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SB-273 Tidelands and submerged lands: City and County of San Francisco: Piers 30-32: mixed-use development. (2023-2024)

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Senate Bill No. 273

CHAPTER 385

An act to amend Sections 1, 2, 4, 5, 7, 12, and 14 of Chapter 489 of the Statutes of 2001, relating to tidelands and submerged lands.

[Approved by Governor October 07, 2023. Filed with Secretary of State October 07, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 273, Wiener. Tidelands and submerged lands: City and County of San Francisco: Piers 30-32: mixed-use development.

The State Lands Commission has jurisdiction over tidelands and submerged lands of the state. Existing law, the Burton Act, grants to the City and County of San Francisco the right, title, and interest of the State of California in and to certain tidelands and submerged lands in trust for certain purposes. Existing law establishes the San Francisco Bay Conservation and Development Commission and requires any person or governmental agency wishing to place fill, to extract materials, or to make any substantial change in use of any water, land, or structure, within the area of the commission's jurisdiction to secure a permit from the commission.

Existing law authorizes the State Lands Commission to approve a mixed-use development on the San Francisco waterfront at Piers 30-32, which would include a multipurpose venue for events and public assembly, if the State Lands Commission finds, at a properly noticed public meeting, that specified conditions are met.

This bill would revise those provisions to instead authorize the State Lands Commission to approve, as consistent with the public trust, as defined, a mixed-use development on the San Francisco waterfront at Piers 30-32, that includes general office use, if the State Lands Commission finds, at a properly noticed public meeting, that specified conditions are met, including, among others, that the mixed-use development is designed to attract the statewide public to the waterfront, increase public enjoyment of the San Francisco Bay, encourage public trust activities, and enhance public use of trust assets and resources on the waterfront.

This bill would make legislative findings and declarations as to the necessity of a special statute because of the unique circumstances applicable only to Piers 30-32 in the City and County of San Francisco.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. This act shall be known, and may be cited, as the Pier 30-32 Reconstruction Act.

SEC. 2. Section 1 of Chapter 489 of the Statutes of 2001, as amended by Section 2 of Chapter 381 of the Statutes of 2013, is amended to read:

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

(a) "AB 418" means Chapter 477 of the Statutes of 2011.

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

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

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

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

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

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

(h) "McAteer-Petris Act" means Title 7.2 (commencing with Section 66000) of the Government Code, as that act may be amended from time to time.

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

(j) "Public trust" or "trust" means the constitutional and common law doctrine providing the state's sovereign authority over the navigable waters of the state, including the tidelands and submerged lands underlying those waters that are held in trust for the benefit of all the people of the state and for purposes that include maritime or water-dependent commerce, navigation, fisheries, the preservation of lands in their natural state for scientific study, open space, wildlife habitat, and water-oriented recreation.

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

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

(m) "Seawall Lot 330" means that parcel of real property situated in the City and County of San Francisco, commencing at the point of intersection of the northeasterly line of Beale Street and the southeasterly line of Bryant Street, as said point is described on that certain San Francisco Department of Public Works Monument Map Number 318, with a copy on file at the Engineering Division of the San Francisco Port Commission; running thence northeasterly, along the southeasterly line of Bryant Street, for a distance of 158 feet to the true point of beginning; continuing thence along the southeasterly line of Bryant Street, for a distance of 218.69 feet; thence along a curve to the right, having a radius of 57.50 feet and a central angle of 48° 28' 22", to the realigned southeasterly line of Bryant Street; thence along the said realigned southeasterly line of Bryant Street, for a distance of 64.90 feet, to the westerly line of the Embarcadero; thence southerly and running along the westerly line of the Embarcadero, for a distance of 617.98 feet, to the northeasterly line of Beale Street; thence at a deflection angle of 131° 30' 38" to the right and running along the northeasterly line of Beale Street, for a distance of 334.53 feet; thence at a right angle northeasterly, running parallel to Bryant Street, for a distance of 158.00 feet; thence at a right angle northwesterly, parallel to Beale Street, for a distance of 143.00 feet, to the true point of beginning, containing an area of 2.33 acres of land, more or less.

(n) "SB 815" means Chapter 660 of the Statutes of 2007, as amended.

