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BUREAU OF
ENGINEERING**

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CITY ENGINEER

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LOS ANGELES, CA 90015-2213

<http://eng.lacity.org>

November 19, 2020

Honorable Nury Martinez, President
Los Angeles City Council

c/o Holly L. Wolcott
Office of the City Clerk
Room 360, City Hall

**ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHA) IN VENICE CANALS,
GRAND CANAL, AND BALLONA LAGOON ORDINANCE (C.F. 20-0645)
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) NOTICE OF EXEMPTION
(NOE)**

Dear President Martinez and Honorable Members:

On May 20, 2020, a Council motion was adopted, requesting that the City Attorney to draft a municipal ordinance to protect resources within Environmentally Sensitive Habitat Areas of the Venice Canals, Grand Canal, and Ballona Lagoon. The ordinance would make it a trespass to leave the designated trails and go upon any of the named, Environmentally Sensitive Habitat Areas without permission. Adoption of the ordinance is subject to review under the CEQA.

RECOMMENDATION:

Staff recommends that City Council determine the proposed ordinance to protect resources within Environmentally Sensitive Habitat Areas of the Venice Canals, Grand Canal, and Ballona Lagoon is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Article 19, Sections 15307 and 15308. Additionally, the project is exempt pursuant to *Los Angeles CEQA Guidelines* Article III, Section 1, Class 8, *Actions by Regulatory Agencies for Protection of the Environment*. Please refer to the attached NOE.



Honorable Nury Martinez
November 17, 2020
Page 2 of 2

If you have any questions, please contact Maria Martin at (213) 485-5753.

Sincerely,



Gary Lee Moore, PE, ENV SP
City Engineer

Attachment

GLM/MK/MM:eg:ab
Q:\GLM\City Engineer\GLM Signed Documents\2020 Documents\Transmittal ESHA
ORD CEQA from BOE to City Council MK 11-18-2020.doc

cc: Mahmood Karimzadeh, Bureau of Engineering
Maria Martin, Bureau of Engineering

COUNTY CLERK'S USE

CITY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
BUREAU OF ENGINEERING
1149 S. BROADWAY, 7th FLOOR
LOS ANGELES, CALIFORNIA 90015
CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION
(Articles II and III – City CEQA Guidelines)

Submission of this form is optional. The form shall be filed with the County Clerk, 12400 E. Imperial Highway, Norwalk, California, 90650, pursuant to Public Resources Code Section 21152(b). Pursuant to Public Resources Code Section 21167(d), the filing of this notice starts a 35-day statute of limitations on court challenges to the approval of the project.

LEAD CITY AGENCY AND ADDRESS: City of Los Angeles c/o Bureau of Engineering 1149 S. Broadway, 6 th Floor, MS 939 Los Angeles, CA 90015	COUNCIL DISTRICT 11
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PROJECT TITLE: City Ordinance to protect Natural Resources within designated Environmentally Sensitive Habitat Areas of the Venice Canals, Grand Canal and Ballona Lagoon. (W.O. EXXMC200)	LOG REFERENCE C.F.: 20-0645
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PROJECT LOCATION: Designated Environmentally Sensitive Habitat Area (ESHA) of the Venice Canals, Grand Canal and the Ballona Lagoon, in the Venice Community Plan Area of the City of Los Angeles (see *Figure 1: Project Location: Figures 1a, 1b and 1c*)

T.G.: 671 H6, H7-J7; 701 J1-J2; 702 A2.

DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT:

The Project is a proposed municipal ordinance to enhance protections for sensitive environmental resources by prohibiting entrance onto the Environmentally Sensitive Habitat Areas (ESHA), located alongside the Venice Canals, Grand Canal, and Ballona Lagoon as defined by *California Coastal Act* under Sections 30107.5 and 30240 (subparts (a) and (b)), and the Venice Local Coastal Program Land Use Plan prepared to comply with the *California Coastal Act* of 1976, adopted by the Los Angeles City Council October 29, 1999 (CF 1998-0518), and certified by the California Coastal Commission June 14, 2001. The Ordinance will prohibit access to the land between the canal waterways and adjacent walkways and pedestrian paths except for nature study, nature interpretation activity, or lawful boating activity. Nature study and nature interpretation activity will occur by permits issued pursuant to a program developed by the Board of Public Works. Project beneficiaries include sensitive coastal wetland habitat, sensitive plant and animal species, as well as current and future residents. Please see the project description continuation in the narrative for more details.

