

**CALIFORNIA COASTAL COMMISSION**

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**W15a**

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**STAFF REPORT: REGULAR CALENDAR**

**Application Number:** 5-11-085

**Applicant:** City of Long Beach

**Agent:** Eric Lopez, Department of Public Works

**Project Location:** 95-166 Rivo Alto Canal (between Ravenna Drive bridge and The Toledo east bridge), Naples Island, City of Long Beach, Los Angeles County.

**Project Description:** Naples Island Seawall Repair Project (Phase One) involving the installation of a new steel sheet-pile seawall on the water side of the existing vertical concrete seawalls along both sides of Rivo Alto Canal (1,915 linear feet), and new guardrails, landscape beds, sidewalks, an improved drainage system, and relocated street lighting along the canal. The new seawall extends eighteen inches beyond the existing seawall into the existing channel resulting in the fill of approximately 1,727 square feet of submerged soft-bottom habitat. The project also includes a mitigation program involving excavation of the northern bank and north arm of Colorado Lagoon to create approximately 20,908 square feet of submerged soft bottom habitat to mitigate for the loss of soft-bottom habitat resulting from this first phase and five future phases of seawall repairs.

**Staff Recommendation:** Approval with Conditions

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**SUMMARY OF STAFF RECOMMENDATION**

The primary issue raised by the development proposal concerns the alternative methods considered for the proposed seawall repair project. The applicant's proposal involves the placement of new sheet-pile seawalls on the waterside of the existing vertical concrete seawalls, which would result in the permanent displacement of approximately 1,727 square feet of public trust lands and submerged soft-bottom habitat, and the narrowing of the canal by about three feet. An alternative method, which the applicant considers to be infeasible due to the higher construction costs and safety risks, would involve the removal of the old seawalls construction of new seawalls in the same location. The rejected alternative would result in no permanent habitat displacement and would maintain the current width of the canal.

## SUMMARY OF STAFF RECOMMENDATION (Continued)

The applicant's preferred method of construction involves construction of a new steel sheet-pile seawall constructed seaward of the existing concrete seawall (in the canal) resulting in the fill of coastal waters. The Commission typically will only authorize seaward expansion of a shoreline protective device when the applicant has demonstrated there is no feasible alternative that would avoid such seaward expansion (e.g. in-alignment replacement or landward replacement). The applicant did consider the in-alignment/landward placement option and has claimed that it is infeasible because of the higher costs.

Staff is recommending that the Commission **approve** a coastal development permit for the proposed development (the applicant's preferred method of construction of the new seawalls in the canal) with special conditions to mitigate the project's impacts on coastal resources. **See Page Five for the Special Conditions.** The special conditions require several forms of mitigation. In order to mitigate for the fill in the canal, the applicant is required by **Special Condition Six** to replace (create) new subtidal soft bottom habitat at a 2:1 ratio. The soft bottom habitat mitigation would be carried out by excavating and enlarging Colorado Lagoon. Eelgrass impacts in Rivo Alto Canal will be mitigated by growing eelgrass at the Marine Stadium Eelgrass Mitigation Site (**Special Condition Three**).

Adverse impacts to public access and recreation must also be mitigated. The construction of the new seawalls in the water narrows the canal by three feet and fills public trust lands, thus adversely affecting the public's ability to access the water for water-oriented recreational activities. In order to mitigate for the impacts associated with filling of public trust submerged and historic tideland and narrowing the canal, which will limit the channel area available for the public to enjoy public trust lands, in a manner that ensures that the mitigation accommodates, promotes and fosters the public's enjoyment of public trust lands, the Commission staff, in cooperation with the applicant, has developed a public access enhancement and mitigation plan that will improve public access along the northwestern shoreline of Naples Island in an area where private encroachments currently discourage general public use of a public right-of-way that provides access to public trust resources in Alamitos Bay.

The mitigation plan, as required pursuant to **Special Condition Fourteen**, provides for a five-foot wide ADA accessible public walkway along the filled portion of the City's public right-of-way known as the *Alamitos Bay Shoreline Trail*. This walkway would provide for both lateral access along the bayfront and connections to vertical access points from East Sorrento Drive. This walkway will provide for pedestrian access to the public trust lands, including the bay waters and bay shoreline which will, in turn, provide improved access to launch points along the northern bayfront for non-motorized boats such as stand-up paddle boards and kayaks. Local residents have registered their opposition to **Special Condition Fourteen**. The Commission has the authority to impose requirement to provide a public trust use as a condition of approval of the proposed development since the development would be inconsistent with Section 30210 of the Coastal Act without the imposition of such a condition.

The applicant agrees with the staff recommendation, except for **Special Condition Eighteen** which requires the applicant to reimburse the Commission for attorney's fees. The staff recommendation also includes special conditions relating to: protection of water quality, protection of nesting birds, dock leases, no future seaward extension of the development, and the applicant's assumption of risk.

**See Page Four for the Motion to approve the permit application.**

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## EXHIBITS

- Exhibit 1 – Long Beach, CA Map
- Exhibit 2 – Project Sites Map (Naples Canals, Colorado Lagoon & Marine Stadium)
- Exhibit 3 – Eelgrass Survey for Phase One (95 -165 Rivo Alto Canal), March 2011
- Exhibit 4 – Canal Section (with existing and proposed seawalls)
- Exhibit 5 – Seawall Section (with existing seawall and proposed steel z-pile seawall)
- Exhibit 6 – Plan View/Elevation – Interlocking steel z-pile
- Exhibit 7 – Existing Seawall Section (with history of prior repairs - underground)
- Exhibit 8 – Colorado Lagoon – Proposed Soft Bottom Mitigation Plan
- Exhibit 9 – Marine Stadium Eelgrass Mitigation Site (with estimated mitigation quantities)
- Exhibit 10 - Certified Long Beach LCP Policy Plan for Area E (Naples)
- Exhibit 11 - Sorrento Alamitos Bay Shoreline Trail (right-of-way) Alignment
- Exhibit 12 - Letter from East Sorrento Drive Neighborhood Assoc. (8/20/2013)
- Exhibit 13 - Letter from James N. McCabe (7/27/2012)
- Exhibit 14 - Ex Parte Disclosure Form – Commissioner Robert Garcia (5/29/2013)
- Exhibit 15 - Letter from Lawrence Goodhue (9/4/2013)
- Exhibit 16 - Letter from David Baker (9/21/2013)
- Exhibit 17 - Applicant’s Summary Comparison of Design Alternatives

## I. MOTION AND RESOLUTION

**Motion:** *"I move that the Commission **approve** Coastal Development Permit Application No. 5-11-085 pursuant to the staff recommendations."*

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.

**Resolution:**

*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 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 of the Coastal Act. 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

This permit is granted subject to the following 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 applicant 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Permit Compliance.** Coastal Development Permit 5-11-085 authorizes the implementation of Phase One of the Naples Island Seawall Repair Project for the seawalls in the segment of Rivo Alto Canal between Ravenna Drive bridge and The Toledo east bridge on Naples Island, as expressly described and conditioned herein. Repairs of other seawalls in other locations (i.e., future phases of the project) shall require additional Coastal Commission approval in the form of a new coastal development permit or an amendment to this coastal development permit. Coastal Development Permit 5-11-085 also authorizes the implementation of the Colorado Lagoon Soft Bottom Mitigation Plan, as expressly described and conditioned herein.

All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.

2. **Protection of Marine Resources.** In order to minimize adverse environmental impacts and the unpermitted deposition, spill or discharge of any liquid or solid into Alamitos Bay, the applicant shall implement the following demolition, staging, and construction best management practices during the staging and construction of the Naples Island Seawall Repair Project and Colorado Lagoon Soft Bottom Mitigation Plan:
  - A. Silt curtains will be utilized to control turbidity during all in-water construction activities, including the placement of sheet piles.
  - B. Floating booms shall be maintained around the project site use and around barges containing equipment in order to capture floating debris during all construction phases.
  - C. Where permitted, disturbance to the ocean bottom and intertidal areas shall be minimized.
  - D. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
  - E. Prior to grading and/or construction, all large motile native marine invertebrates, including molluscs (snails), echinoderms (sea stars, urchins, sea cucumbers), arthropods (crabs), and any other large motile native marine invertebrates found in the area to be disturbed, including seawalls, piles and dock floats, shall be removed from the project site and relocated to another part of the bay.
  - F. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.

- G. Netting, sandbags, tarps and/or other forms of barriers shall be installed between the water and all work areas and equipment storage areas to prevent any unpermitted material from entering Alamitos Bay.
- H. The storage or stockpiling of soil, silt, other organic or earthen materials, or any materials and chemicals related to the construction shall not occur where such materials/chemicals could pass into the waters of Alamitos Bay or the sea. Stockpiled fill shall be stabilized with geofabric covers or other appropriate cover.
- I. Erosion control/sedimentation BMPs shall be used to control sedimentation impacts to coastal waters during project staging and demolition. BMPs shall include a pre-construction meeting to review procedural and BMP guidelines.
- J. Spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible. Disposal within the coastal zone shall require a coastal development permit.
- K. Construction vehicles operating at the project site shall be inspected daily to ensure there are no leaking fluids. If there are leaking fluids, the construction vehicles shall be serviced immediately. Equipment and machinery shall be serviced, maintained and washed only in confined areas specifically designed to control runoff and prevent discharges into Alamitos Bay or the sea. Thinners, oils or solvents shall not be discharged into sanitary or storm sewer systems.
- L. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than fifty feet away from all storm drains, open ditches and surface waters.
- M. All floatable debris and trash generated by construction activities within the project area shall be disposed of as soon as possible or at the end of each day.
- N. Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- O. The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location in a timely manner. 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.
- P. Any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited. No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) shall be used where it could come into direct contact with the water. All treated timber shall be free of chromium and arsenic.
- Q. In the event that hydrocarbon-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in

accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.

- R. At the end of the construction period, the applicant shall inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to recreation or navigation.

The applicant shall include the requirements of this condition on all plans and contracts issued for the project. The applicant shall implement and carry out the project staging and construction plan during all demolition, staging, and construction activities.

3. **Eelgrass Mitigation Program.** All direct impacts to eelgrass associated with the Naples Island Seawall Repair Project (Phase One) shall be mitigated at the Marine Stadium Eelgrass Mitigation Site which was constructed pursuant to Coastal Development Permit 5-10-263. Colorado Lagoon may be used as an alternative mitigation site if there is not adequate mitigation area at the Marine Stadium Eelgrass Mitigation Site. All direct impacts to eelgrass associated with the Colorado Lagoon Soft Bottom Mitigation Plan required pursuant to **Special Condition Six** shall be mitigated within Colorado Lagoon. All direct impacts to eelgrass shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact) in accordance with the Southern California Eelgrass Mitigation Policy and the following provisions:
- A. **Pre-Construction Eelgrass Survey.** The applicant shall complete a valid pre-construction eelgrass (*Zostera marina*) survey during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of the eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of the approved development.
- B. **Post Construction Eelgrass Survey.** If any eelgrass is identified in the project area by the survey required in Subsection A of this condition above, within one month after the conclusion of construction, the applicant shall survey the project site to quantify the amount of eelgrass that was adversely impacted. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 ratio in accordance with the Southern California Eelgrass Mitigation Policy. The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply.

- C. Marine Stadium Eelgrass Mitigation Site (Coastal Development Permit 5-10-263). The first and highest priority for the use of the eelgrass mitigation site in Marine Stadium shall be to mitigate the eelgrass impacts of the Alamitos Bay Marina Rehabilitation Project (Coastal Development Permit 5-10-263). Additional eelgrass mitigation area in the Marine Stadium Eelgrass Mitigation Site that is not necessary to mitigate the Alamitos Bay Marina rehabilitation project may be used to mitigate the eelgrass impacts of the first phase of the Naples Island Seawall Repair Project.
  - D. Annual Reports - Marine Stadium Eelgrass Mitigation Site. The applicant shall submit annual eelgrass surveys and monitoring reports (each January), for the review and approval of the Executive Director, that quantify the amount of eelgrass that exists in the Marine Stadium Eelgrass Mitigation Site. The annual reports shall include an accounting of all mitigation requirements (referenced by coastal development permit numbers) which are permitted/required to be satisfied in the Marine Stadium Eelgrass Mitigation Site. Monitoring of the Marine Stadium Eelgrass Mitigation Site shall be carried out in conformance with the Eelgrass Field Survey, Impact Assessment, and Mitigation Plan for the Alamitos Bay Marina Renovation Project, prepared by Coastal Resources Management, Inc. (December 15, 2007, revised October 1, 2009).
  - E. If Colorado Lagoon is utilized as an alternative mitigation site, a detail Eelgrass Mitigation and Monitoring Plan for Colorado Lagoon shall be submitted to the Executive Director, prior to the completion of the Phase One Naples Seawall Replacement Project approved pursuant to this coastal development permit.
4. ***Caulerpa Taxifolia* Pre-Construction Survey.** Prior to construction in Rivo Alto Canal and Colorado Lagoon, the applicant shall undertake a *Caulerpa Taxifolia* Survey consistent with the following provisions:
- A. No earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least ten meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
  - B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the National Marine Fisheries Service.
  - C. Within five business days of completion of the survey, the applicant shall submit the survey for the review and approval of the Executive Director; and to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Wildlife (858/467-4218) or National Marine Fisheries Service (562/980-4043).
  - D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until: 1) the applicant provides evidence to the Executive Director

that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. **Construction and Pile Driving Noise Level Restrictions.** By acceptance of this coastal development permit, the applicant agrees to retain the services of a qualified independent biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director, to conduct a biological survey of the trees within five hundred feet of the project site prior (within seven days) to the commencement of construction activities, and once a week upon commencement of construction activities that include use of heavy equipment that can cause excessive noise, odors, or vibrations (e.g., pile driving). The environmental resource specialist shall be directed to conduct the survey in order to determine the presence of black-crowned night herons, great blue herons, snowy egrets, raptors, or other sensitive species within five hundred feet of the work site and immediately report the findings of the survey to the applicants and the Executive Director of the Coastal Commission.

In the event that the environmental specialist reports any black-crowned night herons, great blue herons, snowy egrets, raptors, or other sensitive species exhibiting reproductive or nesting behavior within five hundred feet of the work site, the following restrictions shall apply:

- A. Construction noise reduction measures such as sound shields made from plywood or sound-board or molded sound shields shall be used and measures shall be taken to minimize loud noise generation to the maximum feasible extent during construction. Permanent lighting shall be shielded and directed downward. Bright upward shining lights shall not be used during construction and construction employees shall not bring pets (e.g. dogs and cats) to the construction site.
  - B. Noise generated by construction (including, but not limited to, pile driving) shall not exceed 65 dB at any active nesting site within five hundred feet of project site for black-crowned night herons, snowy egrets, great egrets, great blue herons, raptors, or other sensitive species. If construction noise exceeds 65 dB, then alternative methods of pile driving (including, but not limited to, vibratory pile driving, press-in pile placement, drilling, dewatered isolation casings, etc.) or other sound mitigation measures (including, but not limited to, sound shielding and noise attenuation devices) shall be used as necessary to achieve the required dB threshold levels. If these sound mitigation measures do not reduce noise levels, construction within five hundred feet of the nesting trees shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.
6. **Colorado Lagoon Soft Bottom Habitat Mitigation Plan.** Prior to the submittal of the application for the next phase (Phase Two) of the Naples Island Seawall Repair Project, and not later than one year from the date of Commission action on this application (or within such additional time as the Executive Director may grant for good cause), the applicant shall implement

the proposed Colorado Lagoon Soft Bottom Mitigation Plan, which entails the excavation and re-contouring of the northern bank and north arm of Colorado Lagoon in order to create at least 20,908 additional square feet of submerged soft bottom habitat to mitigate (at a minimum ratio of 2:1) the fill of the bay that will result from the implementation of the Naples Island Seawall Repair Project (Phases One through Six). The draft Colorado Lagoon Soft Bottom Habitat Mitigation Plan is attached as Exhibit #8 of the Staff Report dated September 27, 2013.

