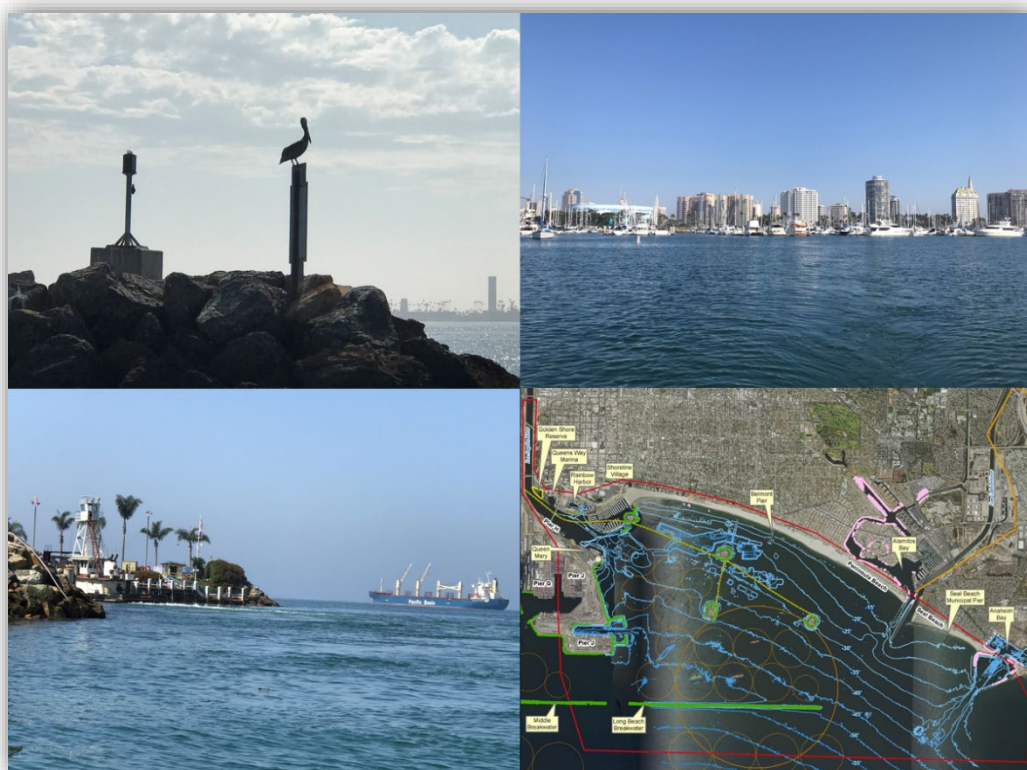

DRAFT INTEGRATED FEASIBILITY REPORT AND ENVIRONMENTAL IMPACT STATEMENT / ENVIRONMENTAL IMPACT REPORT (EIS/EIR)

APPENDIX J: REAL ESTATE EAST SAN PEDRO BAY ECOSYSTEM RESTORATION STUDY Long Beach, California

November 2019



US Army Corps
of Engineers®



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1 INTRODUCTION

This appendix is prepared in accordance with Engineering Regulation (ER) 405-1-12, 12-16, Real Estate Plan (REP), and presents the real estate requirements for the East San Pedro Bay Ecosystem Restoration Project Tentatively Selected Plan (TSP), Alternative 4A, described below.

The study area is located offshore of the City of Long Beach, California in the easternmost part of San Pedro Bay. It includes the area between the Long Beach shoreline and the offshore Middle and Long Beach Breakwaters. The purpose of the study is to evaluate opportunities for providing ecosystem restoration off-shore of the City of Long Beach within East San Pedro Bay. The Non-Federal sponsor for the project is the City of Long Beach.

In this Real Estate Plan, an appendix to the Integrated Feasibility Report (IFR), the Corps must, for the TSP, fully describe the lands, easements, and rights-of-way, relocations, and disposal sites (LERRD) required for construction, operation, and maintenance of the project, including the acreage, estates, number of tracts/parcels, ownership, and estimated value. The Corps must include other relevant information on sponsor ownership of land, proposed non-standard estates, existing Federal projects and ownership, required relocations under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (P.L. 91-646, as amended) (“the Uniform Act”), presence of contaminants, and other issues as required by ER 405-1-12. This real estate plan is tentative in nature for planning purposes only and both the final real estate acquisition lines and the estimate of value are subject to change even after approval of the report.

1.1 STUDY AUTHORITY

The study is being conducted as an interim response to the Senate Committee on Public Works Resolution approved 25 June 1969.

2 PROJECT DESCRIPTION/REAL ESTATE REQUIREMENTS – LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS AND DISPOSAL/BORROW SITES (LERRDS)

The TSP is Alternative 4A which will restore 200.69 acres of habitat within East San Pedro Bay. A list of habitat types and acreages is provided below. A detailed description is found in Chapter 6 of the Draft IFR.

The TSP will require a staging area, identified at Pier T, and a borrow site, identified as the established Surfside-Sunset Borrow Site.

