

CALIFORNIA COASTAL COMMISSION

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W13a

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Staff: Fernie Sy-LB
Staff Report: August 25, 2011
Hearing Date: September 7-9, 2011
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-10-220

APPLICANT: City of Seal Beach; Attn: David Spitz, Associate City Engineer

PROJECT LOCATION: River's End Staging Area (RESA) (Seaward Terminus of First Street), Seal Beach, (County of Orange) & Portion of San Gabriel River Trail, Seal Beach & Long Beach (County of Orange & Los Angeles)

PROJECT DESCRIPTION: The proposed work at the River's End Staging Area (RESA) consists primarily of landscape improvements, new/renovated sidewalks, new asphalt paving, signage, lighting, picnic bench facilities, and a series of low seat walls to block wind blown sand from reaching the RESA. Improvements to the San Gabriel River Trail consists primarily of trail resurfacing, striping, signage, fencing, landscaping and irrigation.

SUMMARY OF STAFF RECOMMENDATION:

The City of Seal Beach proposes improvements to the River's End Staging Area (RESA) and the San Gabriel River Trail. The primary issues before the Commission are public access, hazards, and water quality. The proposed project raises a number of Coastal Act concerns that are analyzed in the staff report. The height of the proposed seat walls and the location of three (3) of the seat walls on the sandy beach raise issues regarding public access. Additionally, there are concerns regarding access to and operation of the RESA parking lot. More specifically, these concerns deal with access to the RESA from the "Driveway Parcel" and "Bike Trail Parcel" owned by Bay City Partners, LLC, the replacement of the existing gate at the entry to the parking lot, the operational hours of the parking area, changes to parking rates, and signs not approved by the Commission dealing with beach closure. Also, issues have been raised regarding impacts to coastal views from landscaping located at the entrance to the RESA.

Staff recommends that the Commission **APPROVE** the proposed projects subject to **FOURTEEN (14) SPECIAL CONDITIONS**. The **SPECIAL CONDITIONS** require: **1)** Commission approval for any future changes to the publics' ability to access the RESA from the "Driveway Parcel" and "Bike Trail Parcel" which aren't owned in fee by the applicant; **2)** submittal of Revised Final Project Plans showing: a) the seat walls/structures to reduce the amount of sand blown onto the RESA shall be raised in height from 18" to 24" above finished grade so they are more useful as seating; and b) the three (3) most seaward seat walls shall be relocated 10-feet closer (inland) to the edge of the proposed sidewalk/hardscape; **3)** that the public parking lot shall be managed such that maximum public access is provided and that the vehicular gate remain open unless necessary to be temporarily closed due to public safety

concerns related to natural hazards; **4)** Commission approval for any future changes to the operation (i.e. hours, fees, etc.) of the River's End Staging Area (RESA) parking lot; **5)** submittal of a Revised Final Signage Program, which makes clear that the RESA parking lot is always open, but fees are collected between 7am to 10pm and shows that any beach closure signs are removed and not replaced without an amendment or separate Commission approval; **6)** submittal of a Construction Staging Plan; **7)** submittal of a Traffic Control Plan; **8)** an assumption of risk; **9)** no future shoreline protective device; **10)** adherence to Construction Best Management Practices; **11)** debris disposal site to be located outside of Coastal Zone; **12)** submittal of a Storm Water Pollution Prevention Plan (SWPPP); **13)** submittal of a Final Water Quality Management Plan (WQMP); and **14)** submittal of Revised Landscape Plan that includes landscaping which does not adversely impact scenic coastal views provided on site and maintenance of that landscaping such that views are not impacted.

The proposed development is taking place in the City of Seal Beach and in the City of Long Beach. The City of Seal Beach does not have a certified Local Coastal Program, but the City of Long Beach has a certified Local Coastal Program. Based on Coastal Act Section 30601.3, the Commission may process and act upon a consolidated Coastal Development Permit application. The City of Long Beach has given its consent to the City of Seal Beach to process a consolidated Coastal Development Permit with the Commission. The standard of review for a consolidated Coastal Development Permit application are the Chapter 3 policies of the Coastal Act with the appropriate Local Coastal Program used as guidance.

LOCAL APPROVAL: Mitigated Negative Declaration (SCH # 2010021026)

SUBSTANTIVE FILE DOCUMENTS: Lease Agreement dated March 31, 2011 between the Bay City Partners, LLC and the City of Seal Beach; Letter to RBF Consulting from Commission staff dated October 28, 2010; Letter to Commission staff from RBF Consulting received February 15, 2011; Letter to RBF Consulting from Commission staff dated March 17, 2011; Letter to Commission staff from RBF Consulting received May 20, 2011; Letter to RBF Consulting from the City of Long Beach Department of Public Works dated June 2, 2011; Letter to RBF Consulting from Commission staff dated June 17, 2011; *Pre-Construction Nesting Bird Clearance Survey on the River's End Staging Area for the Seal Beach River's Enhancement in the City of Seal Beach, California* dated May 31, 2011 prepared by RBF Consulting; *Preliminary Water Quality Management Plan (WQMP)* dated June 4, 2010, Revised August 18, 2010 prepared by RBF Consulting; Letter to RBF Consulting from the City of Long Beach dated June 2, 2011.

EXHIBITS:

1. Vicinity Map
 2. Site Plans
 3. Lease Agreement dated March 31, 2011 between the Bay City Partners, LLC and the City of Seal Beach
 4. Public view of the beach and ocean at the entrance to the River's End Staging Area (RESA) located at the Southern (seaward) terminus of First Street (intersection of First Street and Ocean Avenue)
 5. Letters of Support
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STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following motion and resolution:

MOTION:

“I move that the Commission approve Coastal Development Permit No. 5-10-220 pursuant to the staff recommendation.”

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. APPROVAL WITH CONDITIONS

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned, located between the first public road and the sea, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **PUBLIC ACCESS TO THE RIVER’S END STAGING AREA (RESA) FROM THE “DRIVEWAY PARCEL” AND “BIKE TRAIL PARCEL”**

The City of Seal Beach shall maintain daily 24-hour public access to the River’s End Staging Area (RESA) except during those times indicated in **SPECIAL CONDITION NO. 3**, below. Any future permanent changes, i.e., non-emergency public safety changes as described in **SPECIAL CONDITION NO. 3**, to the public’s ability to access the RESA from the “Driveway Parcel” and “Bike Trail Parcel” owned by Bay City Partners, LLC and leased to the City of Seal Beach will require an amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

2. **REVISED FINAL PROJECT PLANS**

A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the Executive Director’s review and approval, two (2) full size sets of Revised Final Project Plans (i.e. site plan, elevations, cross-sections, etc.). These Revised Final Project Plans shall depict all elements of the project, as described in the project description in the staff report dated August 25, 2011, except as required to be revised pursuant to **SPECIAL CONDITIONS NO. 5** and **14** and as follows: 1) the seat walls/ structures to reduce the amount of sand blown onto the RESA shall be raised in height from 18” to 24” above finished grade so they are more useful as seating; and 2) the three (3) most seaward seat walls shall be relocated 10-feet closer (inland) to the edge of the proposed sidewalk/hardscape.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

3. **VEHICULAR GATE**

The River’s End Staging Area (RESA) public parking lot shall be managed such that maximum public access is provided. Except as follows, the City shall keep the public parking lot gate open and keep the parking lot accessible to the public at all times:

The gate across the driveway to the parking lot may be temporarily closed to address public safety concerns during a natural hazard event such as flooding or a tsunami warning period; the public parking area shall be re-opened as soon as feasible but no later than 12-hours following subsidence of the natural hazard

4. **FUTURE CHANGES**

Currently, there is a parking charge between the hours of 7am to 10pm at the River’s End Staging Area (RESA) parking lot. It costs \$3 for 2 hours, or \$6 a day to park in the lot. Any future change to the hours or rates of the parking operation in the RESA parking lot shall require

an amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

5. REVISED FINAL SIGNAGE PROGRAM

A. PRIOR TO THE ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, two (2) copies of a Revised Final Signage Program, which provides information for all the proposed signs at the River's End Staging Area (RESA) and the San Gabriel River Trail. At a minimum the signage program shall include:

- (1) The construction materials, the location; the dimensions, and the language on all proposed signs;
- (2) Any signs regarding the RESA parking lot hours must make it clear that the parking lot is always open, but that fees are collected between 7am to 10pm; and
- (3) Shows that any beach closure sign are removed and not replaced unless restrictions on beach access are approved by the Commission through an amendment to this permit or through a separate Coastal Development Permit.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

6. CONSTRUCTION STAGING PLAN

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of a Construction Staging Plan, which indicates that the construction staging area(s) and construction corridor(s) will minimize public access impacts to the beach and San Gabriel River Trail.

- (1) The plan shall demonstrate that:
 - (a) The RESA will remain open and accessible at all times, with the construction process staged to allow for parking and access to on-site facilities;
 - (b) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition; and
 - (c) Construction equipment, materials, or activity shall not be placed on the sandy beach outside of the immediate construction zone or grass area or on the San Gabriel River Trail; and

- (d) The construction staging area will gradually be reduced as less materials and equipment are necessary; and
 - (e) The construction access route will only be intermittently closed for transport of equipment and materials. When not in use for transportation of equipment and materials, it will be made available for uninterrupted public access; and
 - (f) Any storage, staging or construction access will avoid the nearby Seal Beach Sand Dunes.
- (2) The plan shall include, at a minimum, the following components:
- (a) A site plan that depicts:
 - 1. limits of the staging area(s);
 - 2. construction corridor(s);
 - 3. construction site;
 - 4. location of construction fencing and temporary job trailers with respect to the existing parking lot, day use area and the sandy beach.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

7. TRAFFIC CONTROL PLAN

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of a Traffic Control Plan that demonstrate the following:

- (1) Every effort shall be made to minimize the duration of sidewalk, bike and road lane closures so that impacts upon public access are minimized;
- (2) The sidewalk, bike and road lanes should be opened, even intermittently, whenever possible during construction; and
- (3) A detour plan to re-route pedestrian and bicycle traffic shall be identified for those periods when the sidewalk and/or bicycle lane is closed within the project area.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

8. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY

- A.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from sea level rise, erosion, flooding, and/or wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B.** Prior to any conveyance of the property that is the subject of this coastal development permit, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection (A) of this condition. The restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this Coastal Development Permit.
- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

9. NO FUTURE SHORELINE PROTECTIVE DEVICE

- A(1).** By acceptance of this permit, the applicant agrees, on behalf of itself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-10-220 in the event that the development is threatened with damage or destruction from sea level rise, waves, erosion, storm conditions or other hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- A(2).** By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the applicant shall remove the development authorized by this permit if any government agency has ordered that the structure is not to be utilized due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the applicant shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an

approved disposal site. Such removal shall require a Coastal Development Permit.

- B. Prior to any conveyance of the property that is the subject of this Coastal Development Permit, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection (A) of this condition. The restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this Coastal Development Permit.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

10. CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. The permittee shall comply with the following construction-related requirements:
 - (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
 - (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 - (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
 - (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
 - (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.
- B. Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:
 - (1) The permittee shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall

include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;

- (2) The permittee shall develop and implement spill prevention and control measures;
- (3) The permittee shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water; and
- (4) The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

11. LOCATION OF DEBRIS DISPOSAL SITE

The permittee shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. If the disposal site is located within the Coastal Zone, a Coastal Development Permit or an amendment to this permit shall be required before disposal can take place.

12. STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of a Storm Water Pollution Prevention Plan (SWPPP) prepared and signed by licensed engineer that, at a minimum, meets the following:
 - (1) The Storm Water Pollution Prevention Plan must satisfy the requirements of the Waste Discharge Requirements for The County of Orange, Orange County Flood Control District and The Incorporated Cities of Orange County within the Santa Ana Region Area wide Urban Storm Water Runoff Orange County, California Regional Water Quality Control Board, Santa Ana Region ORDER NO. R8-2009-0030 NPDES No. CAS618030 As amended by Order No. R8-2010-0062
 - (2) The Storm Water Pollution Prevention Plan must show that permittee is properly prepared to apply site design, source control and treatment control BMPs, appropriate for the potential stormwater pollutants at this site, in order to protect coastal waters from polluted runoff generated by construction activities to the maximum extent practicable.
- B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur

without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

13. FINAL WATER QUALITY MANGEMENT PLAN (WQMP)

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of a Final Water Quality Management Plan (WQMP) for the post-construction project site, prepared and signed by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:
- (1) Appropriate structural and non-structural BMPs (site design, source control and treatment control) shall be designed and implemented to minimize water quality impacts to surrounding coastal waters;
 - (2) Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible;
 - (3) Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized;
 - (4) Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals.
 - (5) All runoff from the vehicle wash station shall be collected through the proposed wash rack and sand/oil separator and discharged only through the sewer system.
 - (6) Runoff from all roofs, walkways, driveway and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMPs shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants (including trash, debris and vehicular fluids) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner;
 - (7) Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs;

- (8) All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15th and April 15th of each year and, (3) at least twice during the dry season;
- (9) Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner;
- (10) It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

14. REVISED LANDSCAPING PLAN

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of a Revised Landscape Plan, prepared by a licensed landscape architect that includes the following:

- (1) The plan shall demonstrate that:
 - (a) All landscaping shall consist of native or non-native drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>). Any existing landscaping that doesn't meet the above requirements shall be removed;
 - (b) Proposed landscaping shall not adversely impact public views of the beach and ocean provided through the site from First Street and Ocean Avenue. All landscaping within the view corridor to the beach and ocean shall be comprised of plant species that, at maximum growth (width/height), do not reduce, obstruct, or in any

way interfere with, public views. The required Revised Landscape Plan shall provide information regarding the maximum height and width of the proposed landscaping vegetation. Landscaping shall be trimmed/maintained such that impacts upon public views are avoided. Once planted, if the Executive Director determines that any landscaping within the view corridor to the beach and ocean is causing an impact upon public views, the applicant shall replace such landscaping with different plant species that meet the requirements of this special condition, as directed by the Executive Director;

- (c) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage; and
 - (d) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
- (2) The plan shall include, at a minimum, the following components:
- (a) Two (2) full size copies of a map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and
 - (b) A schedule for installation of plants.
- B.** The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT LOCATION AND DESCRIPTION, PREVIOUS COMMISSION APPROVAL ON-SITE & LEGAL ACTION

1. Project Location

The project is located in the cities of Seal Beach and Long Beach, within the counties of Orange and Los Angeles (Exhibit #1). The majority of project improvements would

occur at the River's End Staging Area (RESA), located at the Southern (seaward) terminus of First Street (intersection of First Street and Ocean Avenue) within Seal Beach, adjacent to the mouth of the San Gabriel River. Improvements to the existing San Gabriel River Trail are proposed from its Southern terminus at the RESA, proceeding North (crossing Seal Beach/Long Beach City property), ultimately ending at the trail's intersection with interstate 405 (I-405) in the Eastern Portion of Long Beach. All portions of the project within Seal Beach are within the Coastal Zone. However, only a portion of the San Gabriel River Trail improvement in the City of Long Beach is located within the Coastal Zone.

River's End Staging Area (RESA)

The RESA is utilized as a recreational staging area for the San Gabriel River Trail and is a public beach area facility. It is approximately 2.70 acres in size and includes: 1) 114 paved surface parking spaces; 2) a 1,485 square-foot restaurant facility (the "River's End Café"), a 582 square-foot storage building, and a 1,122 square-foot restroom structure within the Southwestern portion of the site; 3) a City-owned 3,085 square-foot maintenance structure, associated storage yard and a 597 square-foot privately-owned oil facility structure within the Northern portion of the site; and 4) a grassy, landscaped windsurfing rigging area ("Windsurf Park") within the Eastern portion of the site.

In total, existing buildings encompass approximately 6,871 square feet within the 2.70-acre site. Landscaping treatments exist throughout several areas of the parking lot and throughout the restaurant and restroom area.

San Gabriel River Trail

The San Gabriel River Trail is a paved regional recreational trail along the Eastern boundary of the San Gabriel River (concrete and rip rap lined). It extends for a length of approximately 35 miles, generally in a North to South orientation. The trail terminates to the South at the RESA, and terminates to the North at the base of the San Gabriel Mountains within the City of Azusa.

The portion of the trail associated with the proposed project extends from the RESA, proceeding North through the cities of Seal Beach and Long Beach until it reaches I-405. This reach of the trail is a Class I Bikeway (i.e., a path intended exclusively for bicycle and pedestrian use, completely separated from automobile traffic). The average width of the trail is approximately 10 to 11-feet.

The majority of the RESA site is designated "Beach" by the City of Seal Beach General Plan, while Windsurf Park has a designation of "Park". The City of Seal Beach Zoning Code designation for the site is "Public Land Use/Recreational" (PLU/R). As a recreational trail, the San Gabriel River Trail does not have a General Plan or Zoning designation under the cities of Seal Beach or Long Beach.

The proposed project can generally be categorized by the following primary components: 1) improvements to the River's End Staging Area (RESA); and 2) improvements to the San Gabriel River Trail (Exhibit #2). The City states that the proposed project is intended to enhance and beautify the existing aging facility in order to provide for the continued enjoyment of recreational users.

2. Project Description

River's End Staging Area (RESA) Improvements

In general, the proposed on-site components would consist primarily of landscaping improvements (and associated irrigation facilities), new/renovated sidewalks, new asphalt paving, signage, lighting, picnic/bench facilities, and a series of seat walls that will also block wind-blown sand from reaching the RESA. More specifically, the project would consist of the following:

- 1) Native landscaping would be implemented around the perimeter of the facility, with the majority of landscaping focused within the Northern portion of the site near the Southerly terminus of First Street. Landscaping would line both sides of the entryway to the RESA parking lot;
- 2) A stone entry monument sign and entry gate would be placed at the main entrance. The stone entry monument sign will be constructed of concrete block with a rock veneer and will have the following dimensions: a 7'-6" (w) x 10' (l) x 6" (h) base; a 4'-6" (w) x 5' (l) x 1'-6" (h) bottom section; a 3'-6" (w) x 4' (l) x 5 (h) upper section; and 6'-6" (w) x 6' (l) x 1'-8" (h) pitched roof. In total height, this entry monument sign will be 9' tall. Additionally, there are existing signs regarding the café, park and pay system and parking lot hours on the existing entry monument that the applicant proposes to remove and reinstall on the new entry monument. The upper level section will contain two approximately 3' (w) x 2' (h) signs: 1) the first stating "River's End Café"; and 2) the second stating "Beach Parking, Park and Pay System" and "Lot Hours: 7am to 10pm". The proposed entry gate will have the following dimensions 14'-6" (w) x 3'-7" (h). The gate will be composed of a post and rail with a lattice design constructed with galvanized steel poles.
- 3) The existing 114-space parking lot would be repaved in some areas and restriped to include 115-parking spaces, five (5) of which would be Americans with Disabilities Act (ADA) -compliant. The lot would feature three (3) primary parking aisles, each separated by vegetated drainage swales serving as a water quality feature. These swales would also include lighting facilities and landscaping;
- 4) Two (2) new stone informational kiosks would be constructed at the two (2) Southern corners of the parking lot. These kiosks will provide interpretative signs regarding: 1) the San Gabriel River Trail, 2) the San Gabriel River Wetlands, and 3) the Stingray habitat.
- 5) Removal and reinstallation of the existing parking pay station (parking fees are currently \$3.00 for 2 hours, or \$6.00 for the day);
- 6) The existing windsurfing rigging area along the Eastern boundary of the site would be expanded to include additional turf, picnic tables, benches, trash receptacles, and signage improvements. This area would also include windsurfer board racks and rinse facilities;
- 7) The existing City-owned maintenance structure, storage yard, and oil processing structure within the Northern portion of the site would not be directly affected by the project. However, the project would include native landscaping improvements along the Southern and Western boundaries of this area, in addition to a block wall along the Eastern boundary. A new tubular steel fence

and gate would be installed along the Southern portion of the facility. These improvements would assist in screening these industrial uses from surrounding uses;

- 8) The Southern portion of the RESA (where the River's End Café and restroom facility currently exist) would be improved with a decorative concrete sidewalk, native landscaping, a turf area, and picnic/bench facilities. No work is proposed to the River's End Café. A new maintenance access gate to the beach is also proposed at this location;
- 9) The existing restroom facility would be remodeled as part of the proposed project (The restroom will not increase in size from the original structure); and
- 10) Along the Eastern and Southern boundaries of the RESA, six (6) poured-in-place concrete seat walls would be constructed. The addition of these walls would provide users a place to sit, in addition to reducing the amount of sand that blows from the beach onto the RESA.

The applicant is also proposing to remove and reinstall a number of other signs on site, regarding things such as: Tsunami warning, no dumping, fire lane-no parking, and other beach rules regarding no littering, etc. Additionally, the applicant intends to remove and reinstall the following signs: 1) "Right to pass by permission and subject to the control of the property owner. Section 1008 California Civil Code", and 2) "Notice Beach Closed 10pm to 4:30 AM S.B. Ord. 1365".

In total, the proposed project would increase the amount of paved area by 7,709 square feet (for a site total of 83,730 square feet) and landscaping by 16,422 square feet (for a site total of 48,242 square feet). The proposed RESA improvements are approximately 0.61-acre larger than the existing improvements. This occurs mostly in the sandy areas on the Southeast corner of the project area, a small amount on the East side, and a very small amount on the Southwest corner. Additionally, approximately 0.23 acre of sandy beach will be paved with new sidewalk/hardscape.

A total of 17-existing Mexican fan palms on-site could also potentially be removed as part of the project.

San Gabriel River Trail Improvements

The San Gabriel River Trail improvements are proposed in two (2) different segments: 1) Improvements from the RESA to Pacific Coast Highway (PCH); and 2) improvements from PCH to I-405.

The proposed improvements between the RESA and PCH consist of trail resurfacing, striping, fencing, landscaping, and irrigation. The applicant is also proposing to install a number of other signs along the trail, regarding things such as: no stopping, bike path, directional signs, no motor vehicles, bike parking, fishing area on Marina Drive Bridge, and other bike path related information.

The proposed improvements from PCH to I-405 will consist only of trail resurfacing, striping, and directional signage.

The total length of proposed trail improvements will be approximately 3.4 miles, with 1.53 miles of that length being in the Coastal Zone. This CDP application applies only to that portion of the San Gabriel River Trail within the Coastal Zone (i.e., from the RESA to the inland right-of-way line of Westminster Boulevard in the City of Long Beach).

RESA to PCH Section located within the City of Seal Beach

The total length of proposed trail improvements from the RESA to PCH is approximately 0.8-mile (4,330 linear feet), completely within the City of Seal Beach. The existing trail's Southerly terminus is located adjacent to the RESA where it meets the beach. At this site, the trail/RESA will be improved to include a decorative concrete area with a cobblestone kiosk featuring a trail map, a drinking fountain, a bicycle rack, and interpretive signage. As the trail proceeds North, it will be resurfaced and restriped along its entire reach to PCH. Approximately 0.2-mile North of the RESA, a viewing node will be constructed. This will include concrete benches, trash receptacles, and native landscaping. Approximately 0.5-mile North of the RESA, an existing strip of exotic landscaping between the trail and the existing Oakwood Apartment complex will be replaced with native plantings. As part of the project, the entryway to the trail along PCH will be enhanced to include a cobblestone kiosk, trail map, and trail signage.

PCH to the Coastal Zone Boundary (and beyond to I-405) Section located within the City of Long Beach

The total length of proposed trail improvements from PCH to the Coastal Zone Boundary and continuing beyond that to I-405 will be approximately 2.6 miles (13,740 linear feet). Of that distance, 0.75 miles (3,960 linear feet) are within the Coastal Zone. Along this portion of the project, improvements will include resurfacing and restriping of the existing trail, in addition to directional signage. (In contrast to the improvements described for the RESA to PCH segment, no landscaping, irrigation, or other facilities are proposed within this stretch of the project site.)

No work is proposed to take place within the San Gabriel River.

2. Previous Commission Approval On Site

On April 12, 1996, the Commission approved De-Minimus Waiver No. 5-96-036-[City of Seal Beach] for the conversion of a partially completed basketball court (with dimensions of 120' x 60', surrounded by a 4' x 8' curb) to a sailboard rigging area, removal of existing rubble from the site, replace it with top soil, install an irrigation system, plant sod grass, construct an 18" high curb at the South end, and install a rinse area at the South end.

B. PUBLIC ACCESS

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30252 of the Coastal Act states in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by...

(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.

The proposed project involves the River's End Staging Area and the San Gabriel River Trail. The RESA is utilized as a recreational staging area for the San Gabriel River Trail and is a public beach facility area and the proposed project would enhance public recreational opportunities to and along the coast. The RESA is a popular area for windsurfing and kite sailing and portions of the proposed project (expanded and enhanced kite sailing/windsurfing turf rigging area) are actually for improvements to that public use. The San Gabriel River Trail is a paved regional recreational trail along the Eastern boundary of the San Gabriel River. The proposed project will enhance the access located on that recreational trail. The project would not result in a change in use at the RESA or San Gabriel River Trail, and would represent a beneficial impact in regards to recreation since it includes substantial enhancements to these facilities.