The applicant shall implement the Colorado Lagoon Soft Bottom Habitat Mitigation Plan and conduct all landscaping consistent with the terms of this condition and the terms of amended Coastal Development Permit 5-09-071:

- A. Final Plans. The applicant shall submit, for review and approval of the Executive Director, final project plans subsequent to the approval of the project by the appropriate regulatory agencies. The final plans shall include a re-vegetation plan and five-year monitoring plan. The Executive Director shall review the final plans to determine whether there are any substantial changes which may require an amendment to this coastal development permit pursuant to the requirements of the Coastal Act and the California Code of Regulations.
- B. Eelgrass Impacts. The applicant shall conduct pre-construction and post-construction eelgrass surveys for Colorado Lagoon, and submit the surveys for the review and approval of the Executive Director, as required by **Special Condition Three** of this coastal development permit. If any eelgrass is impacted as a result of the implementation of the Colorado Lagoon Soft Bottom Mitigation Plan, the applicant shall submit a detailed Eelgrass Mitigation and Monitoring Plan for Colorado Lagoon, for the review and approval by the Executive Director, within six months of the post-construction eelgrass survey. All direct impacts to eelgrass associated with the Colorado Lagoon Soft Bottom Mitigation Plan shall be mitigated in Colorado Lagoon, consistent with the requirements of **Special Condition Three**, within 36 months of the grading and re-contouring associated with the Colorado Lagoon Soft Bottom Mitigation Plan and maintained through at least sixty months.
- C. Native Vegetation. The proposed project shall not result in a net loss of native vegetation. Prior to commencement of construction, the applicant shall conduct a biological survey and submit the biological survey for the review and approval of the Executive Director. The biological survey shall identify all native vegetation that will be affected by the excavation and re-contouring of the northern bank and north arm of Colorado Lagoon. All affected plants shall be protected and/or transplanted as part of the project.
- D. Erosion Control. Immediately upon completion of the approved excavation and re-contouring of the lagoon's banks, the applicant shall install silt curtains along the entire length of the water's edge to prevent siltation of the lagoon. Jute matting (with no plastic netting) shall be placed on all slopes immediately following the approved excavation and re-contouring of the lagoon's banks. In addition, the applicant shall implement the following temporary erosion control measures during the restoration project: temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, and additional silt fencing as needed.

- E. Re-vegetation. Re-vegetation of the disturbed areas shall commence as soon as possible following the approved excavation and re-contouring of the lagoon's banks. All vegetation planted on the site shall consist of native plants typically found on the banks of Alamitos Bay and the Los Cerritos Wetlands. As much as possible, the seeds and cuttings employed shall be from local sources adjacent to Alamitos Bay and the Los Cerritos Wetlands. The existing native vegetation and all required 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 re-vegetation plan. Re-vegetation activities may continue during the least tern nesting season.
- F. Invasive Plants. 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.
- G. Monitoring. The applicant shall actively monitor the site, remove non-natives and reinstall plants that have failed for at least five years following the initial planting, consistent with the final re-vegetation plan approved by the Executive Director. The applicant shall monitor and inspect the site no less than once each thirty days during the first year that follows the initial planting. Thereafter, the applicant will monitor the site at least once every ninety days or on the City's regular landscape maintenance schedule, whichever is more frequent.

The applicant shall undertake the approved development in accordance with this condition and the final plans approved by the Executive Director. To ensure compliance, the applicant shall include the requirements of this condition on all plans and contracts issued for the project. 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 required.

- 7. **Tree Trimming/Removal.** The removal and/or trimming of trees shall not interfere with or disrupt any active birds' nests, and shall comply with the 1918 Migratory Bird Treaty Act. Prior to the removal, transplanting or trimming of trees in the project area, the applicant shall provide documentation, subject to the review and approval of the Executive Director, which demonstrates that a qualified biologist or resource specialist has inspected the trees and confirmed in writing that no active bird nests will be disturbed. In the event that any nests are discovered, or evidence of past or present roosting or nesting, or reproductive or nesting behavior is observed in the trees on the project site, the applicant shall cease all work and immediately notify the Executive Director. The applicant shall submit a request to amend the permit in order to modify the proposed development in order to avoid the disturbance of the trees used by birds or develop mitigation measures to minimize disturbance of the bird habitat.

8. **Dock Float Dimensions.** In order to reduce further encroachment of development into the navigable channel, the dimensions of dock floats in Rivo Alto Canal and Naples Canal shall be restricted to a width of six feet (the width is the dimension of the dock float that is measured seawardly from the inland edge of the float to the seaward edge of the float). All dock floats in Rivo Alto Canal and Naples Canal shall conform to the size limits when they are replaced or substantially repaired, and all docks shall comply with the size limitation no later than December 31, 2023. The City shall include the dock float size limit on all future dock leases and/or permits.
9. **Dock Floats - Temporary Storage.** A) Prior to the issuance of the coastal development permit, the applicant shall submit a float storage plan, subject to the review and approval of the Executive Director, which identifies the proposed location(s) for the temporary storage of the residents' dock floats while the proposed seawalls are being installed. The location(s) of the temporary dock float storage area(s) shall not adversely affect public access to the shoreline, public recreational activities, or sensitive environmental resources (e.g., eelgrass). If the proposed location of any temporary dock float storage area is located in the water, the applicant shall provide a valid eelgrass survey with the float storage plan which clearly demonstrates that no proposed float storage location is located within any area where eelgrass is growing. B) The applicant shall inspect each dock float prior to attaching the dock float to the walls of the canal upon completion of the seawall repairs. Any dock float deemed unsafe or in a deteriorated condition by the applicant shall be removed from the water, and shall be disposed of properly in compliance with all environmental regulations. In addition, the applicant shall inventory and measure the dimensions of all dock floats in the canal, record the location of each dock float placed in the canal, and submit a copy of the dock float inventory to the Executive Director within three months of reinstallation.
10. **Dock Float and Pier Leases.** Prior to the placement of any dock floats into Rivo Canal after the completion of the approved Phase One seawall repairs, the applicant shall institute a lease program for the project area (at a minimum, the Phase One area), with appropriate prices established in relation to the lease area and temporal length of each lease. The lease program shall allow for the limited-term private use and occupation of state tidelands for development associated with recreational boating activities (i.e., private docks and piers). The money generated by the leases shall be deposited into the City's Tidelands Fund to be utilized for public access improvements, including the public walkway required by **Special Condition Fourteen** of this coastal development permit, and future seawall repairs.
11. **Public Access.** The applicant and the development shall not interfere with public access and use of the public walkways situated immediately inland of the seawalls of Rivo Alto Canal (except for the temporary disruptions that may occur during the completion of the permitted development).
12. **Development on the Rivo Alto Canal Public Right-of-Way.** Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, final project plans for the development proposed on the public property (e.g., sidewalks, benches, and all private encroachments such as walls, yards landscaped areas) located between the canal and the private properties that run along both side of the canal.
  - A. The final plans shall include a public sidewalk at least six feet wide along both sides of the canal for the entire length of the project area, and public benches. The sidewalks shall

remain open and accessible to the general public 24 hours a day, consistent with the other Naples Island public walkways. The Executive Director shall review the final plans to determine whether there are any substantial changes which may require an amendment to this coastal development permit pursuant to the requirements of the Coastal Act and the California Code of Regulations.

- B. 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.

The approved development shall be carried out consistent with the final plans approved by the Executive Director.

13. **No Future Seaward Extension of the Shoreline Protective Device.** By acceptance of this coastal development permit, the applicant waives, on behalf of itself and all successors and assigns, any rights that may exist under Public Resources Code Section 30235 to extending development seaward of the shoreline protective device approved as part of Phase One of the Naples Island Seawall Repair Project.

- A) By acceptance of this coastal development permit, the applicant agrees, on behalf of itself and all successors and assigns, that: 1) no future repair or maintenance, enhancement, reinforcement, modifications to address rising sea level, increased risk of flooding or other hazards, or any other activity affecting the shoreline protective device approved pursuant to Coastal Development Permit 5-11-085, shall be undertaken if such activity extends the footprint seaward of the subject shoreline protective device, and 2) no activity (i.e., attaching tiebacks, etc.) affecting the shoreline protective device approved pursuant to Coastal Development Permit 5-11-085 shall be undertaken if such activity would preclude the requirement for no future seaward extension of the shoreline protective device. All future repair or maintenance, enhancement, reinforcement, or modifications shall be evaluated for compliance with this condition pursuant to a coastal development permit.
- B) Prior to issuance of the coastal development permit, the applicant shall provide the Executive Director with evidence that the proposed project does not include any construction barriers that would preclude the requirement for no future seaward extension of the shoreline protective device. This can be demonstrated through identification of the construction steps necessary for the future construction of a shoreline protective device (i.e., new seawall) that is in the same footprint, or inland of, the currently approved development; and submittal of plans that identify all structures that will need to be removed and/or modified in order to ensure that there will be no future seaward extension of the shoreline protection.

14. **Sorrento Alamitos Bay Shoreline Trail.** By acceptance of this coastal development permit, the applicant agrees to construct an ADA accessible public walkway, at least five feet in width, within the fifteen-foot wide public-right-of-way (Sorrento Alamitos Bay Shoreline Trail) that runs on the northwestern shoreline of Naples Island. The improved walkway shall conform to the alignment depicted on **Exhibit #11 of the Staff Report dated September 27, 2013.** The City of Long Beach shall process a local coastal development permit for the public walkway, which shall include the following provisions:

- A) Trail Alignment. The western end of the improved ADA accessible public walkway shall begin in the public-right-of-way fronting the property at 5425 East Sorrento Drive and shall extend in a continuous manner to the existing improved walkway and beach stairway that was constructed in the public right-of-way fronting 5609 East Sorrento Drive pursuant to Coastal Development Permit 5-12-088 (City of Long Beach). From 5609 East Sorrento Drive, the public accessway shall continue east on the sandy beach/mudflat (in an unimproved state) to the vertical accessways adjacent to 5633 and 5617 East Sorrento Drive. The vertical accessways adjacent to 5633 and 5617 East Sorrento Drive shall be connected to East Apian Way via an improved public sidewalk on the northern side of East Sorrento Drive.
- B) Avoid New Fill. Construction of the walkway and supporting walls shall be restricted to existing filled areas (above high tide line) within the fifteen-foot wide public-right-of-way, to the maximum extent feasible, while still allowing for a continuous improved public accessway. A pile-supported boardwalk may be constructed to extend over the sandy portion of the right-of-way that exists in front of 5455, 5459 and 5465 East Sorrento Drive.
- C) Privacy Walls. An aesthetically pleasing wall or railing (at least eighteen-inches high, but not exceeding 42-inches in height) may be erected along the inland edge of the right-of-way to demarcate the boundary between the public and private properties. Decorative fence patterns such as split rail, picket and rustic are encouraged.
- D) Vertical Accessways. All existing vertical public accessways shall be maintained at their existing locations. The Sorrento Alamitos Bay Shoreline Trail and vertical accessways (which connect the shoreline trail to the sidewalk along the northern side of East Sorrento Drive) shall remain open and accessible to the general public 24 hours a day, consistent with the other Naples Island public walkways.
- E) Signage Plan. Signage shall be provided along the walkway, and on the sidewalk along the northern side of East Sorrento Drive at every intersection with a vertical accessway that extends to the Sorrento Alamitos Bay Shoreline Trail, which clearly indicates that the Sorrento Alamitos Bay Shoreline Trail is open to the general public 24 hours a day. Public access signs, with directions to the Sorrento Alamitos Bay Shoreline Trail, shall be posted at the entrance to each vertical accessway along East Sorrento Drive and at the intersections of: 1) East 2<sup>nd</sup> Street and East Sorrento Drive and 2) East Appian Way and East Sorrento Drive. Public access signage shall include an acknowledgement that the Sorrento Alamitos Bay Shoreline Trail was provided through the cooperative efforts of the City of Long Beach and the California Coastal Commission.

- F) **Lighting Plan.** The City shall explore options for lighting the improved segments of the trail. If feasible, low-scale lights (e.g., bollards) shall be provided on the along the walkway at regular intervals. The lights shall be shielded and shine downward.

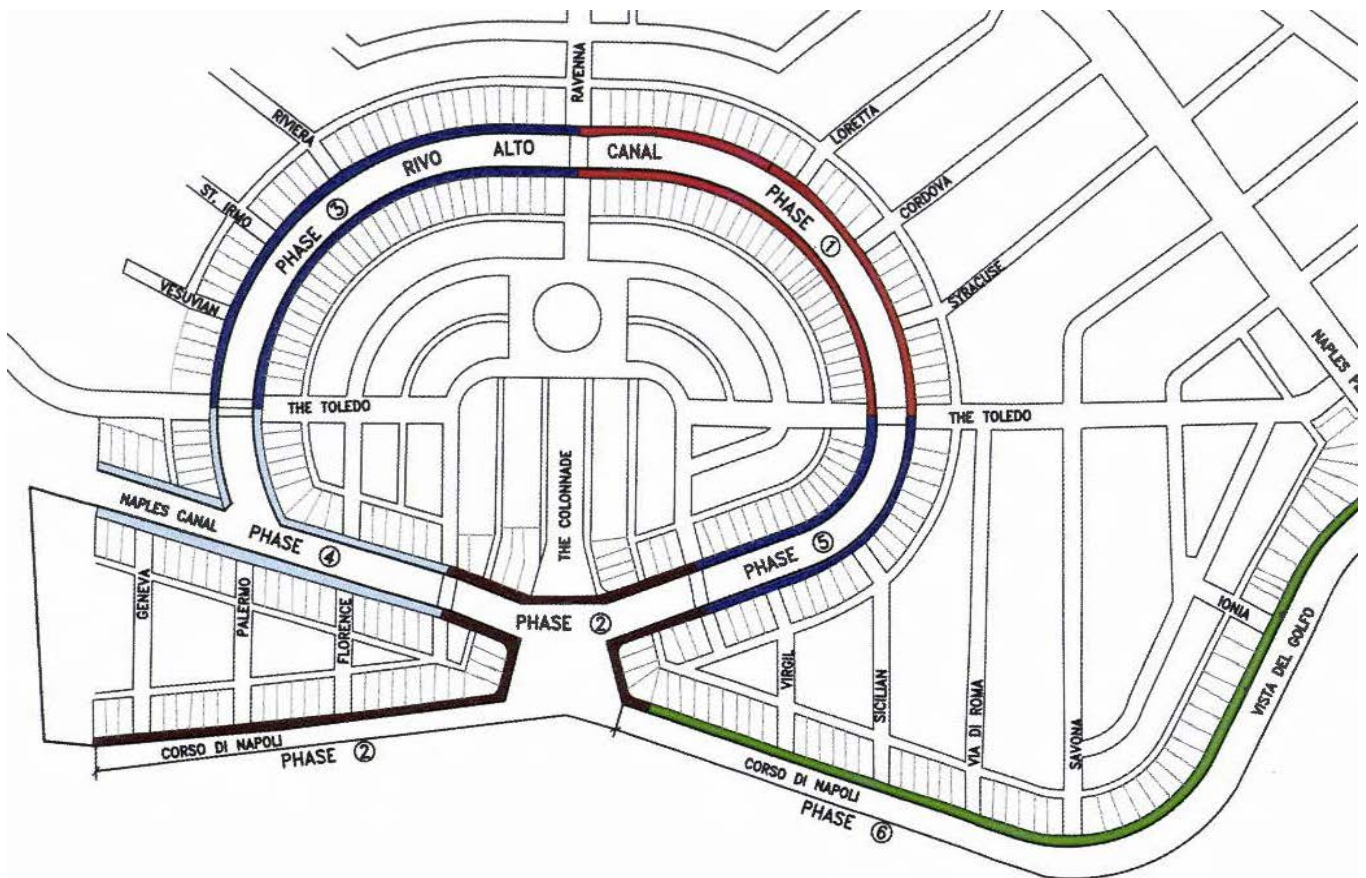
The Sorrento Alamitos Bay Shoreline Trail shall be constructed in phases concurrent with the phased construction of the proposed Naples Island Seawall Repair Project. The City shall prepare detailed construction and phasing plans for the Sorrento Alamitos Bay Shoreline Trail, which shall be in substantial conformance with the above parameters, pursuant to a local coastal development permit. The Sorrento Alamitos Bay Shoreline Trail coastal development permit shall be approved by the City of Long Beach prior to the submittal of the application for the next phase (Phase Two) of the Naples Island Seawall Repair Project, and not later than one year from the date of Commission action on this application (or within such additional time as the Executive Director may grant for good cause).

