

104TH CONGRESS
1ST SESSION

H. R. 1296

IN THE SENATE OF UNITED STATES

SEPTEMBER 2 (legislative day, SEPTEMBER 5), 1995

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To provide for the administration of certain Presidio
properties at minimal cost to the Federal taxpayer.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. FINDINGS.**

2 The Congress finds that—

3 (1) the Presidio, located amidst the incom-
4 parable scenic splendor of the Golden Gate, is one
5 of America’s great natural and historic sites;

6 (2) the Presidio is the oldest continuously oper-
7 ated military post in the Nation dating from 1776,
8 and was designated a National Historic Landmark
9 in 1962;

10 (3) preservation of the cultural and historic in-
11 tegrity of the Presidio for public use recognizes its
12 significant role in the history of the United States;

13 (4) the Presidio, in its entirety, is located with-
14 in the boundary of the Golden Gate National Recre-
15 ation Area, in accordance with Public Law 92–589;

16 (5) the Presidio’s significant natural, historic,
17 scenic, cultural, and recreational resources must be
18 managed in a manner which is consistent with sound
19 principles of land use planning and management,
20 and which protects the Presidio from development
21 and uses which would destroy the scenic beauty and
22 historic and natural character of the area; and

23 (6) the Presidio can best be managed through
24 an innovative public/private partnership that mini-
25 mizes cost to the United States Treasury and makes

1 efficient use of private sector resources that could be
2 utilized in the public interest.

3 **SEC. 2. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
4 **RETARY OF THE INTERIOR.**

5 (a) INTERIM AUTHORITY.—The Secretary of the In-
6 terior (hereinafter in this Act referred to as the “Sec-
7 retary”) is authorized to manage leases in existence on
8 the date of this Act for properties under the Administra-
9 tive jurisdiction of the Secretary and located at the Pre-
10 sidio. Upon the expiration of any such lease, the Secretary
11 may extend the lease for a period terminating 6 months
12 after the first meeting of the Presidio Trust at which a
13 quorum is present. After the date of the enactment of this
14 Act, the Secretary may not enter into any new leases for
15 property at the Presidio to be transferred to the Presidio
16 Trust under this Act. Notwithstanding section 1341 of
17 title 31 of the United States Code, the proceeds from any
18 such lease shall be retained by the Secretary and such pro-
19 ceeds shall be available, without further appropriation, for
20 the preservation, restoration, operation and maintenance,
21 improvement, repair and related expenses incurred with
22 respect to Presidio properties. For purposes of any such
23 lease, the Secretary may adjust the rental by taking into
24 account any amounts to be expended by the lessee for
25 preservation, maintenance, restoration, improvement, re-

1 pair and related expenses with respect to properties within
2 the Presidio.

3 (b) PUBLIC INFORMATION AND INTERPRETATION.—
4 The Secretary shall be responsible, in cooperation with the
5 Presidio Trust, for providing public interpretative services,
6 visitor orientation and educational programs on all lands
7 within the Presidio.

8 (c) OTHER.—Those lands and facilities within the
9 Presidio that are not transferred to the administrative ju-
10 risdiction of the Presidio Trust shall continue to be man-
11 aged by the Secretary. The Secretary and the Presidio
12 Trust shall cooperate to ensure adequate public access to
13 all portions of the Presidio.

14 (d) PARK SERVICE EMPLOYEES.—Notwithstanding
15 any other provision of law, the Trust shall have sole dis-
16 cretion over whether to employ persons previously em-
17 ployed by the National Park Service in the Department
18 of the Interior. Career employees of the National Park
19 Service, employed at the Presidio as of the time of the
20 transfer of lands and facilities to the Presidio Trust, shall
21 not be separated from the Service by reason of such trans-
22 fer.

23 **SEC. 3. THE PRESIDIO TRUST.**

24 (a) ESTABLISHMENT.—There is established a wholly
25 owned government corporation to be known as the Pre-

1 sidio Trust (hereinafter in this Act referred to as the
2 “Trust”).

