

## CHAPTER 714

An act to amend Section 1 of Chapter 700 of the Statutes of 1911, and to authorize an exchange of public trust lands within the former Naval Training Center, San Diego, relating to trust property.

[Approved by Governor September 25, 2000. Filed with  
Secretary of State September 27, 2000.]

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

SECTION 1. Section 1 of Chapter 700 of the Statutes of 1911 is amended to read:

Section 1. (a) There is hereby granted and conveyed to the City of San Diego, in the county of San Diego, State of California, all the lands situate on the City of San Diego side of said bay, lying and being between the line of mean high tide and the pierhead line in said bay, as the same has been or, may hereafter be established by the federal government, and between the prolongation into the bay of San Diego to the pier head line of the boundary line between the City of San Diego and National City, and the prolongation into the bay of San Diego to the pierhead line of the northerly line of the United States military reservation on Point Loma.

(b) There is hereby granted to the City of San Diego (hereafter “city”), a municipal corporation of the State of California, and to its successors, all the right, title, and interest of the State of California, held by the state by virtue of its sovereignty, in and to all the tide and submerged lands, whether filled or unfilled, within the present boundaries of the city, and situated below the historical line of mean high tide of the Pacific Ocean, or of any harbor, estuary, bay, or inlet within said boundaries, except as the Legislature has previously conveyed those lands to other entities, and except as to lands that the city has previously conveyed to other entities, (such as the San Diego Unified Port District by Conveyance filed for record February 1963, in Series 4, Book 1963, page 28389).

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

to any of the lands that are freed of the public trust by exchange agreements authorized by statute.

(d) The city, or its successors, shall not at any time grant, convey, give, or alienate the granted lands, or any part of them, to any individual, firm, or corporation for any purpose whatever, except as provided in this section or otherwise provided by statute, and except as to any lands freed of the public trust by exchange agreements authorized by statute. This subdivision shall not be construed to prohibit the conveyance of any lands within the former Naval Training Center, San Diego, including lands previously granted to the city and subsequently transferred to the United States, to the San Diego Unified Port District (“port”) by the city.

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

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

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

(h) No discrimination in rates, tolls, or charges for use or in facilities for any use or service in connection with wharves, docks, piers, slips, or quays or property operated by the city, or property leased, the use of

which is dedicated by the lessee or licensee for a public use, shall ever be made, authorized, or permitted.

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

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

SEC. 2. Sections 1 to 10, inclusive, of this act shall be known, and may be cited, as the Naval Training Center San Diego Public Trust Exchange Act.

SEC. 3. For purposes of this act, the following definitions apply unless the context requires otherwise.

(a) "City" means the City of San Diego.

(b) "City granting act" means Chapter 700 of the Statutes of 1911, as amended by Chapter 676 of the Statutes of 1915, Chapter 598 of the Statutes of 1917, Chapter 642 of the Statutes of 1929, and Chapter 693 of the Statutes of 1945.

(c) "Commission" means the State Lands Commission.

(d) "NTC Property" means those parcels of land lying in the City of San Diego, County of San Diego, State of California, being a portion of that area commonly known as Naval Training Center, San Diego, and more particularly described as follows in paragraphs (1) and (2):

(1) Parcel One: a parcel of land referred to as the "City NTC Property" described as follows:

#### PARCEL ONE CITY NTC PROPERTY

A parcel of land referred to as the "City NTC Property" being Parcels 1 through 16 and 18 in the County of San Diego, City of San Diego, State of California, all as shown on Record of Survey No. 16556 filed in the Office of the County Recorder of said San Diego on April 25, 2000 as File No. 2000-210625 of Official Records, being more particularly described as follows:

Beginning at the most Northwesterly terminus of that certain line shown as "North 54°15'14" West 1087.60 feet" on the Northerly line of said Record of Survey 16556; thence along the Northerly, Easterly and