15. **Resource Agencies.** The applicant shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.
16. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit, the applicant, on behalf of 1) themselves; 2) their successors and assigns and 3) any other holder of the possessory interest in the development authorized by this permit, acknowledge and agree (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (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; (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; and (v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).
17. **Liability for Costs and Attorney's Fees.** By acceptance of this coastal development permit, the Applicant/Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorney's fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorney's fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

## IV. FINDINGS AND DECLARATIONS

### A. PROJECT DESCRIPTION

The applicant (City of Long Beach) is proposing to implement Phase One of the Naples Island Seawall Repair Project on Naples Island in southeast Long Beach (Exhibit #1). The proposed project (Phase One) involves the repair of the seawalls along a one thousand-foot long segment of Rivo Alto Canal; the segment situated between Ravenna Drive bridge and The Toledo east bridge (Exhibit #3). The combined length of the seawalls on both sides of Rivo Alto Canal in Phase One is 1,915 linear feet. At least five future phases would be needed to complete the necessary repairs to the seawalls along the other canal segments and the bayfront (approximately 11,000 linear feet of seawalls). The future phases of the Naples Island Seawall Repair Project would be reviewed by the Commission as separate permit applications or amendments to this coastal development permit.



Phasing Plan, Naples Island Seawall Repair Project, Naples Island, Long Beach, CA

Naples Island (actually three islands) and the Naples Canals (Rivo Alto and Naples Canal) were constructed (dredged and filled) in the early 1900s in the delta of the San Gabriel River, the area that is now Alamitos Bay (Exhibit #2). The existing vertical concrete seawalls were built in the late 1930s. The California Coastal Plan (1975) identifies Naples as a special community. Rivo Alto Canal is currently about seventy feet wide and about 7-to-14 feet deep, depending on the tide (Exhibit #4). A twenty-foot wide portion of public land exists on the upland portions along each side of the Rivo Alto

Canal right-of-way, between the existing vertical concrete seawalls and the property lines of the residents whose homes line the canal.

Over the years, the width of the waterways has been narrowed by about ten feet due to previous repair projects (Exhibit #7). The prior repairs include the construction of the existing vertical concrete seawalls after the Long Beach Earthquake of 1933 on the seaward side of the original wooden seawalls. According to the applicant, the existing vertical concrete seawalls are in a deteriorated condition and are in danger of failing, thereby placing several existing structures and public recreational facilities and public infrastructure in danger from erosion.

The proposed development would occur in coastal waters (water side of the seawalls) and on the public property located immediately inland of the seawalls. The submerged area of Rivo Alto Canal (and other waterways) is within the Commission's original jurisdiction. Pursuant to the certified City of Long Beach Local Coastal Program (LCP), the portion of the proposed project that is situated inland of the seawalls (sidewalks, landscaping, safety rails and lighting) falls within the City's permitting jurisdiction. The City has requested that the Commission review the entire project (including the portion within the City's LCP jurisdiction) together as one combined coastal development permit application.

### **Method of Repair – Applicant's Preferred Alternative**

The applicant proposes to install steel sheet piles on the water side of the existing vertical concrete seawalls along both sides of Rivo Alto Canal in order to support the existing seawalls which are in danger of failing because of their age. The new sheet-pile seawall will extend eighteen inches beyond the existing vertical wall, which will remain in place. The new steel sheet piles would be installed on the waterside of the existing vertical concrete seawalls using a hydraulic press (Giken Silent Piler). Interlocking z-piles would be used instead of an H-beam/concrete panel design to reduce footprint of the development in the canal (Exhibit #6).

The proposed seawall repairs involve the following construction steps:

- Disconnect and remove the private dock floats, dock access platforms and gangways (all associated with the adjacent residences) from the construction zone and store the floats in other canals (or on land to protect eelgrass). No piles exist in the canal.
- Pressure wash the existing seawall face to remove marine growth and reveal cracks and holes in the existing seawall.
- Demolish and remove the existing seawall cap prior to driving steel sheet piles on waterside of existing vertical concrete seawalls.
- Using the Giken Silent Piler hydraulic press cantilevered from landside, insert the line of continuous interlocking z-piles to construct the new steel sheet-pile seawall. (Note: first sheet pile may need to be driven with a hammer or vibrating pile installer).
- Pump slurry into gap between the existing vertical concrete seawall and the new steel sheet-pile seawall.

- Construct a new concrete seawall cap to encapsulate both the top of the new steel sheet-pile seawall and the existing concrete seawall (Exhibit #5).
- Install a new 42-inch high guardrail on top of new seawall cap (Exhibit #5).
- Repair areas of subsidence on the land area inland of the seawall.
- Repair the public sidewalk and landscape beds situated within the public right-of-way inland of the seawall, and grade land to ensure proper drainage.
- Replace existing street lighting.
- Finally, re-install the residents' private dock floats, dock access platforms and gangways.

The applicant anticipates a six-month construction period for the completion of Phase One. The applicant has already allocated \$9.5 million in Tidelands Funds toward Phase One of the Naples Island Seawall Repair Project.

### **Soft Bottom Habitat Mitigation Proposal – Colorado Lagoon**

The proposed project also includes a habitat restoration component at Colorado Lagoon, about one mile northwest of Naples Island (Exhibit #2). Colorado Lagoon is a 17.7-acre tidal lagoon that is connected to Alamitos Bay (Marine Stadium) through a 933-foot long underground tidal culvert. The lagoon serves three main functions: hosting estuarine habitat, providing public recreation (e.g., swimming), and retaining and conveying storm water drainage. The lagoon is surrounded by 18.5 acres of public parkland managed by the City of Long Beach.

The applicant proposes to create new submerged soft-bottom habitat at Colorado Lagoon in order to replace the habitat (at a 2:1 ratio) that is lost as a result of the proposed project. The width of the proposed steel sheet-pile seawall is 1.57 feet, so the installation of such a seawall on each side of Rivo Alto Canal would reduce the width of the waterway (by 3.14 feet) from an average width of 69 feet to a reduced width of 65.86 feet (Exhibit 4). The narrowing of the waterway in Phase One would result in the loss of approximately 1,727 square feet of submerged soft-bottom habitat. This is the area of the canal bottom that would be permanently occupied by the footprint of the new seawalls (Exhibit #6).

The applicant's proposed habitat mitigation program involves the excavation and re-contouring of the northern bank and north arm of Colorado Lagoon to create approximately 20,908 additional square feet of submerged soft bottom habitat (Exhibit #8). The creation of 20,908 additional square feet of submerged soft bottom habitat is anticipated to enough new habitat area to mitigate (at a 2:1 ratio) the loss of habitat in all six phases of the Naples Island Seawall Repair Project. The high tide line along the northern bank and west bank of the north arm of Colorado Lagoon would be relocated about fifty feet inland of its current location order to create the new submerged soft-bottom habitat area. The upland area that is proposed to be transformed into part of the lagoon is the area where a former parking lot and access road have recently been removed as part of the Colorado Lagoon Restoration Project [Coastal Development Permit 5-09-071 (City of Long Beach)]. The applicant also proposes to place fill in the west and north arms of Colorado Lagoon in order to reduce the lagoon's depth in those two areas.

Raising the bottom elevation of those arms of the lagoon will make it more conducive to eelgrass growth (i.e., make it shallower so that more sunlight will reach the bottom).

### **Eelgrass Impacts – Marine Stadium Eelgrass Mitigation Site**

Eelgrass in Rivo Alto Canal would be impacted by the placement of the new steel sheet-pile seawalls (permanent displacement) and by new shading from relocated dock floats which will end up being about eighteen inches closer to the centerline of the channel after the project. Based on an Eelgrass Survey conducted on March 4, 2011, the applicant estimates that 439 square feet of eelgrass in Rivo Alto Canal will be affected by Phase One of the Naples Island Seawall Repair Project (Exhibit #3).

The applicant proposes to mitigate the Phase One eelgrass impacts by replacing the affected eelgrass at a 1.2:1 ratio at the Marine Stadium Eelgrass Mitigation Site (Exhibit #2). The applicant created the 10,500 square foot Marine Stadium Eelgrass Mitigation Site in 2012 by excavating out part of the northeast shoreline (rock revetment) of Marine Stadium (Exhibit #9). The Marine Stadium Eelgrass Mitigation Site was constructed to mitigate the impacts to eelgrass beds caused by the multiple phases of dredging associated with the approved Alamitos Bay Marina Rehabilitation Project [Coastal Development Permit 5-10-263 (City of Long Beach)].

Eelgrass surveys of the Alamitos Bay Marina in September 2007 and October 2008 were used to estimate the amount of eelgrass that would be impacted by dredging for the marina project: 1,373 square feet. Using a 1.2:1 ratio for mitigation, an estimated 1,648 square feet of eelgrass will be required in the 10,500 square foot eelgrass mitigation site for the Alamitos Bay Marina Rehabilitation Project. Of course, the mitigation figures are estimates because the actual amount of eelgrass impacts will not be determined until the pre- and post-construction surveys are completed for each and every phase of the Alamitos Bay Marina Rehabilitation Project (twelve phases).

The estimated eelgrass mitigation requirement for Phase One of the Naples Island Seawall Repair Project (527 sq. ft.) plus the estimated eelgrass mitigation requirement for the twelve phases of the Alamitos Bay Marina rehabilitation project (1,648 sq. ft.), is 2,175 square feet. The applicant asserts that the 10,500 square foot eelgrass mitigation site in Marine Stadium will provide all of the necessary eelgrass mitigation area for all phases of both projects.

## **B. SHORELINE PROTECTIVE STRUCTURES**

Section 30235 of the Coastal Act states:

*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. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Section 30253 of the Coastal Act states, in part:

*New development shall do all of the following:*

*(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

*(b) 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 Naples Island Seawall Repair Project is necessary to protect and provide structural support for existing homes and public facilities on Naples Island. A 2009 report by Transystems Corporation concludes that the existing vertical concrete seawalls along Rivo Alto Canal, which were built in the late 1930s, are in a deteriorated condition and are in danger of failing [Naples Seawall Stability Investigation and Repair Recommendations, Long Beach, CA by Transystems Corp., February 25, 2009]. The investigation determined that the existing seawalls exhibit severe corrosion (sulfate deterioration), cracking, pitting, reduced thickness, and spalling. Over 95 percent of the seawall cap is in advanced deterioration. The report recommends reinforcement or replacement of the existing seawalls.

The Naples Island seawalls support the fill upon which public walkways (right-of-way), landscaping and private residences exist along both banks of Rivo Alto Canal and Naples Canal (Exhibit #7). The underlying soil behind the seawalls is primarily hydraulic fill, which is highly susceptible to liquefaction during earthquakes. The seawalls also protect the structural integrity of the canal banks from tidal activity. If the seawalls were removed and not replaced, gravity and erosion from tidal activity would destabilize the canal banks and endanger the public and private development that exists inland of the seawalls. Therefore, the proposed project is required to protect existing structures. In addition, if the existing seawalls were to fail, large amounts of fill material would be discharged into the canal causing adverse impacts on coastal resources, including quality of coastal waters, biological productivity of the canal bottom habitat, and coastal-dependent public trust uses associated with public access to and along the shoreline like fishing, swimming and other public trust uses. Thus, the proposed project is also required to serve coastal-dependent uses.

The existing seawalls, in their deteriorated state, pose a significant risk to life and property. The proposed project (Phase One) will improve the stability of the land (the public right-of-way and the

private properties) and the public and private improvements that exist on the land, and will reduce risks to life and property by providing improved structural support.

No development near the ocean, however, can be guaranteed to be safe from hazard. In order to minimize risks to life and property, the development has been conditioned to require that the applicant assume the risk of undertaking the development. The Commission routinely imposes conditions for assumption of risk in areas at high risk from hazards. **Special Condition Sixteen** ensures that the applicant understands and assumes the potential hazards associated with the development.

As conditioned, the proposed project will not create or contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of additional protective devices that would substantially alter natural landforms along bluffs and cliffs. The project does not involve any landform alteration, and will not have any effect on local shoreline sand supply. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Section 30235 and 30253 of the Coastal Act.

## **C. MARINE RESOURCES AND WATER QUALITY**

The Coastal Act contains policies that address development in or near coastal waters. The proposed Naples Island Seawall Repair Project includes development in the coastal waters of Alamitos Bay (Exhibit #4). In addition, the proposed soft bottom habitat mitigation project is located in the coastal waters of Colorado Lagoon (Exhibit #8). The following Coastal Act policies require the protection of water quality and biological productivity, and require that any adverse impacts to marine resources be avoided or adequately mitigated.

The standard of review for development proposed in coastal waters is the Chapter 3 policies of the Coastal Act, including the following marine resource policies. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity, public recreation 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 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 such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.*

### **1. Filling of Coastal Waters and Loss of Marine Habitat**

The proposed Naples Island Seawall Repair Project (Phase One) involves retaining the existing vertical concrete seawalls and constructing a new steel sheet-pile seawall adjacent to, but seaward of, the existing seawall. The steel sheet piles that the applicant proposes to place on the waterside of the existing seawalls (in the canal) are considered fill because the structure would displace surface water area and submerged bay bottom area. In Phase One, approximately 1,727 square feet of submerged soft-

bottom habitat would be permanently filled by the proposed placement of the steel sheet piles along both sides of Rivo Alto Canal, and the width of the canal would be narrowed by 3.14 feet, from an average width of 69 feet to 65.86 feet (Exhibit #4).