Bay City Partners, LLC, currently owns the area of land on which the existing and proposed driveway lead into the RESA parking lot (to be referred to as the "Driveway Parcel") and also owns a small area of land that the San Gabriel River Trail traverses (to be referred to as the "Bike Trail Parcel") that leads into the RESA (Exhibit #3). Previously, on September 3, 2009, the City of Seal Beach filed an eminent domain action to acquire these parcels to provide access to the RESA. On March 16, 2011, the City and Bay City Partners settled the eminent domain action, resulting in an agreement that enabled the City to move forward with this project without finalizing its eminent domain proceedings. In the settlement, Bay City agreed to lease the Bike Trail and Driveway parcels to the City. On March 31, 2011, Bay City Partners and the City of Seal Beach entered into that lease agreement which allows the City use of these parcels. The 'Driveway Parcel' shall be used for a public access roadway from First Street and Ocean Avenue to the public parking lot that serves the RESA in order to maintain public access to the public beach. The "Bike Trail Parcel" shall be used for a public bike path. The City (Lessee) agrees to maintain the leased properties in good, safe and in orderly condition and may improve and install improvements on these leased premises. Thus, the City of Seal Beach is currently allowed to use these parcels to access the site and also to install the improvements as stated above in the project description. To address any potential future change in the City's right to use the Bike Trail and Driveway parcels, which would result in an adverse impact on the publics' ability to access the RESA from these parcels, the Commission imposes **SPECIAL CONDITION**

NO. 1. SPECIAL CONDITION NO. 1 requires the City to apply for an amendment and receive Commission approval if it intends to change the daily 24 hour access to the RESA from the “Driveway Parcel” and “Bike Trail Parcel” (except for public safety closures, as indicated in **SPECIAL CONDITION NO. 3**.

The proposed project includes improvements to the Southern portion of the RESA (where the River’s End Café and restroom facility currently exist) encompassing a decorative concrete sidewalk, native landscaping, a turf area, and picnic/bench facilities. No work is proposed to the River’s End Café. The proposed improvements would result in approximately 0.23 acre of sandy beach being paved with new sidewalk/hardscape. Typically, the Commission is not in favor of converting public sandy beach area into hardscape because it displaces beach users. However, this area that is proposed to be converted is not typically used by beachgoers for picnicking or sunbathing since the beach at this location is approximately 800-feet wide. The beach users for these types of activities at this location normally use the area closer to the water, which is hundreds of feet seaward from the project location. Thus, no adverse impacts to public access or recreation would occur with these improvements.

The Coastal Act requires that development not interfere with the public’s right of access to the sea by providing adequate parking to serve that development. An existing 114-space parking lot would be repaved in some areas and restriped to include 115-parking spaces, five (5) of which would be Americans with Disabilities Act (ADA) -compliant. Thus, more parking will be provided on site.

The proposed project also includes the installation along the Eastern and Southern boundaries of the RESA, six (6) poured-in-place concrete seat walls. The addition of these walls would have a dual function—they would provide the public with a place to sit, and would reduce the amount of sand that blows from the beach onto the turf wind surfing and kite sailing rigging area. They will not function as a shoreline protective device (This will be further discussed in the staff report, below). At first, the applicant considered placing all these walls closer to the edge of the proposed sidewalk/hardscape. However, placing all these walls at that location would create something similar to a low solid wall that would impede access to the beach. In order to keep with their idea of keeping an open free path of travel to the beach, the applicant revised their locations by instead placing the walls in spaced out locations that would provide openings for the public to access the beach. However, the location of the three (3) most oceanward seat walls raise access issues, which will be discussed later.

These seat walls/structures to reduce the amount of sand blown onto the turf wind surfing and kite sailing rigging area are proposed to be 18” above finished grade. However, this proposed height would not serve as an adequate height for its intended purpose. The seat wall should be increased to 24” above finished grade in order to better serve its dual functions. Thus, the Commission imposes **SPECIAL CONDITION NO. 2**, which requires the applicant to submit two (2) full size sets of a Revised Final Project Plan showing the six (6) poured-in-place concrete seat walls/ structures to reduce the amount of sand blown onto the turf wind surfing and kite sailing rigging area raised in height from 18” to 24” above finished grade so they are more useful as seating.

Another issue with the proposed seat walls concerns the three (3) most oceanward seat walls that are proposed to be located out on the sandy beach (Exhibit #2). The remaining three (3) walls are located more inland and adjacent to the proposed sidewalk/hardscape. The location of these three (3) seat walls in the middle of the sandy beach would unnecessarily adversely

impact the access and openness of the public beach. Pulling these seat walls inland would preserve the openness of the sandy beach and also limit encroachment onto the public beach. Therefore, the locations for these three (3) most seaward seat walls must be relocated 10-feet closer (inland) to the edge of the proposed sidewalk/hardscape in order to prevent any adverse impacts to the public beach. Thus, the Commission imposes **SPECIAL CONDITION NO. 2**, which requires the applicant to submit two (2) full size sets of a Revised Final Project Plan showing the three (3) most seaward seat walls relocated more inland of their original location.

Additionally, the project includes a new stone entry monument sign and entry gate at the main entrance located at the terminus of First Street (intersection First Street & Ocean Avenue). There is an existing manual triangle shaped gate at the entrance and tire spikes at the exit. Pedestrian access is also provided at this location, which the gate does not impede. The vehicular gate is locked open (locked to a post in its open position) and never closed according to the City, unless, required (infrequently) due to public safety concerns related to natural hazards (i.e. flooding, tsunami warning, etc). The new gate would also be manually operated and remain locked open unless public safety concerns related to natural hazards occur. In order to make sure that the gate remains open and provides unrestricted public vehicular access to the parking area, the Commission imposes **SPECIAL CONDITION NO. 3**, which requires that the public parking lot shall be managed such that maximum public access is provided and that the vehicular gate remain open unless necessary to be temporarily closed due to public safety concerns related to natural hazards.

The RESA parking lot is a park and pay lot. There is currently one (1) parking pay station, which will be removed during construction and then reinstalled. This parking pay station distributes parking tickets upon payment that are to be displayed on the vehicle dash. Currently, there is a parking charge between the hours of 7am to 10pm, as stated on an existing sign on site. It costs \$3 for 2 hours, or \$6 a day to park in the lot. There are no proposed changes to the parking fees or parking lot hours. If any changes are proposed, the Executive Director should be consulted for permit requirements, and Commission approval may be necessary. Thus, the Commission imposes **SPECIAL CONDITION NO. 4**, which requires Commission approval for any future changes to the operation (i.e. hours, fees, etc.) of the River's End Staging Area (RESA) parking lot.

Adjacent to the RESA is an existing City-owned maintenance structure, storage yard, and oil processing structure within the Northern portion of the site that would not be directly affected by the project except for a new tubular steel fence and gate that would be installed along the Southern portion of the facility. Additionally, at the Southern portion of the RESA (where the River's End Café and restroom facility currently exist), a new maintenance access gate to the beach is also proposed at this location. Currently, no gate exist at this location. Thus, vehicles other than maintenance vehicles could possibly use this location to access the beach, which would result in adverse impacts to beach access. The proposed gates at this location would limit access of vehicles to the beach to only maintenance vehicles. As a result, these gates will not have an adverse impact upon public access.

The applicant is proposing to remove and reinstall a number of existing signs at the RESA site. For example, the new entry sign monument will be replaced and the existing signs located on the monument will be reinstalled. These signs indicate the following: "River's End Café"; "Beach Parking, Park and Pay System" "Lot Hours: 7am to 10pm".

As stated above, one of the signs proposed to be removed and reinstalled states that the RESA parking lot hours are from 7am to 10pm. The City had previously indicated that the RESA parking lot always remains open, but fees are collected between 6am and 10pm. Thus, there is some inconsistency here with two (2) things: 1) the existing sign states that the parking lot is open from 7am to 10pm, while the City had stated that they are open from 6am to 10pm, and 2) that it would seem based on the posted sign, and to be reinstalled sign, that the lot is only open from 7am to 10pm and closed from 10pm to 7am. Therefore, the applicant must clarify the information found on these signs. It must be made clear that the RESA parking lot is always open, but that fees are collected between 7am to 10pm. Thus, the Commission imposes **SPECIAL CONDITION NO. 5**, which requires the applicant to submit two (2) copies of a Revised Final Signage Program making it clear that the RESA parking lot is always open, but that fees are collected between 7am to 10pm. If the Applicant proposes a RESA parking lot closure period, it will require an amendment to this Coastal Development Permit or a new Coastal Development Permit.

The applicant is also proposing to remove and reinstall a number of other signs at the RESA site, regarding things such as: Tsunami warning, no dumping, fire lane-no parking, and other beach rules regarding no littering, etc. Additionally, the applicant intends to remove and reinstall the following signs: 1) "Right to pass by permission and subject to the control of the property owner. Section 1008 California Civil Code", and 2) "Notice Beach Closed 10pm to 4:30 AM S.B. Ord. 1365".

The sign regarding the beach closure: "Notice Beach Closed 10pm to 4:30 AM S.B. Ord. 1365" was never authorized by the Commission, nor has any beach closure been authorized (aside from the sign). Therefore, the plans should be revised to show that any beach closure signs are removed and not replaced unless the City obtains approval from the Commission to institute a beach closure period (or other restrictions) through the Coastal Development Permit process. Thus, the Commission imposes **SPECIAL CONDITION NO. 5**, which requires the applicant to submit two (2) copies of a Revised Final Signage Program that shows that any beach closure signs are removed and not replaced. If the Applicant proposes a beach closure, it will require an amendment to this Coastal Development Permit or a new Coastal Development Permit.

The applicant has acknowledged that neither a Construction Staging Plan nor a Traffic Control Plan has been submitted. The applicant has stated that they will be prepared by Contractor during construction and approved by the City. However, the applicant has stated the following: 1) the Traffic Control Plan will conform to the W.A.T.C.H. Handbook, the most recent edition, and the State of California "Manual of Traffic Control Devices," most recent edition; 2) the Contractor shall provide for and maintain one (1) lane of traffic in each direction during its entire operation; 3) "No Parking" signs, if required, must be installed forty-eight (48) hours in advance indicating time and date that parking will be prohibited; 4) the Contractor shall provide and maintain steel traffic plates securely over the trench whenever required or at the end of the day. The plates shall be pinned and ramped with temporary asphaltic concrete; 5) the Contractor shall maintain traffic access to all local streets throughout construction. Temporary shutdown of streets must be approved by the City a minimum of 72 hours in advance of the proposed closure; and 6) the 2009 "Greenbook" Standard Specification for Public Works Construction will be used. While these points help maintain public access to the site, a site specific and thorough Construction Staging Plan and Traffic Control Plan are needed. Thus, in order to ensure access to the beach is protected during the peak summer season and that public access is not hindered during construction, the Commission finds that it is necessary to impose **SPECIAL CONDITION NO. 6** and **SPECIAL CONDITION NO. 7**. **SPECIAL CONDITION NO. 6** requires

the applicant to submit two (2) full size sets of a Construction Staging Plan. **SPECIAL CONDITION NO. 7** requires the applicant to submit two (2) full size sets of a Traffic Control Plan.

CONCLUSION

To minimize the adverse impacts upon public access, **SEVEN (7) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 1** requires the City to apply for an amendment and receive Commission approval if it intends to change the daily 24 hour access to the RESA from the “Driveway Parcel” and “Bike Trail Parcel” (except for public safety closures, as indicated in **SPECIAL CONDITION NO. 3**. **SPECIAL CONDITION NO. 2** requires the applicant to submit two (2) sets full size sets of a Revised Final Project Plan showing: a) the seat walls/structures to reduce the amount of sand blown onto the RESA shall be raised in height from 18” to 24” above finished grade so they are more useful as seating and b) the three (3) most seaward seat walls shall be relocated 10-feet closer (inland) to the edge of the proposed sidewalk/hardscape. **SPECIAL CONDITION NO. 3** which requires that the public parking lot shall be managed such that maximum public access is provided and that the vehicular gate remain open unless necessary to be temporarily closed due to public safety concerns related to natural hazards. **SPECIAL CONDITION NO. 4** requires Commission approval for any future changes to the operation (i.e. hours, fees, etc.) of the River’s End Staging Area (RESA) parking lot. **SPECIAL CONDITION NO. 5** requires submittal of a Revised Final Signage Program, which makes clear that the RESA parking lot is always open, but fees are collected between 7am to 10pm and shows that any beach closure signs are removed and not replaced without an amendment or separate Commission approval;. **CONDITION NO. 6** requires the applicant to submit two (2) full size sets of a Construction Staging Plan. **SPECIAL CONDITION NO. 7** requires the applicant to submit two (2) full size sets of a Traffic Control Plan. Only as conditioned does the Commission find the proposed development is consistent with Sections 30211, 30221 and 30252 of the Coastal Act.