CONTACT PERSON William Jones	TELEPHONE NUMBER (213) 485-5760
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EXEMPT STATUS: (Check One) ☐ MINISTERIAL ☐ DECLARED EMERGENCY ☐ EMERGENCY PROJECT ☐ GENERAL EXEMPTION ☒ CATEGORICAL EXEMPTION* ☐ STATUTORY*	CITY CEQA GUIDELINES Art. II, Sec. 2.b Art. II, Sec. 2.a(1) Art. II, Sec. 2.a(2) Art. II, Sec. 1 Art. III, Sec. 1 Class(es) 7-8. Art. _____	STATE CEQA GUIDELINES Sec. 15268 Sec. 15269(a) Sec. 15269(b)(c) Sec. 15061(b)(3) Sec. 15307 and 15308 Sec. _____
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* See Public Resources Code Sec. 21080 and set forth state and city guidelines provisions.

JUSTIFICATION FOR PROJECT EXEMPTION: This project is exempt from CEQA pursuant to State CEQA Guidelines Article 19, Sections 15307 and 15308. Additionally, the project is exempt pursuant to *Los Angeles CEQA Guidelines* Article III, Section 1, Class 8, Actions by Regulatory Agencies for Protection of the Environment. None of the limitations at State CEQA Guidelines 15300.2 apply (see attached narrative).

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING

SIGNATURE: Maria Martin	TITLE: Environmental Affairs Officer Environmental Management Group	DATE:
RECEIPT NO.	REC'D BY	DATE

CATEGORICAL EXEMPTION NARRATIVE

I. PROJECT DESCRIPTION (Continued)

The Project is a proposed municipal ordinance to enhance protections for sensitive environmental resources by prohibiting entrance onto the Environmentally Sensitive Habitat Areas (ESHA) located alongside the Venice Canals, Grand Canal, and Ballona Lagoon as defined by *California Coastal Act* at Section 30240, subparts (a) and (b), and the Venice Local Coastal Program Land Use Plan prepared to comply with the *California Coastal Act* of 1976, adopted by the Los Angeles City Council on October 29, 1999 (CF 1998-0518), and certified by the California Coastal Commission on June 14, 2001. A subsequent and associated, Local Coastal Implementation Plan (LCIP) is currently being updated. The LCIP is responsible for implementing the policies contained in the Land Use Plan through various zoning regulations and development standards. The City also has local coastal development permitting authority to protect coastal resources.

Per LAMC (12.20.2), the Coastal Zone shall mean that land and water areas within the City of Los Angeles as specified on maps prepared by the California Coastal Commission, copies of which are on file with the Department of City Planning and the Office of City Engineer. Such "coastal zone" extends seaward to the City's outer limit of jurisdiction, and generally extends inland 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat and recreational areas, it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas, the zone extends inland 1,000 yards.

As part of the City's effort to protect coastal resources, the Ordinance will prohibit access to the land between the canal waterways and adjacent walkways and pedestrian paths except for nature study, nature interpretation activity, or lawful boating activity. Nature study and nature interpretation activity must be permitted pursuant to a permitting program to be implemented under the authority of the Board of Public Works.

II. PROJECT HISTORY

Per Council Motion (5/20/2020): It is the City of Los Angeles' responsibility to protect, conserve, restore, and enhance our Environmentally Sensitive Habitat Areas (ESHAs). The *Coastal Act* policies provide protection for ESHAs, including various types of wetlands, sand dunes, riparian areas, coastal prairies, woodlands and forests, and other biological resources in the coastal zone.

Environmentally Sensitive Habitat Areas (ESHAs) are defined in *The Public Resources Code* (PRC),

DIVISION 20. *California Coastal Act* [30000 - 30900]:

30240.