As explained in the previous section (Shoreline Protective Structures), the proposed seawall repair project to protect existing development meets the requirements of Section 30235. Although the proposed project meets the requirements of Section 30235, it still must be the least environmentally damaging alternative; feasible mitigation measures must be incorporated into the project to minimize adverse environmental effects; and not adversely affect marine resources and biological productivity and quality of coastal waters as required pursuant to Sections 30230 and 30231 of the Coastal Act.

### **Project Alternatives**

The applicant studied several alternative methods for the necessary seawall repair project. Alternatives to the proposed project include no project, replacement of the seawalls in the same alignment or landward of the existing seawall alignment (the landside option, which would include no fill), and replacement of the seawalls seaward of their existing alignment (within the waterway).

Under the no project alternative, the applicant could only pursue simple maintenance activity. However, simple maintenance could not feasibly repair the seawalls, nor to bring them up to present engineering, seismic and safety standards. Simple maintenance would only prolong the unsatisfactory condition of the existing seawalls. Ultimately, maintenance efforts would be unable to address the deteriorating seawalls and the structures would eventually fail, likely causing damage to adjacent residences and the habitat in the canal.

### **Alternative Design – Landside Option**

An alternative seawall design considered by the applicant would involve the removal of the old seawalls and construction of new seawalls in the same footprint as the existing seawalls (or further landward), which would result in no permanent habitat displacement and would maintain the current width of the canal. The applicant rejected this alternative because it could risk the structural stability of the fill and residences behind the wall (once the old seawall was removed to make room for a new seawall) and much more expensive than the applicant's preferred alternative. The applicant's estimated cost for the landside option (Phase One only) is \$25.3 million, compared to about over \$15 million for the proposed waterside option (Phase One, including one-sixth of the estimated costs of the habitat and public access mitigation measures for all six phases of the project).

Installation of a new seawall on the landside of the existing seawall would require removal of the existing seawall and tiebacks before installation of a temporary shoring wall and a new seawall. Without support of the old seawall and tiebacks, this approach could lead to a temporary unsupported condition of the fill behind the existing seawall. This approach, according to the applicant, would endanger adjacent properties during construction. This approach is also complicated by the existence of an even older seawall and grout that is buried in the fill behind the existing seawall (Exhibit #7). The old buried seawall exists because prior episodes of seawall repairs included the construction of the current seawall on the waterside of the older seawall. Past repairs also included mud jacking and soil grouting which has resulted in the fill behind the existing seawalls being comprised of solid chunks of concrete-like material (in contrast to soft mud fill which would be relatively easy to drive sheet piles through). The

landside option would also necessitate the removal of trees, landscaping and utilities that occupy the land area immediately inland of the existing seawalls (although removal of large palm trees next to the seawalls would decrease the loads on the seawalls). The applicant's estimated cost for the landside option (Phase One only) is \$25.3 million. The very high cost of this alternative caused the applicant to consider another alternative.

Although more difficult and costly, the landside option would result in no loss of soft bottom habitat, no loss of public trust area, and there would be no requirement to excavate Colorado Lagoon to create additional soft bottom habitat to mitigate for the fill (i.e., footprint of the proposed new seawalls) in the canal. The applicant estimates that the proposed soft bottom habitat mitigation project at Colorado Lagoon would cost \$4.3 million, or about \$717,000 for each of the six phases.

### **Applicant's Preferred Design – Waterside Option**

The applicant's preferred alternative for Phase One (and for the other five phases of the Naples Island Seawall Repair Project), the construction of the new steel sheet-pile seawalls in front of (waterside) of the existing seawalls, has a lower estimated cost than the landside alternative: \$13.6 million, not including the cost of habitat and public access mitigation measures. Even if one-sixth of the estimated costs of the habitat and public access mitigation measures for all six phases of the project are added into the total (mitigation costs divided over six phases of seawall construction), the estimated cost of Phase One is just over \$15 million for the proposed waterside option.

The applicant has also significantly reduced the amount of fill in the canal by proposing to use interlocking z-piles to construct the new seawalls instead of a former design alternative that would have utilized an eighteen-inch thick H-beam/concrete panel design. The use of the interlocking z-pile seawall design (with its w-shaped footprint) would reduce the footprint of the development in the canal by 32% compared to the rectangular footprint of the H-beam/concrete panel design (Exhibit #6). For Phase One, the use of the interlocking z-piles design would reduce the permanent displacement of soft bottom habitat loss from 2,553 square feet to 1,727 square feet (compared to the H-beam/concrete panel design). The use of the Giken Silent Piler hydraulic press to install the interlocking z-piles would also result in less noise and vibrations compared with traditional vibratory or impact hammer pile driving techniques used to drive H-beams.

As stated previously, the applicant's preferred waterside option entails the required soft bottom habitat mitigation project at Colorado Lagoon to compensate for the loss of habitat that would result from the construction of new seawalls within the waterway. Because of the significant costs and risks to property and habitat involved with the no fill alternative, and with the applicant's proposed soft bottom habitat mitigation project at Colorado Lagoon, the waterside alternative can be considered to be the least environmentally damaging feasible alternative.

Subsequent to the completion of all six phases of the Naples Island Seawall Repair Project, no additional filling of the coastal waters (seaward of the new seawalls) will be permitted. The expected life of the currently proposed steel sheet-pile seawalls is about sixty years. When the time comes to replace the steel sheet-pile seawalls in the future, the seawalls permitted by this application will act as shoring walls which will allow new seawalls to be constructed on the landside, thus avoiding new fill and further narrowing of the canals. The applicant agrees that installing the new seawalls in front of the existing seawalls would facilitate the eventual replacement of the new seawalls in the future in a more landward

location because the new steel sheet-pile seawalls have been designed to be strong enough to provide sufficient support for the weight of the fill and structures on the land once the old seawalls' tiebacks are cut and removed.

**Special Condition Thirteen** prohibits any future seaward extension of the development (beyond the approved steel sheet-pile seawalls) into coastal waters to avoid future fill of coastal waters. The applicant shall provide evidence that the proposed project does not include any construction barriers that would preclude the requirement for no future seaward extension of the shoreline protective device. This can be demonstrated through identification of the construction steps necessary for the future construction of a shoreline protective device (i.e., new seawall) that is in the same footprint, or inland of, the currently approved development; and submittal of plans that identify all structures that will need to be removed and/or modified in order to ensure that there will be no future seaward extension of the shoreline protection.

### **Soft Bottom Habitat Mitigation Proposal – Colorado Lagoon**

The applicant proposes to create new submerged soft-bottom habitat at Colorado Lagoon in order to replace the habitat (at a 2:1 ratio) that would be lost as a result of the use of the waterside option for all six phases of the Naples Island Seawall Repair Project. Even with the use of interlocking z-piles, the width of the proposed steel sheet-pile seawall is 1.57 feet, so the installation of such a wall on each side of Rivo Alto Canal would reduce the width of the waterway (by 3.14 feet) from an average width of 69 feet to a reduced width of 65.86 feet (Exhibit 4). The narrowing of the waterway in Phase One would result in the loss of approximately 1,727 square feet of submerged soft-bottom habitat. This is the area of the canal bottom that would be permanently occupied by the w-shaped footprint new steel sheet-pile seawalls (Exhibit #6).

The applicant's proposed soft bottom habitat mitigation program involves the excavation and re-contouring of the northern bank and north arm of Colorado Lagoon to create approximately 20,908 additional square feet of submerged soft bottom habitat (Exhibit #8). The creation of 20,908 additional square feet of submerged soft bottom habitat is anticipated to be enough new habitat area to mitigate (at a 2:1 ratio) for the loss of habitat in all six phases of the Naples Island Seawall Repair Project. The high tide line along the northern bank and west bank of the north arm of Colorado Lagoon would be relocated about fifty feet inland of its current location order to create the new submerged soft-bottom habitat area. The upland area that is proposed to be transformed into part of the lagoon is the area where a former parking lot and access road have recently been removed as part of the Colorado Lagoon Restoration Project [Coastal Development Permit 5-09-071 (City of Long Beach)]. The excavated material would be placed in the deep-water areas in the west and north arms of the lagoon in order to create optimum habitat (more shallow) for eelgrass growth.

The Colorado Lagoon component of the proposed project involves dredging and filling, but the proposed dredging and filling is for habitat restoration purposes. Restoration is one of the allowable reasons for which Section 30233(a)(6) of the Coastal Act permits dredging and filling of open coastal waters and wetlands.

The applicant's proposed soft bottom habitat mitigation program at Colorado Lagoon has not yet gained final approval by the appropriate regulatory agencies (e.g., Army Corps of Engineers, National Marine Fisheries Service, California Fish and Wildlife Dept., etc.), and the City is still developing the final

project plans. The disturbed areas of the lagoon area expected to be voluntarily colonized by marine benthic organisms within one or two years of completion of the proposed re-contouring.

**Special Condition Six** requires the applicant to submit the final plans for the proposed soft bottom habitat mitigation program subsequent to the approval of the project by the appropriate regulatory agencies. The special condition also requires the applicant to include a component in the final plan to protect and enhance the native vegetation at the Colorado Lagoon project site. The applicant shall conduct a biological survey to identify and protect existing native vegetation in the project area, and to replant any affected native vegetation so that the project will result in no net loss of native vegetation, and shall monitor the project site for at least five years. All vegetation on the project site shall consist of native plants typically found in the Alamitos Bay and Los Cerritos Wetlands area.

**Special Condition Three** requires the applicant to conduct pre- and post-construction eelgrass surveys in order to determine whether the proposed soft bottom habitat mitigation program at Colorado Lagoon results in any impacts to eelgrass in the lagoon. If there are any eelgrass impacts, the applicant is required to mitigate all eelgrass impacts of the project within the lagoon at a minimum 1.2:1 ratio, consistent with the standards of NOAA's Southern California Eelgrass Mitigation Policy (SCEMP).

**Special Condition Six** also requires the applicant to implement the proposed soft bottom habitat mitigation program at Colorado Lagoon (i.e., excavation and re-contouring of the northern bank and north arm of Colorado Lagoon to create approximately 20,908 additional square feet of submerged soft bottom habitat) prior to the applicant's submittal of the application for the next phase (Phase Two) of the Naples Island Seawall Repair Project, but no later than one year from the date of Commission action on this application. As conditioned, the proposed project will conform with Sections 30230 and 30240 of the Coastal Act. Only as conditioned does the Commission find that the proposed project conforms with the marine resource provisions of the Coastal Act.

## **2. Sensitive Species Impacts – Eelgrass**

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Wildlife (DFG). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

Eelgrass beds have been mapped throughout Alamitos Bay, including the Naples Canals. Based on an Eelgrass Survey conducted on March 4, 2011, the applicant estimates that 439 square feet of eelgrass will be affected by the proposed project (Phase One)(Exhibit #3). Eelgrass in Rivo Alto Canal would be impacted by the placement of the new steel sheet-pile seawalls (permanent displacement) and by new shading from relocated dock floats. The dock floats will extend about eighteen inches closer to the centerline of the canal after the new seawalls are constructed.

The applicant proposes to mitigate the eelgrass impacts by replacing the affected eelgrass at a 1.2:1 ratio at the Marine Stadium Eelgrass Mitigation Site (Exhibit #2). The City created the 10,500 square foot Marine Stadium Eelgrass Mitigation Site in 2012 by excavating out part of the northeast shoreline of Marine Stadium (Exhibit #9). The Marine Stadium Eelgrass Mitigation Site was constructed to mitigate the impacts to eelgrass beds caused by the dredging associated with the Alamitos Bay Marina rehabilitation project, which the Commission approved January 13, 2011 [Coastal Development Permit 5-10-263 (City of Long Beach)]. Using a 1.2:1 ratio for mitigation, an estimated 1,648 square feet of eelgrass will be required in the 10,500 square foot eelgrass mitigation site for the Alamitos Bay Marina rehabilitation project. The mitigation figures are estimates because the actual amount of eelgrass impacts will not be determined until the pre- and post-construction surveys are completed for each and every phase of the Alamitos Bay Marina rehabilitation project (twelve phases). It is the dredging and deepening of the marina basins that creates the eelgrass impacts that require mitigation.

The estimated eelgrass mitigation requirement for Phase One of the Naples Island Seawall Repair Project (527 sq. ft.) plus the estimated eelgrass mitigation requirement for the twelve phases of the Alamitos Bay Marina rehabilitation project (1,648 sq. ft.), is 2,175 square feet. The City asserts that the 10,500 square foot eelgrass mitigation site in Marine Stadium will provide all of the necessary eelgrass mitigation for both projects, even if the impacts have been underestimated.

**Special Condition Three** requires the applicant to conduct new eelgrass surveys in the canal prior to the actual construction of the new seawalls, and post-construction eelgrass surveys to determine the actual amount of eelgrass impacts and the amount of mitigation that will be required. Pre-construction surveys must be conducted during the active growth phase no earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit. The applicant is also required to provide annual accounting reports to the Executive Director which demonstrate that the eelgrass mitigation required pursuant to Coastal Development Permit 5-11-085 (Naples Island Seawall Repair Project) and Coastal Development Permit 5-10-263 (Alamitos Bay Marina Rehabilitation Project) is being provided within the Marine Stadium Eelgrass Mitigation Site. The first and highest priority for the use of the eelgrass mitigation site in Marine Stadium shall be to mitigate the eelgrass impacts of the Alamitos Bay Marina Rehabilitation Project (Coastal Development Permit 5-10-263), since the eelgrass facility was specifically built to mitigate the impacts of the marina rehabilitation project. The annual accounting reports shall quantify how much of the area within the 10,500 square foot eelgrass mitigation site is unencumbered and remains available to meet the eelgrass mitigation requirements for future phases of the Naples Island Seawall Repair Project and the Alamitos Bay Marina Rehabilitation Project after meeting the mitigation requirements for all completed phases. The quantity of available eelgrass mitigation area can be evaluated prior the review and approved of each new phase of the Naples Island Seawall Repair Project.

The applicant is required to mitigate all eelgrass impacts of the project at a minimum 1.2:1 ratio, consistent with the standards of NOAA's Southern California Eelgrass Mitigation Policy (SCEMP). The proposed eelgrass mitigation program at the Marine Stadium Eelgrass Mitigation Site is set forth in the Eelgrass Field Survey, Impact Assessment, and Mitigation Plan for the Alamitos Bay Marina Renovation Project, prepared by Coastal Resources Management, Inc. (December 15, 2007, revised October 1, 2009). Eelgrass impacts are required to be mitigated consistent with SCEMP within 36 months of the impact, and eelgrass mitigation must be maintained through at least sixty months. The proposed eelgrass mitigation program includes a five-year monitoring program to ensure the survival of at least the minimum amount of eelgrass to be mitigated. The total eelgrass mitigation amount resulting from each

phase of the Naples Island Seawall Repair Project and the Alamitos Bay Marina Rehabilitation Project will be determined from pre-construction, post-construction and control site surveys per the standards in NOAA's Southern California Eelgrass Mitigation Policy (SCEMP). Specific surveys to determine this amount will be conducted phase by phase to determine the correct mitigation requirement per the policy.