3 (b) TRANSFER.—(1) Within 60 days after receipt of
4 a request from the Trust for the transfer of any parcel
5 within the area depicted as area B on the map entitled
6 “Presidio Trust Number 1,” dated June 1995, the Sec-
7 retary shall transfer such parcel to the administrative ju-
8 risdiction of the Trust. Within one year after the first
9 meeting of the Board of Directors of the Trust at which
10 a quorum is present, the Board shall request the Secretary
11 to transfer any remaining parcels within such area B.
12 Such map shall be on file and available for public inspec-
13 tion in the offices of the Trust and in the offices of the
14 National Park Service, Department of the Interior. The
15 Trust and the Secretary may jointly make technical and
16 clerical revisions in the boundary depicted on such map.
17 Such areas shall remain within the boundary of the Golden
18 Gate National Recreation Area. The Secretary shall retain
19 those portions of the building identified as number 103
20 as the Secretary deems essential for use as a visitor center.
21 The building shall be named the “William Penn Mott Visi-
22 tor Center”. With the consent of the Secretary, the Trust
23 may at any time transfer to the administrative jurisdiction
24 of the Secretary any other properties within the Presidio
25 which are surplus to the needs of the Trust and which

1 serve essential purposes of the Golden Gate National
2 Recreation Area. The Trust is encouraged to transfer to
3 the administrative jurisdiction of the Secretary open space
4 areas which have a high public use potential and are con-
5 tiguous to other lands administered by the Secretary.

6 (2) The Secretary shall transfer, with the transfer of
7 administrative jurisdiction over any property, all leases,
8 concessions, licenses, permits, and other agreements relat-
9 ing to such property. Upon the transfer of such property
10 the Secretary shall transfer the unobligated balance of all
11 funds appropriated to the Secretary for the operation of
12 the Presidio, together with any revenues and unobligated
13 funds associated with leases, concessions, licenses, per-
14 mits, and agreements relating to properties transferred to
15 the Trust.

16 (c) BOARD OF DIRECTORS.—

17 (1) IN GENERAL.—The powers and manage-
18 ment of the Trust shall be vested in a Board of Di-
19 rectors (hereinafter referred to as the “Board”) con-
20 sisting of the following 7 members:

21 (A) The Secretary of the Interior or the
22 Secretary’s designee.

23 (B) Six individuals, who are not employees
24 of the Federal Government, appointed by the
25 President, who shall possess extensive knowl-

1 edge and experience in one or more of the fields
2 of city planning, finance, real estate, and re-
3 source conservation. At least 3 of these individ-
4 uals shall reside in the city and county of San
5 Francisco. The President shall make the ap-
6 pointments referred to in this subparagraph
7 within 90 days after the enactment of this Act.

8 (2) TERMS.—Members of the Board appointed
9 under paragraph (1)(B) shall each serve for a term
10 of 4 years, except that of the members first ap-
11 pointed, 3 shall serve for a term of 2 years. Any va-
12 cancy in the Board shall be filled in the same man-
13 ner in which the original appointment was made,
14 and any member appointed to fill a vacancy shall
15 serve for the remainder of the term for which his or
16 her predecessor was appointed. No appointed direc-
17 tor may serve more than 8 years in consecutive
18 terms. No member of the Board of Directors may
19 have a development or financial interest in any ten-
20 ant or property of the Presidio.

21 (3) QUORUM.—Four members of the Board
22 shall constitute a quorum for the conduct of busi-
23 ness by the Board.

24 (4) ORGANIZATION AND COMPENSATION.—The
25 Board shall organize itself in such a manner as it

1 deems most appropriate to effectively carry out the
2 authorized activities of the Trust. Board members
3 shall serve without pay, but may be reimbursed for
4 the actual and necessary travel and subsistence ex-
5 penses incurred by them in the performance of the
6 duties of the Trust.

7 (5) LIABILITY OF DIRECTORS.—Members of the
8 Board of Directors shall not be considered Federal
9 employees by virtue of their membership on the
10 Board, except for purposes of the Federal Tort
11 Claims Act and the Ethics in Government Act.

12 (6) PUBLIC LIAISON.—The Board shall meet at
13 least 3 times per year in San Francisco and at least
14 one meeting shall be open to the public. The Board
15 shall establish procedures for providing public infor-
16 mation and opportunities for public comment re-
17 garding policy, planning, and design issues through
18 the Golden Gate National Recreation Area Advisory
19 Commission.