(o) "Special Area Plan" means the San Francisco Waterfront Special Area Plan, dated April 1975, adopted by BCDC, as subsequently amended from time to time.

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

(q) "Trust retail uses" means retail establishments that facilitate and encourage public use of the waterfront and are consistent with the common law public trust, including, but not limited to, water-oriented retail, visitor-serving retail, restaurant

establishments, and other similar retail uses.

(r) "Waterfront Plan" means the Waterfront Plan adopted by the Port pursuant to Resolution No. 23-15, as amended from time to time.

SEC. 3. Section 2 of Chapter 489 of the Statutes of 2001, as amended by Section 3 of Chapter 381 of the Statutes of 2013, is amended to read:

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

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

(b) In 1965, the Legislature adopted the McAteer-Petris Act, which grants BCDC regulatory authority over further filling in San Francisco Bay through exercise of its bay jurisdiction. Within any portion or portions of the 100-foot shoreline band defined in subdivision (b) of Section 66610 of the Government Code located outside the boundaries of water-oriented priority land uses, the McAteer-Petris Act provides that BCDC may deny an application for a permit for a proposed project only on the grounds that the project fails to provide maximum feasible access to the bay and its shoreline, consistent with the proposed project. BCDC's Bay Plan contains, among other things, BCDC's policies to guide use and protection of all areas within BCDC's jurisdiction and ensures that proposed projects minimize bay fill and provide maximum feasible public access to the bay and its shoreline.

(c) In 1969, pursuant to the Burton Act, the state conveyed certain state tide and submerged lands to the Port, which are held in trust to benefit the people of California and are subject to the public trust and the terms and conditions specified in the Burton Act.

(d) Following passage of the Burton Act, BCDC and the Port jointly undertook two intensive and careful planning processes.

(1) The first process culminated in 1997 with the adoption by the Port of the Waterfront Land Use Plan pursuant to Resolution No. 97-50 and with the adoption by the city's Board of Supervisors of conforming amendments to the San Francisco General Plan and Planning Code.

(2) The second planning process culminated in the Port's adoption of further amendments to the 1997 Waterfront Land Use Plan and BCDC's adoption of the July 2000 amendments to the Special Area Plan, which are incorporated into and made a part of the Bay Plan, and collectively create consistent plans for the area of the San Francisco waterfront between Pier 35 and China Basin.

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

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

(2) Two major public plazas, the Brannan Street Wharf adjacent to Pier 30-32 and a new plaza at Pier 27.

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

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

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

(6) A historic preservation mechanism to ensure preservation and enhancement of important historic resources on the piers, including the Port of San Francisco Embarcadero Historic District as designated on the National Register of Historic Places.

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

(8) In exchange for the public benefits listed above, the right to repair or wholly reconstruct certain existing piers within the boundaries of the existing pier footprint for a use consistent with the public trust and the Burton Act trust without triggering subdivision (a) or (b) of Section 66605 of the Government Code concerning the water-oriented use criterion and no alternative upland location criterion, respectively.

(f) The San Francisco waterfront, which has been the subject of intensive multiagency planning processes, provides benefits to the entire bay area, and serves as a unique destination for the public. These state and regional benefits include enjoyment of a unique, publicly owned waterfront that provides maritime, navigational, recreational, cultural, and historical benefits that serve the region and state.

(g) The Port is a valuable public trust asset, a vibrant and world-renowned tourist destination, and a vital component of the regional, state, and national economies. The Port faces unique challenges in implementing the Waterfront Plan. Deferred maintenance on the Port's historic piers and other structures, together with limitations on revenue generating opportunities, has limited the Port's ability to improve the deteriorating conditions along the San Francisco waterfront. The Port estimates that it will cost over one billion five hundred million dollars (\$1,500,000,000) to implement its capital plan, which substantially exceeds the projected revenues estimated by the Port to be available for these purposes.