Eelgrass beds in Alamitos Bay shall also be protected from adverse impacts associated with the temporary storage of the residents dock floats while construction of new seawalls is occurring in the canal. The dock floats in the segment of Rivo Alto Canal subject to Phase One will have to be removed for the duration of the seawall construction period, which is expected to take six months. The shading caused by the placement of dock floats above eelgrass habitat or potential eelgrass habitat would severely inhibit eelgrass growth. Such a plan could also inhibit the use of the waterway for transportation or water-oriented recreational activities.

Therefore, **Special Condition Nine** requires the applicant to submit a float storage plan, subject to the review and approval of the Executive Director, which identifies the proposed location(s) for the temporary storage of the residents' dock floats while the proposed seawalls are being installed. The location(s) of the temporary dock float storage area(s) shall not adversely affect public access to the shoreline, public recreational activities, or sensitive environmental resources (e.g., eelgrass). If the proposed location of any temporary dock float storage area is located in the water, the applicant shall provide a valid eelgrass survey with the float storage plan which clearly demonstrates that no proposed float storage location is located within any area where eelgrass is growing.

As conditioned, the proposed eelgrass mitigation program will provide more than enough habitat area to grow the amount of eelgrass that will be required for the City to meet the minimum ratio of 1.2:1 for Phase One in accordance with the Southern California Eelgrass Mitigation Policy. As conditioned, the proposed project will conform with the Southern California Eelgrass Mitigation Policy and Sections 30230 and 30240 of the Coastal Act. Only as conditioned does the Commission find that the proposed project conforms with the marine resource provisions of the Coastal Act.

### **3. Sensitive Species Impacts - Nesting Birds**

Various species of herons and other birds often nest in palms and other trees near the water. Nesting birds using the palms along Rivo Alto Canal could be adversely affected by construction noise and tree trimming or removal. The applicant proposes to remove 33 palms as part of the proposed project, and to replace 25 palms. A biological survey of the Phase One project area on August 9, 2011 by Keane Biological Consulting found no roosting or nesting birds in the project area, but did document two unoccupied nests in the palms next to the Ravenna Drive bridge over Rivo Alto Canal. The consulting biologist recommends that the proposed construction activities be restricted during breeding season and that additional bird nesting surveys be conducted prior to the commencement of construction.

Special conditions of the coastal development permit will protect nesting birds from the impacts of the proposed development. The removal and/or trimming of trees shall not interfere with or disrupt any active birds' nests, and shall comply with the 1918 Migratory Bird Treaty Act. **Special Condition Seven** requires the applicant to demonstrate that a qualified biologist or resource specialist has inspected the trees and confirmed in writing that no active bird nests will be disturbed. In the event that any nests are discovered, or evidence of past or present roosting or nesting, or reproductive or nesting behavior is

observed in the trees on the project site, the applicant shall cease all work and immediately notify the Executive Director. The applicant shall submit a request to amend the permit in order to modify the proposed development in order to avoid the disturbance of the trees used by birds or develop mitigation measures to minimize disturbance of the bird habitat.

In order to protect nesting birds from noise impacts, **Special Conditions Five** requires the implementation of a specific noise mitigation program. The applicant shall retain the services of a qualified independent biologist or environmental resources specialist to conduct a biological survey of the trees within five hundred feet of the project site prior (within seven days) to the commencement of construction activities, and once a week upon commencement of construction activities that include use of heavy equipment that can cause excessive noise, odors, or vibrations (e.g., pile driving). The environmental resource specialist shall conduct the survey in order to determine the presence of black-crowned night herons, great blue herons, snowy egrets, raptors, or other sensitive species within five hundred feet of the work site. If the environmental specialist reports any black-crowned night herons, great blue herons, snowy egrets, raptors, or other sensitive species exhibiting reproductive or nesting behavior within five hundred feet of the work site, noise reduction measures (e.g., sound shields made from plywood or sound-board or molded sound shields) shall be used and measures shall be taken to minimize loud noise generation to the maximum feasible extent during construction.

In addition, noise generated by construction (including, but not limited to, pile driving) shall not exceed 65 dB at any active nesting site within five hundred feet of project site for black-crowned night herons, snowy egrets, great egrets, great blue herons, raptors, or other sensitive species. The noise limit (65 decibels) is a standard noise limit for residential areas. If construction noise exceeds 65 dB, then alternative methods of pile driving (including, but not limited to, vibratory pile driving, press-in pile placement, drilling, dewatered isolation casings, etc.) or other sound mitigation measures shall be used as necessary to achieve the required dB threshold levels. The applicant is proposing to use press-in pile placement, which is not expected to exceed the noise limit. If these sound mitigation measures do not reduce noise levels, construction within five hundred feet of the nesting trees shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.

Only as conditioned is the proposed development consistent with Section 30240(b), which states: "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."

#### **4. Construction Impacts to Water Quality**

The construction will occur over and in the water. Construction of any kind adjacent to or in coastal waters has the potential to impact marine environment. Alamitos Bay, including the Naples Canals, provides an opportunity for water oriented recreational activities and also serves as a home for marine habitat. Because of the coastal recreational activities and the sensitivity of the Alamitos Bay habitat, water quality issues are essential in review of this project.

The proposed project involves installation of new steel sheet-pile seawalls. No materials are proposed that would treat and coat any steel sheet piles. Were the applicant to include such materials, the project would need to be reviewed for water quality impacts because certain substances may have an adverse impact on water quality. In this case, no such coating is proposed.

Due to the project's location near coastal waters, it is necessary to ensure that construction activities will be carried out in a manner that will not adversely affect recreation, water quality or marine resources. The potential adverse impacts to water quality and marine resources include discharges of contaminated runoff into the canal, sedimentation and turbidity during construction of the new seawalls, and the use of heavy equipment (fuel and oil leaks).

The City of Long Beach has certified a Mitigated Negative Declaration for the proposed project (Naples Seawall Interim and Long Range Repair Project, by RBF Consulting, March 2010, SCH#2010-011073) and has incorporated numerous mitigation measures (BMPs) into the proposal in order to minimize the adverse impacts associated with the proposed construction activities. The BMPs include the use of turbidity screens/siltation curtains to isolate work areas during pile removal and installation, floating booms to contain debris or spills, recovery of any non-buoyant debris by divers as soon as possible after loss.

In order to prevent adverse impacts to marine waters from construction activities, the Commission is imposing **Special Condition Two**. This special condition requires the applicant to utilize specific BMPs, including those described above, to ensure that water quality, biological productivity and marine resources are protected as required by Sections 30230 and 30231 of the Coastal Act. The required best management practices include provisions to prevent discharges into the water during construction. Only as conditioned will the proposed project ensure the protection of marine resources and water quality as required by Sections 30230 and 30231 of the Coastal Act.

## 5. Sensitive Species Impacts – Invasive Species

A non-native and invasive aquatic plant species, *Caulerpa taxifolia* (herein *C. taxifolia*), has been discovered in parts of Southern California. *C. taxifolia* is a tropical green marine alga that is popular in the aquarium trade because of its attractive appearance and hardy nature. In 1984, this seaweed was introduced into the northern Mediterranean Sea. From an initial infestation of about one square yard it grew to cover about two acres by 1989, and by 1997, blanketed about 10,000 acres along the coasts of France and Italy. Genetic studies demonstrated that those populations were from the same clone, possibly originating from a single introduction. This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. In the Mediterranean Sea, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 feet depth. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation in the Mediterranean Sea has had serious negative economic and social consequences because of impacts to tourism, recreational diving and commercial fishing.

Because of the grave risk to native habitats *C. taxifolia* was designated a prohibited species in the United States in 1999 under the Federal Noxious Weed Act. In 2001, AB 1334 made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various *Caulerpa* species including *C. taxifolia*.

In June 2000, *C. taxifolia* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations may occur. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to

at least 50°F. Although warmer Southern California habitats are most vulnerable, until better information is available, it must be assumed that all shallow water marine habitats in California are at risk of infestation.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California Caulerpa Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group consists of representatives from several State, federal, local and private entities. The goal of SCCAT is to locate and completely eradicate all *C. taxifolia* infestations.

The project area was surveyed for eelgrass and *C. taxifolia* in March 2011 and no *C. taxifolia* was found.<sup>1</sup> So far, *C. taxifolia* has not been found anywhere in the Alamitos Bay area. However, to ensure that *C. taxifolia* is not present in the project area before the proposed project commences, the applicant will conduct another survey. **Special Condition Four** requires the applicant to survey the project area again no earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit. As conditioned, the Commission finds that the proposed project conforms with the marine resource provisions of the Coastal Act.

There are also numerous upland invasive plants that are known to cause adverse impacts to sensitive habitat areas. These problematic and/or invasive plant species are listed by the California Native Plant Society and the California Invasive Plant Council (formerly the California Exotic Pest Plant Council). **Special Condition Twelve** prohibits the use of any plants on this list as part of the proposed project.

Finally, **Special Condition Fifteen** requires the applicant to comply with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and the environment. Only as conditioned will the proposed project ensure that marine resources and water quality be protected as required by Sections 30230, 30231 and 30240 of the Coastal Act.

The proposed development is the improvement of waterway that supports recreational boating and is an encouraged marine related use. The proposed development has been designed to minimize the fill of coastal waters. The proposed development has been conditioned to minimize adverse effects on the marine environment by avoiding or mitigating impacts upon sensitive marine resources, such as eelgrass and to avoid contributing to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. As conditioned, there are no feasible less environmentally damaging alternatives available. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30224, 30230, 30231, 30240 and 30233 of the Coastal Act.

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<sup>1</sup> Eelgrass & Caulerpa Survey for Naples North-East Quadrant Permanent Seawall Repairs, City of Long Beach, CA by Tetra Tech, Inc., March 2011.

#### **D. PUBLIC ACCESS AND RECREATION**

One of the basic goals stated in the Coastal Act and is to *maximize public access* to and along the coast. The public access and recreation policies of the Coastal Act require that maximum access and recreational opportunities shall be provided and that development shall not interfere with such access.

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

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 30213 of the Coastal Act states:

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

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.*

The Commission is vested with the authority to assure that it acts in a manner consistent with Section 30210 of the Coastal Act which requires the Commission to carry “out the requirement of Section 4 of Article X of the California Constitution” and provide for maximum access and recreational opportunities for all people.

Section 4 of Article X of the California Constitution provides the following:

*No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.*

This section merges the common law Public Trust Doctrine with the California Constitution. [See *Personal Watercraft Coalition v. Marin County Board of Supervisors* (2002) 100 Cal.App.4th 129, 144-

145.] The Legislature, in furthering the goals of Article X Section 4 of the Constitution, enacted Section 30210 of the Coastal Act to ensure the public can always attain access to navigable waters for recreational purposes. As such, through this legislative mandate, the Commission is charged with the duty of ensuring that proposed development is consistent with Section 30210 of the Coastal Act, and by extension, the Public Trust Doctrine. Therefore, the Commission has the authority to impose requirement to provide a public trust use as a condition of approval for a development if such development would be inconsistent with Section 30210 of the Coastal Act without the imposition of such a condition.

Under the granted lands statutes, the Legislature granted the tide and submerged lands in Long Beach, including Alamitos Bay and its associated canals, to the City, dictating that such lands shall be used for public trust purposes.<sup>2</sup> The California State Lands Commission has found that uses of public trust lands must “accommodate, promote, foster or enhance statewide public’s need for essential commercial services or (the public’s) enjoyment of tidelands.”<sup>3</sup> Therefore, the proposed project’s adverse impacts on public trust resources must be mitigated in a manner to ensure that the mitigation accommodates, promotes and fosters the public’s enjoyment of tidelands.

The public currently has unrestricted access along the entire length of the public trust resources along Rivo Alto Canal, both in the waterway and along the public walkways that run along both sides of the canal. The canal walkways are popular for walking, jogging and sightseeing. The canal itself is popular for kayaking, paddle boarding, small boating, swimming, and Venice-style gondola rides. The waterway and the public walkways on each side of the canal are lower-cost recreational facilities that are protected.

The City of Long Beach certified LCP states that Naples Islands’ system of waterfront walkways is a major recreation resource which attracts many strollers and sight-seers (LCP Page III-E-7). The certified LCP also states that the visual resources of Naples are the community itself and the views of the bay and canals attainable from the many public walkways (LCP Page III-E-9). However, public access to the Naples Canals is somewhat limited due to the relative lack of available public parking in the densely populated neighborhood.

The proposed project will create short-term construction impacts. **Special Condition Eleven** prohibits the applicant and the development from interfering with public access and use of the public walkways situated immediately inland of the seawalls of Rivo Alto Canal, except for the temporary disruptions that may occur during the completion of the permitted development.

Private encroachments, in the form of landscaping, walls and fences, currently exist within the upland portion of the Rivo Alto public right-of-way that is subject to this permit application. The applicant intends to allow some of these private encroachments (at least landscaped area along the canal) to persist upon completion of the proposed project. As part of the proposed project, the City proposes to repair the public sidewalks and maintain public access along the right-of-way that runs along both sides of Rivo Alto Canal. The City also proposes set aside part of the public right-of-way, on both sides of the sidewalks, for residents’ private landscape areas - leaving the public sidewalks open and unobstructed.

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<sup>2</sup> [http://www.slc.ca.gov/Granted\\_Lands/Los\\_Angeles.html](http://www.slc.ca.gov/Granted_Lands/Los_Angeles.html)

<sup>3</sup> [http://www.slc.ca.gov/Policy\\_Statements/Public\\_Trust/Public\\_Trust\\_Doctrine.pdf](http://www.slc.ca.gov/Policy_Statements/Public_Trust/Public_Trust_Doctrine.pdf)

Private encroachments into the right-of-way, if unregulated and uncontrolled, may adversely affect public access. Since detailed plans for the public and private development in the right-of-way have not yet been submitted for review, the Commission imposes **Special Condition Twelve** which requires the applicant to submit final project plans for the review and approval of the Executive Director. The final project plans shall include a public sidewalk, at least six feet wide, along both sides of the canal for the entire length of the project area. The plans shall also include public benches and show all private encroachments such as walls, yards landscaped areas that the applicant proposes to allow to be located between the canal and the private properties that run along both side of the canal. Only as conditioned is the proposed project consistent with the public access policies of the Coastal Act.

The impacts to public access caused by the proposed project also include the permanent impact on public trust resources, including the narrowing of the waterway, from an average width of 69 feet to a reduced width of 65.86 feet, as described in the previous sections of this staff report (Exhibit 4). The narrowing of the canal will permanently reduce the available space for the public to use public trust resources for boating activities and other public access and recreation activities along the waterway.

### **Sorrento Alamitos Bay Shoreline Trail Improvements**

In order to mitigate for the impacts associated with filling of public trust submerged and historic tideland and narrowing the canal (three feet), which will limit the channel area available for the public to enjoy public trust lands, in a manner that ensures that the mitigation accommodates, promotes and fosters the public's enjoyment of public trust lands, the Commission staff, in cooperation with the applicant, has developed a public access enhancement and mitigation plan that will improve public access along the northwestern shoreline of Naples Island in an area where private encroachments currently discourage general public use of a public right-of-way that provides access to public trust resources in Alamitos Bay.

