands (approximately 22 acres) which remained under Chapter Lease 18.1 and is in holdover status.

Dow submitted an application to the Commission to lease the remaining 22 acres. SLC boundary staff has been in the process of reviewing how much of the 22 acres will be subject to our leasing jurisdiction.

Status: A new lease (not a chapter lease) needs to be negotiated, and a determination needs to be made as to how it will be treated under CEQA. Past rent is due which needs to be discussed with Commission staff.

PRC 7063.9 CITY OF PITTSBURG
Lease Expired March 31, 2007

PRC 7063.9 is a General Lease – Public Agency Use, to the city of Pittsburg for a marina, on approximately 8 acres of sovereign land in the Sacramento River and New York Slough at Pittsburg. The consideration is the public use and benefit.

Status: Lease expired March 31, 2007

PRC 7230.1 GWF POWER SYSTEMS COMPANY, INC.
Lease Expires July 31, 2022

PRC 7230.1 is a 30-year General Lease – Right of Way, beginning August 1, 1988, located on sovereign lands in the San Joaquin River and Suisun Bay, issued to GWF Power Systems Company, Inc. and assigned to GWF Power Systems, LP. for the continued use of three submerged effluent outfalls serving three electrical generating.

The annual rent is \$300 and may be modified every fifth anniversary, or, if missed, on any one of the next four anniversaries following the fifth anniversary (see Section 4 – General Provisions).

The lessee is to maintain liability insurance in the amount of \$500,000.

Status: A new rent review is due to be reviewed and approved by August 1, 2008. A new certificate of liability insurance needs to be submitted.

PRC 6041.1

**CALIFORNIA PORTLAND CEMENT COMPANY
Lease Expired on January 15, 2005**

PRC 6041.1 is a 25-year General Lease – Industrial Use beginning January 16, 1980, issued originally to Riedel International Inc. and subsequently assigned to California Portland Cement Company, for a bulkhead, barge unloading ramp and two seven-pile dolphins on sovereign land in New York Slough. The lease expired on January 15, 2005 and is in holdover status.

The annual rent is \$1,400 and may be modified every fifth anniversary, or, if missed, on any one of the next four anniversaries following the fifth anniversary (see Section 4 – General Provisions).

Lessee is to maintain liability insurance in the amount of \$1,000,000; and a surety bond in the amount of \$2,000 which are on file.

Status: A new lease needs to be negotiated.

PRC 5789.9

**CONTRA COSTA COUNTY SANITATION DISTRICT
Lease Expires January 31, 2029**

PRC 5789.9 is a 49-year General Permit – Public Agency Use beginning February 1, 1980, to the Contra Costa County Sanitation District No. 7-A for one 42-inch diameter outfall line. The annual rent is the public use and benefit (no consideration). As a public agency, there is no insurance or bond requirement.

Status: Lease expires January 31, 2029.

PRC 4699.1

**CALPINE PITTSBURG, INC.
Lease Expires August 31, 2017**

On August 31, 1972, the Commission issued a 20-year Right of Way Lease to Dow Chemical Company beginning September 1, 1972, for an 8-inch diameter natural gas pipeline from the city of Pittsburg to the city of Sacramento in the Sacramento River, Sacramento and Solano Counties; the San Joaquin River, Contra Costa County; and New York Slough, Contra Costa County. That lease expired and a new lease was issued to Great Western Pipeline Company, Inc. on February 27, 1996, for a period of 25-years beginning September 1, 1992. In 1998, the lease was assigned to Calpine Pittsburg, Inc. The annual rent is \$3,895 and may be modified every fifth anniversary, or, if missed, on any one of the next four anniversaries following the fifth anniversary (see Section 4 – General Provisions); the lease requires a \$25,000 surety bond and liability insurance in the amount of \$2,000,000 which are on file.

Status: A new rent review is due to be approved by September 1, 2008.

PRC 5426.9

**EAST BAY REGIONAL PARK DISTRICT
Lease Expires June 27, 2044**

Pursuant to a Title Settlement, a 66-year General Lease – Public Agency Use was issued to the East Bay Regional Park District beginning June 28, 1978, for preservation purposes. The lease requires liability insurance in the amount of \$1,000,000 which has been received.