(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.

(Amended by Stats. 1991, Ch. 285, Sec. 4.)

The *Coastal Act* also defines these ESHAs as “Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments” (Section 30107.5). These important habitats include designated areas of Venice Beach, Venice Canals (Banks of Venice Canals north of Washington Boulevard), Ballona Lagoon, Grand Canal (south of Washington Boulevard) and habitat buffer areas (along the east and west banks of Ballona Lagoon).

The Venice Canals, Grand Canal and Ballona Lagoon support sensitive coastal wetland habitat, and are part of a Coastal Commission designated, Environmentally Sensitive Habitat Area (ESHA). The ecosystem supports narrow bands of coastal strand and coastal salt marsh vegetation communities and intertidal and subtidal soft-bottom communities. Residential land use, open space and some street commercial activity are the predominant land use types adjacent to the Grand Canal and Ballona Lagoon. The wetlands and tidal ecosystem of Ballona Lagoon is a valuable foraging area for local and migratory birds, and possesses essential fisheries habitat for local fish and invertebrate species. Rare plant species, include Orcutt's yellow pincushion (*Chaetanactis glabriuscula* var. *orcuttiana* (E. Greene) H. Hall), Wooly seablite (*Suaeda taxifolia* (Standl.) Standl.), and Red sand verbena (*Abronia maritima* S. Watson). Endangered avian species include the California least tern (*Sternula antillarum browni*), the California brown pelican (*Pelecanus occidentalis californicus*).

The nearby Ballona Wetlands, for example, provide estuaries to shelter young fish from many predators and the rough open ocean and provide a refuge for migrating birds. These habitats support such endangered species as the El Segundo Blue butterfly (*Euphilotes battoides allyni*) and the Belding's Savannah Sparrow (*Passerculus sandwichensis*). Wetlands also allow for water to gently percolate into the ground and down into underground rivers and aquifers, cleansing the water as it recharges our local groundwater supply.

The canal and lagoon banks, and adjacent sensitive habitat. As noted in the legal definition, these delicate ecosystems may be easily disturbed by human activities. the City should have the legal authority to prevent people from leaving adjacent walkways and pedestrian paths to bolster the City's ability to protect these habitats. This ordinance would make it a trespass to leave the sidewalks and designated trails and go upon any Environmentally Sensitive Habitat Areas, unless otherwise exempted.

Numerous public works and privately financed projects have been undertaken in the last several decades to enhance and protect habitat in the Venice Canals, Grand Canal and Ballona Lagoon. These projects required Coastal Development Permits (CDPs). Under the *California Coastal Act*, the Venice Canal, Grand Canal and Ballona Lagoon all lie within the Coastal Commission's dual jurisdiction zone, along with the City Engineer and Department of City Planning, who both share jurisdiction with the CC., however the Coastal Commission has exerted original jurisdiction over inland coastal wetlands, and submerged lands below the Mean High Tide Line (MHTL). Within the City's boundaries, the Grand Canal Esplanade, Venice Canal walkways and Ballona Lagoon trails and conservation easements border designated state trust lands. These submerged, and adjacent lands are part of a Coastal Commission designated, “Environmentally Sensitive Habitat Areas.” Per Table 1, The following list of state coastal permits (CDPs) are issued by the California Coastal Commission, a state regulatory agency, as well as the City of Los Angeles, a local regulatory agency, are obligated to follow conditions of these permits, including conservation and protection of natural resources, protected habitats, sensitive plant and animal species. Land Use permits, with conditions and restrictions, run with the land in perpetuity.