C. VISITOR SERVING DEVELOPMENT

Section 30213 of the Coastal Act states in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Public beaches constitute a lower cost visitor-serving facility. As such, any development on a public beach is subject to scrutiny as to whether the development would affect the public’s recreational interest. In this case, the proposed project, as conditioned, will not adversely impact public access or recreation. The proposed project will enhance public access to the beach by improving the facilities and access to these facilities. The beach will remain open and

available to visitors during construction and will be completed prior to the peak beach use season, as discussed in the preceding section.

Thus, the proposed project would not result in any adverse impacts on visitor serving development.

CONCLUSION

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the provisions of Section 30213 of the Coastal Act.

D. GEOLOGY AND COASTAL HAZARDS

Section 30235 of the Coastal Act states, in pertinent part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 30253 of the Coastal Act states in relevant part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed project will occur on an existing trail adjacent to the San Gabriel River (concrete and rip rap lined) and a sandy beach, as such, the project may be subject to sea level rise, liquefaction and wave uprush during high storm events. Development adjacent to the river and ocean is inherently risky. The applicant states that both project sites are safe for development at this time and have not requested or proposed protection from hazards such as sea level rise, flooding and/or wave attack. The applicant has proposed seat walls/structure to prevent sand from accumulating on the RESA, but these structures would not function as shoreline protective devices. Although the applicant indicates that the sites are safe for development at this time, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes and could result in the applicant proposing protection of the structure in the future. As discussed below, a protective device would result in adverse effects to coastal resources.

Shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's ability to utilize the beach. First, shoreline protective devices can cause changes in the shoreline profile, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will

have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on public property.

The second effect of a shoreline protective device on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. A loss of area between the mean high water line and the actual water is a significant adverse impact on public access to the beach, as it results in less usable sandy beach area.

Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. The Commission notes that if a seasonally eroded beach condition occurs with greater magnitude due to the placement of a shoreline protective device, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists.

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events, but also potentially throughout the winter season.

Section 30253 (2) of the Coastal Act states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. Therefore, if the proposed beach improvements require a protective device in the future, it would be inconsistent with Section 30253 of the Coastal Act because such devices contribute to beach erosion.

To assure that no protective device will be constructed in the future to protect the proposed improvements, the Commission imposes **SPECIAL CONDITIONS NO. 8** and **SPECIAL CONDITIONS NO. 9**. Since the proposed development is taking place adjacent to the ocean in an area that is potentially subject to sea level rise, erosion, flooding and wave uprush, the Commission is imposing **SPECIAL CONDITION NO. 8**, which is its standard waiver of liability Special Condition. **SPECIAL CONDITIONS NO. 9**, which requires that the applicant agree that no future shoreline protective device shall be constructed to protect the improvements. This condition insures that any potential future owners of the property will be informed that future protection of these improvements through some form of shoreline protection work is not guaranteed nor is it likely to be supported.

CONCLUSION

To minimize the adverse impacts caused by hazards, **TWO (2) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 8** requires an assumption of risk. **SPECIAL CONDITION NO. 9** prohibits any future shoreline protective devices. Only as conditioned does

the Commission finds that the proposed project is consistent with Sections 30235 and 30253 of the Coastal Act.

E. WATER QUALITY AND MARINE RESOURCES

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

1. Construction Impacts to Water Quality

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, **SPECIAL CONDITION NO. 10** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. In order to prevent impacts to coastal waters, **SPECIAL CONDITION NO. 11** requires that all demolition and cut material debris be disposed of at a legal site. Choice of a site within the Coastal Zone shall require an amendment to this permit or a new Coastal Development Permit, unless the Executive Director determines that no amendment or new permit is legally required.

Besides adhering to the Construction Best Management Practices as required by **SPECIAL CONDITION NO. 10** above, a Storm Water Pollution Prevention Plan (SWPPP) should be prepared for the proposed project that would specifically deal with water quality on site during construction. The applicant acknowledges that a SWPPP needs to be developed for the project site, but such a plan has not yet been developed. The applicant also states that the SWPPP measures will be defined by the current applicable National Pollutant Discharge Elimination System (NPDES) Permit R8-2009-0030, Order No. 99-08-DWQ and Order No. R8-2009-0004. The SWPPP would identify sources of sediments and pollutants that would affect stormwater quality, designate use of appropriate BMPs at the project site, and implement stormwater pollution prevention measures that would reduce water pollution associated with construction activities. Therefore, it is necessary to impose **SPECIAL CONDITION NO. 12** which requires the applicant to submit two (2) sets of a Storm Water Pollution Prevention Plan (SWPPP)

2. Post-Construction Impacts to Water Quality

The proposed development will result in urban runoff entering the storm water system. Pollutants such as sediments or toxic substances such as grease, motor oil, heavy metals, pesticides and fertilizers are often contained within urban runoff entering the storm water system. In this case, the site drains a redone parking lot and hardscape area. Therefore, the primary post-construction water quality concerns associated with the proposed project include grease, motor oil, heavy metals, trash, pesticides and fertilizer.

The proposed development would result in the discharge of storm water into the storm water conveyance system. As such, the amount of pollutants carried through the system would increase proportionally. Therefore, the project has the potential to affect the water quality of the coastal waters in Seal Beach.

The proposed project would not result in change in use in comparison to existing conditions. The site currently sheet flows to the adjacent beach area and drains directly to the beach. There are no existing drains or channels. Operations at the RESA would also remain the same with post project and improvements along the San Gabriel River Trail would not result in a change in long-term operational water quality characteristics, since only resurfacing, signage, and landscaping improvements are proposed. However, the proposed project is new development, which affords an opportunity to improve water quality. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. Reductions in the amount of pollutants in the existing runoff would be one step to begin to reduce cumulative adverse impacts to coastal water quality. The currently proposed project drains a redone parking lot and hardscape area. As such, appropriate measures must be taken to assure that adverse effects on water quality are minimized. The applicant has taken this opportunity to improve water quality and has provided a *Preliminary Water Quality Management Plan (WQMP)* dated June 4, 2010, Revised August 18, 2010 prepared by RBF Consulting that discusses the proposed water quality features resulting in a beneficial impact on-site. Within the 115-space parking lot proposed on-site, the project would include two (2) grass-lined water quality

swales that would divide the three (3) aisles of parking available to recreational users. Also, the windsurf rinse facility will be drained into a perforated PVC pipe encased in gravel. The project would also include long-term operational BMPs in compliance with National Pollutant Discharge Elimination Systems (NPDES) Waste Discharge Requirements that could include, among others: 1) regular plaza/sidewalk cleaning; 2) maintenance of trash storage areas; 3) regular landscape maintenance; 4) installation of an efficient landscape irrigation system; and 5) maintenance of proposed grass-lined swales. Upon implementation of on-site Best Management Practices (BMPs) as required by the NPDES regulations, impacts in regards to long-term operations would be reduced. However, there was no information (beyond the basic size calculations) of the primary treatment control BMPs (i.e. bioswales and “porous landscape detention”). Information on the BMP designs including plant palette, soil or soil amendment types used to capture pollutants and maintenance plans for these BMPs is needed. Therefore, it is necessary to impose **SPECIAL CONDITION NO. 13**, which requires the applicant to submit two (2) sets of a Final Water Quality Management Plan (WQMP). The Final Water Quality Management Plan shall meet water quality goals such as use of appropriate structural and non-structural BMPs designed to treat, infiltrate, or filter the runoff from all surfaces and activities on the development site and that runoff from all roofs, parking areas, maintenance areas and driveways shall be collected and directed through a system of structural BMPs and/or gravel filter strips or other vegetated or media filter devices.

The applicant has stated that landscaping is proposed and plans have been submitted. The placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.caleppc.org/>) and California Native Plant Society (www.CNPS.org) in their publications. Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>.

Commission staff has reviewed the submitted Landscaping Plan and determined that a non-drought tolerant plant has been found: *Leymus Condensatus* ‘Canyon Prince (Canyon Prince Wild Rye). Also, the drought tolerancy of the following ground cover could not be determined: *Distichlis Spicata* (Saltgrass). In addition, the following plant has been determined to be invasive: *Cynodon Dactylon* (Bermuda Grass). Therefore, the Commission imposes **SPECIAL CONDITION NO. 14**, which requires the applicant to submit two (2) full size sets of a Revised Landscaping Plan, which consists of native or non-native drought tolerant plants, which are non-invasive.

CONCLUSION

To minimize the adverse impacts upon the marine environment, **FIVE (5) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 10** requires the applicant to adhere to construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris and also requires the applicant to

incorporate Best Management Practices effective at mitigating pollutants of concern. **SPECIAL CONDITION NO. 11** requires the applicant to dispose all demolition and construction debris at an appropriate location. **SPECIAL CONDITION NO. 12** requires the applicant to submit two (2) sets of Storm Water Pollution Prevention Plan (SWPPP). **SPECIAL CONDITION NO. 13** requires the applicant to submit two (2) sets of a Final Water Quality Management Plan. **SPECIAL CONDITION NO. 14** requires the applicant to submit two (2) full size sets of a Revised Landscape Plan, which only consists of native or non-native drought tolerant plants, which are non-invasive. Only as conditioned does the Commission finds that the proposed project is consistent with Section 30230, 30231 and 30232 of the Coastal Act.

F. BIOLOGICAL RESOURCES

Section 30240 of the Coastal Act states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The proposed project site is developed with recreational uses, and exists within an urbanized area. The project would not result in direct impacts to any sensitive species or wildlife habitat. No areas of native or sensitive habitat exist at the RESA or along the San Gabriel River Trail. However, since the project may result in the removal or relocation of some or all of the 17 mature Mexican Fan Palm Trees at the RESA, the project could result in potential impacts to nesting birds. Should it be necessary to remove the Mexican Fan Palms, the City states that they will remove the trees between September 1 and January 31 (non breeding season). Additionally, the City states that if tree removal or relocation occurs between February 1 and August 31 (breeding season), the City of Seal Beach shall have a pre-construction survey conducted by a qualified biologist to identify any active nesting locations. However, Commission staff requested that a bird survey be conducted now since this information would have a serious impact upon the project. This survey is important as it would determine if the trees would be determined to be Environmentally Sensitive Habitat Areas (ESHA) based on if certain birds are found nesting in them and if similar suitable habitat is not near by. If determined to be ESHA, then these trees could not be relocated. In response, the City prepared the following: *Pre-Construction Nesting Bird Clearance Survey on the River's End Staging Area for the Seal Beach River's Enhancement in the City of Seal Beach, California* dated May 31, 2011 prepared by RBF Consulting. A 30 day pre-construction nesting bird clearance survey was conducted on May 25, 2011 at the RESA to determine the presence of absence of nesting birds in order to comply with the Migratory Bird Treaty Act (MBTA) for tree removal or other construction activities that may occur during the avian nesting season. The survey was negative: Thus, no nesting birds/active nests or nesting behaviors were observed within the survey area. This bird survey was conducted recently and the project is anticipated to take place as soon a Coastal Development Permit is issued since funding sources require that the project begins as soon as possible. If in the future the permit needs to be extended, a new bird survey would be necessary.

The project site is near the Seal Beach Sand Dunes. The Coastal Act protects sand dunes because they are: 1) natural landforms; 2) visual resources that provide a dramatic scenic backdrop to the wide sandy beaches of Southern California; and 3) designated Environmentally Sensitive Habitat Areas (ESHA). Dune habitats are ESHA because they support exceedingly rare ecosystems easily disturbed by human activities. The sand dunes located near the project site support a wide range of native vegetation including *Beach Primrose (Camissonia cheiranthifolia)*, *Beach Sand Verbena (Abronia umbellate)* and *Beach Bursage (Ambrosia chamissonis)*. Sand dunes are a vanishing landform in Southern California and their rare presence improves the scenic and visual character of a beach. Also, Section 30240(a) protects ESHA against any significant disruption and Section 30240(b) requires that development adjacent to any ESHA is sited to prevent impacts. While the proposed project site is near these sand dunes, no development is anticipated that will impact these sand dunes.

Thus, the proposed project would not result in any adverse impacts on environmentally sensitive habitat.

CONCLUSION

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the provisions of Section 30240 of the Coastal Act.