PRC 5011.9

**CITY OF PITTSBURG
Lease Expires April 30, 2039**

PRC 5011.9 is a 49-year General Lease – Public Agency Use beginning May 1, 1990, to the city of Pittsburg for a fishing pier on sovereign lands in the Sacramento River.

BILL NUMBER: AB 2324 CHAPTERED
BILL TEXT

CHAPTER 275
FILED WITH SECRETARY OF STATE SEPTEMBER 14, 2006
APPROVED BY GOVERNOR SEPTEMBER 14, 2006
PASSED THE ASSEMBLY AUGUST 21, 2006
PASSED THE SENATE AUGUST 17, 2006
AMENDED IN SENATE AUGUST 15, 2006
AMENDED IN ASSEMBLY APRIL 17, 2006
AMENDED IN ASSEMBLY MARCH 30, 2006
AMENDED IN ASSEMBLY MARCH 27, 2006

INTRODUCED BY Assembly Member Canciamilla

FEBRUARY 22, 2006

An act to add Article 4 (commencing with Section 6361) of Chapter 4 of Part 1 of Division 6 of the Public Resources Code, and to repeal Chapter 214 of the Statutes of 1937, Chapter 1835 of the Statutes of 1961, and Chapter 1828 of the Statutes of 1963, relating to tidelands and submerged lands and to convey certain tidelands and submerged lands to the City of Pittsburg.

LEGISLATIVE COUNSEL'S DIGEST

AB 2324, Canciamilla Tidelands and submerged lands: City of Pittsburg: conveyance.

Under existing law, various grants of tidelands and submerged lands have been made in trust to local agencies, including several legislative grants of specified lands to the City of Pittsburg.

This bill would repeal the existing legislative grants to the City of Pittsburg, and would enact a new grant of tidelands and submerged lands, as described, subject to specified conditions, to the City of Pittsburg in trust for purposes of commerce, navigation, and fisheries, and for other public trust purposes, including, but not limited to, preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and recreational and visitor-oriented uses.

The bill would provide that revenue from those lands, that are currently leased by the state and designated as specified state lease numbers, shall remain revenue of the state and be transmitted to the state by the trustee.

The bill would impose a state-mandated local program by requiring, among other things, that the city submit to the State Lands Commission for its approval a trust lands use plan, as prescribed. The bill would require the city to file each year with the commission a detailed statement of revenue from the administration of the lands and the expenditure thereof, and would prescribe related matters.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 4 (commencing with Section 6361) is added to Chapter 4 of Part 1 of Division 6 of the Public Resources Code, to read:

Article 4. Conveyance of Tidelands and Submerged Lands to the City of Pittsburg

6361. As used in this article, the following definitions apply:

- (a) "Plan" means trust lands use plan as described in Section 6364.
- (b) "Public trust purposes" means purposes related to commerce, navigation, and fisheries, and other public trust purposes, including, but not limited to, preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and recreational and visitor-oriented uses.
- (c) "State" means the State of California.
- (d) "Trustee" means the City of Pittsburg, a municipal corporation of the State of California, in Contra Costa County.
- (e) "Trust lands" means all tidelands and submerged lands, whether filled or unfilled, situated within the boundaries of the City of Pittsburg as those boundaries exist on January 1, 2007.
- (f) "Trust revenues" means all revenues received from trust lands and trust assets.

6362. (a) There is hereby granted in trust to the City of Pittsburg all of the right, title, and interest of the state held by the state by virtue of its sovereignty in and to all tidelands and submerged lands, whether filled or unfilled, situated within the boundaries of the City of Pittsburg as such boundaries exist on January 1, 2007.

(b) The trust lands shall be held by the trustee and its successors in trust for the benefit of all the people of the state for public trust purposes, as more particularly provided in this article.