Southerly lines of said Record of Survey 16556 the following courses: South  $54^{\circ}15'14''$  East 1087.60 feet; thence North  $35^{\circ}45'46''$  East 0.37 feet; thence South  $15^{\circ}38'02''$  East 1934.29 feet; thence South  $07^{\circ}30'30''$  West 412.55 feet; thence South  $41^{\circ}37'23''$  West 482.21 feet; thence South  $82^{\circ}29'30''$  East 270.45 feet; thence South  $07^{\circ}30'30''$  West 1505.26 feet; thence North  $82^{\circ}35'20''$  West 8.27 feet; thence South  $07^{\circ}33'09''$  West 287.95 feet; thence South  $82^{\circ}17'51''$  East 275.38 feet; thence South  $83^{\circ}48'36''$  West 212.78 feet; thence South  $07^{\circ}30'41''$  West 226.44 feet; thence South  $83^{\circ}48'36''$  West 61.91 feet; thence North  $07^{\circ}30'29''$  East 32.25 feet; thence North  $81^{\circ}55'00''$  West 25.84 feet; thence South  $41^{\circ}11'00''$  West 22.90 feet; thence South  $18^{\circ}02'00''$  East 22.68 feet; thence North  $83^{\circ}48'36''$  East 29.60 feet, thence South  $07^{\circ}30'30''$  West 205.86 feet, thence South  $83^{\circ}48'36''$  West 1292.59 feet to the beginning of a tangent 3900.00 foot radius curve concave Southeasterly; thence Southwesterly along the arc of said curve through a central angle of  $24^{\circ}16'43''$  a distance of 1652.59 feet; thence South  $59^{\circ}31'53''$  West 698.21 feet; thence North  $11^{\circ}24'16''$  West 48.41 feet; thence North  $30^{\circ}28'07''$  West 4.25 feet; thence South  $59^{\circ}31'53''$  West 145.32 feet to the beginning of a tangent 950.00 foot radius curve concave Northwesterly; thence Southwesterly along the arc of said curve through a central angle of  $05^{\circ}45'44''$  a distance of 95.54 feet; thence North  $53^{\circ}45'35''$  West 176.88 feet to the Northwesterly line of said Parcel 16, said point being the beginning of a nontangent 800.00 foot radius curve concave Northwesterly, to which a radial line bears South  $18^{\circ}32'33''$  East; thence leaving the Southerly line of said Record of Survey 16556, Northeasterly along the arc of said curve through a central angle of  $11^{\circ}55'34''$  a distance of 166.52 feet; thence continuing along the Northwesterly line of said Parcel 16, North  $59^{\circ}31'53''$  East 827.72 feet to the beginning of a tangent 4100.00 foot radius curve concave Southeasterly; thence Northeasterly along the arc of said curve through a central angle of  $00^{\circ}44'31''$  a distance of 53.087 feet to the most Southerly point of said Parcel 12; thence leaving said Parcel 12, along the Westerly line of said Parcel 12, North  $30^{\circ}28'07''$  West 98.45 feet to the beginning of a tangent 266.00 foot radius curve concave Easterly; thence Northerly along the arc of said curve through a central angle of  $66^{\circ}44'13''$  a distance of 309.83 feet; thence North  $36^{\circ}16'06''$  East 43.44 feet to the beginning of a tangent 334.00 foot radius curve concave Northwesterly; thence Northeasterly along the arc of said curve through a central angle of  $18^{\circ}30'28''$  a distance of 107.89 feet; thence North  $36^{\circ}16'00''$  East 1307.97 feet to the Southerly line of said Parcel 6, thence leaving the Westerly line of said Parcel 12 along said Southerly line of said Parcel 6, North  $53^{\circ}43'30''$  West 375.81 feet to the Southeasterly line of said Parcel 14; thence leaving the Southerly line of said Parcel 6, along said Southeasterly line of said Parcel 14; South  $36^{\circ}18'40''$  West

1080.03 feet; thence North  $53^{\circ}43'54''$  West 1427.91 feet to the Northwesterly line of said Record of Survey 16556; thence along said North Westerly line of said Record of Survey North  $36^{\circ}16'06''$  East 5287.89 feet to the beginning of a tangent 37.00 foot radius curve concave Southerly; thence Easterly along the arc of said curve through a central angle of  $89^{\circ}28'40''$  a distance of 57.78 feet to the Point of Beginning.

