

**ENVIRONMENTAL IMPACT REPORT ADDENDUM
TITLE SETTLEMENT AND LAND EXCHANGE
AGREEMENT (DEPARTMENT OF WATER AND POWER
SPECIFIC PLAN AMENDMENT PROJECT)**

SCH No. 2011061018

October 2014



Responsible Agency:

California State Lands Commission
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Sacramento, California 95825

Lead Agency:

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Project Proponent:

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1.1 PROJECT LOCATION

The Department of Water and Power Specific Plan Amendment (Project) is located within the City of Seal Beach (City), in the northwestern portion of Orange County. The overall Project involves a 10.9-acre site (Assessor's Parcel Numbers [APNs] 043-171-02, -172-07 (portions), -172-08, -172-12, and -172-13), which currently consists of vacant land, portions of a residence and commercial facility, and portions of the San Gabriel River and associated bike trail (San Gabriel River Bike Trail). The overall Project site was formerly utilized by the Los Angeles Department of Water and Power (DWP) for power plant facilities and operations. The Project site is generally bounded by Marina Drive to the north, 1st Street to the east, the Rivers End Café/beach parking lot to the south, and the San Gabriel River to the west.

1.2 PROJECT MODIFICATION

The proposed Project modification is a proposed Title Settlement and Land Exchange Agreement (Land Exchange Project) involving Parcels 1, 6, 7 and 8 of the Project (see Figure 2-1, *Existing Legal Parcels*).

The Project site is currently divided into eight legal parcels which are owned in fee by Bay City Partners, LLC (BCP). Parcel 1 is approximately 1.168 acre area currently encumbered with a public trust easement. A public trust easement is a sovereign public property right held by the State (under the jurisdiction of the California State Lands Commission [CSLC]), for the benefit of all the people in California. Public trust purposes include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space.

The proposed Land Exchange Project includes the CSLC terminating the public trust easement on Parcel 1 in exchange for BCP granting a public trust easement on a approximately 1.177 acre parcel which includes a portion of Parcel 6, and a portion of Parcel 7 and Parcel 8 along the bike trail and depositing \$2.71 million into the Kapiloff Land Bank Fund, which is administered by the CSLC (see Figure 2-2, *Proposed Exchange*).

1.3 PROJECT BACKGROUND AND OBJECTIVES

On May 27, 2011, BCP submitted an application to the City to develop the DWP Specific Plan area with a 48-lot residential development on 4.5 acres and 6.4 acres for public open space passive recreation purposes. The Draft Environmental Impact Report (EIR) was circulated for a 57-day public review and comment period from November 14, 2011, to January 9, 2012. Following the public review period, the City prepared a Final

EIR, which included written responses to all comments received during the public review period regarding the Draft EIR, a Mitigation Monitoring and Reporting Program, and Errata. The Final EIR was released to the public on April 2, 2012.

On May 2, 2012, and June 6, 2012, the Planning Commission held duly noticed public hearings to consider the proposed Project. During the May 2, 2012 hearing, the Applicant presented a revised tract map that contained the same number of lots within the same tract boundary, but with a different lot configuration and site access. The Planning Commission provided comments to the applicant regarding the originally submitted tract map and the revised map. The concerns primarily focused on lot widths, drainage patterns/water quality features, pad elevations, and street/alley widths. Consequently, the Applicant again revised the tract map to address the Planning Commissions' comments. The site plan ultimately resulted in a 32-lot residential development on 4.5 acres and 6.4 acres for public open space passive recreation purposes. Upon an environmental analysis of the Alternative Site Plan, conducted in June 2012, the proposed project and Final EIR were considered by the Planning Commission and City Council. The Final EIR was certified on June 25, 2012, by the City Council.

CSLC staff first became aware of the Project in late April 2012, and on May 2, 2012, CSLC staff submitted a letter to the Planning Commission explaining that a portion of the Project site was impressed with a public trust easement. BCP, the property owner, has disagreed with CSLC's position. Several boundary line and exchange agreements with the CSLC and the prior owners involved portions of the 10.9-acre site in the late 1960s and early 1970s which fixed the boundaries of Rancho Los Alamitos and State Tideland Location No. 137.

