



NOTICE OF EXEMPTION

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-0344

From: California State University, Long Beach
1250 N. Bellflower Boulevard
Long Beach, California 90815

Project Title: Settlement Agreement, Declaration of Restrictive Covenant, and Conservation Easement – Puvungna (“Project”)

Project Applicant: California State University, Long Beach

Project Location-Specific:

California State University, Long Beach (CSULB): 1250 N. Bellflower Boulevard, Long Beach, California 90815

Detailed location: The Project involves an area located in the northwestern portion of the CSULB campus that is depicted on Exhibit A (“Restricted Parcel”). The Restricted Parcel is a portion of the tribal and historic site commonly known as “Puvungna.”

Latitude/Longitude: Campus: 33°46’59.30” N, 118°06’50.89” W

Project Location – City: Long Beach **Project Location – County:** Los Angeles

Description of Nature, Purpose, and Beneficiaries of Project:

Nature of Project

Settlement Agreement: The Board of Trustees of the California State University (“CSU”) is entering into a Settlement Agreement to resolve litigation filed by the Juaneño Band of Mission Indians, Acjachemen Nation-Belardes, a Tribal Nation (“Tribe”), and California Cultural Resources Preservation Alliance, Inc. (“CCRPA”).

Declaration of Restrictive Covenant: The Settlement Agreement requires CSU to record a Declaration of Restrictive Covenant (“Declaration”) over the Restricted Parcel within approximately 30 days. The Declaration will prohibit certain uses on the Restricted Parcel, including the construction or installation of new structures or improvements, to protect tribal and historic resources. The Declaration will also permit certain uses on the Restricted Parcel, including passive use by California Native American tribes and affiliated groups, maintenance, and emergency actions. Please refer to the Declaration for the full list of prohibited and permitted uses. The Declaration may be terminated if and when CSU establishes a Conservation Easement over the Restricted Parcel.

Conservation Easement: The Settlement Agreement further requires CSU to make a good faith effort to establish a perpetual Conservation Easement over the Restricted Parcel within two years. The Conservation Easement will be granted to a qualified grantee and may be managed by a qualified easement manager. The Conservation Easement will be subject to a long-term

maintenance and management plan to be prepared in the future. The prohibited and permitted uses will be the same as under the Declaration.

The Declaration and Conservation Easement are reasonably foreseeable consequences of the Settlement Agreement and are therefore treated as part of the Project and covered by this Notice of Exemption.

Project Purpose. The purpose of the Settlement Agreement is to resolve all disputes between CSU, the Tribe, and CCRPA relating to the Project, EIR Addendum, Restricted Parcel, placement of soils on Puvungna, and the Lawsuit.

The purposes of the Declaration are to recognize the historic, cultural, and religious significance of the Restricted Parcel to the Native American community; to impose permanent use restrictions that will generally maintain the Restricted Parcel in its current condition, protect tribal and historic resources, and preserve access for tribes and affiliated interested groups; and to allow certain maintenance and emergency activities on the Restricted Parcel.

The purpose of the Conservation Easement will be the perpetual protection of tribal cultural resources, historic, and archaeological resources on the Restricted Parcel.

Nothing about the establishment of the Declaration or the subsequent establishment of a Conservation Easement is to be deemed a gift or dedication of any part of the Restricted Parcel to the general public, or for the general public, or for any public purpose whatsoever.

Project Beneficiaries. The Agreement, Declaration, and Conservation Easement are primarily intended to benefit the California Native American community and the CSU.

Name of Public Agency Approving Project: The California State University Board of Trustees

Name of Person or Agency Carrying Out Project: California State University, Long Beach

The project is exempt from CEQA under the following authority:

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ **Categorical Exemption. State type and section number:** Sections 15304, Class 4; 15305, Class 5; 15325, Class 25
- ☒ **Common Sense Exemption (Sec. 15061(3))**
- ☒ **Statutory Exemption. State code number:** PRC Section 21080.28

Reasons why project is exempt: The Project is statutorily exempt under PRC Section 21080.28, which is applicable to the acquisition, sale, or other transfer of interest in land by a public agency, or the granting or acceptance of funding by a public agency, for any of the following purposes: (A) Preservation of natural conditions existing at the time of transfer, including plant, and animal habitats; (B) Restoration of natural conditions, including plant and animal habitats; (C) Continuing agricultural use of the land; (D) Prevention of encroachment of development into flood plains; (E) Preservation of historical resources; or (F) Preservation of open space or lands for park purposes.