(2) Parcel Two: a parcel of land referred to as the "Port Expansion Area" described as follows:

PARCEL 2  
PORT EXPANSION AREA

A parcel of land referred to as the "Port Expansion Area" and described as follows:

Commencing at a 6" x 6" concrete monument at the intersection of the easterly boundary of the U.S. Naval Training Center and the northerly line of North Harbor Drive as shown on Record of Survey 15213, filed in the Office of the County Recorder of San Diego County, June 14, 1996; said monument also being an angle point on the boundary between the United States Navy Land and the San Diego Unified Port District as shown on Miscellaneous Map No. 564 filed in the Office of the San Diego County Recorder May 28, 1976; thence leaving said monument and running northerly along said common boundary line between United States Navy Land and the San Diego Unified Port District North  $7^{\circ}30'04''$  East a distance of 298.75 feet to the TRUE POINT OF BEGINNING; thence leaving said boundary line North  $81^{\circ}41'44''$  West a distance of 169.89 feet; thence North  $62^{\circ}33'09''$  West a distance of 75.63 feet; thence North  $79^{\circ}05'39''$  West a distance of 50.13 feet; thence South  $22^{\circ}25'15''$  West a distance of 29.68 feet; to the beginning of a curve concave to the south having a radius of 585.00 feet; thence westerly along the arc of said curve through a central angle of  $45^{\circ}37'20''$  an arc distance of 465.81 feet; thence tangentially South  $73^{\circ}58'52''$  West a distance of 53.50 feet; thence South  $12^{\circ}35'43''$  East a distance of 78.72 feet; thence South  $74^{\circ}40'40''$  West a distance of 69.00 feet; thence South  $27^{\circ}37'00''$  East a distance of 96.48 feet; thence South  $12^{\circ}25'55''$  East a distance of 36.79 feet to a point on the northerly line of an easement granted to the City of San Diego, recorded November 7, 1962, as File No. 191492 OR and shown said Record of Survey Map No. 15213; thence along said line South  $83^{\circ}48'36''$  West a distance of 173.78 to a point of the boundary of that 1.936 acres parcel shown on Record of Survey No. 15789 filed in the Office of the County Recorder of San Diego County, April 17, 1998; thence along said boundary North  $7^{\circ}17'01''$  East a distance of 285.12 feet; thence North  $82^{\circ}35'20''$  West

a distance of 283.26 feet to that certain line shown as North  $7^{\circ}30'30''$  East a distance of 3,103.29 feet on sheet six of said Record of Survey No. 15213; thence leaving the northerly line of said Record of Survey No. 15789 and along said line of Record of Survey 15213 North  $7^{\circ}30'30''$  East a distance of 1,505.26 feet to an angle point on the boundary of said Record of Survey 15213; thence along said boundary South  $82^{\circ}29'30''$  East a distance of 85.00 feet; thence North  $39^{\circ}16'25''$  East a distance of 740.24 feet; thence South  $73^{\circ}29'30''$  East a distance of 407.08 feet; thence South  $16^{\circ}30'30''$  West a distance of 411.60 feet; thence 411.60 feet; thence South  $73^{\circ}29'30''$  East a distance of 415.51 feet to a point on the above described common boundary line between the United States Navy and the San Diego Unified Port District; thence along said boundary line South  $7^{\circ}30'04''$  West a distance of 1,604.11 feet to the TRUE POINT OF BEGINNING.

Courses referred to in the above descriptions are based upon the California Coordinate System, Zone 6 (N.A.D. 83).

(e) "Port" means the San Diego Unified Port District.

(f) "Port granting act" means Chapter 67 of the Statutes of 1962, as amended.

(g) "Public trust" or "trust" means the common-law and constitutional public trust for commerce, navigation and fisheries.

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

(a) The purpose of this act is to facilitate the productive reuse of the lands comprising the former Naval Training Center, San Diego in a manner that will promote economic development in the City of San Diego and enhance water-related recreational opportunities in a manner that will further the purposes of the public trust for commerce, navigation, and fisheries. To effectuate these purposes, this act approves, and authorizes the commission to carry out, an exchange of lands under which certain nontrust lands on the NTC Property with substantial value for the public trust would be placed into the public trust, and certain other lands presently subject to the public trust or asserted to be, but in any event no longer useful for trust purposes, would be freed from trust restrictions. This act also delegates to the port and to the city, as specified herein, the responsibility of administering the public trust on lands within the NTC Property.

(b) In 1911, the state granted to the City of San Diego the tide and submerged lands within San Diego Bay, "situate on the city of San Diego side of said bay," lying between the mean high tide line and the pierhead line, in trust for purposes of commerce, navigation, and fisheries and subject to the terms and conditions specified in that act. Section 3 of this 1911 grant prohibited the alienation of the granted lands. In 1913, by Chapter 250 of the Statutes of 1913, the Legislature

authorized cities to convey tide and submerged lands to the United States “for public purposes.”