Table 1: Coastal Development Permits and applicable conditions for Venice-Grand Canals and Ballona Lagoon				
Coastal Development Permits typically have no expiration. Any project must conform with conditions set forth in the original approved permit or as amended. Permits that cover all or part of these protected areas include:				
CDP	Venice Canals	Grand Canal	Ballona Lagoon	Notes:
5-91-584 and amendments	X			
5-95-152			X	East Bank
A5-01-289	X			
5-08-294 and amendments			X	West Bank
5-09-035/ LCDP 08-18		X		
5-09-093	X	X		
5-12-068 W		X		
5-14-0560		X		
A5-VEN-17-0012		X		

III. ENVIRONMENTAL REVIEW

A. Basis for Categorical Exemption Class 8 Actions by Regulatory Agencies for Protection of the Environment. Both the State Coastal Commission and City of Los Angeles have jurisdiction over regulation of development with the Coastal Zone. State and local Coastal development permits are issued to protect natural resources and minimize environmental impacts from development, notably in designated Environmentally Sensitive Habitat Areas (ESHAs). Based upon issued coastal development permits, which run with the land in perpetuity, CDP conditions are intended to protect natural resources in the designated ESHAs.

B. Consideration of Potential Exceptions to use of a Categorical Exemption

The State CEQA Guidelines (CCR Sec 15300.2) limit the use of categorical exemptions in the following circumstances:

1. Location. Exemption Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may be significant in a particularly sensitive environment. Therefore, these classes are considered to apply all instances, except 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.

This project is exempt from CEQA pursuant to State CEQA Guidelines Article 19, Sections 15307 and 15308, Class 7. Actions by Regulatory Agencies for Protection of Natural Resources. Class 8. Actions by Regulatory Agencies for Protection of the Environment. Therefore, this exception does not apply.

2. Cumulative Impact. This exception applies when, although a proposed project may not have a significant impact, the cumulative impact of successive projects of the same type in the same place, over time is significant. There are no other known projects that could involve cumulatively significant impacts. Therefore, this exception has no application to this project.

3. Significant Effect. This exception applies when, although the project may otherwise be exempt, there is a reasonable possibility that the project will have a significant effect due to unusual circumstances. There are no unusual circumstances known to this office. Therefore, this exception has no application to this project.

4. Scenic Highway. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. The proposed project is not within a state designated scenic highway or within sight of any state designated scenic highway. Therefore, this exception has no application to this project.

5. Hazardous Waste Site. This exception applies when a project is located on a site listed as a hazardous waste site under Government Code Section 65962.5. As of September 24, 2018, the project areas are not on any such list. Therefore, this exception has no application to this project.

6. Historical Resources. This exception applies when a project may cause a substantial adverse change in the significance of a historical resource. A significant impact would occur if the project caused a substantial adverse change to a historical resource through demolition, construction, conversion, rehabilitation, relocation, or alteration. The entire Venice canal system is part of the Venice Canal Historic District (Monument No. 2370), and the Grand Canal itself (Monument No. 270) is considered an historic resource. Thus, the proposed project would take place in what is considered an area of cultural and historic significance; however, the project itself is not expected to result in any long-term, negative impacts to the cultural or historic nature of the area or the canal, since it is a publicly beneficial ordinance that would result in protecting sensitive, coastal and cultural resources for current and future residents.

IV. REFERENCES

California Code of Regulations, Title 14, Division 6, Chapter 3 (State CEQA Guidelines), available from <http://leginfo.ca.gov/>

City of Los Angeles, Department of City Planning, Parcel Profile Report. Retrieved on April 16, 2020, from *NavigateLA* <http://boemaps.eng.ci.la.ca.us/navigate/la/>

City of Los Angeles, Venice Local Coastal Program Land Use Plan prepared to comply with the California Coastal Act of 1976, adopted by the Los Angeles City Council October 29, 1999 (CF 1998-0518), and certified by the California Coastal Commission June 14, 2001.

City of Los Angeles, Department of Public Works Bureau of Engineering. Retrieved on April 16, 2020, *NavigateLA*. <http://boemaps.eng.ci.la.ca.us/navigate/la/>

City of Los Angeles, 2002. *Environmental Quality Act Guidelines (C.F.: 02-1507)*

City of Los Angeles, *Municipal Code*, Sec. 12.20.2. *Coastal Development Permits*.

State of California, Public Resources Code, Div. 13, Sections 21000-21189 (*California Environmental Quality Act*), available from <http://leginfo.legislature.ca.gov/>

State of California, DIV. 20. Sections 30000 - 30900 (*California Coastal Act*), available from <http://leginfo.legislature.ca.gov/>

Figure 1a: Venice Canals and Grand Canal, North of Washington Boulevard.