(h) The San Francisco waterfront is exposed to significant earthquake and flood risks. The Port's waterfront resilience program is preparing for these risks and is working with the United States Army Corps of Engineers to develop a preferred plan to adapt the waterfront to address coastal flood hazards compounded by earthquake risk and sea level rise. Port planners project the need to raise the San Francisco shoreline by seven feet or more above the current elevation, which will require changes to piers and bulkhead wharves to connect to the elevated shoreline. The Port anticipates any plan to address sea level rise will also include necessary seismic improvements to stabilize the shoreline. The cost of developing and implementing the adaptation plan is expected to be in the billions of dollars, with the federal government providing up to 65 percent of the total cost. The Port anticipates that private investment will be critical to fund the local share of the cost to develop and implement the adaptation plan, in addition to federal, state, and local funding.

(i) The climate crisis and sea level rise are existential threats that require broad, innovative, and comprehensive coordination and collaboration across all levels of government to develop, fund, and implement resiliency and adaptation strategies. Adapting to sea level rise is expensive, often requiring a combination of private and public investment. Local government trustees of public trust lands and resources within the San Francisco Bay face unique challenges in managing these lands in the face of the climate crisis and sea level rise in a manner consistent with their statutory trust grants and the public trust. The State Lands Commission and BCDC have a long history of coordination and collaboration to advance an understanding of sea level rise in the San Francisco Bay.

SEC. 4. Section 4 of Chapter 489 of the Statutes of 2001, as amended by Section 5 of Chapter 381 of the Statutes of 2013, is amended to read:

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

(a) Pier 30-32 consists of obsolete, pile-supported pier structures that are physically incapable of serving most trust-related purposes without substantial modification and repair or reconstruction. The pier is a facility of approximately 13 acres that is centrally located along the waterfront with a natural deepwater berth along its east face. This east berth is valuable to the Port and the city due to its ability to berth a variety of large vessels, including cruise ships and emergency response vessels, and benefits the environment because the bay floor within this location is a natural deepwater, self-scouring berth that does not require periodic dredging. The poor structural condition of Pier 30-32 limits its use to parking, limited events, and occasional, temporary use as a tertiary berth for cruise ships and other deep draft vessels. The pier has a limited remaining useful life. The Port estimates that the cost of removing the pier would exceed fifty-five million dollars (\$55,000,000).

(b) Preserving Pier 30-32 requires substantial capital investment to improve the piles and decking to modern seismic standards. The Port estimates that the cost of rehabilitating the pier substantially exceeds the Port's estimates of the pier's fair market value. The Port does not have adequate funding in its 10-year capital plan for either the costs to improve the pier to meet modern seismic safety standards or to remove the pier. The Port requires other funding sources, such as a private development partner, to remove, rehabilitate, or redevelop the facility.

(c) The Port has sought to preserve and develop Pier 30-32 through public-private partnerships. In 2001, the Legislature authorized the Port to approve a cruise ship terminal development that would include general office and general retail uses subject to certain conditions. The Port's selected developer abandoned the project after determining that the necessary improvements to the pier substructure were cost prohibitive. No other developer would accept assignment of development rights for the approved project.

(d) In 2011, the America's Cup event authority proposed to improve Pier 30-32 to host racing teams and hospitality facilities during the 2013 America's Cup and to acquire long-term development rights to Pier 30-32. Those facilities were relocated to other piers due primarily to the cost of rehabilitating the Pier 30-32 substructure.

(e) In 2013, the Port proposed a mixed-use development at Pier 30-32 that included a multipurpose venue for events and public assembly. Other project components included public access, open space, and venue supporting or trust retail uses; significant maritime facilities, including an occasional berthing area for large vessels; bay-oriented recreational activities; and limited ancillary parking, all of which were designed to preserve and improve public and visual access to the bay and its shoreline. The developer abandoned the project due in part to prohibitive development costs and the availability of a less costly parcel.

(f) The Waterfront Plan and the Special Area Plan recognize that the development of Pier 30-32 and the surrounding area would further the public trust purposes of increasing maritime activities and expanding public use and enjoyment of the waterfront on trust lands at this location. The July 2000 amendments to the Special Area Plan require the Port to complete the Brannan Street Wharf and remove Pier 36 within 15 years after the issuance of a certificate of occupancy for the major reuse of Pier 30-32 or a comparable major development.