This statutory exemption applies even if physical changes to the environment or changes in the use of the land are a reasonably foreseeable consequence of the acquisition, sale, or other transfer of the interests in land, or of the granting or acceptance of funding, provided that environmental review otherwise required occurs before any project approval that would authorize physical changes to that land.

As stated above, the Declaration and Conservation Easement are reasonably foreseeable consequences of the Settlement Agreement and are therefore as part of the Project. The purposes of the Declaration are to recognize the historic, cultural, and religious significance of the Restricted Parcel to the Native American community; to impose permanent use restrictions that will generally maintain the Restricted Parcel in its current condition, protect tribal and historic resources, and preserve access for tribes and affiliated interested groups; and to allow certain maintenance and emergency activities on the Restricted Parcel. The purpose of the Conservation Easement will be the perpetual protection of tribal cultural resources, historic, and archaeological resources on the Restricted Parcel. Furthermore, the Declaration and Conservation Easement will permit the shaping of construction soils deposited in 2019 by CSU to blend into the existing landscape and the installation of native plants requiring minimal irrigation and with minimally invasive root systems.

These Project purposes and permitted uses are consistent with the qualifying criteria contained in Sections 21080.28(A), (B), and (E) of this statutory exemption.

The Project is categorically exempt under Class 4, Minor Alterations to Land, Water, or Vegetation, having met the qualifying criteria provided under CEQA Guidelines Section 15304. The Class 4 categorical exemption consists of “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes.” Section 15325(a) provides the following as examples of eligible actions applicable to this Project: (a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist, (b) New gardening or landscaping, including the replacement of existing conventional landscaping, with water efficient or fire resistant landscaping, and (f) Minor trenching and backfilling where the surface is restored.

The Declaration and Conservation Easement will permit the shaping of construction soils deposited in 2019 by CSU to blend into the existing landscape, which is relatively flat to slightly undulating; the removal of previously deposited soil, Visqueen, and construction debris; and the installation of native plants requiring minimal irrigation and with minimally invasive root systems, all of which are consistent with the qualifying criteria of the Class 4 categorical exemption.

The Project is categorically exempt under Class 5: Minor Alterations in Land Use Limitations, having met the qualifying criteria provided under CEQA Guidelines Section 15305. The Class 5 categorical exemption consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent which do not result in any changes in land use or density, including but not limited to (a), Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel, (b) Issuance of minor encroachment permits, and (c) Reversion to acreage in accordance with the Subdivision Map Act. The Project qualifies for the Class 5 exemption because the Restricted Parcel is less than 20 percent in slope and the Declaration and Conservation Easement will not create any new rights or entitlements that do not already exist on the Restricted Parcel. Instead, they will prohibit certain uses on the Restricted Parcel, including the construction or installation of new structures or improvements, to protect tribal and historic

resources. They will also permit certain uses on the Restricted Parcel, including passive use by California Native American tribes and affiliated groups, maintenance, and emergency actions.

The Project is categorically exempt under Class 25: Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources, having met the qualifying criteria provided under CEQA Guidelines Section 15325. Specifically, Section 15325(a) provides as examples of eligible actions the “Acquisition, sale, or other transfer of areas to preserve the existing natural conditions, including plant or animal habitats.” Section 15325(a) provides as an example of eligible actions the “Acquisition, sale, or other transfer to allow restoration of natural conditions, including plant or animal habitats.” Section 15325(e) provides as an example of eligible actions the “Acquisition, sale, or other transfer to preserve historical resources.”

Nothing in the Declaration and Conservation Easement shall be deemed to be a gift or dedication of any part of the Restricted Parcel to the general public, or for the general public or for any public purpose whatsoever. However, the Declaration and Conservation Easement are intended to foster cooperation between CSU and the California Native American community and affiliated interest groups regarding restricted and permitted uses of the Restricted Parcel. To that end, the purposes of the Declaration include recognition of the historic, cultural, and religious significance of the Restricted Parcel to the Native American community; and the imposition of permanent use restrictions that will generally maintain the Restricted Parcel in its current condition, protect tribal and historic resources, and preserve access for tribes and affiliated interested groups. The purpose of the Conservation Easement will be the perpetual protection of tribal cultural resources, historic, and archaeological resources on the Restricted Parcel. These Project purposes are consistent with the qualifying criteria specified in the Class 25 categorical exemption.