20 (d) DUTIES AND AUTHORITIES.—In accordance with
21 the purposes set forth in this Act and in section 1 of the
22 Act entitled “An Act to establish the Golden Gate Na-
23 tional Recreation Area in the State of California, and for
24 other purposes”, approved October 27, 1972 (Public Law
25 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accord-

1 ance with the general objectives of the general manage-
2 ment plan approved for the Presidio, the Trust shall man-
3 age the leasing, maintenance, rehabilitation, repair and
4 improvement of property within the Presidio which is
5 under its administrative jurisdiction. The Trust may par-
6 ticipate in the development of programs and activities at
7 the properties that have been transferred to the Trust. In
8 exercising its powers and duties, the Trust shall have the
9 following authorities:

10 (1) The Trust is authorized to manage, lease,
11 maintain, rehabilitate and improve, either directly or
12 by agreement, those properties within the Presidio
13 which are transferred to the Trust by the Secretary.

14 (2)(A) The Trust is authorized to negotiate and
15 enter into such agreements, leases, contracts and
16 other arrangements with any person, firm, associa-
17 tion, organization, corporation or governmental en-
18 tity, including without limitation entities of Federal,
19 State and local governments (except any agreement
20 to convey fee title to any property located at the
21 Presidio) as are necessary and appropriate to fi-
22 nance and carry out its authorized activities. Agree-
23 ments under this paragraph may be entered into
24 without regard to section 321 of the Act of June 30,
25 1932 (40 U.S.C. 303b).

1 (B) Except as provided in subparagraphs (C),
2 (D), and (E), Federal laws and regulations govern-
3 ing procurement by Federal agencies shall apply to
4 the Trust.

5 (C) In exercising authority under section
6 303(g) of the Federal Property and Administrative
7 Services Act of 1949 (41 U.S.C. 253(g)) relating to
8 simplified purchase procedures, the Trust is author-
9 ized, to use as the dollar limit of each purchase or
10 contract under this subsection an amount which
11 does not exceed \$500,000.

12 (D) In carrying out the requirement of section
13 18 of the Office of Federal Procurement Policy Act
14 (41 U.S.C 416), the Trust is authorized to furnish
15 the Secretary of Commerce for publication notices of
16 proposed procurement actions, to use as the applica-
17 ble dollar threshold for each expected procurement
18 an amount which does not exceed \$1,000,000.

19 (E) The Trust shall establish procedures for
20 lease agreements and other agreements for use and
21 occupancy of Presidio facilities, including a require-
22 ment that in entering into such agreements the
23 Trust shall obtain reasonable competition.

24 (F) The Trust shall develop a comprehensive
25 program for management of those lands and facili-

1 ties within the Presidio which are transferred to the
2 Trust. Such program shall be designed to reduce
3 costs to the maximum extent possible. In carrying
4 out this program, the Trust shall be treated as a
5 successor in interest to the National Park Service
6 with respect to compliance with the National Envi-
7 ronmental Policy Act and other environmental com-
8 pliance statutes. Such program shall consist of—

9 (i) demolition of all structures which can-
10 not be cost-effectively rehabilitated and are not
11 of the highest degree of historical significance,

12 (ii) new construction which would be lim-
13 ited to replacement of existing structures of
14 similar size in existing areas of development,
15 and

16 (iii) examination of a full range of reason-
17 able options for carrying out routine adminis-
18 trative and facility management programs.

19 The Trust shall consult with the Secretary in the
20 preparation of this program.

21 (3) The Trust is authorized to appoint and fix
22 the compensation and duties of an executive director
23 and such other officers and employees as it deems
24 necessary without regard to the provisions of title 5,
25 United States Code, governing appointments in the

1 competitive service, and may pay them without re-
2 gard to the provisions of chapter 51, and subchapter
3 III of chapter 53, title 5, United States Code (relat-
4 ing to classification and General Schedule pay
5 rates).

6 (4) To augment or encourage the use of non-
7 Federal funds to finance capital improvements on
8 Presidio properties transferred to its jurisdiction, the
9 Trust, in addition to its other authorities, shall have
10 the following authorities:

11 (A) The authority to guarantee any lender
12 against loss of principal or interest on any loan,
13 provided that (i) the terms of the guarantee are
14 approved by the Secretary of the Treasury, (ii)
15 adequate guarantee authority is provided in ap-
16 propriations Acts, and (iii) such guarantees are
17 structured so as to minimize potential cost to
18 the Federal Government. No loan guarantee
19 under this Act shall cover more than 75 percent
20 of the unpaid balance of the loan. The Sec-
21 retary of the Treasury shall collect a commer-
22 cially reasonable guarantee fee in connection
23 with each loan guaranteed under this Act. The
24 authority to enter into any such loan guarantee

1 agreement shall expire at the end of 12 years
2 after the date of enactment of this Act.