(g) Although Pier 30-32 remains undeveloped, the Port delivered all of the public benefits related to the pier development earlier than required under the July 2000 amendments to the Special Area Plan. The Port removed approximately 175,000 square feet of pile-supported fill at Pier 36 and completed the Brannan Street Wharf, which opened to the public in 2013, at a cost of more than twenty-five million dollars (\$25,000,000). The blighted condition of Pier 30-32 negatively impacts adjacent properties, including the Brannan Street Wharf.

(h) The Port now proposes a mixed-use development at Pier 30-32 that is intended to further public use, access, and enjoyment of the tidelands and surrounding water at this location through all of the following improvements:

- (1) Replacement of the existing pier substructure and surface improvements with one or more smaller piers, creating more open water than currently exists.
- (2) New public access, open space, and amenities for water recreation, including access to the bay for swimming, a small craft boat launch, and a floating swimming pool.
- (3) Aquatic habitat enhancements.
- (4) Trust retail uses fronting on the Embarcadero.
- (5) Improving the east berth to support significant maritime facilities, including a berthing area for large vessels.
- (6) New structures on scale with the Embarcadero's historic pier sheds that contain revenue-generating, nontrust commercial office space.
- (7) Resiliency improvements to strengthen the seawall and address sea level rise.

(i) The proposed mixed-use development would continue and enhance the existing maritime uses of the pier by ensuring the long-term viability of the pier facility and its deepwater berth. The Port has determined that neither historic use of Pier 30-32 for break bulk cargo operations, nor modern containerized cargo operations are viable for that pier or any of the finger piers between Pier 35 and Pier 48 due to a number of factors, including the present configuration of the Embarcadero roadway and elimination of rail service to the piers.

(j) Pier 30-32 is ideally situated to provide public access to and enjoyment of the waterfront and bay. It is less than one mile from the Ferry Building, the San Francisco Giants baseball stadium, and regional transit hubs, including the Transbay Transit Center, has views of the bay and the Bay Bridge, and is immediately adjacent to the Brannan Street Wharf, which provides a 58,700-square-foot pile-supported park over the bay.

(k) The proposed mixed-use development is intended to activate Pier 30-32 and attract people from around the state to the waterfront to use and enjoy this and other public trust assets in San Francisco, thereby enhancing and promoting public trust purposes.

(l) The seismic and sea level rise enhancements of the proposed mixed-use development are intended to combine with the Port's near-term resilience project to stabilize the waterfront from Pier 24^{1/2} through Pier 28^{1/2} and an adjacent public-private partnership to rehabilitate Piers 38 and 40, which are collectively designed to provide coordinated protection for approximately one mile of the San Francisco waterfront from seismic, flood, and sea level rise risks through the year 2100.

(m) The Port estimates the cost to demolish and reconstruct the Pier 30-32 substructure, improve the seawall and install related improvements required to adapt Pier 30-32 for future sea level rise and allow for its continued use as a deepwater berth exceeds two hundred million dollars (\$200,000,000), which significantly exceeds the Port's foreseeable available funds.

(n) A project at Pier 30-32 that provides significant public access improvements, maritime facilities, aquatic facilities, trust retail uses, and infrastructure improvements to the seawall, and includes general office and retail uses, if designed in accordance with

the conditions described in Section 5 of this act, will reduce seismic, flood, and sea level rise risks that threaten life, safety, and the Port's public trust assets, promote the public trust objectives of attracting people from around the state to use and enjoy the San Francisco waterfront and the bay and further maritime commerce, and is in the best interests of the state.

SEC. 5. Section 5 of Chapter 489 of the Statutes of 2001, as amended by Section 6 of Chapter 381 of the Statutes of 2013, is amended to read:

Sec. 5. (a) The Legislature, in the exercise of its retained power as trustee of the public trust, and in view of the unique circumstances existing at Pier 30-32 on the San Francisco waterfront hereby authorizes the State Lands Commission to approve, as consistent with the public trust, a mixed-use development on the San Francisco waterfront at Pier 30-32 that includes general office use, if the State Lands Commission finds at a properly noticed public meeting that all of the following conditions are met:

(1) The mixed-use development is designed to attract the statewide public to the waterfront, increase public enjoyment of the San Francisco Bay, encourage public trust activities, such as viewing the bay, boating and fishing, and enhance public use of trust assets and resources on the waterfront.