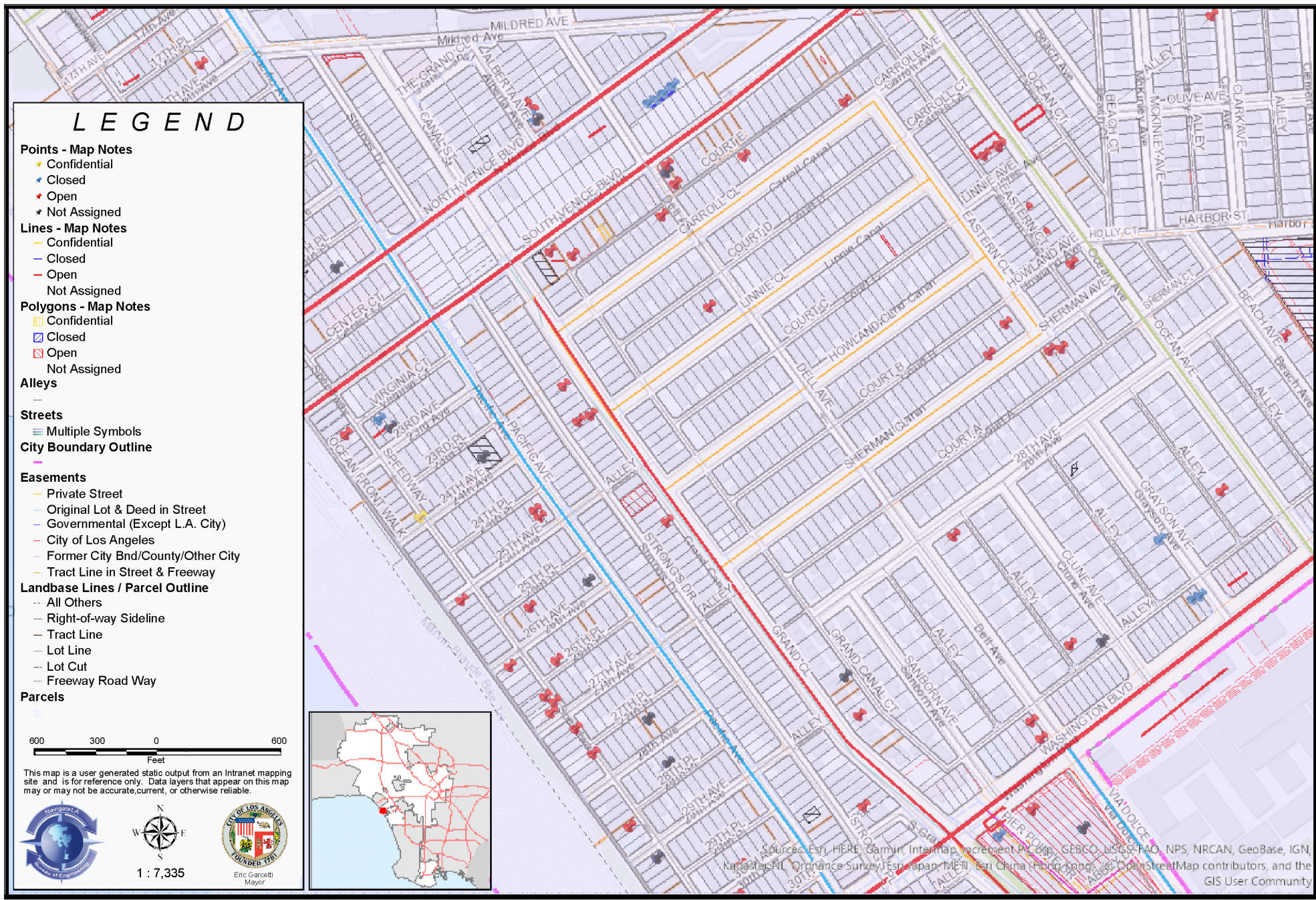


Figure 1b: Grand Canal, South of Washington Boulevard, and Ballona Lagoon, Northerly Portion.