Alternative 4A - Restoration Areas

Final Array Alternative	Total Area (ac)
ALT 4A Total	200.69
Eelgrass Beds	30.27
Kelp Beds	121.38
Nearshore Rocky Reef	19.86
Open Water Rocky Reef	29.19

2.1 STANDARD ESTATES

The Non-Federal sponsor will be responsible for provision of any lands, easements, rights-of-way, relocations and disposals required for the project.

The standard estate for ecosystem restoration is Standard Estate #1- Fee Estate

FEE

The fee simple title to (the land described in Schedule A) (Tracts Nos. ____, ____, and ____), Subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

The standard estate for a staging area including borrow area is Standard Estate #15 – Temporary Work Area Easement.

TEMPORARY WORK AREA EASEMENT

A temporary easement and right-of-way in, on, over and across the land described in Exhibit ____ for a period not to exceed ____ years, beginning with the date possession and use of the land is granted to {Name of Non-Federal Sponsor} for the use of this Grantee, its representatives, agents, and contractors as a work area including the right of access, ingress and egress, and including the right to borrow and deposit fill, spoil and waste material thereon, move store and remove equipment and supplies and erect and remove any temporary structures placed on the land; and to perform any other work necessary and incidental to the East San Pedro Bay Ecosystem Restoration Project; reserving however to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

2.2 ACQUISITION OF LAND

The Non-Federal Sponsor (NFS) has legislative jurisdiction of the Tidelands areas in East San Pedro Bay where the project plans to restore 201 acres of habitat. The NFS also has fee ownership of the 2.4 acre proposed staging areas needed for the project. The NFS will have to acquire a lease from the California State Lands Commission (CSLC) to use approximately borrow material from an identified site at Surfside-Sunset.

RESTORATION LANDS

The sponsor has jurisdiction over the submerged lands, granted by statute. No additional interest needs to be acquired.

STAGING AREA

Pier “T” has been identified as the staging area for the project. The staging area would consist of 2.4 acres with 600 ft. of water access. Pier “T” is owned in fee by the NFS. The interest required, as stated above, is that of a temporary work area easement. LERRD credit would be limited to that associated with the required interest, after verifying that the land was not provided as part of a previous federal project. Should additional staging areas be identified as needed during the PED or construction phase that are not owned by the NFS a temporary work area easement will be required to be acquired.

BORROW AREA

The borrow area is located in submerged lands under the jurisdiction of the CSLC. The standard estate is temporary work area easement.

2.3 UTILITIES

Currently, no utilities are anticipated to be impacted by the project.

Table 2-1 Best Buy Plan 4A

FEATURE / REQUIREMENT	APN	TYPE OF INTEREST REQUIRED	AREA NEEDED FOR PROJECT (Acres)	OWNER/LEGISLATIVE JURISDICTION	ESTIMATED VALUE
Eelgrass	N/A	Fee	30.27	Sponsor has legislative jurisdiction	N/A
Kelp - Breakwater	N/A	Fee	60.69	Sponsor has legislative jurisdiction	N/A
Kelp – Open water	N/A	Fee	60.69	Sponsor has legislative jurisdiction	N/A
Rocky Reef	N/A	Fee	29.19	Sponsor has legislative jurisdiction	N/A
Rocky Reef - Nearshore	N/A	Fee	19.86	Sponsor has legislative jurisdiction	N/A
Borrow Site – Surfside Sunset	N/A	Lease	100 kcy	California State Lands Commission	\$5000 admin cost
Staging Area	7436-031-905	TWAE*	2.40	Sponsor owns in fee	1,271,433
TOTAL			303.1 +/-		

* TWAE – Temporary Work Area Easement

3 SPONSOR-OWNED REAL ESTATE

All submerged lands required for restoration feature construction and OMRRR of project features are currently anticipated to occur within lands granted to the City of Long Beach by statute.

The California State Lands Commission typically has jurisdiction of the area water ward of the mean high tide line. However, local entities can be granted sovereign tide and submerged lands in trust. A map showing the current boundaries of the land legislatively granted to the City of Long Beach is shown in section #8 of the Real Estate Plan.

A summary of LER for which the sponsor is the fee owner or has been granted the lands by statute is shown in the tables in section #2 above.

4 PROPOSED NON-STANDARD ESTATES

No non-standard estates are proposed at this time. Should a non-standard estate be needed, it would be coordinated with Headquarters Real Estate per the prescribed procedures. A lease has historically been the established method of conveying suitable rights for borrow site use at the Surfside-Sunset location, used for several Corps projects within Los Angeles District.

5 EXISTING FEDERAL PROJECT

Existing Federal projects are located in the vicinity of the current proposed project. It is not anticipated that any of the restoration features will occur on federally owned land or modify the federal project. Should lands acquired for a previous federal project be identified for any feature or staging area, no additional credit would be granted under this project.