(2) The mixed-use development is designed to integrate with adjacent public access on and near the waterfront and to enhance waterfront public access.

(3) The mixed-use development is designed to provide the public with multiple significant views of the Bay Bridge and the San Francisco Bay from a variety of elevations and vantage points and is designed to minimize interference with public views of San Francisco Bay from the Embarcadero.

(4) The mixed-use development provides free public access to at least the following spaces and amenities, with signage identifying public access, and shall be open to the public year round, subject to reasonable limitations for temporary safety, security, and maritime-based activities, all of which shall be subject to Port approval:

(A) A continuous public pathway along the perimeter of the pier, excluding the Embarcadero frontage, that measures no less than 25 feet in width.

(B) Walkways, corridors, and plazas on or around Pier 30-32 that provide for public circulation and public access to the aquatic facilities and public launch, including gangways and other floating areas.

(C) A public launch for small, human-powered watercraft, including, but not limited to, kayaks, canoes, and paddle boards.

(D) A roof terrace accessible to the general public.

(E) Public open space located in office lobbies, at least one of which shall include frontage on, and an entrance from, the Embarcadero.

(5) The mixed-use development provides maritime facilities for berthing at the east end of Pier 30-32, including, but not limited to, facilities that can accommodate periodic use by cruise, ceremonial military, emergency response, or other deep draft vessels.

(6) The mixed-use development includes general office space solely located within a single structure on Pier 30-32 not to exceed the height of 40 feet, as measured in accordance with the San Francisco Planning Code, length extending bayward from the Embarcadero of 910 feet, and width of 220 feet for the first story and width of 400 feet for the second story, which width extends above the public-serving retail facility described in subparagraph (C) of paragraph (8).

(7) The mixed-use development complies with all of the following:

(A) Be located within the footprint of the existing Pier 30-32, with minor deviations to facilitate the construction and operation of the maritime facilities described in paragraph (5), which minor deviation may be approved by the Port in its reasonable discretion, but the proposed project need not include the repair or reconstruction of any of the existing Pier 30-32 substructure or structure.

(B) Create a net total of at least five and one-half acres of new open water, which open water may include buoys and other demarcation for open water swimming and human-powered watercraft, the floating pool facility described in subparagraph (A) of paragraph (8), habitat enhancement structures, and other structures not supported by piles.

(8) The mixed-use development provides all of the following public accommodations:

(A) An aquatic facility that includes at least one swimming pool and public access to open water swimming.

(B) Restrooms, lockers, showers, changing rooms, retail rental space, and other facilities ancillary to the swimming pool available to the public for free or at reasonable cost.

(C) A public-serving retail facility with no less than 25,000 square feet of interior space that will include restrooms and water bottle filling stations available to the public at no cost, and frontage on and an entrance from the Embarcadero. The facility shall include trust retail uses, and may include specialty shops, food, or experiences that are of unique interest to waterfront visitors.

(D) No less than three retail spaces within the structure described in paragraph (6), in addition to the retail facility described in subparagraph (C), that will be located on the ground floor and directly accessible from the perimeter public pathway.

(E) Dining areas that activate the pier and enhance public opportunities to enjoy the waterfront.

(9) The Port and its selected developer shall offer a range of equity-based programs for underserved communities throughout the bay area, including, among other things, learn-to-swim programs, water sports education and training, and programs providing direct access to the bay.

(10) The development of the site is required to be consistent with a plan to address anticipated sea level rise through the year 2100, which shall include enforceable strategies incorporating an adaptive management approach to sea level rise for the duration of the ground lease term.

(11) The development of the site is required to include all of the following enhancements built in accordance with the Port's standards and specifications:

(A) Repair and seismically strengthen the seawall.

(B) Build new or reconstruct piles to support a new, seismically strengthened pier deck designed to address future sea level rise.

(C) Implement stormwater management practices that capture and manage stormwater runoff at the site to protect water quality.

(12) The city has fulfilled its obligations under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), and the city's board of supervisors and the Port have given the project all necessary local approvals, each following at least one public hearing.

(13) The project, when considered as a whole, will not substantially interfere with the purposes or objectives of the public trust or the Burton Act, and in consideration of the conditions described in paragraphs (1) to (12), inclusive, is otherwise consistent with the public trust.