G. SCENIC RESOURCES

Section 30251 of the Coastal Act states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The proposed project area has a high aesthetic value, due to its location along the coast of Seal Beach and along the Eastern bank of the San Gabriel River. At the entrance to the RESA located at the Southern (seaward) terminus of First Street (intersection of First Street and Ocean Avenue) there is an existing public view of the beach and ocean (Exhibit #4). However, as part of the proposed project, landscaping is proposed that would result in adverse impacts to this current public view opportunity. Seaward and in line of sight from the RESA entrance a clump of *Pinus Torreyana (Torrey Pine)* and *Prunus Lyonii (Catalina Cherry)* are proposed to be planted. *Pinus Torreyana* can grow up to 40-feet in height and *Prunus Lyonii* can grow up to 25-feet in height. The heights of these proposed trees, combined with them being clumped together would create a wall adversely impacting the public view available from the entrance to the RESA. Thus, changes to the proposed Landscaping Plan are necessary. Therefore, the Commission imposes **SPECIAL CONDITION NO. 14**, which requires the applicant to submit two (2) full size sets of a Revised Landscaping Plan, which consists of landscaping which does not adversely impact scenic coastal views provided on site and maintenance of that landscaping such that views are not impacted.

Improvements to the San Gabriel River Trail would occur in the vicinity of Pacific Coast Highway (PCH). PCH is a primary transportation route within the cities of Seal Beach and Long Beach, and although not officially designated, it is an eligible State Scenic Highway. The proposed

project does not propose to damage any scenic resources or block the view of any scenic resources, within the viewshed of PCH. The project would result in a beneficial impact along the San Gabriel River Trail.

CONCLUSION

To minimize the adverse impacts caused by hazards, **ONE (1) SPECIAL CONDITION** has been imposed. **SPECIAL CONDITION NO. 14** requires the applicant to submit two (2) full size sets of a Revised Landscaping Plan, which consists of landscaping which does not adversely impact scenic coastal views provided on site and maintenance of that landscaping such that views are not impacted.

H. LOCAL COASTAL PROGRAM (LCP)

Section 30604 of the Coastal Act provides for the issuance of Coastal Development Permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

The proposed development is taking place in the City of Seal Beach and in the City of Long Beach. The City of Seal Beach does not have a certified Local Coastal Program. On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six (6) months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the Land Use Plan (LUP) with suggested modifications expired. The LUP has not been resubmitted for certification since that time. The City of Long Beach has a certified Local Coastal Program that was certified by the Commission on July 22, 1980

Based on Coastal Act Section 300601.3, the Commission may process and act upon a consolidated Coastal Development Permit application if both of the following criteria are satisfied:

- 1) A proposed project requires a Coastal Development Permit from both a local government with a certified Local Coastal Program and the commission.
- 2) The applicant, the appropriate local government, and the commission, which may agree through its executive director, consent to consolidate the permit action, provided that public participation is not substantially impaired by that review consolidation.

The standard of review for a consolidated Coastal Development Permit application are the Chapter 3 policies of the Coastal Act with the appropriate Local Coastal Program used as guidance. In a letter dated June 2, 2011, the City of Long Beach gave its consent to the City of Seal Beach to process a consolidated Coastal Development Permit with the Commission.

As conditioned, the proposed development is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not

prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

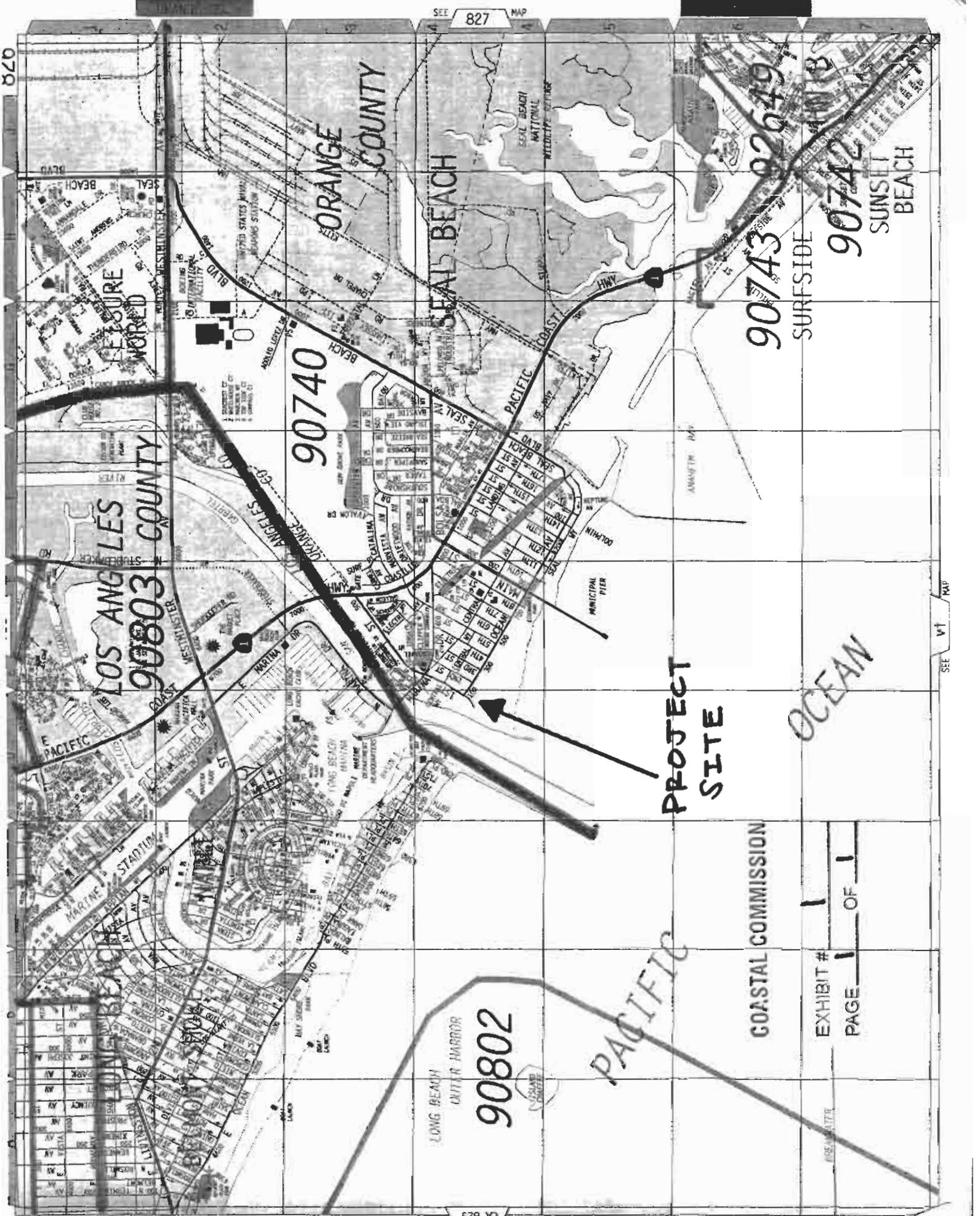
I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Seal Beach is the lead agency for purposes of CEQA compliance. A Mitigated Negative Declaration was prepared for this project in February 2010 pursuant to the provisions of CEQA. Mitigation measures included a measure to minimize any impacts to public access, hazards, and water quality.

The proposed project is located in an urban area. Infrastructure necessary to serve the project exists in the area. The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. As conditioned, the proposed project has been found consistent with the public access, hazards, and water quality policies of the Coastal Act.

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



SEE 827 MAP

020

ORANGE COUNTY

SEAL BEACH

90743 90742

SUNSET BEACH

SURFSIDE

LOS ANGELES COUNTY

90803

90740

PROJECT SITE

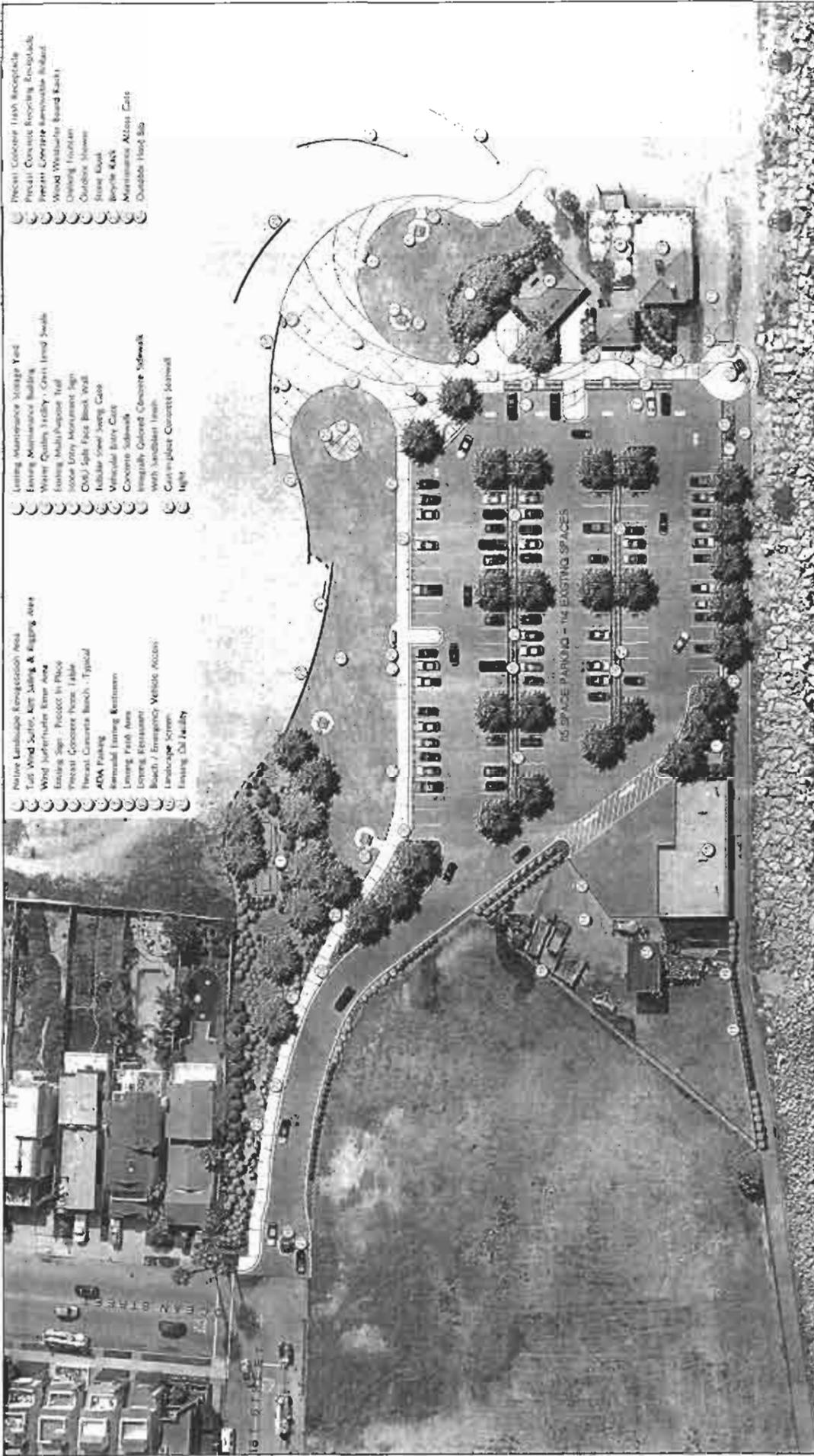
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COASTAL COMMISSION