Los Angeles and Long Beach Harbors are authorized by the 1896 River and Harbor Act and subsequent River and Harbor Acts. There are 3 breakwaters: San Pedro Breakwater is 11,150 ft. long, Middle Breakwater is 18,500 ft. long and the Long Beach Breakwater is 13,350 ft. long. The Long Beach Harbor portion of the project include the Approach Channel through Queens Gate that is about 15,800 ft. long, 1200-1300 ft. wide and has a depth of 76 ft. below Mean Lower Low Water (MLLW). The Main Channel is about 16,700 ft. long, with a varying width between 400-1400 ft. and an authorized depth of 76 ft. below MLLW.

6 FEDERAL LANDS, INTERESTS OR RESERVATIONS

There are three areas of federally owned lands, interests or reservations in the project area, none of which will be affected by the construction or OMRRR of the TSP.

1. Long Beach Breakwater - The managing federal agency is the Los Angeles District of the Army Corps of Engineers.
2. Los Angeles River Estuary - The managing federal agency is the Los Angeles District of the Army Corps of Engineers.
3. Long Beach Channel - The managing federal agency is the Los Angeles District of the Army Corps of Engineers.

7 NAVIGATION SERVITUDE

Navigation servitude refers to the public right of navigation. [United States v. 412.715 Acres of Land, 53 F. Supp. 143, 148 (D. Cal. 1943)]. This term is used to describe the paramount interest of the U.S. in navigation and the navigable waters of the nation. The servitude derives from the Commerce Clause and is a concept of power, not of property. Under the servitude, when the U.S., in the exercise of its powers over navigation, affects the interests of owners of private property, it is not generally required to compensate the owners. [United States v. Certain Parcels of Land, 666 F.2d 1236, 1238 (9th Cir. 1982)].

Exercise of Federal Navigation Servitude is not being invoked for this project.

8 MAPS/PHOTOS OF PROJECT AREA

Figure 8-1

This figure shows the general project area which is located offshore from the City of Long Beach, California, in East San Pedro Bay. This is the specified area within which the project plans most likely to be located. It includes the area extending out from the Long Beach shoreline, including the Los Angeles River estuary, to approximately 2,500' of the eastern tip of the Middle Breakwater, which is west of the Long Beach Breakwater as shown below.

Figure 8-2

This figure shows the greater study area which includes areas that may be used for reference sites or analyzed as part of the project. It includes the entire San Pedro Bay from the Palos Verde peninsula west of Point Fermin to Huntington Beach to the east. No project plans will be proposed outside the general project area shown in Figure 1, even though the entire San Pedro Bay area has been subject to habitat loss resulting from structural improvements to the shoreline and nearshore area.

Figure 8-3

This figure shows a map of subsea pipelines including borrow areas.

Figure 8-4

This figure shows a map of subsea pipelines including borrow areas.

Figure 8-5

This figure shows the current grant map.