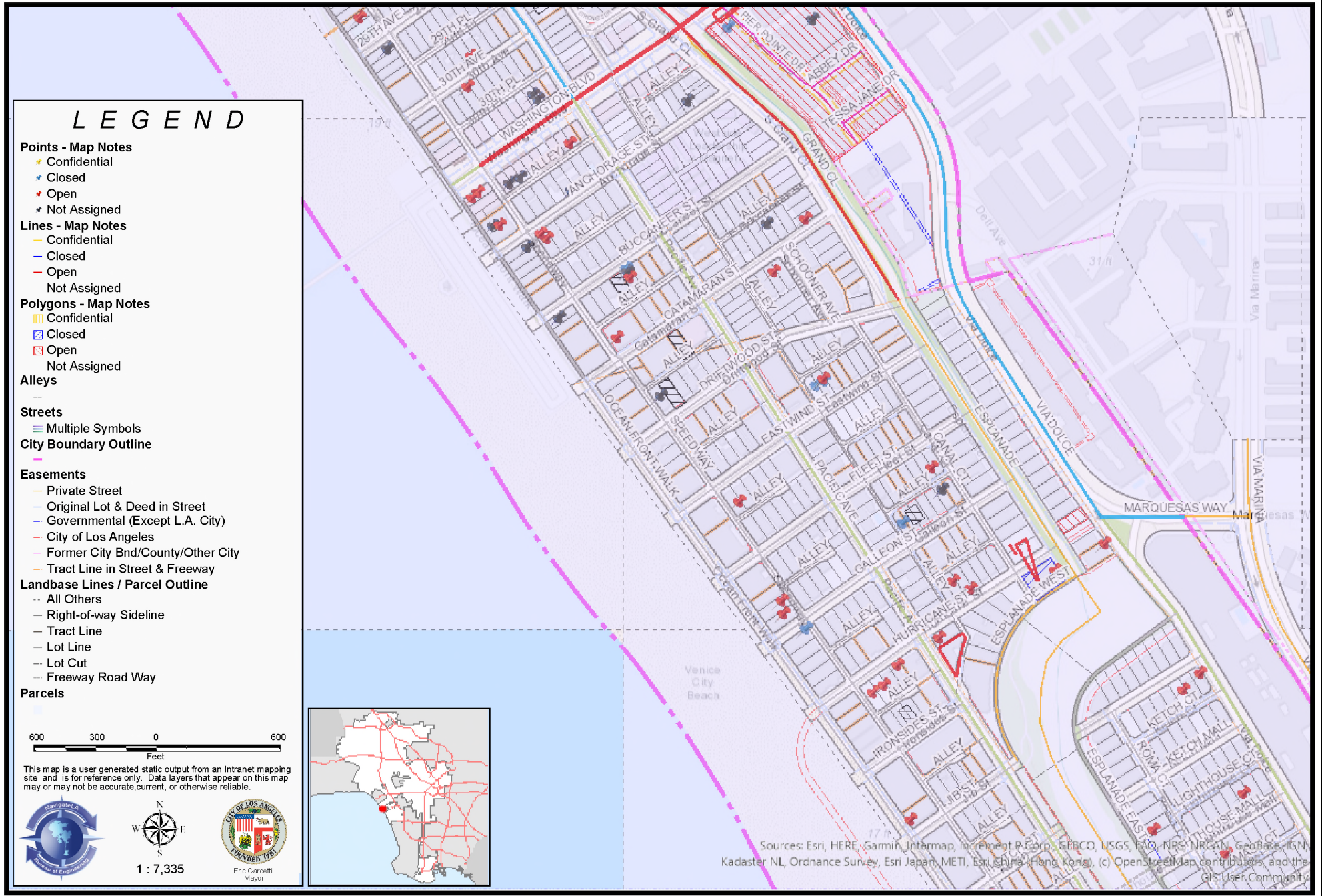


Figure 1c: Ballona Lagoon, Southerly Portion.