3 (B) The authority, subject to available ap-
4 propriations, to make loans to the occupants of
5 property managed by the Trust for the preser-
6 vation, restoration, maintenance, or repair of
7 such property.

8 (C) The authority to issue obligations to
9 the Secretary of the Treasury, but only if the
10 Secretary of the Treasury agrees to purchase
11 such obligations after determining that the
12 projects to be funded from the proceeds thereof
13 are credit worthy and that a repayment sched-
14 ule is established. The Secretary of the Treas-
15 ury is authorized to use as a public debt trans-
16 action the proceeds from the sale of any securi-
17 ties issued under chapter 31 of title 31, United
18 States Code, and the purposes for which securi-
19 ties may be issued under such chapter are ex-
20 tended to include any purchase of such notes or
21 obligations acquired by the Secretary of the
22 Treasury under this subsection. The aggregate
23 amount of obligations issued under this sub-
24 paragraph which are outstanding at any one
25 time may not exceed \$50,000,000. Obligations

1 issued under this subparagraph shall be in such
2 forms and denominations, bearing such matu-
3 rities, and subject to such terms and conditions,
4 as may be prescribed by the Secretary of the
5 Treasury, and shall bear interest at a rate de-
6 termined by the Secretary of the Treasury, tak-
7 ing into consideration current market yields on
8 outstanding marketable obligations of the Unit-
9 ed States of comparable maturities. No funds
10 appropriated to the Trust may be used for re-
11 payment of principal or interest on, or redemp-
12 tion of, obligations issued under this paragraph.
13 All obligations purchased under authority of
14 this subparagraph must be authorized in ad-
15 vance in appropriations Acts.

16 (D) The Trust shall be deemed to be a
17 public agency for the purpose of entering into
18 joint exercise of powers agreements pursuant to
19 California government code section 6500 and
20 following.

21 (5) The Trust may solicit and accept donations
22 of funds, property, supplies, or services from individ-
23 uals, foundations, corporations, and other private or
24 public entities for the purpose of carrying out its du-
25 ties. The Trust shall maintain philanthropic liaison

1 with the Golden Gate National Park Association, the
2 fund raising association for the Golden Gate Na-
3 tional Recreation Area.

4 (6) Notwithstanding section 1341 of title 31 of
5 the United States Code, all proceeds received by the
6 Trust shall be retained by the Trust, and such pro-
7 ceeds shall be available, without further appropria-
8 tion, for the preservation, restoration, operation and
9 maintenance, improvement, repair and related ex-
10penses incurred with respect to Presidio properties
11under its jurisdiction. Upon the request of the
12Trust, the Secretary of the Treasury shall invest ex-
13cess moneys of the Trust in public debt securities
14with maturities suitable to the needs of the Trust.

15 (7) The Trust may sue and be sued in its own
16name to the same extent as the Federal Govern-
17ment. Litigation arising out of the activities of the
18Trust shall be conducted by the Attorney General,
19as needed; except that the Trust may retain private
20attorneys to provide advice and counsel, and to rep-
21resent the Trust in proceedings to enforce and de-
22fend the contractual obligations of the Trust.

23 (8) The Trust shall have all necessary and
24proper powers for the exercise of the authorities in-
25vested in it.

1 (9) For the purpose of compliance with applica-
2 ble laws and regulations concerning properties trans-
3 ferred to the Trust by the Secretary, the Trust shall
4 negotiate directly with regulatory authorities.

5 (e) INSURANCE.—The Trust shall procure insurance
6 against any loss in connection with the properties man-
7 aged by it or its authorized activities as is reasonable and
8 customary.

9 (f) BUILDING CODE COMPLIANCE.—The Trust shall
10 bring all properties under its jurisdiction into compliance
11 with Federal building codes and regulations appropriate
12 to use and occupancy within 10 years after the enactment
13 of this Act.

14 (g) TAXES.—The Trust shall be exempt from all
15 taxes and special assessments of every kind in the State
16 of California, and its political subdivisions, including the
17 city and county of San Francisco.