Figure 8-7

This figure shows Best Buy Plan 4A

Figure 8-11

This figure shows the proposed staging area



Figure 8-1 Project Area

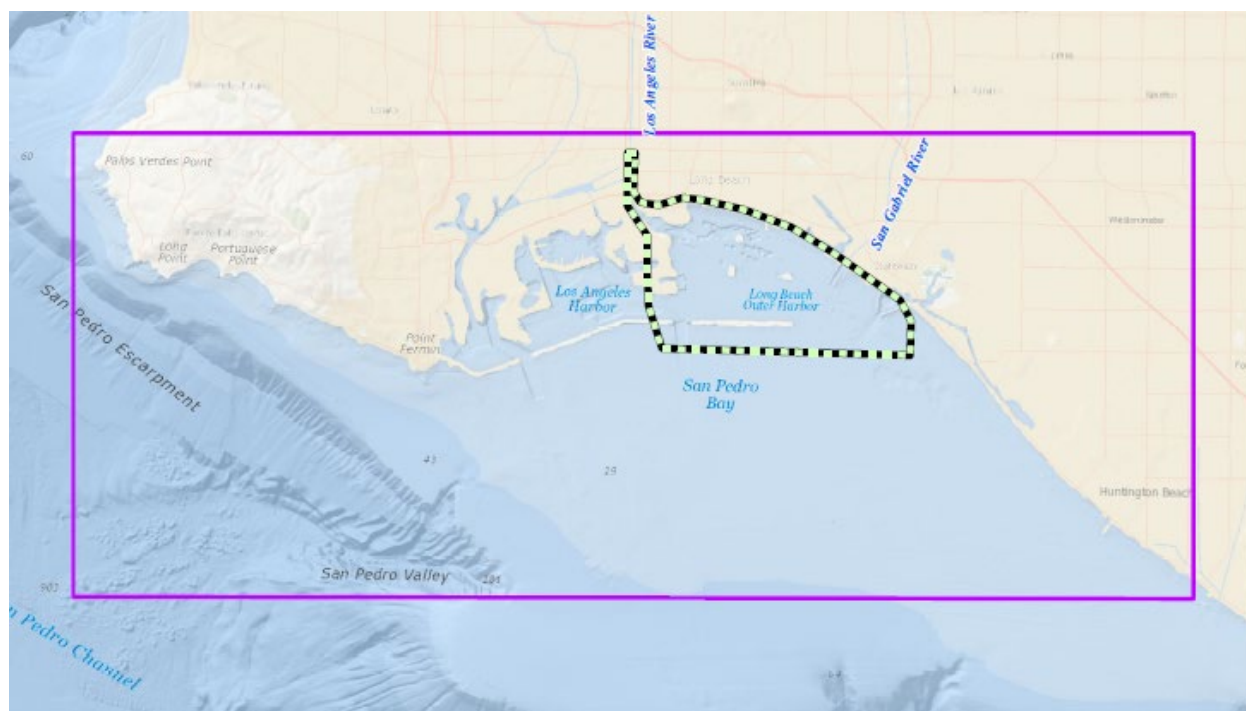


Figure 8-2 Study Area

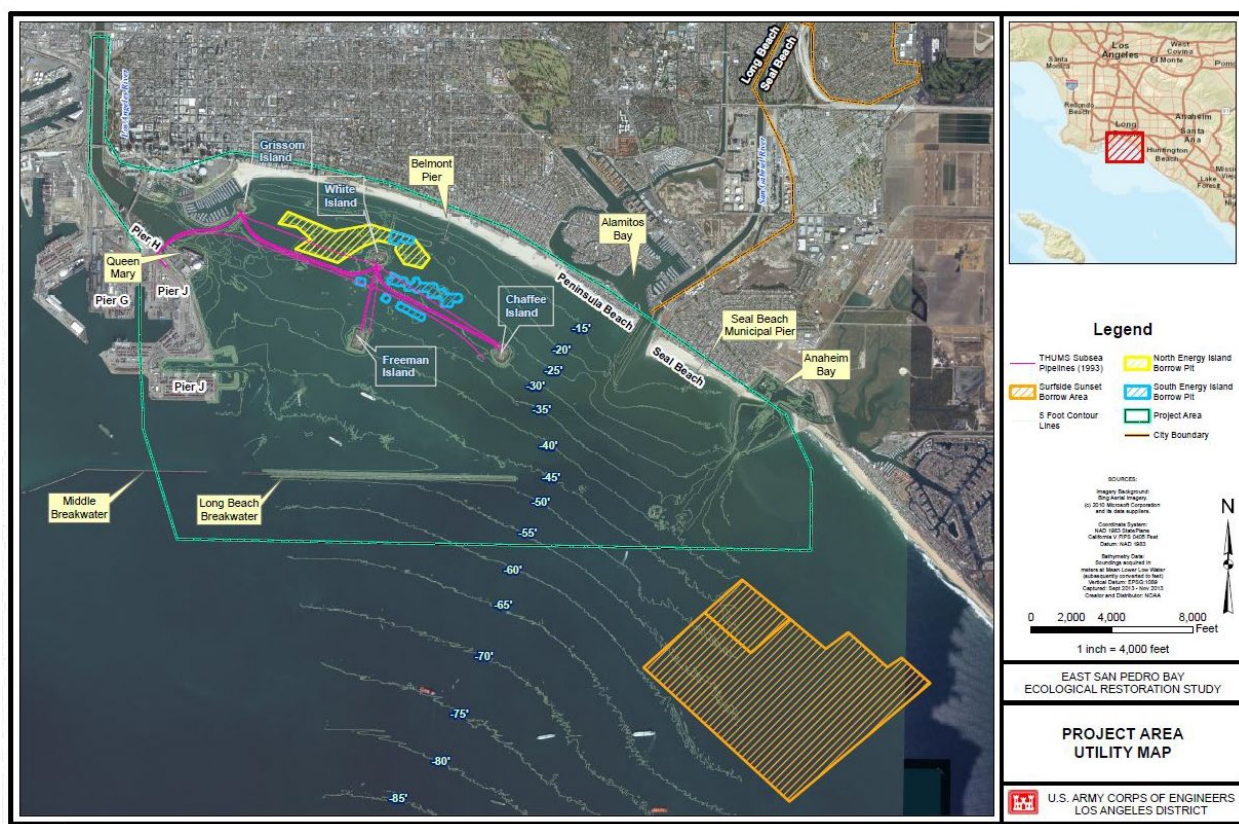


Figure 8-4 Subsea Pipelines including Borrow Areas

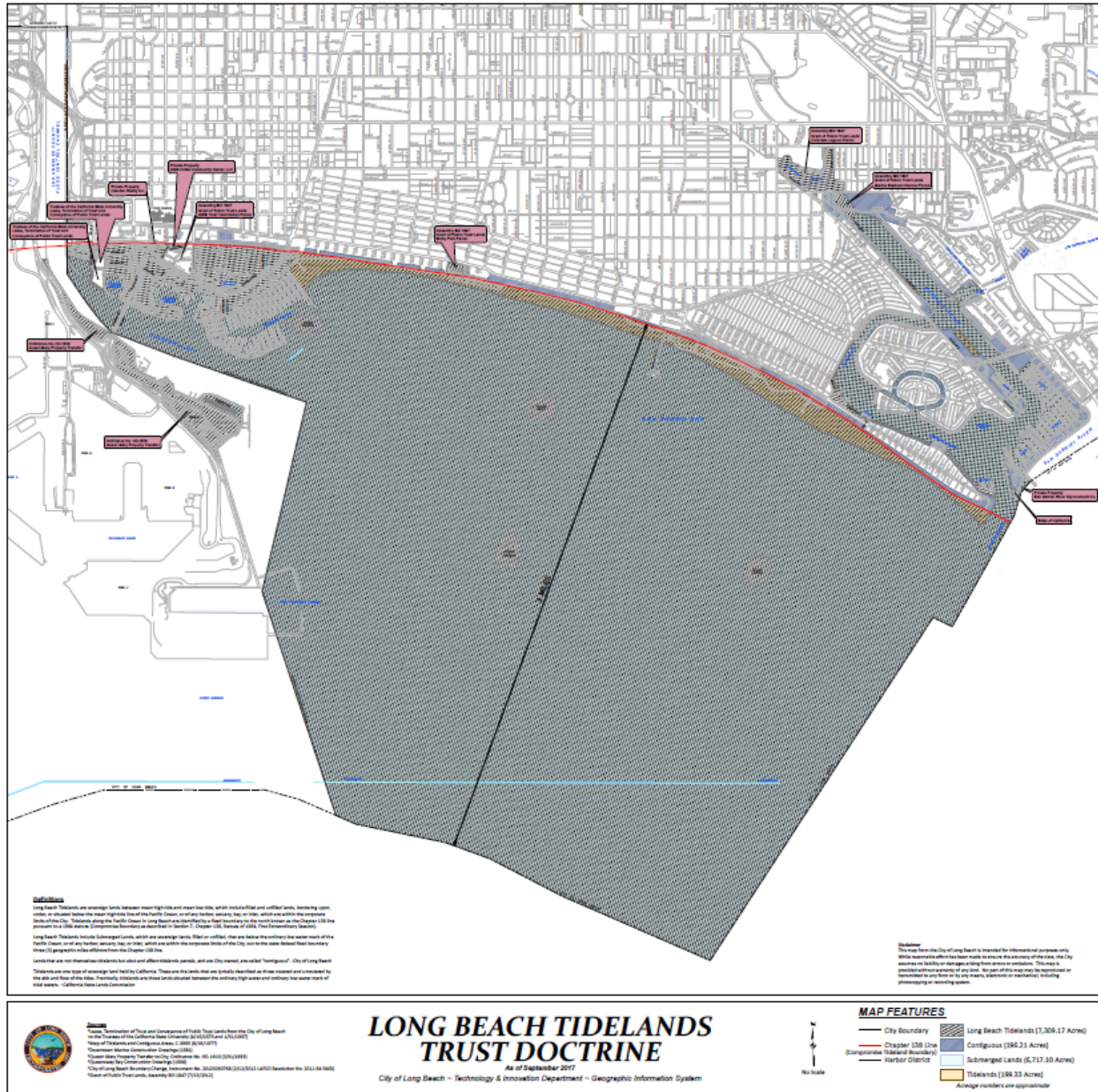


Figure 8-5 Long Beach Tidelands Trust Doctrine

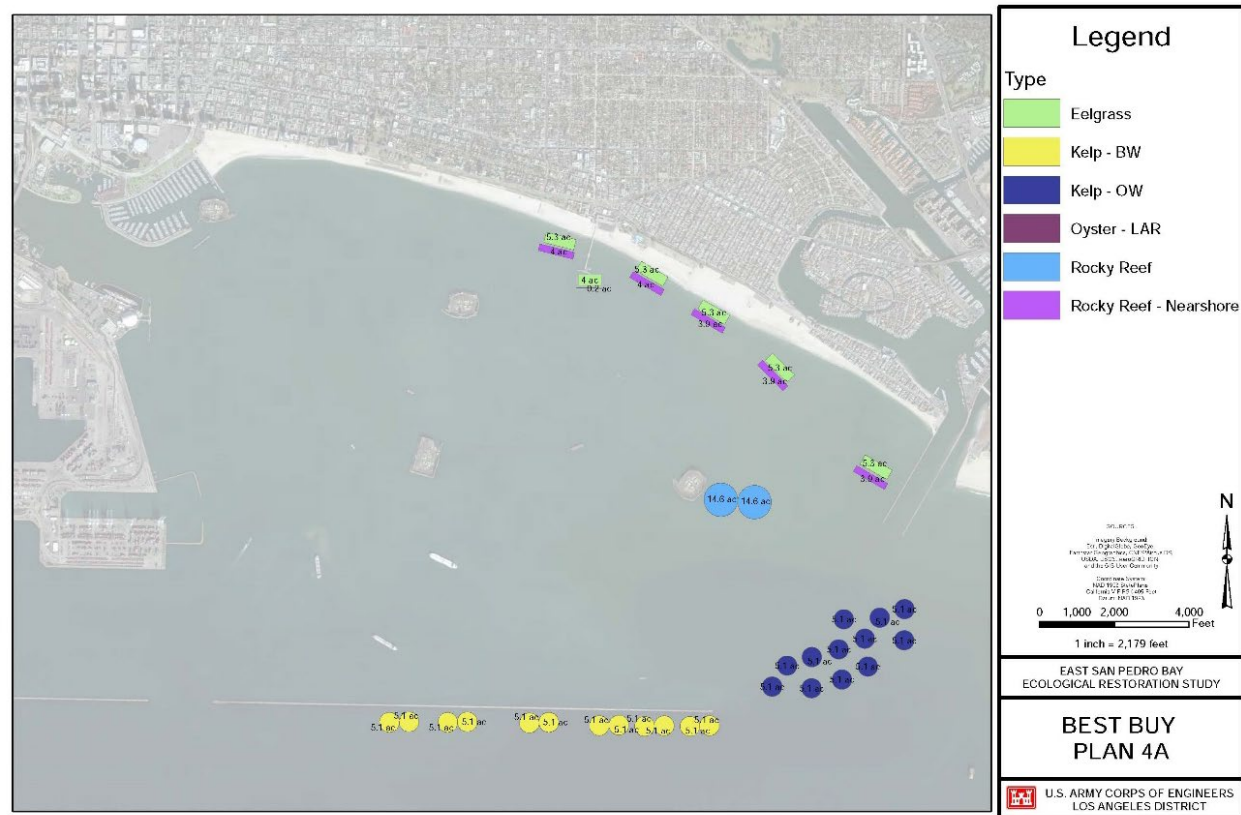


Figure 8-6 Best Buy Plan 4



Figure 8-7 Proposed Staging Area

9 EXTENT OF PROJECT INDUCED FLOODING

No flooding will be induced by the TSP. Additional flood mitigation measures are not required.

10 BASELINE COST ESTIMATE

Table 10-1 Baseline Cost Estimate

NER PLAN (TSP)	VALUE
Non-Federal Sponsor owned Lands, Easements & Right-of-Way	\$ 0
Contingency 25%	\$ 0
SUB-TOTAL of NFS Owned LER	\$ 0
Land, Easements & Right-of-Way to be acquired by Non-Federal Sponsor	\$ 1,017,153
Contingency 25%	\$ 254,280
SUB-TOTAL of NFS Acquired LER (temporary staging area)	\$ 1,271,433
Relocations Facility/Utility (incl. contingencies)	\$ 0
Relocations PL 91-646	\$ 0
Non-Federal Administration Costs	\$ 40,000