(c) In 1929, Chapter 642 of the Statutes of 1929 amended the 1911 grant to the City of San Diego by declaring that all areas shoreward of the bulkhead line as then established had ceased to be tidelands and were freed of all trusts and restrictions on those lands, except the restriction against alienation. The meaning and legal impact of Chapter 642 of the Statutes of 1929 remain subjects of uncertainty and disagreement. In the same year, the Legislature passed another act authorizing the grant of tide or submerged lands to the United States for public or governmental purposes, and confirmed all grants of tide and submerged lands that had been previously made.

(d) Beginning in 1916, the city made several transfers of portions of the granted lands to the United States for purposes of constructing and operating what came to be known as the Naval Training Center, San Diego. The city in 1916 conveyed 56 acres of land to the United States lying waterward of the historic mean high tide line and extending to the bulkhead line. An additional 76 acres of tidelands lying waterward of the historic mean high tide line and extending to the bulkhead line were conveyed in 1919 to the United States. Then, in 1933, the city conveyed to the United States 95 acres lying waterward of the bulkhead line and extending to the pierhead line. Most of the transferred tide and submerged lands were subsequently filled and reclaimed by the Navy in furtherance of its plan for development of the Naval Training Center. The Navy filled an additional 135 acres of submerged lands lying waterward of the pierhead line in developing NTC San Diego.

(e) The Navy also acquired and developed substantial acreage for NTC San Diego that were historically uplands, never property of the State of California in its sovereign capacity, and thus not subject to the public trust.

(f) In 1993, the Defense Base Closure and Realignment Commission recommended closure of the Naval Training Center, San Diego under the Defense Base Closure and Realignment Act of 1990, and the center was closed operationally in April, 1997. As authorized by federal law, the Navy is in the process of transferring certain portions of the NTC Property under a no-cost economic development conveyance and two public benefit conveyances to the city, the local reuse authority for the NTC San Diego. The port expansion area will be conveyed to the San Diego Unified Port District by a public benefit conveyance. All former and existing tide and submerged lands on the NTC Property for which the public trust has not been extinguished through the completion of the exchange this chapter authorizes will be subject to the public trust upon their release from federal ownership.

(g) The existing configuration of trust and nontrust lands on the NTC Property is such that the purposes of the public trust cannot be fully realized, and is the subject of dispute between the city and the state. That is because certain filled and reclaimed tidelands on the NTC Property have been cut off from access to navigable waters and are no longer needed or required for the promotion of the public trust, or any of the purposes set forth in the city granting act. Other lands on the NTC Property directly adjacent to the waterfront or otherwise of high value to the public trust are currently either public trust lands or in dispute as to their public trust status. Absent a trust exchange, substantial portions of the waterfront on the NTC Property would be subject to uncertainty regarding their public trust status and could be cut off from public access, while certain nonwaterfront lands not useful for trust purposes would be restricted to trust-consistent uses.

(h) A trust exchange that results in the configuration of trust lands substantially similar to that depicted on the diagram in Section 9 maximizes the overall benefits to the trust, without interfering with trust uses or purposes, and resolves legal uncertainties, to the benefit of the public trust. Following the exchange, all lands within the NTC Property adjacent to the waterfront will be subject to the public trust, together with the port expansion area, which shall be used for purposes permitted by the port granting act. The lands that will be removed from the trust pursuant to the exchange have been cut off from navigable waters, constitute a relatively small portion of the granted lands, and are no longer needed or required for the promotion of the public trust. The commission shall ensure that the lands or interests added to the trust pursuant to the exchange are of equal or greater value than the lands or interests taken out of the trust.

(i) The reuse of public trust lands on former military bases presents a number of challenges not normally confronted in the public trust administration of active waterfronts, including the remediation of hazardous wastes on some bases and the presence of buildings that were constructed on former tidelands during the period of federal ownership, when the public trust was effectively in abeyance. In the case of NTC Property, there is one building that falls into this category, the child care center, which will be on public trust property at the completion of the exchange. The child care center was built by the Navy for nontrust purposes, and has a remaining useful life. The child care center will lie on lands that will be subject to the public trust following the exchange authorized by this act, and the conversion of the lands underlying the child care center to trust uses should proceed in a manner that will enable the people of this state to benefit from the substantial public investments made in the buildings without hindering the overall goal of preserving the public trust.