(14) The mixed-use development does not contain residential use.

(15) The project is in the best interests of the state.

(b) Any legislative or regulatory requirement for findings of consistency with the public trust doctrine or the Burton Act trust under any applicable statute, regulation, or plan, including the Bay Plan and Special Area Plan, shall be deemed satisfied if the State Lands Commission has found that the mixed-use development on Pier 30-32 is consistent with the requirements of subdivision (a).

(c) (1) The Port shall provide the State Lands Commission with a detailed narrative statement regarding both of the following:

(A) Uses of the public accommodations set forth in paragraph (8) of subdivision (a), including a list of tenants and subtenants.

(B) A demonstration that the Port has made efforts to provide a range of equity-based programs for underserved communities throughout the bay area, including, among other things, learn-to-swim programs, water sports education and training, and programs providing direct access to the bay.

(2) The Port shall provide the statement described in paragraph (1) to the commission on or before January 15 of each of the first five years following the issuance of the first certificate of occupancy for the mixed-use development on Pier 30-32, and thereafter at a frequency to be determined by agreement between the Port and commission of no more than annually and no less than once every five years for the duration of the term of the lease.

SEC. 6. Section 7 of Chapter 489 of the Statutes of 2001, as amended by Section 8 of Chapter 381 of the Statutes of 2013, is amended to read:

Sec. 7. (a) The Legislature finds and declares that subdivisions (a) and (b) of Section 66605 of the Government Code concerning the water-oriented use criterion and no alternative upland location criterion, respectively, shall not apply to a mixed-use project on Pier 30-32 that the State Lands Commission finds consistent with the requirements of subdivision (a) of Section 5

of this act regardless of whether the mixed-use project retains any of the existing pier substructure or pier surface improvements and whether any or all of the pier substructure and pier surface improvements are wholly reconstructed or wholly replaced.

(b) Except as specifically provided in this act, including subdivision (b) of Section 5 of this act, and subdivision (a) of this section, nothing in this act limits the authority or discretion of BCDC to approve or deny permits for those aspects of a mixed-use development on Pier 30-32 in a manner otherwise consistent with the McAteer-Petris Act, the Bay Plan, and the Special Area Plan, including the authority and discretion of BCDC to impose terms and conditions on permits for the project. Except as provided in subdivision (b) of Section 5 of this act, and subdivision (a) of this section, the findings of the State Lands Commission pursuant to subdivision (a) of Section 5 of this act shall not be conclusive on BCDC in the exercise of its discretion to determine whether the project is consistent with the McAteer-Petris Act, the policies of the Bay Plan, and the Special Area Plan, and to make findings and impose conditions regarding the project, which findings and conditions shall be made independently from the findings made by the State Lands Commission pursuant to subdivision (a) of Section 5 of this act.

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

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

SEC. 8. Section 14 of Chapter 489 of the Statutes of 2001, as amended by Section 13 of Chapter 381 of the Statutes of 2013, is amended to read:

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

(b) If design plans or development terms for the mixed-use development project at Pier 30-32 are amended after action by the State Lands Commission pursuant to Section 5 in a way that may affect those findings, then the Port shall notify the commission of the proposed changes and provide documents adequate to understand and analyze the proposed changes. If the executive officer of the commission determines that the changes are relevant to the findings of the commission pursuant to Section 5, then the mixed-use development project at Pier 30-32 shall be resubmitted to the commission for approval consistent with the requirements of subdivision (a) of Section 5 of this act.

SEC. 9. The reasonable costs of any study or investigation undertaken by or at the direction of the State Lands Commission or its staff that is necessary to implement Chapter 489 of the Statutes of 2001, as amended, including reasonable reimbursement for time incurred by State Lands Commission staff in processing, investigating, and analyzing any information submitted pursuant to Chapter 489 of the Statutes of 2001, as amended, shall be borne by the San Francisco Port Commission or the City and County of San Francisco according to a budget to be agreed upon by State Lands Commission staff and the San Francisco Port Commission or the City and County of San Francisco, as applicable, before any such study or investigation is begun.

SEC. 10. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances applicable only to the public trust lands described in this act.