Non-Federal Contingency (for NFS Admin. Costs)	\$ 10,000
NFS LERRD SUB-TOTAL	\$1,321,433
Federal Administration Costs	\$ 28,000
Contingency 25%	\$ 7,000
Federal SUB-TOTAL	\$ 35,000
Total Real Estate Costs	\$ 1,356,433
Total Real Estate Costs (rounded)	\$ 1,356,000

11 PL 91-646 RELOCATION ASSISTANCE BENEFITS

Preliminary investigations indicate that there will be no persons, farms or businesses displaced during the acquisition of lands required for any of the proposed plans. If necessary, the sponsor will be required to certify compliance with the requirements of PL 91-646, including landowners being properly advised of their rights under the program and appropriate benefit determinations, if any.

12 DESCRIPTION OF PRESENT OR ANTICIPATED MINERAL ACTIVITY

Four small artificial islands containing oil wells (the THUMS Islands) and associated utility lines are scattered around the bay near in the study area and this situation is expected to continue in the future. Section 16 of this report lists the utility lines going to/from the THUMS Islands.

However, there is no known present or anticipated mineral activity within the vicinity of the study Area that may affect construction, operation, or maintenance of the Project.

13 SPONSOR CAPABILITY ASSESSMENT

The City of Long Beach is the official non-Federal sponsor. The sponsor is a duly organized municipal corporation in the State of California and is vested with sufficient power to acquire and hold title, and to condemn lands as needed for public purposes. The Project Partnership Agreement (PPA) will contain information pertaining to credit for value of lands, easements, rights-of-way, relocations and disposal area improvements (LERRD). The Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability has been completed. A copy of the assessment is included as Exhibit 1 of the Real Estate Appendix.

14 ENACTMENT OF ZONING ORDINANCES

No enactments of zoning ordinances are being proposed in lieu of or to facilitate acquisition in connection with the project.

15 REAL ESTATE ACQUISITION SCHEDULE AND MILESTONES

Alternative 4A is anticipated to take 37 months to complete construction of restoration features. Coordination and acquisition of staging areas and borrow sites will commence 18 months prior to year one of construction.