The mitigation plan, as required pursuant to **Special Condition Fourteen**, provides for a five-foot wide ADA accessible public walkway along the filled portion of the City's public right-of-way known as the *Alamitos Bay Shoreline Trail*. This walkway would provide for both lateral access along the bayfront and connections to vertical access points from East Sorrento Drive. This walkway will provide for pedestrian access to the public trust lands, including the bay waters and bay shoreline which will, in turn, provide improved access to launch points along the northern bayfront for non-motorized boats such as stand-up paddle boards and kayaks.

The fifteen-foot wide public right-of-way, which exists between the bay and the private properties, is primarily developed with private encroachments like yards, patios and low seawalls or retaining walls. These encroachments have limited and discouraged public access over the City's right-of-way since the area was subdivided over one hundred years ago and, therefore, impacted the public's ability to use and enjoy public trust lands of Alamitos Bay. The Commission has required (through individual permit actions for dock replacement projects in this area) the removal of backyard encroachments from the City's right-of-way in an attempt to keep the Shoreline Trail open and available for general public access. However, without a comprehensive approach to improve the trail through this area, these backyard encroachments will continue to block or impede public access through this area.

The Alamitos Bay Shoreline Trail is technically open for public use along the seaward edge of the yards of the adjacent bay-fronting homes, even though the majority of the trail is partially obstructed by patio furniture and other items belonging to the homeowners. Most of the trail is supported by retaining walls that were constructed many years ago along the seaward edge of the right-of-way. Numerous private piers and docks (one pier for each house) extend into the bay from the fill behind the retaining walls.

In regards to this particular accessway and the public access enhancement plan required by **Special Condition Fourteen** of the coastal development permit, the certified City of Long Beach (LCP Policy Plan for Area E - Naples) states:

*Access policies for Naples.... Primary among these is the completion of the public walkways where public land is available for that purpose, especially along the east side of Los Cerritos Chanel between 2<sup>nd</sup> Street and Appian Way with a connector to the 2<sup>nd</sup> Street sidewalk. This walk should be unpaved. Additionally, street ends should be improved to increase public access to the walkways (LCP Page III-E-11).*

The LCP Policy Plan Map for Area E – Naples (LCP Page III-E-11) also states:

*The emphasis on access in the policy plan is to improve safety and to clarify public rights where private encroachments may have occurred, as well to improve access where possible.*

The Sorrento Alamitos Bay Shoreline Trail, required to be improved by **Special Condition Fourteen**, is the public right-of-way that runs along the Los Cerritos Chanel between East 2<sup>nd</sup> Street and East Appian Way. It is referenced in the above-stated LCP Policy Plan and identified on the LCP Policy Plan Map (Exhibit #10). Therefore, the certified City of Long Beach LCP specifically identifies the project site (the public right-of-way) as a public accessway (Alamitos Bay Shoreline Trail). The Policy Plan Map for Area E (Naples) contained in the LCP calls for the completion of the public walkway (Exhibit #10). Although the LCP calls for an unpaved trail this policy was developed prior to ADA requirements. The City of Long Beach has indicated it is possible to construct an ADA compliant walk way along the majority of the City's right-of-way fronting the bay. An ADA compliant sidewalk along the majority of the waterfront will allow for disabled persons to easily access this scenic waterfront location.

As conditioned by **Special Condition Fourteen**, the applicant would install the improved walkway in six phases that correspond to the six phases of the proposed Naples Seawall Repair Project. The City of Long Beach recently completed the eastern end of the improved shoreline walkway in front of 5609 East Sorrento Drive, pursuant to Coastal Development Permit 5-12-088 (Exhibit #11, p.2). The western end of the improved walkway would abut the 2<sup>nd</sup> Street Bridge, where there is currently no pedestrian connection between the bridge and the existing unimproved trail (Exhibit #11, p.1). Construction of the walkway and supporting walls will be restricted to existing filled areas (above high tide line) within the fifteen-foot wide public-right-of-way, to the maximum extent feasible, while still allowing for a continuous improved public accessway. A pile-supported boardwalk may have to be constructed to extend over the sandy portion of the right-of-way that exists in front of three properties where the right-of-way has not been previously filled (5455, 5459 and 5465 East Sorrento Drive) (Exhibit #10, p.1). Mudflats within the right-of-way, like the segment of the unimproved trail east of 5609 East Sorrento Drive, would remain unfilled and unimproved. The walkway will be connected to the existing vertical

access ways which will provide linkages to the sidewalk adjacent to East Sorrento Drive which provides public access between East 2<sup>nd</sup> Street and East Appian Way (Exhibit #11).

**Special Condition Fourteen** also requires a signage plan to which will clearly indicate that the Sorrento Alamitos Bay Shoreline Trail is open to the general public 24 hours a day. Public access signs, with directions Sorrento Alamitos Bay Shoreline Trail, shall be posted at the entrance to each vertical accessway along East Sorrento Drive and at the intersections of: 1) East 2<sup>nd</sup> Street and East Sorrento Drive and 2) East Appian Way and East Sorrento Drive. Public access signage shall include an acknowledgement that the Sorrento Alamitos Bay Shoreline Trail was provided through the cooperative efforts of the City of Long Beach and the California Coastal Commission.

Residents opposing the public access enhancement required as mitigation for the impacts to the public trust lands and, by extension, the public trust uses of those lands for public access and recreation argue that the improvements will adversely affect habitat values and public safety. However, the entire length of the new walkway would be on existing filled areas that are already being used as private yards, except for an approximately 100-foot long segment that may have to be spanned by a five-foot wide boardwalk (or left as sand) in front of 5455, 5459 and 5465 East Sorrento Drive. No wetlands or sensitive habitat areas will be affected. Public safety concerns are real; however, the rest of Naples has open public walkways along every street and canal, just like the rest of the City. Neighborhood residents already enjoy using this trail. In addition, the boundary between the public right-of-way and the abutting private properties would be demarcated by a wall or railing along the inland edge of the fifteen-foot wide right-of-way.

In fact, this segment of the Naples shoreline is one of the last lengths of shoreline right-of-way in the City of Long Beach that has not yet been improved for general public and ADA access. That is why the certified LCP specifically calls for this right-of-way to be improved. The LCP states, "Complete Public Walkway" (Exhibit #10). The Long Beach LCP was certified in 1980. Only as conditioned to maximize public access and to protect lower cost visitor and recreational facilities is the proposed project consistent with the public access policies of the Coastal Act.

### **Water Access – Naples Canals**

As stated previously, the Naples Canals are popular for kayaking, paddle boarding, small boating, swimming, and Venice-style gondola rides. However, there are very few locations on Naples Island to access the waters of the canals, unless one is able to use a private dock and gangway for this purpose. The general public typically accesses the water from a beach on the mainland, or from a boat launch ramp in Marine Stadium. Young swimmers often jump in the canals from the bridges, then have been seen climbing out onto a private dock. Therefore, the City has agreed to study the feasibility of providing public water access to Rivo Alto Canal and/or Naples Canal via a stairway, ramp or gangway as part of the next phases of the Naples Island Seawall Repair Project.

### **Dock Standards – Naples Canal**

In order to maintain a sufficiently wide navigable channel, which is the open water area that exists between the docks and vessels that line both sides of Rivo Alto Canal, the City has agreed to maintain the pierhead lines in their current location in relation to the centerline of the canal. In addition, to compensate for the reduced width of the canal that will result from the installation of the new seawalls,

the size of the resident's dock floats shall be restricted. The new dock size limitation will be phased in over the next decade as dock floats are replaced, so the navigable channel may have some pinch-points until such time as the wider dock floats are phased out by 2023. There is currently a distance of 46 feet between the pierhead lines in Rivo Alto. The dock floats themselves must not extend over the pierhead line into the navigable channel, but the City permits docked vessels to overhang the pierhead line.

Therefore, **Special Condition Eight** requires that the dimensions of dock floats in Rivo Alto Canal and Naples Canal (which will be the subject of a future phase of the seawall repair project) shall be restricted to a width of six feet (the width is the dimension of the dock float that is measured seawardly from the inland edge of the float to the seaward edge of the float). Gangways are not permitted to extend further into the canal than the dock float, and they are required to be aligned parallel to the seawall, rather than perpendicular. All dock floats in Rivo Alto Canal and Naples Canal shall conform to the size limits when they are replaced or substantially repaired. All dock shall conform to the size limits in ten years, no later than December 31, 2023. The City shall include the dock float size limit on all future dock leases and/or permits. As conditioned, the proposed project would not result in the narrowing of the actual open water area in the canal.

### **Private Lease of State Tidelands – Rivo Alto Canal**

Under the granted lands statutes, the Legislature granted the tide and submerged lands in Long Beach, including Alamitos Bay and its associated canals, to the applicant, the City of Long Beach. The City of Long Beach, in effect the “landlord”, administers the state tidelands on behalf of the State of California. The City has historically allowed residents with waterfront property in Alamitos Bay to build docks and piers on the shoreline in front of their homes.

The certified LCP on Page III-6 states:

*One of the principal recreation and visitor service element on Naples is the boat berthing capability along the channel and on both sides of the canals. These are in the form of dock and slips which emanate from the public walkway which surrounds most of the islands. Approximately 560 boats are stored in this manner. The docks are usually located directly in front of private homes. Most docks accommodate more than one boat. One of these may belong to the adjacent homeowner who then leases out the remaining slips. If the homeowner has no boat, then he may have leased out all the slips. The owner pays nothing for his slip or use of the waterway, but must agree to annual inspections and make repairs as directed by the Marine Bureau. All vessels are subject to a City fee, assessed annually.*

As described by the certified LCP, private parties have been permitted to occupy and use portions of State Tidelands that exists in front of their homes, at no cost. This practice of allowing the private use of State tidelands at no cost is inconsistent with State law. The State Lands Commission and local jurisdictions responsible for administering State tidelands typically require a lease for private boating facilities in State waters or tidelands. The obligation to charge fair market rental value is based in Section 6 of Article XVI of the California Constitution.

In recent years, the City of Newport Beach and the County of Orange (in Huntington Harbour) have established rental rates for the limited-term private use and occupation of state tidelands for development

associated with recreational boating activities (i.e., private docks and piers). State law mandates that the money from the leases shall be used for the maintenance and operation of the tidelands.

Pursuant to Section 6 of Article XVI of the California Constitution, the City of Long Beach is also required to charge fair market rental value for the use of State tidelands. Therefore, **Special Condition Ten** requires the applicant to institute a lease program for the project area (at a minimum, the Phase One area), with appropriate prices established in relation to the lease area and temporal length of each lease. The lease program shall allow for the limited-term private use and occupation of state tidelands for development associated with recreational boating activities (i.e., private docks and piers). The money generated by the leases shall be deposited into the City's Tidelands Fund to be used for the maintenance and operation of the tidelands.

The applicant has already dedicated \$9.5 million of the Tidelands Fund for the completion of the improvements associated with Phase One Naples Seawall Repair Project. Additional money from the Tidelands Fund may be needed for the future phases of the seawall repairs and public access mitigation requirements, including the public walkway required by **Special Condition Fourteen** of this coastal development permit.

As conditioned, the proposed project will not adversely impact public access to or along the shoreline and will result in improvement and enhancement of public access and recreation in the Naples Island Area. Therefore, the Commission finds that, as conditioned, the proposed development will not have any significant adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with the public access and recreation policies of the Coastal Act.

## E. SEA LEVEL RISE

Warming oceans and polar and glacial melting over the last century has contributing to measurable increases in sea levels. Rising sea levels over the next fifty years are expected to range between ranging from 0.6 feet to 2.9 feet above current levels.<sup>4</sup> The highest tide currently observed in Long Beach (which resulted in minor flooding on Naples Island) is +7.5 feet MLLW (mean lower low water).

The proposed seawall has a top elevation of 9.5 feet above MLLW, which is six inches higher than the elevation above the existing seawall along Rivo Alto Canal, and 24 inches above the current highest water levels. Other Southern California cities have set minimum elevation requirements for new seawalls and bulkheads, typically +9 foot MLLW (City of Newport Beach) or +10 foot MLLW (Dana Point and Huntington Harbor).

If sea level rise is at the high end, water levels could be at or above the top of the proposed seawall elevation within the lifetime of the project. With some small waves, water could come over the seawall fairly regularly. The applicant asserts that the proposed design allows the height of the seawalls to be raised by adding to the pile cap. The applicant also points out that the height of all the seawalls in Naples would need to be increased to protect the area from flooding, including private and public seawalls, as the system can only provide flood protection to the elevation of the lowest wall. Many of the residents oppose any additional increase in the height/elevation of the pile caps (i.e., top of the seawall) at this time because a higher wall would adversely affect their views of the waterway. Therefore, the applicant's preliminary sea level rise adaptation plan is to add a higher cap to the seawall (and others) at a later date in the event of overtopping.

The height of the proposed seawall may not be sufficient for the full time that it will be in place. Since it is likely that the height of the proposed seawall will need to be increased in the coming decades to provide flood protection from rising sea level, **Special Condition Thirteen** requires that any future maintenance or work to address changing sea level, increased flooding or other coastal hazards be undertaken on or inland of the proposed development and that there not be any seaward encroachment beyond the identified and recorded line of development.

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<sup>4</sup> National Research Council (NRC), Committee on Sea Level Rise in California, Oregon, and Washington (2012) Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future, National Academies Press, Washington, D.C. pp.250; ISBN 978-309-24494-3

## F. LOCAL COASTAL PROGRAM

The proposed development would occur in coastal waters (water side of the seawalls) and on the public property located immediately inland of the seawalls. A coastal development permit is required from the Commission for the proposed development because it is located on tidelands within the Commission's area of original jurisdiction pursuant to Section 30519 of the Coastal Act. The submerged area of Rivo Alto Canal (and other waterways) is within the Commission's original jurisdiction. Pursuant to the certified City of Long Beach Local Coastal Program (LCP), the portion of the proposed project that is situated inland of the seawalls (sidewalks, landscaping, safety rails and lighting) falls within the City's permitting jurisdiction. The City has requested, pursuant to Coastal Act Section 30601.3, that the Commission review the entire project (including the portion within the City's LCP jurisdiction) together as one combined coastal development permit application.

The Commission's standard of review for the proposed development within the Commission's area of original jurisdiction is the Chapter 3 policies of the Coastal Act. The City of Long Beach certified Local Coastal Program (LCP) is advisory in nature and may provide guidance, but it is also the standard of review, along with the public access and recreation policies of the Coastal Act, for the portion of the project that falls within the City's permitting jurisdiction. The Commission certified the City of Long Beach LCP on July 22, 1980.

The Policy Plan Map for Area E (Naples) contained in the LCP (certified in 1980) states that the islands shall not be enlarged by filling the bay: *No further filling of the bay for enlargement of Naples or Treasure Islands shall be permitted* (LCP Page III-E-14). In this case, the purpose of the proposed fill is not to enlarge the islands, but to carry-out the repairs to existing seawalls that are necessary to protect existing structures. The certified LCP does not contain specific policy language or guidance regarding the repair or replacement of seawalls.

Although the certified LCP does not contain specific policy language regarding the repair or replacement of seawalls, the LCP does provide very clear policy direction in regards to the public access improvements that are being proposed or required as mitigation for public access impacts associated with the proposed development.

First, the certified LCP states that Naples Islands' system of waterfront walkways is a major recreation resource which attracts many strollers and sight-seers (LCP Page III-E-7). The certified LCP also states that the visual resources of Naples are the community itself and the views of the bay and canals attainable from the many public walkways (LCP Page III-E-9).