As the agency with ownership and control of the State's ungranted tide and submerged lands, the CSLC must make specific findings pursuant to Public Resources Code section 6307 when approving a title settlement and land exchange agreement involving filled or reclaimed tide and submerged lands that are subject to the public trust.

The proposed Land Exchange Project involves \$2.71 million being deposited into the Kapiloff Land Bank Fund, which CSLC administers as the trustee pursuant to Public Resources Code section 8600 et seq. The Kapiloff Land Bank Act (Act) was introduced by Assemblyman Lawrence Kapiloff and enacted by the Legislature in 1982. The Act is an extension of CSLC's authority as set forth in Public Resources Code section 6307, which was enacted to facilitate settlements of title to real property with cash payments where exchange parcels are not readily available or are not of equal value and to facilitate mitigation through the pooling of such payments.

2.0 DESCRIPTION OF PROJECT MODIFICATION

2.1 ADDENDUM PURPOSE AND NEED

Once an Environmental Impact Report (EIR) has been certified for a project, no subsequent or supplemental EIR shall be required unless one or more of the following events occurs:

- 1) Substantial changes are proposed in the project which will require major revisions of the EIR.
- 2) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the EIR.
- 3) New information, which was not known and could not have been known at the time the EIR was certified, becomes available. (Pub. Resources Code, § 21166.)

The State CEQA Guidelines section 15162 (Cal. Code Regs., tit. 14, § 15000 et seq.) provides additional information on when the above events trigger the need for a subsequent EIR. A subsequent EIR is required if:

- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete shows any of the following:
 - A. The project will have one or more significant effects not discussed in the previous EIR;
 - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

- D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

When none of the above events has occurred, yet some changes or additions are necessary, an addendum is required. (State CEQA Guidelines, § 15164.)¹

As will be explained below, none of the conditions described in State CEQA Guidelines section 15162 calling for preparation of a subsequent EIR has occurred. This Addendum supports the conclusion that the Land Exchange Project does not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There are no new mitigation measures or alternatives available that would substantially reduce the environmental effects beyond those previously described in the EIR. As a result, an addendum is an appropriate CEQA document for analysis and consideration of the Land Exchange Project.

Circulation of an addendum for public review is not necessary (State CEQA Guidelines, § 15164, subd. (c)); however, the addendum must be considered in conjunction with the Final EIR by the decision-making body (State CEQA Guidelines, § 15164, subd. (d)).

2.2 COMPONENTS OF PROJECT MODIFICATION

Parcel 1 is encumbered with a public trust easement held by the California State Lands Commission (CSLC) in trust for the people of California. Development of residential uses is prohibited on such land. In order to settle the disputed claim of a public trust easement and allow use of Parcel 1 for residential development, the Project Proponent proposes to obtain approval from the CSLC of a title settlement and land exchange agreement pursuant to Public Resources Code section 6307 to terminate the public trust easement from Parcel 1 in exchange for Bay City Partners, LLC (BCP) granting to CSLC a public trust easement in a portion of Parcels 6, 7 and 8 and \$2.71 million to be deposited in the Kapiloff Land Bank Fund (see Figure 2-2, *Proposed Exchange*).

CSLC staff and BCP have worked on a draft title settlement and land exchange agreement for the termination of the public trust easement on Parcel 1 (1.168 acres) in exchange for a public trust easement on a portion of Parcels 6, 7, 8 (1.177 acres) which is located along the San Gabriel River, plus a cash payment of \$2.71 million to the Kapiloff Land Bank Fund. These monies will be held in the Kapiloff Land Bank Fund

¹ It is noted that this Addendum does not address other CEQA exemptions that may be applicable to this land exchange, such as Public Resources Code section 21080.11 (CEQA not applicable to State Lands Commission settlements) or other CEQA categorical exemptions. (See e.g., State CEQA Guidelines, §§ 15307 (actions by regulatory agencies for protection of natural resources), 15308 (actions by regulatory agencies for protection of the environment), 15317 (open space contracts or easements), and 15061, subd. [b][3] (common sense exemption).)