EXHIBIT # 1 OF 1

LONG BEACH ENTER HARBOR 90802

PACIFIC



INITIAL STUDY/ANTICIPATED NEGATIVE DECLARATION
 RIVERS END STAGING AREA AND SAN GABRIEL RIVER BIKEWAY ENHANCEMENT PLAN

Proposed Rivers End Staging Area Conceptual Plan

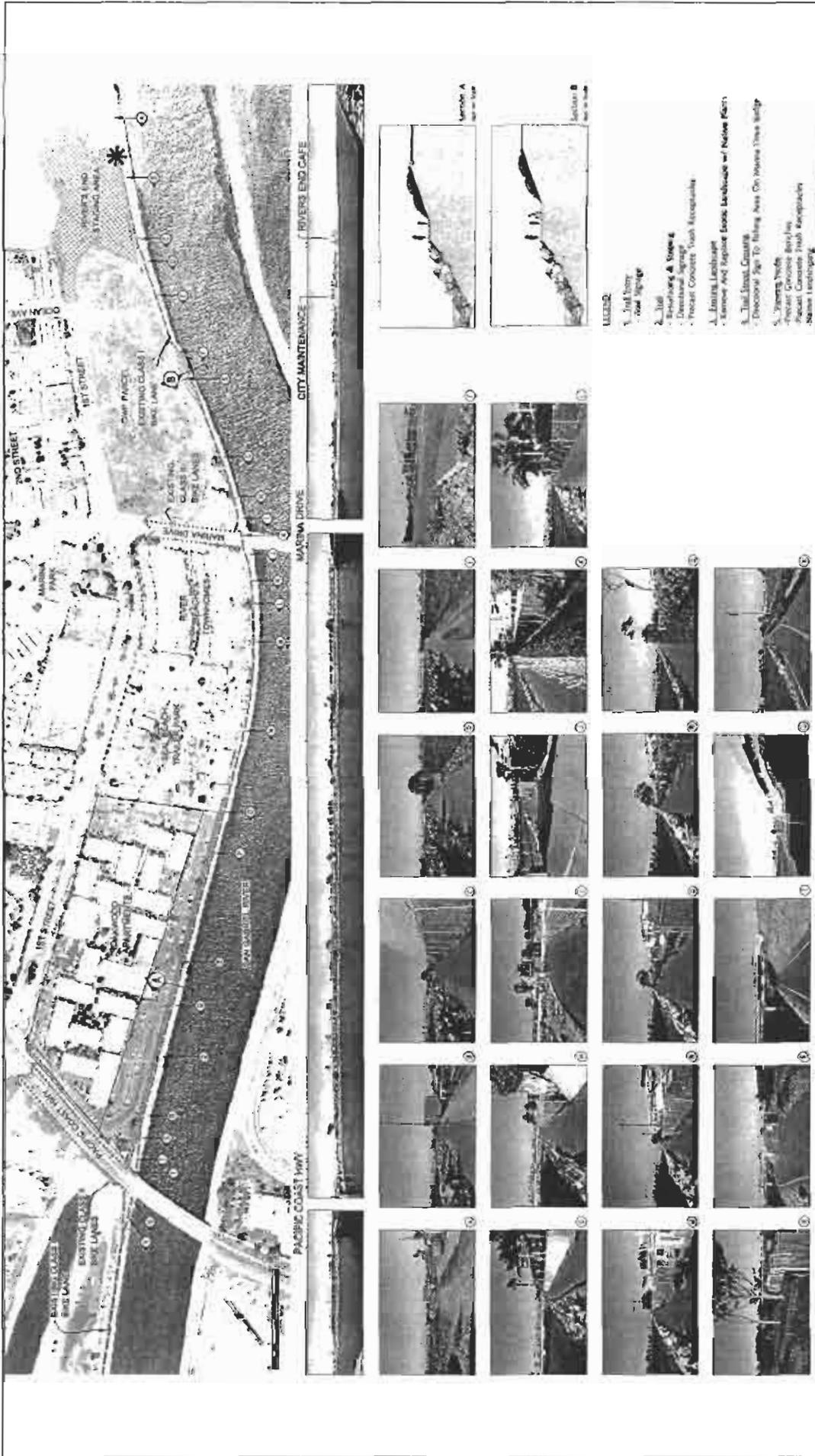
Exhibit 2-4

NOT TO SCALE



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EXHIBIT # 2
 PAGE 1 OF 2



INITIAL STUDY INVESTIGATED NEGATIVE DEGRADATION
 RISKING END STAGING AREA AND SAN GABRIEL RIVER BIKWAY ENHANCEMENT PLAN

Proposed Trail and Staging Area Enhancement Master Plan

Exhibit 2-3

LEASE

This Lease is made and entered into as of the 31st day of March, 2011 by and between Bay City Partners LLC, a California limited liability company ("Lessor"), and the CITY OF SEAL BEACH, a municipal corporation ("Lessee").

RECITALS

A. Lessor and Lessee have entered into a Settlement Agreement and Mutual Release dated March 16, 2011 ("Settlement Agreement") addressing and resolving certain issues in dispute between Lessor and Lessee.

B. The Settlement Agreement provides, among other things, for Lessor to lease a certain Driveway Parcel and a certain Bike Trail Parcel to Lessee.

C. Lessee has received a grant to improve the Driveway Parcel and Bike Trail Parcel in connection with the "Rivers End Staging Area and San Gabriel River Bikeway Enhancement Plan" ("RESA" hereinafter).

D. A portion of the Bike Trail Parcel crosses an easement commonly known as the "Ocean Avenue Extension." The parties disagree as to the width of the easement and the purposes of the easement. By entering into this Lease, neither party to this Lease is waiving its respective rights and claims as to that easement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby incorporated into and made a part of the terms and conditions of this Lease, and the covenants in this Lease, Lessor and Lessee agree as follows:

1. Description of Leased Premises. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Driveway Parcel legally described on Exhibit A and depicted on Exhibit A-1 (the "Driveway Parcel") and the Bike Trail Parcel legally described on Exhibit B and depicted on Exhibit B-1 (the "Bike Trail Parcel"). The Driveway Parcel and the Bike Trail Parcel are sometimes referred to collectively in this Lease as the "Leased Premises."

2. Term. The term of this Lease is for a period commencing on the date first above written and shall expire on the earliest to occur of:

- (i) March 31, 2015;
- (ii) Conveyance of the fee interest in the Driveway Parcel and the Bike Trail Parcel to the Lessee pursuant to the terms and conditions of the Settlement Agreement; or
- (iii) Thirty (30) days after the California Coastal Commission's denial of or declining to process further Lessor's proposed residential project. Lessor shall have sole discretion to determine whether a denial or declination has occurred.

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Upon such determination by Lessor, Lessor shall promptly notify Lessee in writing of any such denial or declining of further processing.

3. Rent. The annual rent for the Driveway Parcel and the Bike Trail Parcel shall be One Dollar (\$1.00) per annum payable in advance on or before the first business day of January of each calendar year; however Lessee shall not be in default for failure to pay rent unless such failure is not cured by Lessee within ten (10) days after written notice of the failure is delivered by Lessor to Lessee.

4. Use of Leased Premises. The Driveway Parcel shall be used for a public access roadway from First Street and Ocean Avenue to the public parking lot that serves the River's End Project in order to maintain public access to the public beach, the Pacific Ocean, Windsurfer Park, the First Street parking lot, and the River's End Café. The Bike Trail Parcel shall be used for a public bike path. Lessee agrees to maintain the Leased Premises in good, safe and in an orderly condition. Lessee may improve and install improvements on the Leased Premises in accordance with the plans for the RESA.

5. Indemnity. As a condition to the exercise of the rights under this Lease, Lessee shall release, defend, indemnify and hold harmless Lessor and Lessor's members, officers, employees, contractors, consultants and agents from any and all claims, demands, causes of action, injuries, damages and/or liability, however the same may be caused, which arise out of or are in any way connected with the Leased Premises granted by this Lease, except to the extent caused by the sole negligence and willful misconduct of the Lessor or the failure by Lessor to disclose material facts known to Lessor regarding the Leased Premises.

6. Lessee's Liability Insurance. Lessee is a member of the California Joint Insurance Authority ("CJPIA"). Attached hereto as Exhibit C and incorporated by this reference is evidence of the City's participation in the CJPIA's commercial insurance program with an annual aggregate limit in the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) with respect to the Leased Premises. As indicated in the letter, the CJPIA will endeavor to notify the Lessor in writing of any material change, cancellation or termination of the coverage at least 30 days in advance of the effective date of such material change, cancellation or termination.

7. Surrender of Possession Upon Expiration or Termination. Upon expiration or termination of this Lease, Lessee agrees to peaceably deliver possession of the Leased Premises to Lessor with any improvements and unconditionally agrees to vacate the leased area in a clean, safe and orderly condition, without contest, legal or otherwise.

8. Attorneys' Fees. Should either Lessor or Lessee be required to employ counsel to enforce the terms, conditions and covenants of this Lease, the prevailing party shall recover all reasonable attorneys' fees incurred therein, whether or not court proceedings were commenced, and court costs, if any.

9. Successors and Assigns. This Lease shall inure to the benefit and be binding upon Lessor and Lessee and each of the party's respective

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representatives, heirs, administrators, executors, successors, successors-in-interest and assigns.

10. Counterparts. This Lease may be executed in one or more counterparts, each of which, when taken together, shall constitute a completely executed original. The counterparts may be transmitted by facsimile, which shall be deemed original signatures.

11. Notices. Any notice or notices provided for in this Lease or by law, to be given or served by Lessor or Lessee, may be given or served by certified mail, return receipt requested, postage prepaid, or reputable overnight messenger service, with a request that the addressee sign a receipt evidencing delivery, addressed as follows:

To Lessor: Bay City Partners LLC
2999 Westminster Ave., Suite 211
Seal Beach, CA 90740
Attn: Rocky Gentner

To Lessee: City of Seal Beach
211 8th Street
Seal Beach, CA 90740
Attn: City Manager

With a copy to: Quinn Barrow, Esq.
Richards, Watson & Gershon
355 South Grand Ave., 40th Floor
Los Angeles, CA 90071-3101

12. Default Under Settlement Agreement. A default or breach of the terms or conditions of the Settlement Agreement shall also result in a default of the terms and conditions of this Lease.

[Signature page follows]

COASTAL COMMISSION

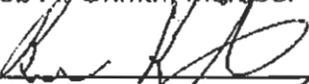
EXHIBIT # 3
PAGE 3 OF 14

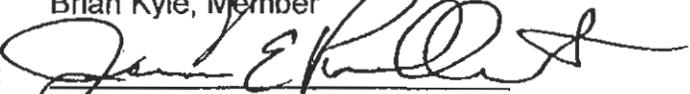
IN WITNESS WHEREOF, the parties have caused this Lease to be executed on the day and year first above written.

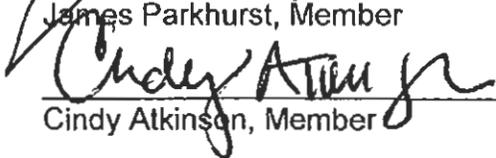
LESSOR:

BAY CITY PARTNERS LLC, a California limited liability company

By: 
Bob A. Griffith, Member

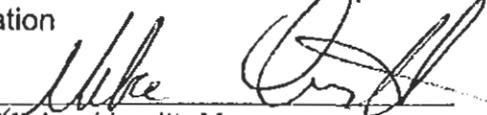
By: 
Brian Kyle, Member

By: 
James Parkhurst, Member

By: 
Cindy Atkinson, Member

LESSEE:

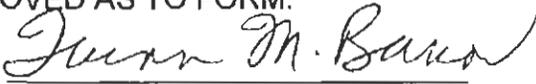
CITY OF SEAL BEACH, a municipal corporation

By: 
Michael Levitt, Mayor

ATTEST:


Linda Devine, City Clerk

APPROVED AS TO FORM:

By: 
Quinn Barrow, City Attorney

COASTAL COMMISSION

EXHIBIT # 3

PAGE 4 OF 14

EXHIBIT A

LEGAL DESCRIPTION OF DRIVEWAY EASEMENT

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EXHIBIT # 3
PAGE 5 OF 14

DRIVEWAY EASEMENT
EXHIBIT A

A STRIP OF LAND 40.00 FEET WIDE IN BLOCK B OF BAY CITY, IN THE CITY OF SEAL BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, PER MAP RECORDED IN BOOK 3, PAGE 19 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THE SOUTHEASTERLY LINE OF WHICH STRIP OF LAND IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE EXTENSION OF THE SOUTHEASTERLY LINE OF FIRST STREET AND THE SOUTHWESTERLY LINE OF OCEAN AVENUE AS SAID STREETS ARE SHOWN ON THE MAP OF SAID BAY CITY; THENCE, NORTH 54°44'12" WEST, 13.95 FEET ALONG THE SOUTHWESTERLY LINE OF OCEAN AVENUE AS SHOWN ON RECORD OF SURVEY NO. 2002-1090 FILED AS INSTRUMENT NO. 2003000516244 IN BOOK 193, PAGE 47 OF RECORDS OF SURVEY IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, STATE OF CALIFORNIA, TO THE TRUE POINT OF BEGINNING, SAID POINT ALSO BEING AT THE INTERSECTION OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 500.00 FEET WITH A RADIAL TO SAID CURVE AT SAID POINT BEARING NORTH 58°15'19" WEST; THENCE, SOUTHWESTERLY, 106.15 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°09'49" TO A POINT OF COMPOUND CURVE WITH A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 200.00 FEET, A RADIAL THROUGH SAID POINT OF COMPOUND CURVE BEARING NORTH 46°05'30" WEST; THENCE, SOUTHWESTERLY, 22.35 FEET ALONG SAID 200.00-FOOT RADIUS CURVE THROUGH A CENTRAL ANGLE OF 6°24'07" TO A POINT OF TANGENCY WITH A LINE BEARING SOUTH 50°18'37" WEST; THENCE, SOUTH 50°18'37" WEST ALONG SAID TANGENT LINE 42.77 FEET TO A POINT OF TANGENCY WITH A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 90.00 FEET; THENCE, SOUTHWESTERLY, 17.98 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°26'52" TO A POINT OF REVERSE CURVE WITH A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 400.00 FEET, A RADIAL THROUGH SAID POINT OF REVERSE CURVE BEARING SOUTH 28°14'31" EAST; THENCE, SOUTHWESTERLY, 78.24 FEET ALONG SAID 400.00-FOOT RADIUS CURVE THROUGH A CENTRAL ANGLE OF 11°12'25" TO THE SOUTHWESTERLY LINE OF SAID RECORD OF SURVEY NO. 2002-1090.