18 (h) FINANCIAL INFORMATION AND REPORT.—(1)
19 The Trust shall be treated as a wholly owned Government
20 corporation subject to chapter 91 of title 31, United States
21 Code (commonly referred to as the Government Corpora-
22 tion Control Act). Financial statements of the Trust shall
23 be audited annually in accordance with section 9105 of
24 title 31 of the United States Code.

1 (2) At the end of each calendar year, the Trust shall
2 submit to the Congress a comprehensive and detailed re-
3 port of its operations, activities, and accomplishments for
4 the prior fiscal year. The report also shall include a section
5 that describes in general terms the Trust's goals for the
6 current fiscal year.

7 (i) SAVINGS CLAUSE.—Nothing in this section shall
8 preclude the Secretary from exercising any of the Sec-
9 retary's lawful powers within the Presidio.

10 (j) LEASING.—In managing and leasing the prop-
11 erties transferred to it, the Trust should consider the ex-
12 tent to which prospective tenants maximize the contribu-
13 tion to the implementation of the General Management
14 Plan for the Presidio and to the generation of revenues
15 to offset costs of the Presidio. The Trust shall give priority
16 to the following categories of tenants: tenants that en-
17 hance the financial viability of the Presidio thereby con-
18 tributing to the preservation of the scenic beauty and nat-
19 ural character of the area; tenants that facilitate the cost-
20 effective preservation of historic buildings through their
21 reuse of such buildings, or tenants that promote through
22 their activities the general programmatic content of the
23 plan.

24 (k) REVERSION.—If the Trust reasonably determines
25 by a two-thirds vote of its Board of Directors that it has

1 materially failed to, or cannot, carry out the provisions
2 of this Act, all lands and facilities administered by the
3 Trust shall revert to the Secretary of Defense to be dis-
4 posed of in accordance with section 2905(b) of the Defense
5 Authorization Act of 1990 (104 Stat. 1809), except that—

6 (1) the terms and conditions of all agreements
7 and loans regarding such lands and facilities entered
8 into by the Trust shall be binding on any successor
9 in interest; and

10 (2) the city of San Francisco shall have the
11 first right of refusal to accept all lands and facilities
12 formerly administered by the Trust.

13 (l) LIMITATIONS ON FUNDING.—(1) From amounts
14 made available to the Secretary for the operation of areas
15 within the Golden Gate National Recreation Area, not
16 more than \$25,000,000 shall be available to carry out this
17 Act in each fiscal year after the enactment of this Act
18 until the plan is submitted under paragraph (2). Such
19 sums shall remain available until expended.

20 (2) Within one year after establishment of the Trust,
21 the Trust shall submit to Congress a plan which includes
22 a schedule of annual decreasing Federally appropriated
23 funding such as will achieve total self-sufficiency for the
24 Trust within 12 complete fiscal years after establishment
25 of the Trust. That plan shall provide for annual reductions

1 in Federally appropriated funding such that the Trust will
2 be 80 percent self-sufficient at the end of 7 complete fiscal
3 years after establishment. The plan shall provide for elimi-
4 nation of all Federally appropriated funding for public
5 safety and fire protection purposes on lands or facilities
6 administered by the Trust at the end of 5 complete fiscal
7 years after establishment of the Trust. For each of the
8 11 fiscal years after fiscal year 1997, there are authorized
9 to be appropriated to the Trust not more than the
10 amounts specified in such plan. Such sums shall remain
11 available until expended.

12 (m) GAO AUDIT.—Ten years after the date of estab-
13 lishment of the Trust, the General Accounting Office shall
14 conduct a complete audit of the activities of the Trust and
15 shall report the results of that audit to the appropriate
16 congressional committees. The General Accounting Office
17 shall include in that audit an analysis of the ability of the
18 Trust to initiate payments to the Treasury.

19 (n) SEPARABILITY OF PROVISIONS.—If any provi-
20 sions of this Act or the application thereof to any body,
21 agency, situation, or circumstance is held invalid, the re-
22 mainder of the Act and the application of such provision

1 to other bodies, agencies, situations, or circumstances
2 shall not be affected thereby.

Passed the House of Representatives September 19,
1995.

Attest:

ROBIN H. CARLE,

Clerk.

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