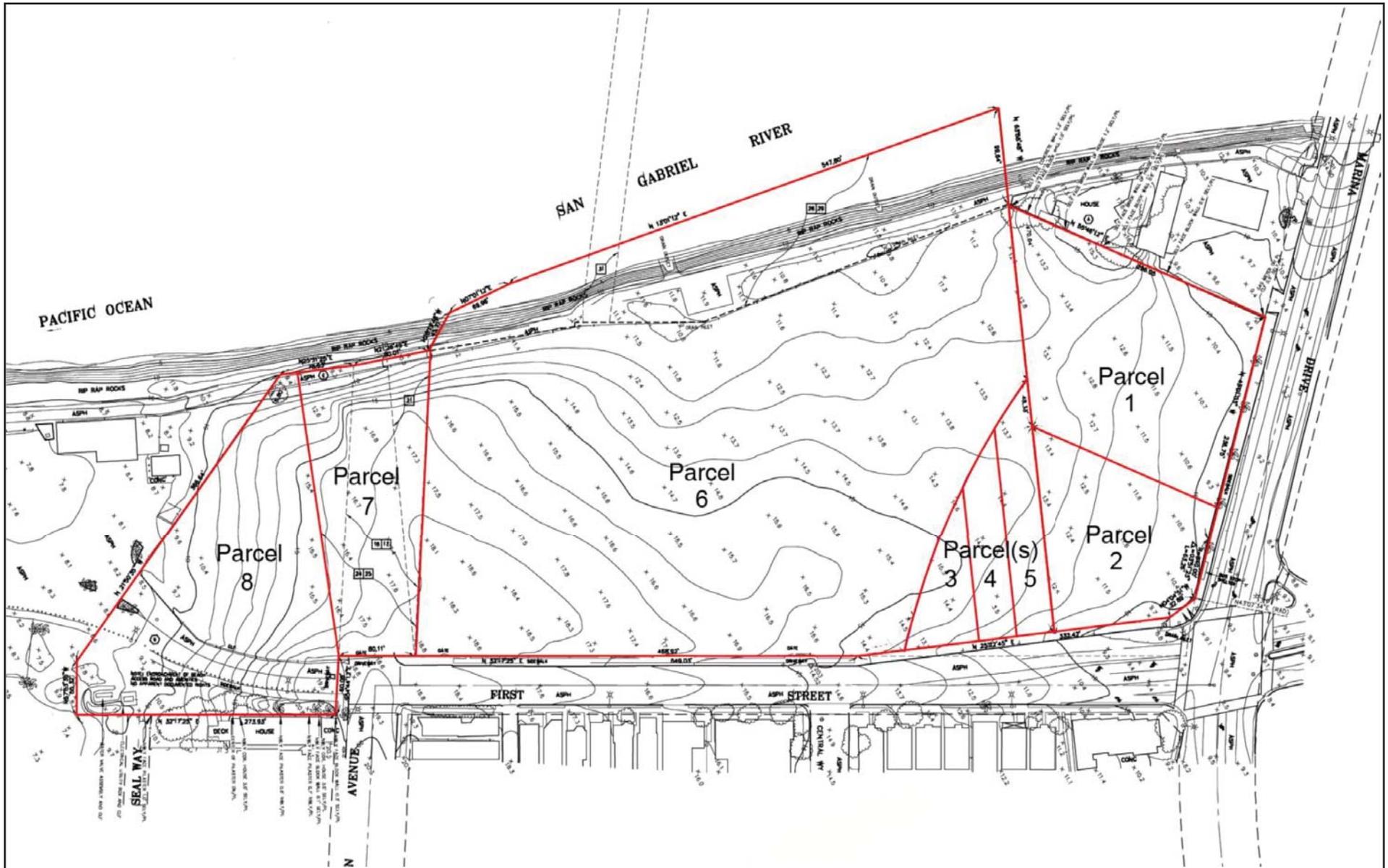
subject to the statutory requirement that they be spent to acquire property interests in tide and submerged lands or adjoining lands that are necessary or extremely beneficial for public trust purposes. The payment of \$2.71 million to this fund conforms to its purpose and furthers the CSLC's mission of acquiring public trust lands. The CSLC holds and administers the acquired lands as sovereign lands of the legal character of tidelands and submerged lands.