THE NORTHWESTERLY LINE OF SAID 40.00-FOOT-WIDE STRIP SHALL BE LENGTHENED OR SHORTENED TO TERMINATE SOUTHWESTERLY IN THE SOUTHWESTERLY LINE OF SAID RECORD OF SURVEY AND NORTHEASTERLY IN THE SOUTHWESTERLY LINE OF SAID OCEAN AVENUE.

CONTAINING 10,233 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

COASTAL COMMISSION

EXHIBIT # 3
PAGE 6 OF 14

EXHIBIT A-1

DEPICITION OF DRIVEWAY EASEMENT

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EXHIBIT # 3
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DRIVEWAY EASEMENT

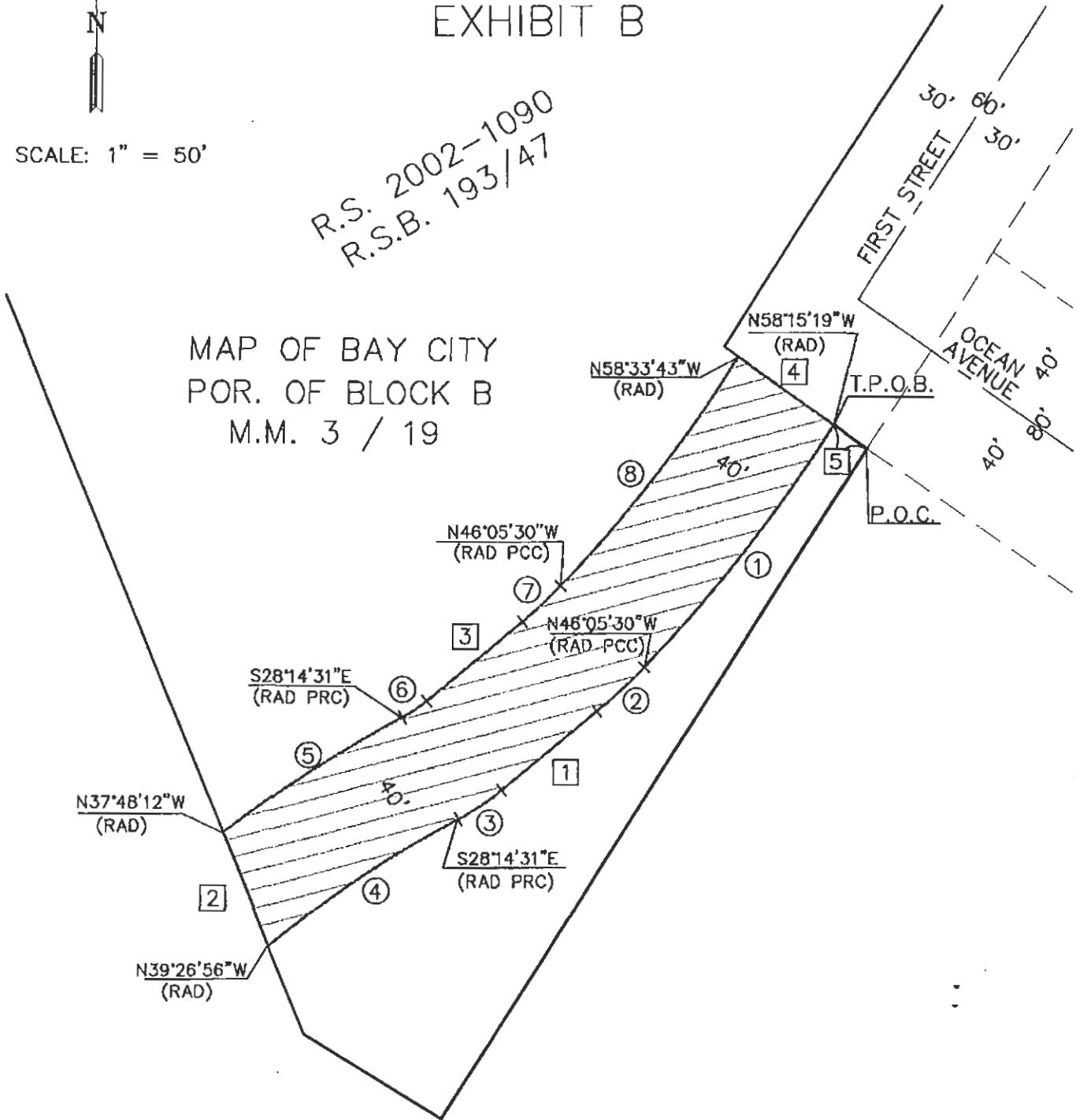
EXHIBIT B



SCALE: 1" = 50'

R.S. 2002-1090
R.S.B. 193/47

MAP OF BAY CITY
POR. OF BLOCK B
M.M. 3 / 19



○ DELTA	RADIUS	LENGTH	□ BEARING	DISTANCE
1 12° 09' 49"	500.00'	106.15'	1 S50° 18' 37" W	42.77'
2 6° 24' 07"	200.00'	22.35'	2 N21° 50' 35" W	41.78'
3 11° 26' 52"	90.00'	17.98'	3 N50° 18' 37" E	42.77'
4 11° 12' 25"	400.00'	78.24'	4 S54° 44' 12" E	40.08'
5 9° 33' 41"	440.00'	73.43'	5 S54° 44' 12" E	13.95'
6 11° 26' 52"	50.00'	9.99'		
7 6° 24' 07"	160.00'	17.88'		
8 12° 28' 13"	460.00'	100.12'		

COASTAL COMMISSION

EXHIBIT # 3
PAGE 9 OF 14

EXHIBIT B

LEGAL DESCRIPTION OF BIKE TRAIL PARCEL

COASTAL COMMISSION

EXHIBIT # 3
PAGE 9 OF 14

EXHIBIT B

Coast Surveying, Inc.
March 18, 2011

LEGAL DESCRIPTION OF BIKE TRAIL PARCEL

THOSE PORTIONS OF BLOCKS B AND C AND OCEAN AVENUE AS SHOWN ON THE MAP OF BAY CITY, IN THE CITY OF SEAL BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 3, PAGE 19 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE WESTERLY CORNER OF BLOCK B AS SHOWN ON RECORD OF SURVEY 2002-1090, RECORDED IN BOOK 193, PAGE 47 OF RECORDS OF SURVEY, IN THE OFFICE OF SAID COUNTY RECORDER; THENCE ALONG THE NORTHWESTERLY LINE OF SAID BLOCK B AND ALONG THE NORTHWESTERLY LINE OF OCEAN AVENUE THE FOLLOWING TWO (2) COURSES:

1. NORTH 25°31'25" EAST 78.63 FEET;
2. NORTH 21°26'48" EAST 80.01 FEET TO THE SOUTHERLY CORNER OF THE LAND DESCRIBED IN THE EASEMENT DEED TO THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT RECORDED MAY 20, 1933 IN BOOK 612, PAGE 317 OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER;

THENCE ALONG THE SOUTHWESTERLY LINE OF SAID EASEMENT DEED NORTH 28°13'48" WEST 5.29 FEET; THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 20°36'51" EAST 145.26 FEET; THENCE NORTH 08°13'15" EAST 25.13 FEET; THENCE NORTH 00°42'40" EAST 29.01 FEET; THENCE NORTH 20°50'28" EAST 87.75 FEET; THENCE NORTH 16°52'02" EAST 82.47 FEET; THENCE NORTH 18°18'30" EAST 130.33 FEET; THENCE NORTH 16°20'55" EAST 143.42 FEET; THENCE NORTH 19°04'10" EAST 9.40 FEET TO THE NORTHERLY LINE OF SAID LOT C; THENCE ALONG SAID NORTHERLY LINE SOUTH 63°58'48" EAST 9.78 FEET; THENCE LEAVING SAID NORTHERLY LINE SOUTH 15°01'22" WEST 74.66 FEET; THENCE SOUTH 17°33'54" WEST 179.66 FEET; THENCE SOUTH 74°58'38" EAST 29.41 FEET TO THE SOUTHEASTERLY LINE OF SAID EASEMENT DEED TO THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT; THENCE ALONG SAID SOUTHEASTERLY LINE SOUTH 11°38'49" WEST 91.41 FEET; THENCE CONTINUING ALONG SAID SOUTHEASTERLY LINE SOUTH 32°10'48" WEST 126.09 FEET; THENCE SOUTH 12°02'48" WEST 13.48 FEET; THENCE SOUTH 23°03'47" WEST 21.18 FEET; THENCE SOUTH 19°47'40" WEST 46.26 FEET; THENCE SOUTH 21°00'17" WEST 127.66 FEET; THENCE SOUTH 20°12'32" WEST 90.35 FEET; THENCE SOUTH 22°43'11" WEST 40.94 FEET TO THE SOUTHWESTERLY LINE OF SAID BLOCK B; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 21°50'35" WEST 18.54 FEET TO THE POINT OF BEGINNING.

CONTAINING 14,206 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 18TH DAY OF MARCH, 2011

Gwen Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108



COASTAL COMMISSION

EXHIBIT # 3
PAGE 10 OF 14

EXHIBIT B - 1

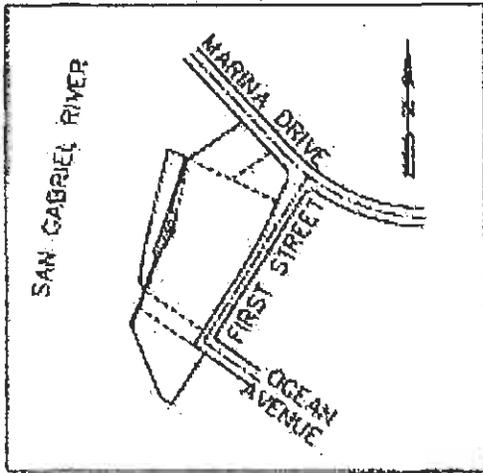
DEPICTION OF BIKE TRAIL PARCEL

COASTAL COMMISSION

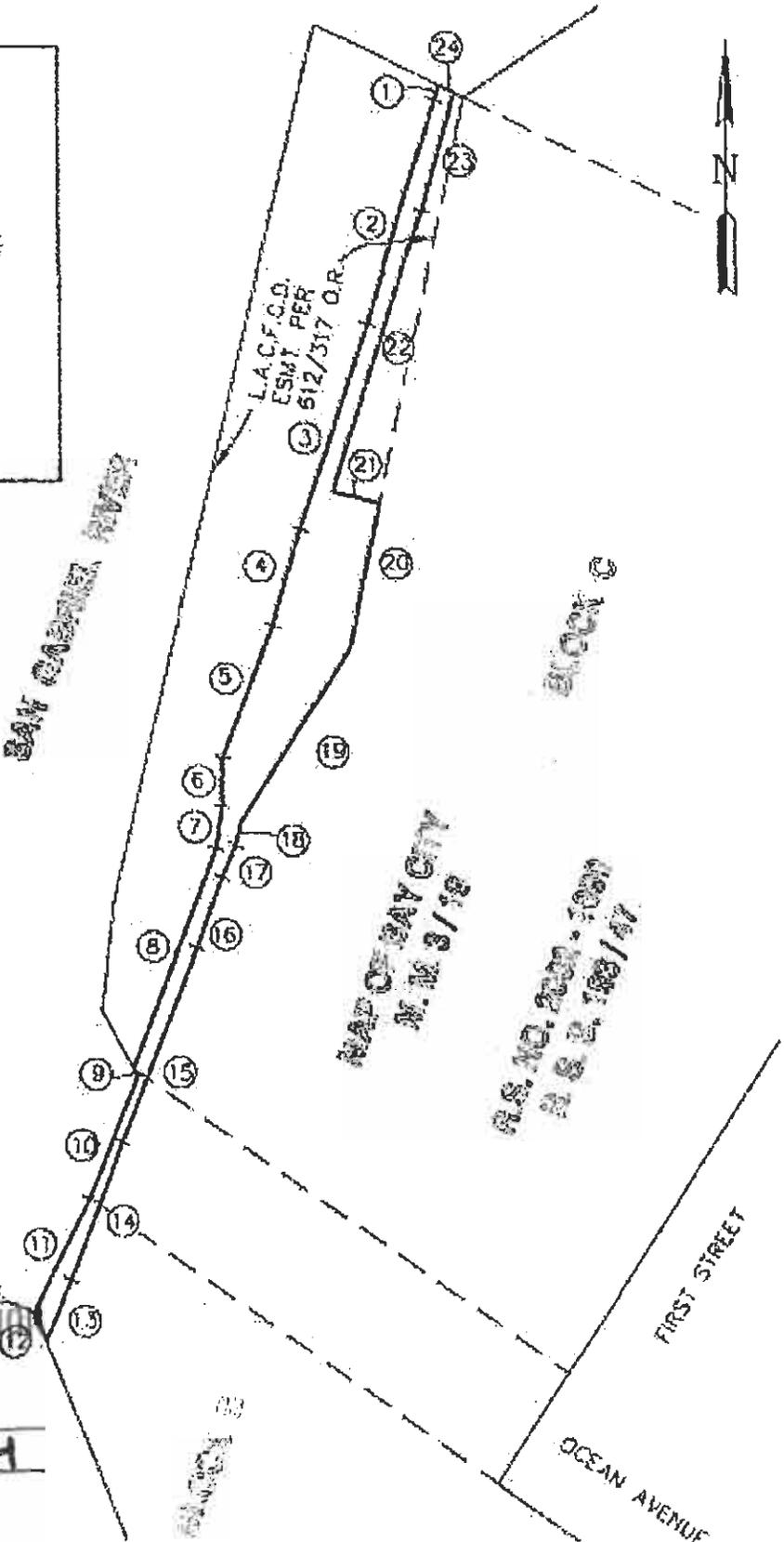
EXHIBIT # 3

PAGE 11 OF 14

VICINITY MAP
N.T.S.