(j) The completion of the trust exchange authorized by this act will have numerous benefits to the public trust. Among them are the creation of a wide corridor of public trust land along the northern side of the boat channel, which is planned to be developed as a public park; the confirmation as public trust land of sites for possible development of hotels; and the establishment as public trust lands of land necessary for the expansion of the San Diego Airport, together with a public access corridor along the southern side of the boat channel.

SEC. 5. (a) The Legislature hereby approves an exchange of public trust lands within the NTC Property, whereby certain public trust lands that are not now useful for public trust purposes are freed of the public trust and certain other lands that are not now public trust lands, or are subject to uncertainty as to their trust status, and that are useful for public trust purposes are made subject to the public trust, resulting in a configuration of trust lands that is substantially similar to that shown on the diagram in Section 9, provided the exchange complies with the requirements of this act. The exchange is consistent with and furthers the purposes of the public trust and the city granting act and the port granting act.

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

(c) The precise boundaries of the lands to be taken out of the trust and the lands to be put into the trust pursuant to the exchange shall be determined by the commission. The commission shall not approve the exchange of any trust lands unless and until all of the following occur:

(1) The commission finds that the configuration of trust lands on the NTC Property upon completion of the exchange will not differ significantly from the configuration shown on the diagram in Section 9, and includes all lands presently subject to tidal action within the NTC Property.

(2) The commission finds that, with respect to the trust exchange as finally configured, the economic value of the lands that are to be exchanged into the trust, as phased, is equal to or greater than the value of the lands to be exchanged out of the trust. The commission may give economic value to the port expansion area confirmed as public trust lands as provided in subdivision (h).

(3) The commission finds that, with respect to the trust exchange as finally configured and phased, the lands to be taken out of the trust have

been filled and reclaimed, are cut off from access to navigable waters, are no longer needed or required for the promotion of the public trust, and constitute a relatively small portion of the lands originally granted to the city, and that the exchange will not result in substantial interference with trust uses and purposes.

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

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

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

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

(e) All former or existing tide or submerged lands within the NTC Property for which the public trust has not been terminated pursuant to the exchange authorized by this act, and any lands exchanged or confirmed into the trust pursuant to this act, shall be held, whether by the port or by the city, subject to the public trust and the requirements of the city granting act as public trust lands within the city NTC Property, or the port granting act, as to the land within the port expansion area. In addition, notwithstanding the provisions of the city granting act, during any period in which lands confirmed to the city as lands subject to the city granting act are held by the Redevelopment Agency of the City of San Diego rather than the city, the Redevelopment Agency shall be the public trust administrator for the lands, and shall have the same powers and be subject to the same requirements as would the city under the granting act.

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

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

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

(2) Convey to the city or port by patent all of the right, title, and interest of the state in lands that are to be free of the public trust upon

completion of an exchange of lands as authorized by this act and as approved by the commission.

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

(h) To achieve the configuration of public trust lands shown in the diagram in Section 10, the port, simultaneous with or following its receipt of the port expansion area, shall confirm its title as tide and submerged lands subject to the port granting act by agreement with the commission. The port and the commission may make conveyances between themselves to establish the title to the port expansion area as public trust lands subject to the port granting act.

(i) In any case where the state, pursuant to this act, conveys filled tidelands and submerged lands transferred to the city pursuant to Chapter 700 of the Statutes of 1911, as amended, the state shall reserve all minerals and all mineral rights in the lands of every kind and character now known to exist or hereafter discovered, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the state or to its successors and assignees, except that, notwithstanding Chapter 700 of the Statutes of 1911, as amended, or Section 6401 of the Public Resources Code, the reservations shall not include the right of the state or its successors or assignees in connection with any mineral exploration, removal, or disposal activity, to do either of the following:

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

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

SEC. 6. (a) (1) Notwithstanding the provisions of the granting act, the existing child care center on trust lands within the NTC Property, which was constructed for nontrust purposes during the period of federal ownership and is incapable of being devoted to public trust purposes, may be used for such nontrust purposes for the remaining useful life of such building. The city and the commission, by agreement, shall establish the remaining useful life of the child care center, provided that in no case shall the useful life of the child care center be deemed to extend

less than 15 years or more than 40 years from the effective date of this act.