The CSLC's discretionary actions associated with this proposed Project modification include making the requisite findings pursuant to Public Resources Code section 6307 and approving the Title Settlement and Land Exchange Agreement prior to residential development on the site.

The Final EIR certified by the City of Seal Beach (City) did not expressly analyze the environmental effects of the proposed Land Exchange Project. Public comment was received during public review of the Draft EIR, circulated from November 14, 2011, through January 9, 2012. The City responded to those comments pertaining to the claimed public trust easement as follows:

“...comment makes a legal argument that the ‘public trust doctrine prohibits the type of residential land use proposed in this Project...’ Such argument does not raise new environmental information or challenge information provided in the Draft EIR. In that this argument does not question the Draft EIR’s factual conclusions or the adequacy of the environmental analysis in the Draft EIR, no further response is necessary.”

The purpose of this Addendum to the certified EIR is to verify that the proposed Land Exchange Project between BCP and the CSLC would not cause significant, adverse impacts to the environment.



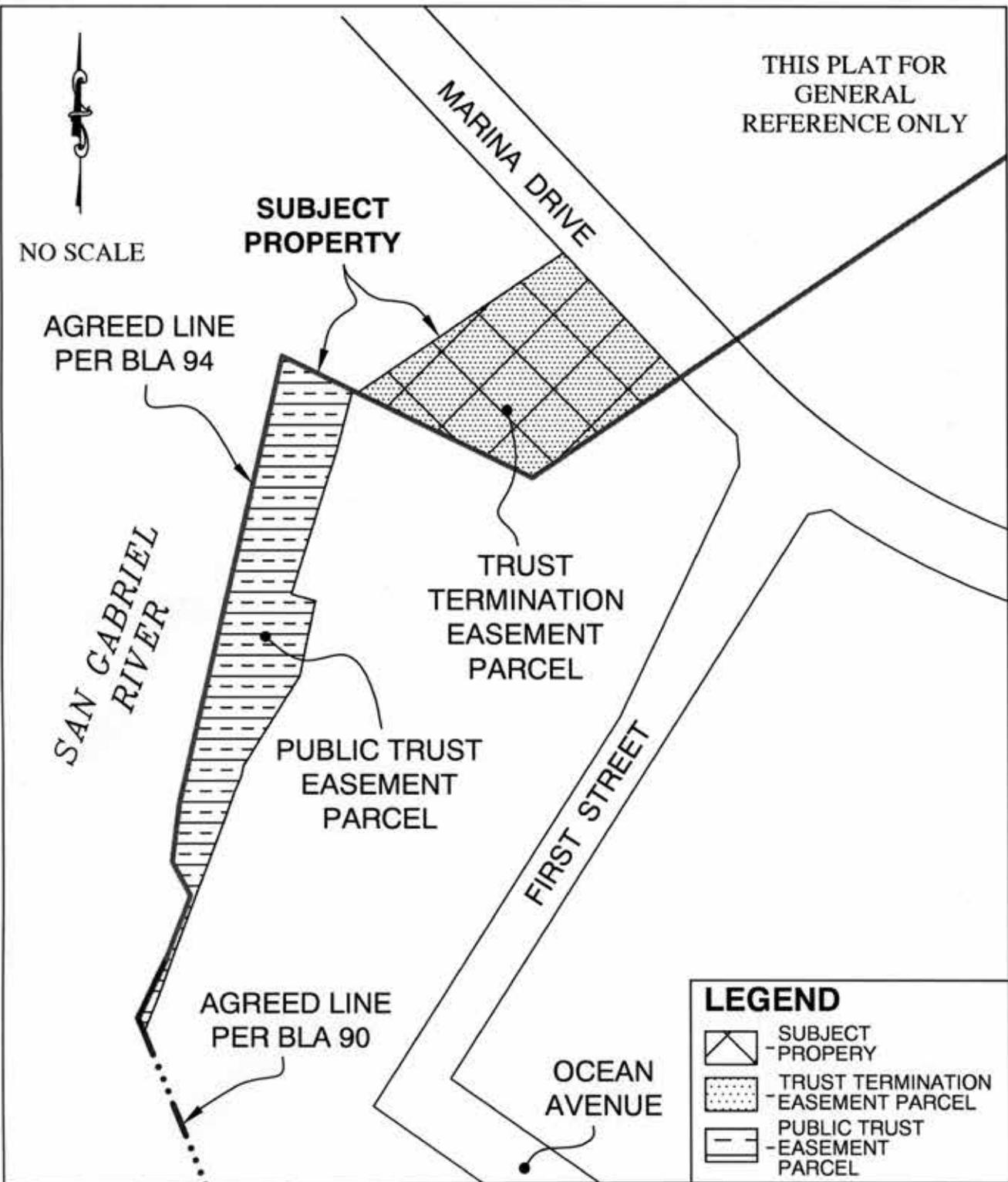
NOT TO SCALE



09/14

THIS PLAT FOR
GENERAL
REFERENCE ONLY

NO SCALE



SAN GABRIEL RIVER

TRUST TERMINATION EASEMENT PARCEL

PUBLIC TRUST EASEMENT PARCEL

AGREED LINE PER BLA 90

FIRST STREET

OCEAN AVENUE

LEGEND

-  SUBJECT PROPERTY
-  TRUST TERMINATION EASEMENT PARCEL
-  PUBLIC TRUST EASEMENT PARCEL

FIGURE 2-2

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3.0 ENVIRONMENTAL ASSESSMENT

This comparative analysis has been undertaken to analyze whether the proposed Land Exchange Project would have any significant environmental impacts that are not addressed in the Final Environmental Impact Report (EIR). The comparative analysis discusses whether impacts are increased, decreased, or unchanged from the conclusions discussed in the Final EIR. The comparative analysis also addresses whether any changes to mitigation measures are required.

Aesthetics/Light and Glare. The Land Exchange Project would result in the same land use and development as that analyzed for the Final EIR for the Project. Therefore, no new impacts have been identified and no new mitigation measures are required.