(c) This trust grant is subject to the following express conditions:

- (1) The use of the trust lands shall be in conformity with the public trust and the plan, and shall be without cost to the state.
- (2) The trustee or its successors shall not at any time grant, convey, give, or otherwise alienate the trust lands, or any part thereof, to any person, firm, entity, or corporation for any purposes whatsoever. The trustee may lease the trust lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the public trust and the plan. The trustee may collect and retain rents and other trust revenues from those leases, under rules and regulations adopted by the trustee.
- (3) In the management, conduct, operation, and control of the trust lands, or any improvement, betterments, or structures thereon, the trustee or its successors shall make no illegal discrimination in rates, tolls, or charges for any use or service in connection herewith, nor shall the trustee discriminate against or unlawfully segregate any person or group of persons on account of sex, race, color, creed, national origin, ancestry, or physical handicap for any use or service in connection herewith.
- (4) The state shall have the right to use, without charge, any transportation, landing, or storage improvements, betterments, or structures constructed upon the trust lands for any vessel or other watercraft or railroad owned or operated by or under contract to the

state.

(5) The state shall have the right, at any time in the future, to use the trust lands or any portion thereof for any authorized public use without compensation to the trustee, its successors or assigns, or any person, firm, or public or private corporation claiming under it, except that in the event improvements have been placed with legal authority upon the property taken by the state, compensation shall be made to the person entitled thereto for the value of the interest in the improvements taken or the damages to that interest.

(6) There is reserved to the people of the state the right to fish in the waters over the trust lands, with the right to convenient access to those waters over the trust lands for that purpose.

(7) There is excepted and reserved to the state all remains or artifacts of archaeological and historical significance and all deposit of minerals, including, but not limited to, all substances specified in Section 6407, in the trust lands, and the right to prospect for, mine, and remove those deposits from the lands.

(8) This grant is made subject to the rights of any and all persons under any title derived from the state or any of its agencies in or to any part of the trust lands.

(9) A survey of the trust lands pursuant to Sections 6358 and 6359 shall not be required, provided that the grantee has otherwise established a metes and bounds description of the trustee's corporate water boundaries.

6363. Revenue from lands, that are currently leased by the state and designated as state lease numbers PRC 2757.1, PRC 7643.1, PRC 7872.1, and Chapter Lease 18.1, shall remain revenue of the state and be transmitted to the state by the trustee.

6364. (a) On or before July 1, 2008, the trustee shall submit to the commission a plan indicating details of intended development, preservation, or other use of the trust lands. The trustee shall thereafter submit to the commission for approval all changes of, amendments to, or extensions of the plan. Any use of the trust lands shall be consistent with the plan as approved by the commission.

(b) The commission shall review with reasonable promptness the plan submitted by the trustee and any changes of or amendments to the plan to determine that they are consistent with the public trust and the requirements of this article. Based upon its review, the commission shall either approve or disapprove the plan. If the commission disapproves the plan, the commission shall furnish the trustee with its formal recommendations, and the trustee shall submit a revised plan to the commission within 180 days. If that revised plan is determined by the commission to be inconsistent with the public trust and the requirements of this article, all right, title, and interest of the trustee in and to the trust lands and improvements thereon shall revert to the state.

(c) The plan shall include all of the following:

(1) A general description of the type of uses planned or proposed for the trust lands. The location of these land uses shall be shown on a map or aerial photograph.

(2) The projected statewide benefits to be derived from the planned or proposed uses of the trust lands, including, but not limited to, the financial and environmental benefits and the furtherance of those purposes set forth in subdivision (b) of Section 6362.

(3) The proposed method of financing the planned or proposed uses of the trust lands, including estimated capital costs, annual operating costs, and anticipated annual trust revenues.

(4) An estimated timetable for implementation of the plan or any phase thereof.

(5) A description of how the trustee proposes to protect and preserve natural and manmade resources in connection with the use of the trust lands.

(d) All leases or agreements proposed, or entered into by any trustee after July 1, 2008, shall be consistent with the plan submitted by the trustee and approved by the commission.

(e) Upon request, the trustee shall submit to the commission a copy of all leases and agreements entered into, renewed, or renegotiated with respect to the trust lands.