16 FACILITY/UTILITY RELOCATIONS

Examination of utilities in the project area has been performed. No utilities or facilities, including pipelines and energy islands, are anticipated to be affected and all are planned to be avoided. REP will be updated if there are changes during PED.

17 HAZARDOUS WASTE ASSESSMENTS

17.1 HAZARDOUS, TOXIC, OR RADIOACTIVE WASTE

No HTRW will be affected by or require remediation for the project. Identified sites will be avoided.

18 SUPPORT FOR/OPPOSITION TO THE PROJECT

As with many proposed studies and projects, stakeholder perspectives vary widely with the East San Pedro Bay Ecosystem Restoration Feasibility Study. Stakeholder perspectives are identified in the IFR. Two of the most prominent topics of controversy are presented below.

Breakwater Modifications - One of the primary areas of conflict is over whether or not to remove or modify the breakwater. Surfrider Foundation advocates for this measure in their "Surfrider Alternative." It is also preferred by the residents and other shoreline visitors who want more waves at the beaches. Concerns about wave impacts from breakwater modifications by the Navy and ports stakeholders were confirmed through technical analysis. The study process considered breakwater modifications until screening those measures and plans out due to violation of study constraints, extremely high costs, and lack of benefits.

1 Sandy or Soft-Bottom Restoration –the objective of this study is to restore imperiled aquatic habitats
2 and other types historically present in San Pedro Bay, to address the problems of loss of sensitive marine
3 habitats and associated functions. The intent is not to restore what may have historically existed in the
4 exact footprint in East San Pedro Bay, but to restore ecological functions associated with high value
5 habitat within San Pedro Bay to support overall biodiversity and ecological health for marine
6 populations within the southern California Bight. These habitat types are also currently found in East San
7 Pedro Bay.

8 **19 PROJECT SPONSOR RESPONSIBILITIES**

9 The City of Long Beach is the official non-Federal sponsor.

10 The NFS has the responsibility to acquire all real estate interests required for the Project. The NFS shall
11 accomplish all alterations and relocations of facilities, structures and improvements, if any, determined
12 by the government to be necessary for construction of the Project. The sponsor will have operation and
13 maintenance responsibility for the project after construction is completed.

14 Title to any acquired real estate will be retained by the NFS and will not be conveyed to the United
15 States Government. Prior to advertisement of any construction contract, the NFS shall furnish to the
16 government an Authorization for Entry for Construction to all lands, easements and rights-of-way, as
17 necessary. The NFS will also furnish to the government evidence supporting their legal authority to grant
18 rights-of-way to such lands. The NFS shall comply with applicable provisions of the Uniform Relocation
19 Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, approved January
20 1971, and amended by Title IV of the Surface Transportation Uniform Relocation Assistance Act of 1987,
21 Public Law 100-17, effective 2 April 1989, in acquiring real estate interests for the Project, and inform all
22 affected persons of applicable benefits, policies, and procedures in connection with said Act(s). A form
23 for the Assessment of the Non-Federal Sponsor's Capability to Acquire Real Estate is included in Exhibit
24 #1 of the Real Estate Appendix.

25

The Non-Federal sponsor is entitled to receive credit against its share of project costs for the value of lands it provides and the value of the relocations that are required for the project. Generally, for the purpose of determining the amount of credit to be afforded, the value of the LER is the fair market value of the real property interest, plus certain incidental costs of acquiring those interests, that the Non-Federal sponsor provided for the project as required by the Government. In addition, the specific requirements relating to valuation and crediting contained in the executed PPA for a project must be reviewed and applied.

The NFS should not acquire lands required for the project prior to execution of the Project Partnership Agreement (PPA). Should the NFS proceed with acquisition of lands prior to execution of the PPA, it is at the risk of not receiving credit or reimbursement for any costs incurred in the connection with the acquisition process should the PPA not be signed. There is also risk in acquiring lands either not needed for the project or not acquired in compliance with requirements for crediting purposes in accordance with 49 CFR Part 24, dated March 2, 1989.

20 SPONSOR RISK NOTIFICATION

A letter has been sent to the NFS advising of the risks involved with acquisition of real estate prior to execution of the PPA and is included in Exhibit #2 of the Real Estate Appendix.