Agriculture Resources. As was the case with the Final EIR for the Project, the Land Exchange Project would not result in any impacts to farmland, agricultural uses, or forest land. Therefore, no new impacts have been identified and no new mitigation measures are required.

Air Quality. The Land Exchange Project would result in the same construction activities (including cut and fill and earthwork volumes) as the Final EIR for the Project. The Land Exchange Project would also result in the same generation of vehicle trips as the Final EIR for the Project, resulting in the same operational air emissions. Thus, no new impacts have been identified and no new mitigation measures are required.

Biological Resources. With implementation of the Land Exchange Project, construction activities would occur over the same development footprint as the Final EIR for the Project. The Land Exchange Project would also not conflict with local policies, ordinances, or plans, similar to the Final EIR for the Project. No new impacts have been identified and no new mitigation measures are required.

Cultural Resources. The Land Exchange Project would result in the same construction activities as the Final EIR for the Project. No new impacts have been identified and no new mitigation measures are required.

Geology and Soils. The Land Exchange Project would result in the same impacts regarding geology and soils since the proposed development area would be the same (compared to the Final EIR for the Project). No new impacts have been identified and no new mitigation measures are required.

Greenhouse Gas (GHG) Emissions. The Land Exchange Project would result in the same construction activities as the Final EIR for the Project in regards to grading and construction activities as well as long-term trip generation/distribution. Thus, the Land Exchange Project would not result in increased GHG emissions compared to the Final

EIR for the Project. No new impacts have been identified and no new mitigation measures are required.

Hazards and Hazardous Materials. The Land Exchange Project would involve similar construction activities and operations, and would result in similar hazard and hazardous materials-related impacts as the Final EIR for the Project. No new impacts have been identified and no new mitigation measures are required.

Hydrology and Water Quality. The Land Exchange Project would not result in any changes to the proposed grading, drainage, and/or resultant discharge patterns for the site and surrounding area, compared to that analyzed in the Final EIR for the Project. No new impacts have been identified and no new mitigation measures are required.