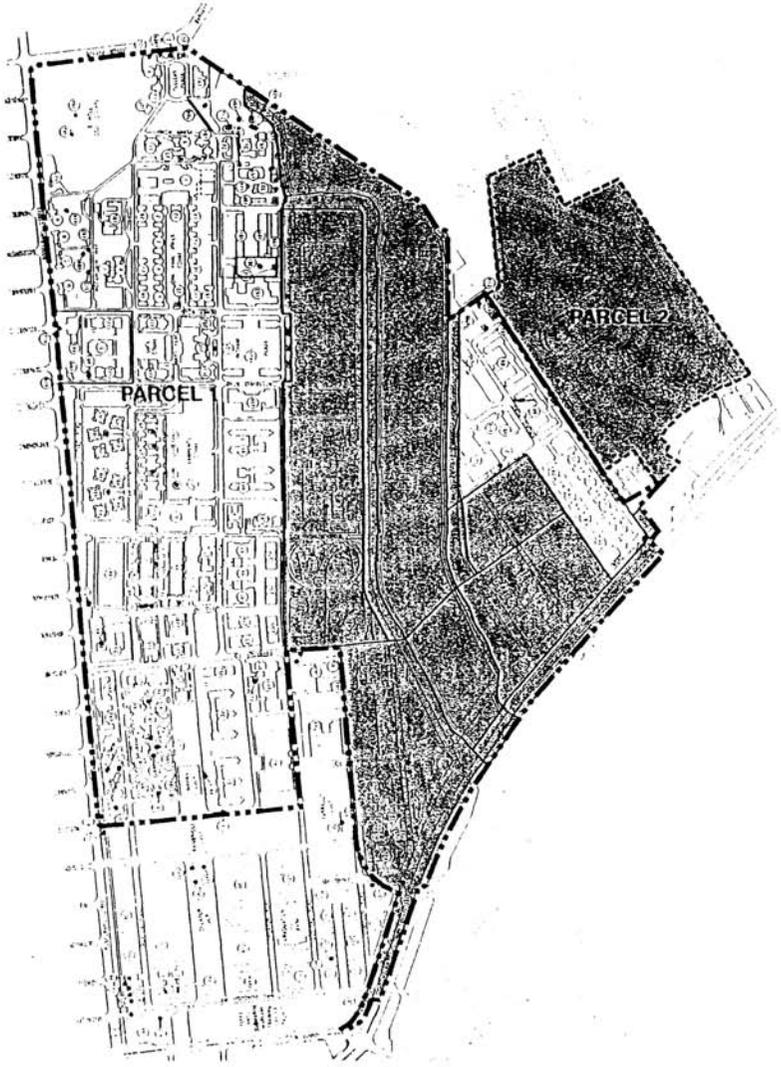
(2) The maintenance, repair, or, in the event of a flood, fire, or similar disaster, partial reconstruction of the child care center, and any structural or other alterations necessary to bring the child care center into compliance with applicable federal, state, and local health and safety standards, including, but not limited to, seismic upgrading, shall be permitted, provided those activities will not enlarge the footprint or the size of the shell of the child care center.

SEC. 7. All moneys arising out of the use or operation of any lands on the NTC Property subject to the public trust, including all revenues derived from leases, permits, franchises, privileges, licenses, easements, and the rights to use or occupy the trust lands, collected by the city as to public trust lands within the City NTC Property, or the port, as to the port expansion area, shall be maintained in a fund separate from the city's or port's general revenues. The money in or belonging to that fund may be used only for uses and purposes consistent with the public trust for navigation, commerce, and fisheries, the granting act, and this act.

SEC. 8. The state reserves the right to amend, modify, or revoke any and all rights to the lands granted to the City pursuant to Chapter 700 of the Statutes of 1911.

SEC. 9. The following diagram is hereby made a part of this act:

LOCATION OF LANDS SUBJECT TO THE PUBLIC TRUST  
AND THE GRANTING ACT UPON COMPLETION  
OF THE EXCHANGE



SEC. 10. The commission, the city, and the port shall work expeditiously toward completing the land exchange directed by this act.

SEC. 11. The Legislature finds and declares that, because of the unique circumstances applicable only to the lands within the City of San Diego described in this act, relating to the closure of the Naval Training Center, San Diego, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

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