The LCP Policy Plan Map for Area E (Naples) states that: *The emphasis on access in the policy plan is to improve safety and to clarify public rights where private encroachments may have occurred, as well to improve access where possible* (LCP Page III-E-11).

In regards to the Sorrento Alamitos Bay Shoreline Trail, the City of Long Beach certified LCP specifically identifies the project site (the public right-of-way) as a public accessway (Alamitos Bay Shoreline Trail). The Policy Plan Map for Area E (Naples) contained in the LCP calls for the completion of the public walkway (Exhibit #10).

The LCP Policy Plan for Area E (Naples) also states that: *Access policies for Naples.... Primary among these is the completion of the public walkways where public land is available for that purpose, especially along the east side of Los Cerritos Chanel between 2<sup>nd</sup> Street and Appian Way with a connector to the 2<sup>nd</sup> Street sidewalk. This walk should be unpaved. Additionally, street ends should be improved to increase public access to the walkways* (Page III-E-11). The Sorrento Alamitos Bay Shoreline Trail, required to be improved by **Special Condition Fourteen**, is the public right-of-way that runs along the east side of Los Cerritos Chanel between East 2<sup>nd</sup> Street and East Appian Way referenced in the above-stated LCP Policy Plan.

The development approved and conditioned herein includes a public access improvement component that will carry out the public access policies set forth in the certified City of Long Beach LCP. Special conditions imposed by the permit will protect and enhance the Naples Islands' system of waterfront walkways which are a major recreation resource. **Special Condition Fourteen** requires the improvement of the public right-of-way that runs along the east side of Los Cerritos Chanel between East 2<sup>nd</sup> Street and East Appian Way, where several private encroachments have negatively affected the public's ability to use the public right-of-way. **Special Condition Eight** protects the navigable channel in Rivo Alto Canal. Over the next ten years, the encroaching dock floats must conform to new dock float dimensions that will help to maintain the width of the navigable channel. **Special Conditions Eleven and Thirteen** protect the existing public access opportunities that exist on the public walkways that run along both side of Rivo Alto Canal.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and does not conflict with the certified LCP for the area. Therefore, the approval of the coastal development permit will not prejudice the ability of the City of Long Beach to prepare an LCP which conforms with Chapter 3 of the Coastal Act.

## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application 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.

In this case, the City of Long Beach is the lead agency for purposes of CEQA review of this project. The City issued a CEQA Mitigated Negative Declaration for the Naples Seawall Interim and Long Range Repair Project, by RBF Consulting, March 2010 (SCH#2010-011073). Specific mitigation measures are imposed in the form of special conditions of the coastal development permit.

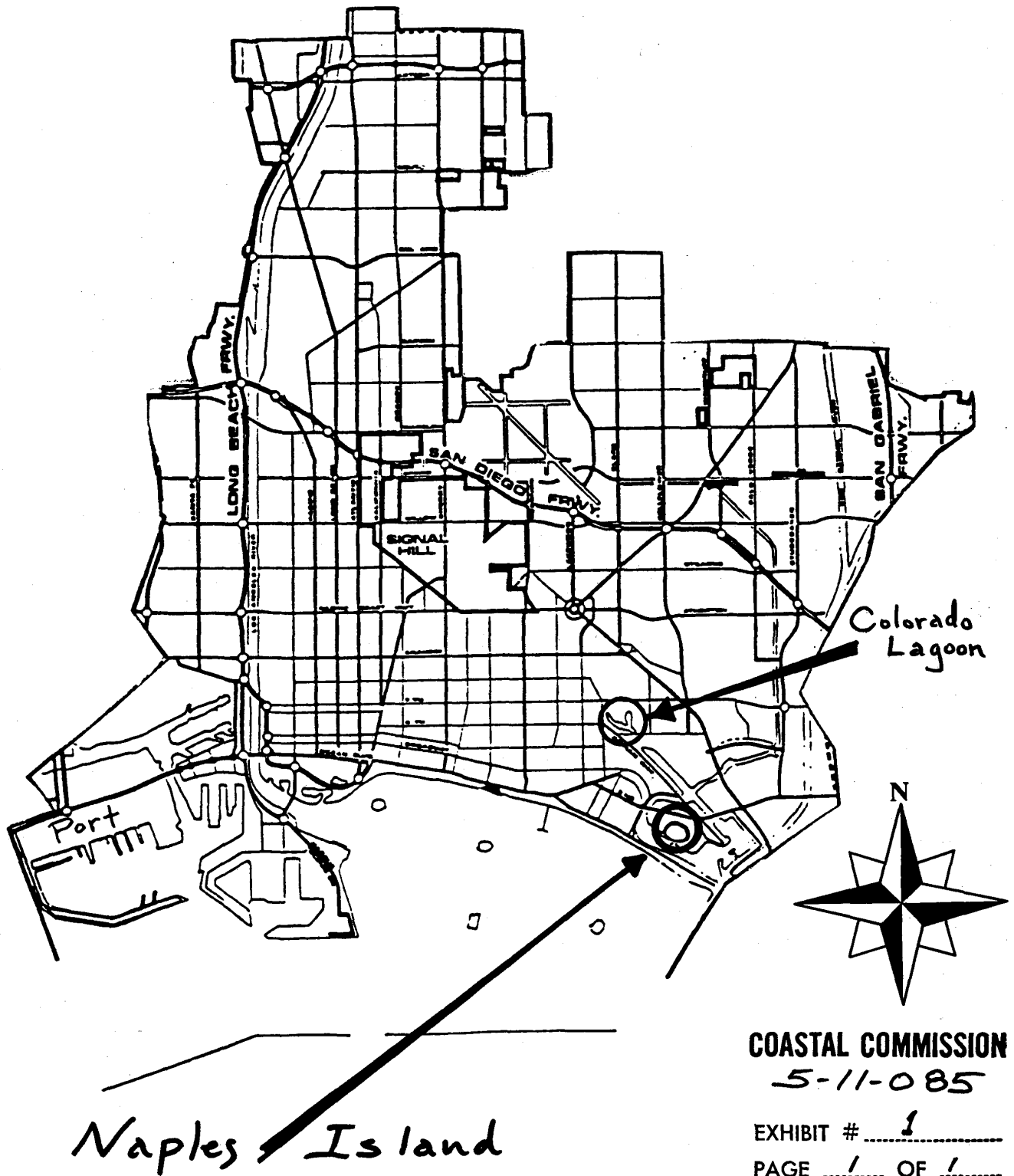
Mitigation measures, in the form of special conditions, require the applicant to: a) implement best management practices to minimize adverse impacts to water quality during construction, b) mitigate the impacts to marine resources, including replacement of eelgrass and soft bottom habitat, c) provide improved public access as called for by the certified LCP; d) agree to no future seaward extensions of the approved seawalls, e) comply with the requirements of the resource agencies, and f) assume the risks of the development.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available 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 impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

## **Appendix A - Substantive File Documents**

1. City of Long Beach certified Local Coastal Program (LCP), 7/22/1980.
  2. Coastal Development Permit 5-09-071 (City of Long Beach - Colorado Lagoon).
  3. Coastal Development Permit 10-263 (City of Long Beach – Alamitos Bay Marina Rehab.).
  4. Coastal Development Permit 10-273 (City of Long Beach – Naples Seawall Repairs).
  5. Eelgrass & Caulerpa Survey, Naples North-East Quadrant Permanent Seawall Repairs, City of Long Beach, Calif., by Tetra Tech, Inc., March 2011.
  6. Mitigated Negative Declaration for the Naples Seawall Interim and Long Range Repair Project, by RBF Consulting, March 2010 (SCH#2010-011073).
-

