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Subject:	AltaSea/Port of Los Angeles EDA Grant - Covenant Recordation Restrictions
Date:	Monday, November 14, 2016 10:58:37 AM
Attachments:	Statelands Letter to re. Brooklyn Basin_11.07.14 (Premanent Recordation of Covenant on Trust Property).pdf

Hi Katie,

Mike and I spoke with the State Lands attorney about the Port's ability to permanently record the EDA's covenants on tidelands property, namely the two covenants regarding nondiscrimination and not using the property for inherently religious purposes.

It is State Lands' position that the Harbor Department cannot record any type of permanent restriction on tidelands property. For your reference, attached is a letter provided to us by State Lands regarding a situation in 2014 involving a request to place a permanent deed restriction on trust property held by the City of Oakland. It provides some background information on this issue and conveys State Land's reasoning on their position.

We will be able to record the covenant for purpose and use with a limit of 20 years, and we would require that covenant to be extinguishable at the end of the 20 year period, through release of the Federal Interest.

One possible solution for the religion and nondiscrimination covenants would be if the City could comply with EDA's regulations by recording the covenants with a time limitation, namely up to the maximum length of time the Department is authorized to lease property, which in the case of the City's trust and City Charter restrictions is 66 years and 50 years, respectively. The state legislature passed a bill in 2015 which authorized the City to approve permits and leases on tidelands property for 66 years. However, the City Charter has not been similarly amended and currently authorizes permits for up to 50 years, and this would currently be the longest length of time in which a covenant could be recorded.

We would like your opinion on whether recording the religion and nondiscrimination covenants at the end of the useful life of the project for 50 years would be sufficient to meet EDA's regulations. If the useful life of the project starts in 2016 and runs for 20 years, the religion and nondiscrimination covenants would be recorded in 2036 and be in effect until 2086.

Thank you for your consideration of the foregoing, we look forward to hearing from you.

Heather

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