Finally, the Project is exempt under the common sense exemption (CEQA Guidelines Section 15061(b)(3)) applicable to projects which have the potential for causing a significant effect on the environment, where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The Declaration and Conservation Easement will not create any new rights or entitlements that do not already exist on the Restricted Parcel. Moreover, the Project is intended to recognize the historic, cultural, and religious significance of the Restricted Parcel to the Native American community, and protect tribal and historic resources on the Restricted Parcel. For these reasons, the Project has been determined to have no possibility of causing a significant effect on the environment.

Exceptions. None of the exceptions to the use of these categorical exemptions in Section 15300.22 of the CEQA Guidelines is applicable to the Project, as discussed below.

The Project is not subject to the location exception (a) that qualifies Class 3, 4, 5, 6 and 11 exemptions, whereby a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant, specifically where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. The Project environment is not “particularly sensitive” with respect to environmental resources of hazardous concern, nor is it sensitive to any environmental resources of critical concern except with regard to its designation as a historical, archaeological, and tribal cultural resource and listing on the National Register of Historic Places as an archaeological site, as previously discussed. The Project would not result in significant impacts on the environment, including historic, archaeological, or tribal cultural resources, as it is intended to preserve and protect those resources as well as other environmental resources on the Restricted Parcel. For the same reason, the Project is not subject to the cumulative

impact exception (b), where all categorical exemptions are inapplicable when the cumulative impact of successive projects of the same type in the same place over time is significant.

The Project is not subject to the significant effect exception (c), whereby a categorical exemption may not be used for an activity where there is a reasonable possibility that it will have a significant effect on the environment due to unusual circumstances. No unusual circumstances exist on the Restricted Parcel beyond its historical, archaeological, and tribal cultural significance and inclusion within the larger Puvungna Property, a contributor to a historic district listed on the National Register of Historic Places and on the Native American Heritage Commission's Sacred Lands Inventory. In acknowledgment of this, the Declaration will prohibit certain uses on the Restricted Parcel, including the construction or installation of new structures or improvements, to protect tribal and historic resources. Additionally, one of the purposes of the Declaration is to generally maintain the Restricted Parcel in its current condition. The Declaration and Conservation Easement will not create any new rights or entitlements that do not already exist on the Restricted Parcel.

The Project is not subject to the scenic highways exception (d), as the Restricted Parcel is not located on or within the viewshed of a designated Scenic Highway.


The Project is not subject to the hazardous waste sites exception (e), as the campus is not included on a list compiled pursuant to Section 65962.5 of the Government Code.

The Project is not subject to the historical resources exception (f), which states that a categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource. The Restricted Parcel is located within the Puvungna Property, which holds significance for several California Native American tribal groups. Portions of the Puvungna Property are located within the mapped boundary of a larger archaeological site that is a contributor to the Puvungna Indian Villages Sites Historic District, which is listed on the National Register of Historic Places, and are also listed on the Native American Heritage Commission's Sacred Lands Inventory. In acknowledgment of this setting, the Declaration will prohibit certain uses on the Restricted Parcel, including the construction or installation of new structures or improvements, to protect tribal and historic resources. The purposes of the Declaration include the recognition of the historic, cultural, and religious significance of the Restricted Parcel to the Native American community, and the imposition of permanent use restrictions that will generally maintain the Restricted Parcel in its current condition, protect tribal and historic resources, and preserve access for tribes and affiliated interested groups. The purpose of the Conservation Easement will be the perpetual protection of tribal cultural resources, historic, and archaeological resources on the Restricted Parcel. The Project, therefore, is not anticipated to result in a substantial adverse change in the significance of the historical or tribal cultural resources on the Restricted Parcel.

Lead Agency

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Signature:

 Digitally signed by Martin Grant
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Date: September 15, 2021

Title: Program Manager, Capital Construction, Design & Construction Services

☒ Signed by Lead Agency

☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.

State Code Number and Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.



Exhibit A - Depiction of Restricted Parcel