21 SIGNATURES

This Real Estate plan has been reviewed by:

CONNETT.CHE
RYL.L.1231861
358

Digitally signed by
CONNETT.CHERYL.L.1231
861358
Date: 2019.11.22 16:43:39
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Cheryl L. Connett

Chief, Real Estate Division

1 **22 EXHIBITS**

2 1 - SPONSOR’S CAPABILITY TO ACQUIRE REAL ESTATE

3 2 - RISKS ASSOCIATED WITH ACQUISITION OF REAL ESTATE INTERESTS PRIOR TO EXECUTION OF THE
4 PROJECT COOPERATION AGREEMENT

5

EXHIBIT 1 - SPONSOR'S CAPABILITY TO ACQUIRE REAL ESTATE

APPENDIX 12-E

ASSESSMENT OF NON-FEDERAL SPONSOR'S
REAL ESTATE ACQUISITION CAPABILITY

I. Legal Authority

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? ***Yes, the sponsor has the legal authority to acquire and hold title to real property.***
- b. Does the sponsor have the power of eminent domain for this project? ***Yes, the sponsor has the power of eminent domain.***
- c. Does the sponsor have "quick-take" authority for this project? ***Yes***
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? ***Yes, there is a commonly used borrow site that is located outside of the sponsor's political boundary. The sponsor will acquire rights for the borrow site from the California State Lands Commission.***
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? ***Yes, the proposed borrow site is under the jurisdiction and control of the California State Lands Commission. The sponsor cannot condemn against the State of California.***

II. Human Resource Requirements

- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended? ***No***
- b. If the answer to II.a. is "yes," has a reasonable plan been developed to provide such training?
(yes / no)
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? ***Yes***
- d. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? ***Yes***
- e. Can the sponsor obtain contractor support, if required in a timely fashion? ***Yes***
- f. Will the sponsor likely request U.S. Army Corps of Engineers assistance in acquiring real estate? ***No***

III. Other Project Variables

- a. Will the sponsor's staff be located within reasonable proximity to the project site? ***Yes***
- b. Has the sponsor approved the project/real estate schedule/milestones? ***Yes***

IV. Overall Assessment

- a. Has the sponsor performed satisfactorily on other USACE projects? ***Yes***

- b. With regard to this project, the sponsor is anticipated to be: **(highly capable)** (fully capable)
(moderately capable) (marginally capable) (insufficiently capable)

Note: If sponsor is believed to be “insufficiently capable,” provide an explanation.

V. Coordination

- a. Has this assessment been coordinated with the sponsor? **Yes**
- b. Does the sponsor concur with this assessment? **The assessment has been shared with the sponsor however a response of concurrence has not been received.**

Prepared by:

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748899

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Santos Macias
Realty Specialist

Reviewed and approved by:

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Lisa Sandoval
Chief, Civil Works Branch

Reviewed and approved by:

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Cheryl L. Connett
Chief, Real Estate Division
Contracting Officer
U.S. Army Corps of Engineers
Los Angeles District

**EXHIBIT 2 - RISKS ASSOCIATED WITH ACQUISITION OF REAL ESTATE INTERESTS PRIOR TO EXECUTION
OF THE PROJECT COOPERATION AGREEMENT**



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
915 WILSHIRE BLVD., SUITE 930
LOS ANGELES, CALIFORNIA 90017

May 24, 2018

Civil Works Branch
Real Estate Division

Mr. Joshua Hickman
Program Manager
City of Long Beach, Department of Public Works
333 W. Ocean Boulevard
Long Beach, CA 90802

Subject: East San Pedro Bay Ecosystem Restoration Feasibility Study

Dear Mr. Hickman:

During the planning and feasibility phase of civil works projects, the U.S. Army Corps of Engineers identifies the estimated need and extent of real estate interests required for the proposed project. My staff and I have been working on the East San Pedro Bay Ecosystem Restoration Feasibility Study real estate requirements and have come up with some initial estimates.

When real estate requirements are determined, Government regulations require us to send a letter advising the sponsor of the risks involved in acquiring the necessary real estate interests prior to execution of the Project Partnership Agreement ("PPA").

This letter constitutes official notice of the risks involved with acquiring property rights for the proposed East San Pedro Bay Ecosystem Restoration Feasibility Study prior to the signing of the PPA. As the non-Federal sponsor, the City of Long Beach assumes full and sole responsibility for any and all costs, responsibility, or liability arising out of the acquisition effort. Generally, these risks include, but may not be limited to, the following:

- (1) Congress may not appropriate funds to construct the proposed project;
- (2) The proposed project may otherwise not be funded or approved for construction;
- (3) A PPA mutually agreeable to the non-Federal sponsor and the Government may not be executed and implemented;

- (4) The non-Federal sponsor may incur liability and expense by virtue of its ownership of contaminated lands, or interests therein, whether such liability should arise out of local, state, or Federal laws or regulations including liability arising out of CERCLA, as amended;
- (5) The non-Federal sponsor may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project;
- (6) The non-Federal sponsor may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under P.L. 91-646 as well as the payment of additional fair value to affected landowners which could have been avoided by delaying acquisition until after PPA execution and the Government's notice to commence acquisition and performance of LERRD; and
- (7) The non-Federal sponsor may incur costs or expenses in connection with its decision to acquire or perform LERRD in advance of the executed PPA and the Government's notice to proceed which may not be creditable under the provisions of Public Law 99-662 or the PPA.

If you have any questions, please contact Mr. John Sunshine at 213-452-3132 or john.w.sunshine@usace.army.mil

Sincerely,



Cheryl Connett
Chief, Real Estate Division
U.S. Army Corps of Engineers