6365. The trustee shall demonstrate good faith in carrying out the plan and amending it when necessary in accordance with subdivisions (a) and (b) of Section 6364. If the commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the trust lands, as required by the plan, in the time period set forth in paragraph (4) of subdivision (c) of Section 6364, or has unreasonably delayed adopting that proposal, all right, title, and interest of the trustee in and to the trust lands and improvements thereon shall revert to the state.

6366. (a) The trustee shall establish and maintain accounting procedures, in accordance with generally accepted accounting principles, providing accurate records of all revenues received from the trust lands and trust assets and of all expenditures of those revenues. If the trustee has several trust grants of adjacent lands and operates the granted lands as a single integrated entity, separation of accounting records for each trust grant is not required. All trust revenues shall be expended only for those uses and purposes set forth in subdivision (b) of Section 6362. The purpose of this subdivision is to provide for the segregation of funds derived from the use of the trust lands in order to ensure that they are only expended to enhance the trust lands in accordance with the trust uses and purposes upon which the trust lands are held.

(b) Trust revenues may be used to acquire appropriate uplands to benefit and enhance the trust with the prior written consent of the commission. Property acquired with these trust revenues shall be considered an asset of the trust and subject to the terms and conditions of this article.

6367. On or before October 1 of each year, the trustee shall file with the commission a detailed statement of all trust revenues and expenditures relating to its trust lands and trust assets, including obligations incurred but not yet paid, covering the fiscal year preceding submission of the statement. This statement shall be prepared according to generally accepted accounting principles and may take the form of an annual audit prepared by or for the trustee.

6368. (a) To expend trust revenues for any single capital improvement on the trust lands involving an amount in excess of two hundred fifty thousand dollars (\$250,000) in the aggregate, the trustee shall file with the commission a detailed description of the capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith.

(b) Within 90 days after the time of that filing, the commission shall determine whether the capital improvement is in the statewide interest and benefit and is consistent with the conditions of this article. The commission may request the opinion of the Attorney General on the matter; and, if it does so, a copy of that opinion shall be delivered to the trustee with the notice of its determination.

(c) If the commission notifies the trustee that the capital improvement is not authorized, the trustee shall not disburse any trust revenues for, or in connection with, the capital improvement,

unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The trustee may bring suit against the state for the purpose of securing an order or judgment, which suit shall have priority over all other civil matters.

(d) Service shall be made upon the executive officer of the commission and the Attorney General, and the Attorney General shall defend the state in that suit. If judgment is given against the state in the suit, costs may not be recovered.

6369. (a) On June 30, 2007, and at the end of every third fiscal year thereafter, that portion of the trustee's trust revenues in excess of two hundred fifty thousand dollars (\$250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of trust activities shall be deemed excess revenues.

(b) Any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenues. To be deemed nonexcess revenues, any reserve funds for future capital expenditure shall be for projects that are consistent with the plan and have prior commission approval under Section 6368. Capital improvements of the trust lands made for purposes authorized by this article may be considered as expenditures for the purpose of determining excess revenues.

(c) The excess revenues, as determined pursuant to this section, shall be allocated 85 percent to the State Treasurer for deposit into the Kapiloff Land Bank Fund (Division 7 (commencing with Section 8600)) and 15 percent to the trustee for expenditures consistent with this article.

6369.1. The commission may, from time to time, institute a formal inquiry to determine that the terms and conditions of this article have been complied with and that all other applicable provisions of law concerning the trust lands are being complied with in good faith.

6369.2. Reimbursement for the expenditure of nontrust revenues for management, maintenance, and improvements made to the trust shall be approved by the commission in advance of the expenditure, or the expenditure shall be deemed a gift to the trust.

6369.3. Whenever the commission finds that the trustee has violated, or is about to violate, the terms of its trust grant or any other principle of law relating to its obligation in connection with the lands granted pursuant to this article, the commission shall notify the trustee of the violations before the commission pursues other legal remedies.

SEC. 2. Chapter 214 of the Statutes of 1937 is repealed.

SEC. 3. Chapter 1835 of the Statutes of 1961 is repealed.

SEC. 4. Chapter 1828 of the Statutes of 1963 is repealed.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.