	BEARING	DISTANCE
1	S19° 04' 10" W	9.40'
2	S16° 20' 55" W	143.42'
3	S18° 18' 30" W	130.33'
4	S15° 52' 02" W	62.47'
5	S20° 50' 28" W	87.75'
6	S00° 42' 40" W	29.01'
7	S08° 18' 15" W	25.13'
8	S20° 35' 51" W	145.26'
9	S28° 13' 48" E	5.29'
10	S21° 26' 49" W	80.01'
11	S25° 31' 25" W	78.63'
12	S21° 50' 35" E	18.54'
13	N22° 43' 11" E	40.94'
14	N20° 12' 32" E	90.35'
15	N21° 00' 17" E	127.66'
16	N19° 47' 40" E	46.26'
17	N23° 03' 47" E	21.18'
18	N12° 02' 28" E	13.48'
19	N32° 10' 48" E	126.09'
20	N11° 36' 49" E	91.41'
21	N74° 58' 38" W	29.41'
22	N17° 33' 54" E	179.66'
23	N13° 01' 22" E	74.66'
24	N63° 58' 48" W	9.76'



P.O.B.
COASTAL COMMISSION

EXHIBIT # 3

PAGE 12 OF 14

JOB #: 102-052
DATE: 3/18/11
SCALE: 1"=100'
SHEET 1 OF 3

EXHIBIT B-1
DEPICTION OF BIKE TRAIL PARCEL

COAST
12031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 818-6266

EXHIBIT C
EVIDENCE OF INSURANCE

COASTAL COMMISSION

EXHIBIT # 3
PAGE 13 OF 14



RECEIVED

AUG 18 2010

City Manager's Office

REVISED

August 12, 2010

Edward Selich
Bay City Partners
627 Bayside Drive
Newport Beach, California 92660

Member Name: City of Seal Beach
Activity: Public use of the: (1) a 10,768 sq. ft. property located southwesterly of First Street and Ocean Avenue upon which the First Street extension to the First Street Parking Lot is located and (2) the adjacent 10,233 sq. ft. property easterly of the First Street extension, as shown on maps in the City Clerk's office at Seal Beach City Hall and (3) the bike path allegedly on Bay City's property (aka DWP site).
Coverage Period: From 12:01 AM on 8/3/2010 to 11:59 PM on 6/30/2011

The City of Seal Beach (Member) along with other California public agencies, is a member of the California Joint Powers Insurance Authority (California JPIA), and participates in the following self-insurance and commercial insurance program that is administered by the California JPIA for its members:

General Liability Program, Including Automobile Liability
Coverage Limit: 2,500,000 per occurrence
Annual Aggregate Limit: 2,500,000

The California JPIA will endeavor to provide at least thirty (30) days notice of any change in the foregoing information.

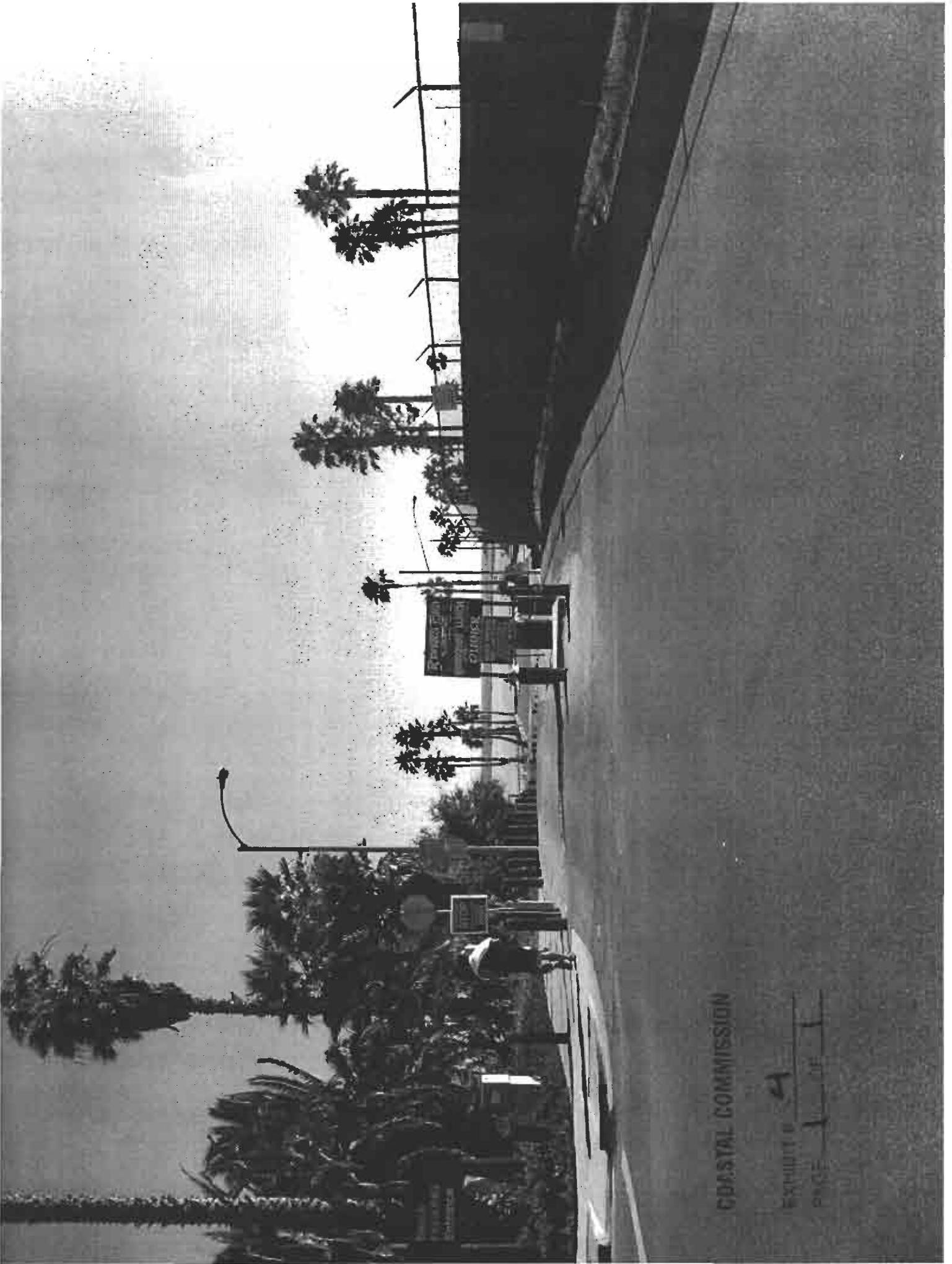
Sincerely,

Jim Thyden
Insurance Programs Manager

cc: Jill R. Ingram, Assistant to the City Manager, City of Seal Beach

COASTAL COMMISSION

EXHIBIT # 3
PAGE 14 OF 14



COASTAL COMMISSION

EXHIBIT # 4

PAGE 1 OF 1

August 24th, 2011

Chair Mary K. Shallenberger
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105



SUBJECT: City of Seal Beach Chamber of Commerce provides support for the City of Seal Beach River's End Staging Area (RESA) Application No. 5-10-220 regarding the San Gabriel River trail improvements.

Chair Shallenberger & Commissioners,

The Seal Beach Chamber of Commerce wished to provide feedback and insight on the city's intended improvements of the River's End Staging Area of the San Gabriel River Trail. This scenic byway provides a perfect opportunity for more "green" and ecologically minded visitors to make Seal Beach a coastal destination. We strongly support the application.

We also wished to commend staff and the public for being present and sharing in very valuable project input sessions over the last several years during the planning stages. As former chair of governmental affairs, vice president and president of the Chamber, I have been present at nearly all public stages of the project development. During this time it was clear to the business community that the focus of improvement in this area and the path itself will increase utility of our river area. This in turn will benefit the City, the business community and the visitor serving uses of our river trail.

The physical trail improvements, parking enhancements, addition of signage, bike racks, improved landscaping and lighting, the information kiosk and the more structured staging area into the beach will all be of great help. We want to attract visitors to our Main Street and Pier in addition to simply the path terminus. These elements will help do so and encourage both residents and visitors to enjoy our community in a new, deeper way.

Please contact me if you require additional information. I can be reached at (562) 799-0179, or by e-mail at seth@blackmarbleconsulting.com.

Sincerely,

A handwritten signature in black ink that reads "Seth A. Eaker". The signature is written in a cursive style with a horizontal line underneath.

Seth A. Eaker
Past President, Seal Beach Chamber of Commerce
Chairman, West OC Legislative Committee
Member, DWP Advisory Committee

CC: Jill Ingram, City Manager, Linda Devine, City Clerk, Mark Persico, Director of Development Services

RECEIVED
South Coast Region

AUG 25 2011

CALIFORNIA
COASTAL COMMISSION

COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 3



Save Our Beach is a non-profit 501(C)3 corporation ID# 35-2476382 dedicated to improving the water quality along the Southern California coastline

August 25, 2011

Chair Mary K. Shallenberger
California Coastal Cleanup
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RECEIVED
South Coast Region

AUG 25 2011

CALIFORNIA
COASTAL COMMISSION

SUBJECT: Support
City of Seal Beach River's End Staging Area (RESA)
Application No. 5-10-220

Dear Chairwoman Shallenberger,

I'm writing to support the City of Seal Beach in its efforts to improve the San Gabriel River Bike Trail and the River's End Staging Area (RESA). The Bike Trail and RESA are important local and regional amenities that serve trail riders, wind surfers and beach goers from a large section of both Orange and Los Angeles County. My organization, Save Our Beach, has been a partner with the City for many years and we use the RESA as a gathering spot for our monthly beach cleaning programs.

I believe these improvements will greatly enhance the public's beach experience and improve overall accessibility to the parking lot, public restrooms and beach.

Thank you in advance for your consideration of this important public project.

Respectfully,

Kim Masoner, Founder
Save Our Beach

www.saveourbeach.org

Save Our Beach
213 Ocean Ave., Suite B, Seal Beach, CA 90740

COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 3



August 24, 2011

To: Chair Mary K. Shallenberger
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Dear Ms. Shallenberger:

I am writing to voice my support of bike trail improvements in Seal Beach.

As a concerned citizen and also certified professional coach with the National Strength and Conditioning Association, I advocate the use of bicycles to improve cardiovascular and musculo-skeletal health for all of my clients. The bicycle allows any person at a basic fitness level to reduce the risks associated with sedentary living simply by riding a bike.

In addition to the health benefits, each automobile that is replaced by a bicycle unburdens the city's infrastructure. Citizens are much more likely to use bike trails than city streets for safety and for enjoyment.

To accelerate the use of bikes over automobiles, I host three major recreational cycling events annually in California designed to get women out of their cars and on to their bikes. The locations are Sacramento, Long Beach/Seal Beach/Huntington Beach, and San Diego. In each of these events we utilize the bike trails as a way to show the community that these trails are available, useful, and bring about healthful lifestyle changes when used routinely.

I hope to be an advocate for cycling on bike trails if you should need a strong voice.

Best,

Janae Noble, CEO
Noble Pursuit, Inc.
www.NoblePursuitInc.com

COASTAL COMMISSION

EXHIBIT # 5
PAGE 3 OF 3

RECEIVED
South Coast Region

AUG 25 2011

CALIFORNIA
COASTAL COMMISSION

Noble Pursuit, Inc.
1400 Pacific Coast Highway, Ste. 314 •Huntington Beach, CA 92648