Land Use and Planning. The proposed Land Exchange Project would not result in any changes to the proposed land uses. These project changes would be consistent with the City's goals and policies applicable to the project site. No new impacts have been identified and no new mitigation measures are required.

Mineral Resources. As the Land Exchange Project only involves public trust easements and specifically states that it is not intended to affect any mineral rights at the site, no new impacts have been identified and no new mitigation measures are required for the Land Exchange Project.

Noise. The Land Exchange Project would not result in any new long-term mobile and stationary noise impacts. No changes to grading or construction activities would occur. No increases to vehicles trips would occur. No new impacts have been identified and no new mitigation measures are required.

Population and Housing. The Land Exchange Project would not result in an increase in population or housing. No new impacts pertaining to housing displacement would occur. No new impacts have been identified and no new mitigation measures are required.

Recreation. The Land Exchange Project would not result in any changes to the proposed recreational facilities or passive open space use on the southern portion of the site and no new demands for recreational facilities would result. The proposed Land Exchange Project would impress a public trust easement over a portion of the existing San Gabriel River Trail in the northern portion of the overall Project site. As discussed on page 5.13-2 of the Final EIR, the San Gabriel River Trail is an approximately 35-mile-long regional recreational paved trail that runs along the eastern boundary of the San Gabriel River. The trail extends from the base of the San Gabriel Mountains in the City of Azusa to the River's End Staging Area (RESA). The San Gabriel River drains a watershed that extends from the San Gabriel Mountains to the Pacific Ocean. The River

empties into the outlet of Alamitos Bay southwest of the project site. As depicted on the City's General Plan Figure OS-1, *Existing Parks, Recreation, and Open Space Areas*, the San Gabriel River corridor is designated Greenbelt. As discussed on page 5.13-25 of the Final EIR, regional recreational activities would continue along the Bike Trail/River. The Final EIR for the Project does not propose any physical alterations or improvements to these portions of the project site. The existing bike trail parcel is under lease to the City of Seal Beach until March 2015. Bay City Partners, LLC (BCP) has applied to the California Coastal Commission to develop a residential parcel which includes Parcel 1. If the overall Project is not approved by the Coastal Commission, the bike trail parcel lease would terminate 30 days thereafter. The Land Exchange Project would facilitate the continued use of the bike trail parcel.

The proposed Land Exchange Project and public trust easement would not result in any changes to the use of the existing bike path and no physical changes to the environment would occur. Thus, no new impacts have been identified and no new mitigation measures are required.

Transportation/Circulation. The Land Exchange Project would not result in an increase in trip generation. The circulation system would be unchanged. No new impacts have been identified and no new mitigation measures are required.

Public Services. The Land Exchange Project would not result in an increase in demands on public services. The acreage for the passive open space would be unchanged. No new impacts have been identified and no new mitigation measures are required.

Utilities and Service Systems. The Land Exchange Project would not result in an increase in the demands on utilities and service systems as that considered for the Final EIR for the Project. No new impacts have been identified and no new mitigation measures are required.

4.0 DETERMINATION/ADDENDUM CONCLUSION

As detailed in the analysis presented above, this Addendum supports the conclusion that the changes to the overall Project by including the Land Exchange Project do not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. No new information has become available and no substantial changes to the circumstances under which the overall Project is being undertaken have occurred since certification of the Environmental Impact Report (EIR). No substantial changes are required for the proposed Land Exchange Project, compared to that analyzed in the EIR. There are no new mitigation measures required and no new alternatives are available that would substantially reduce the environmental effects beyond those previously described in the EIR. Therefore, the California State Lands Commission (CSLC) has determined that no subsequent or supplemental EIR is required.

5.0 ADDENDUM PREPARATION SOURCES AND REFERENCES

Addendum Preparers:

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Kathryn Colson, Staff Counsel, CSLC

Eric Gillies, Asst. Chief, Division of Environmental Planning and Management, CSLC

References:

City of Seal Beach, *Final Department of Water and Power Specific Plan Amendment Environmental Impact Report*, dated April 2, 2012 and certified June 25, 2012.