# City of Long Beach

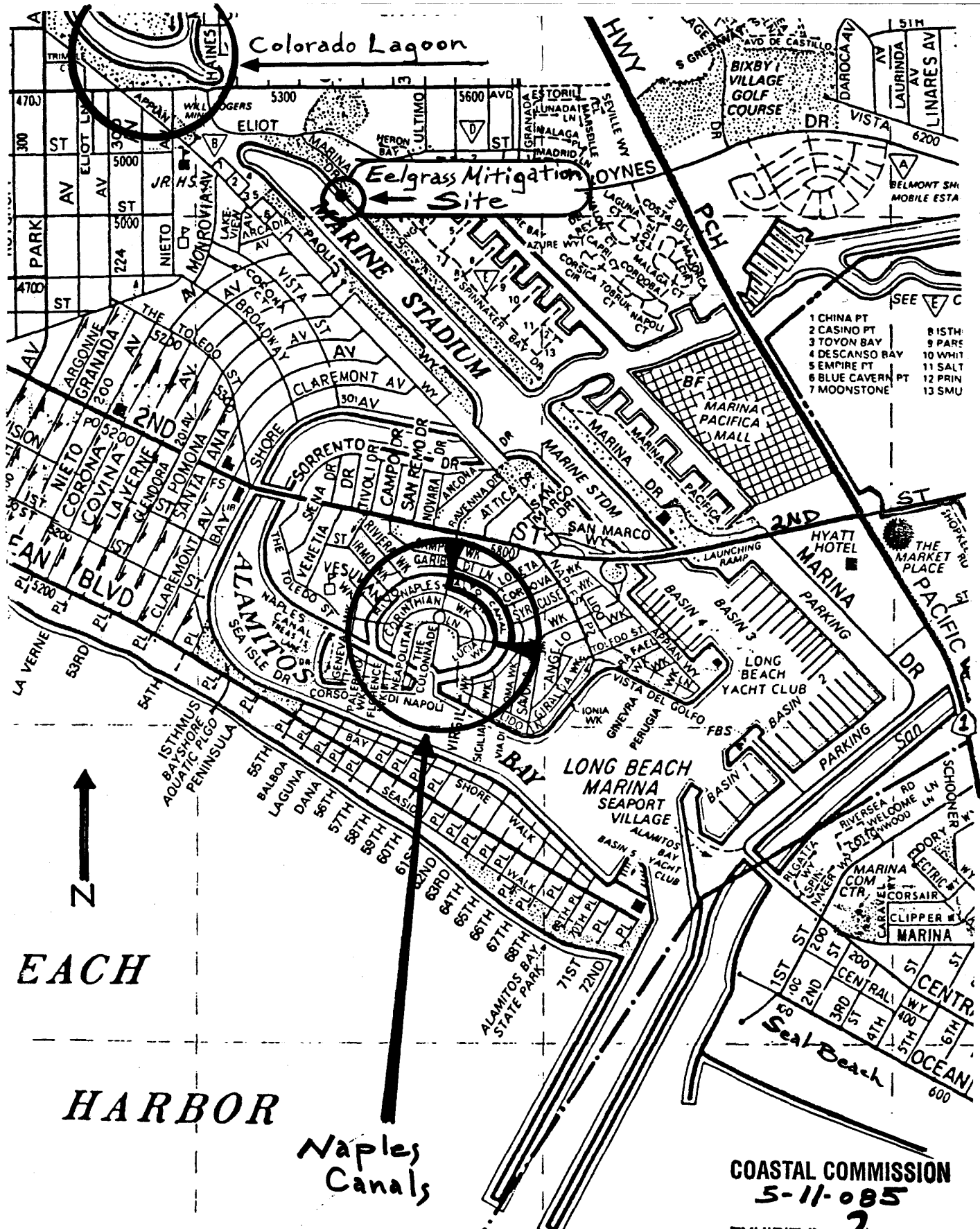


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5-11-085

EXHIBIT # 1

PAGE 1 OF 1



Project Sites

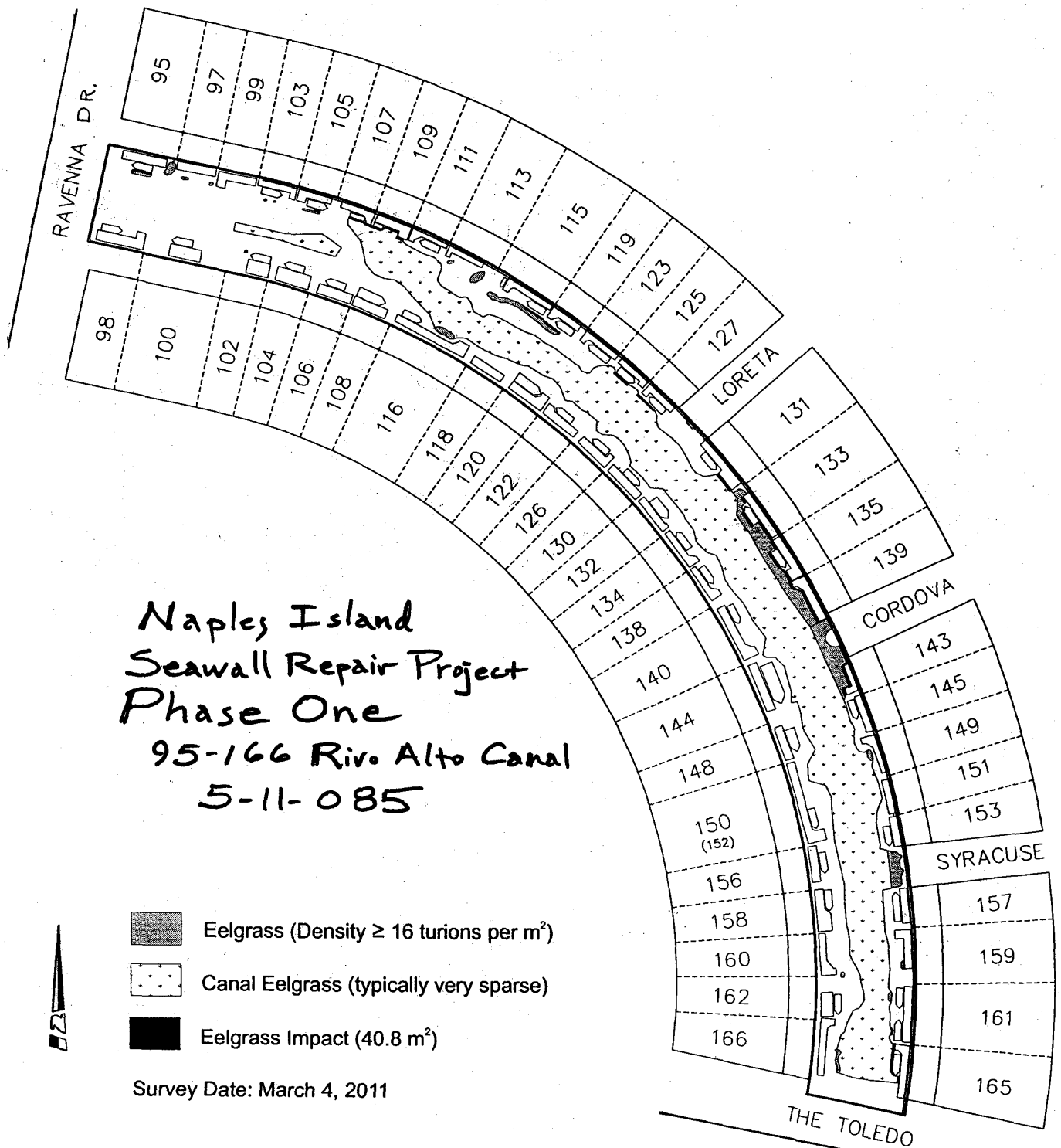
COASTAL COMMISSION

5-11-085

EXHIBIT #

2

PAGE 1 OF 1



**Tetra Tech, Inc.**  
ENGINEERS ARCHITECTS SCIENTISTS

401 East Ocean Blvd., Suite 420  
Long Beach, California 90802  
Ph. (562) 495-0495 fax (562) 495-5029

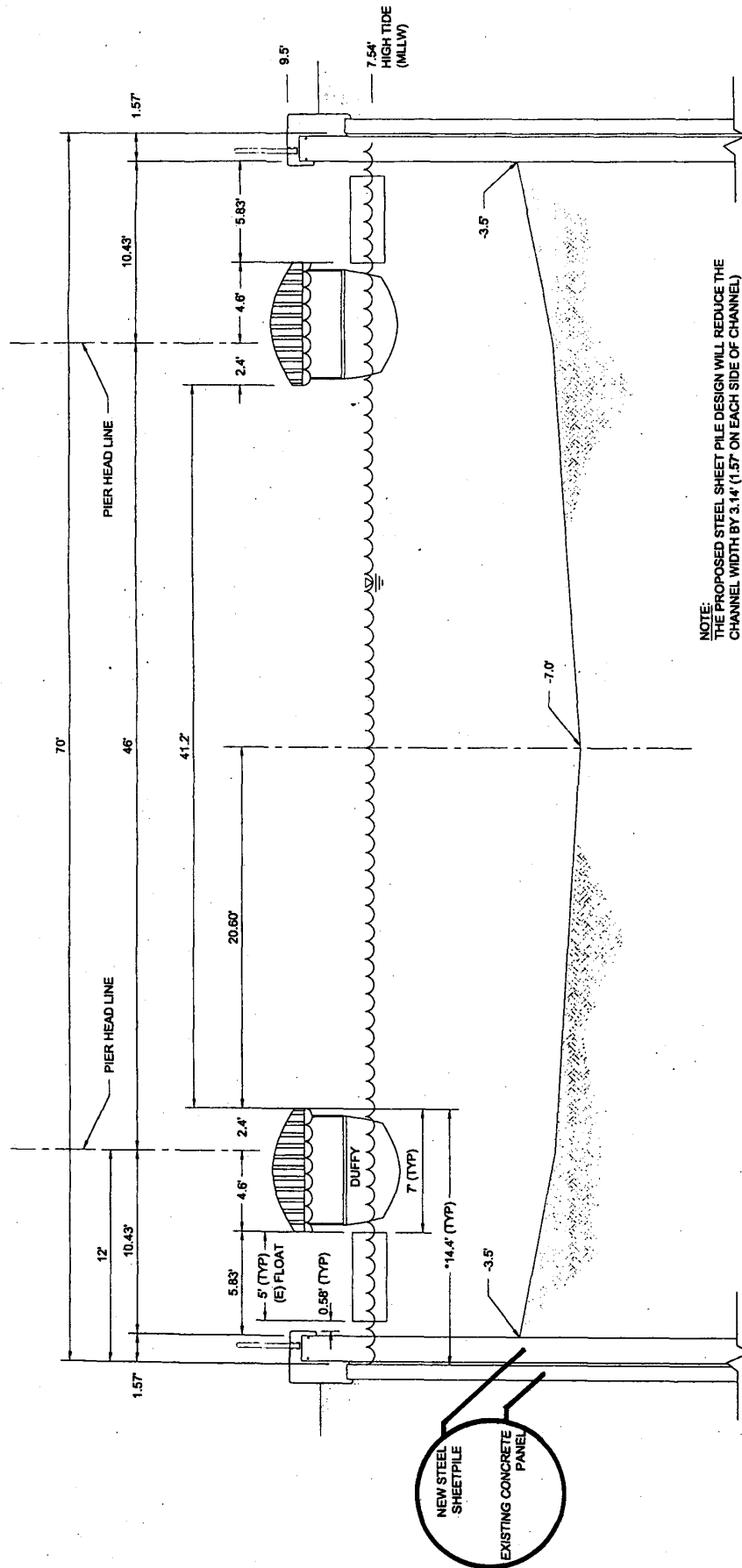
## Eelgrass Survey Results

**Naples North-East Quadrant  
Rivo Alto Canal  
Long Beach, California**

**COASTAL COMMISSION**

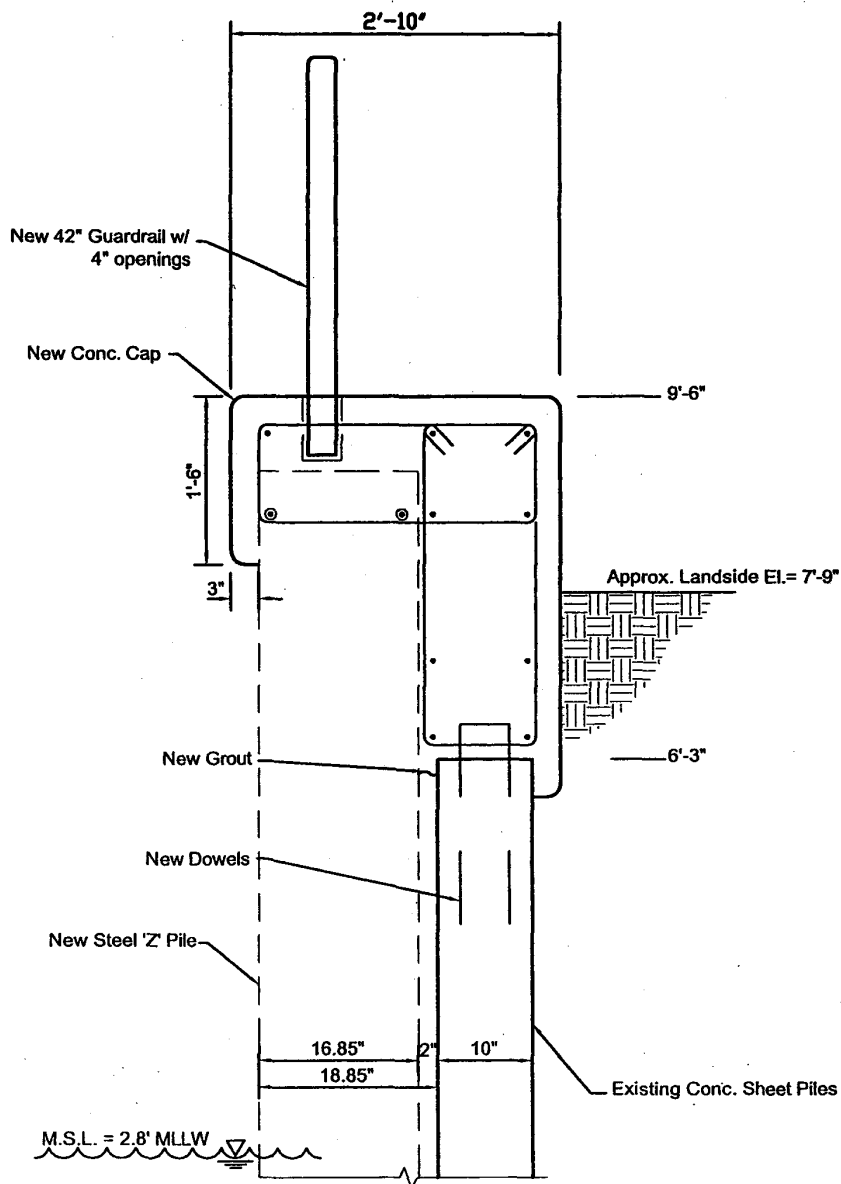
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PAGE 1 OF 1

**March 2011**



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 5-11-085  
 EXHIBIT # 4  
 PAGE 1 OF 1

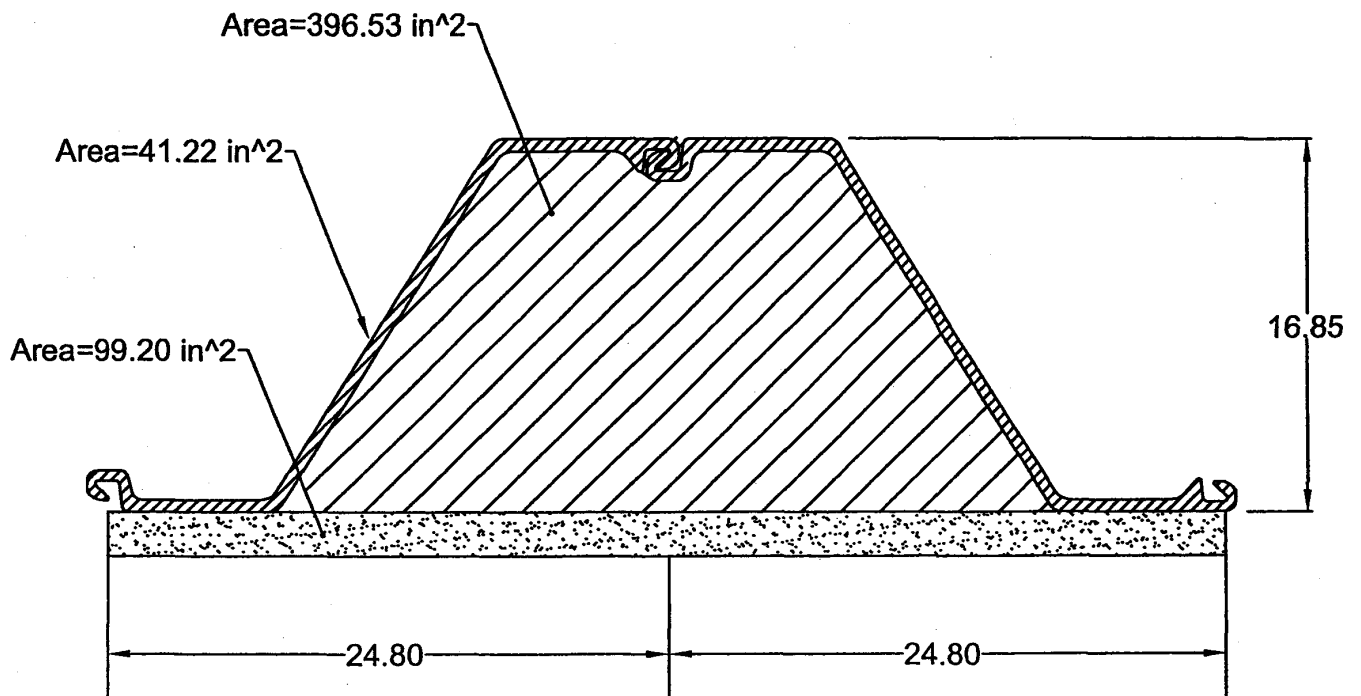
|                                                                            |                               |
|----------------------------------------------------------------------------|-------------------------------|
| PROPOSED NAPLES SEAWALL -<br>TYPICAL CANAL SECTION                         | OWNER: NSC                    |
|                                                                            | DATE: Mar 2012<br>FOR: 127046 |
| ITRAA TECH / KFM<br>11 East Ocean Blvd., Suite 420<br>Long Beach, CA 90802 |                               |



|                                                                                                                                                                                          |                             |                  |                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|------------------|-----------------|
| <br><b>TETRA TECH INC.</b><br>ARCHITECTS, ENGINEERS<br>& SCIENTISTS<br>LONG BEACH, CA<br>562.495.0495 | <b>CANAL SECTION - AZ28</b> |                  |                 |
|                                                                                                                                                                                          | <b>NAPLES SEAWALL</b>       |                  |                 |
|                                                                                                                                                                                          | TT JOB NO.:<br>TC-27046     | DRAWN BY:<br>NSC | SCALE = 1" = 2' |

**COASTAL COMMISSION**  
**5-11-085**

EXHIBIT # 5  
 PAGE 6 OF 1



## PLAN - AZ28 SHEET PILE SECTION

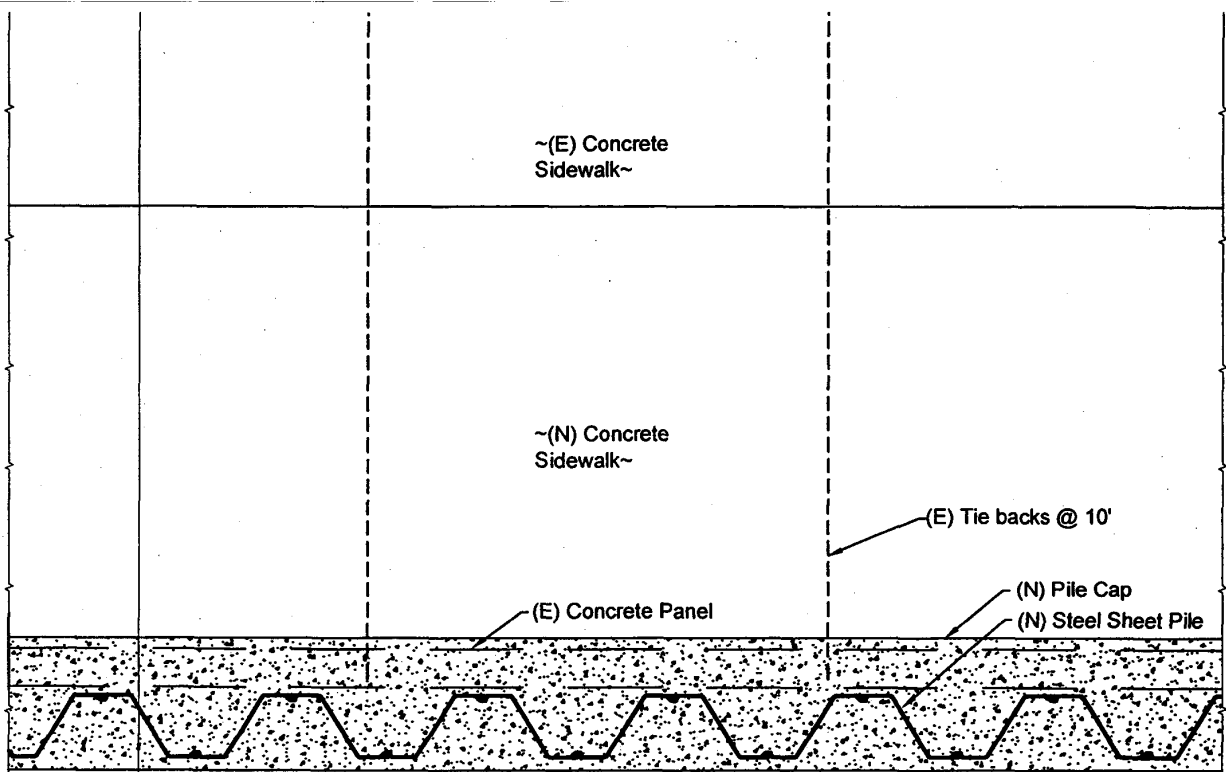
Soft Bottom Area = 536.95 in<sup>2</sup> = 3.73 sf divide by 4.133 feet = 0.902 sf/lf  
 Soft Bottom Impact = 0.902 x 1915 = 1727 ft<sup>2</sup>

Grout Volume = 495.73 in<sup>2</sup> = 3.443 sf divide by 4.133 feet = 0.833 sf/lf  
 0.833 sf/lf x 1915' = 1595 ft<sup>2</sup> x 15' = 23,925 ft<sup>3</sup> = 886.1 cy

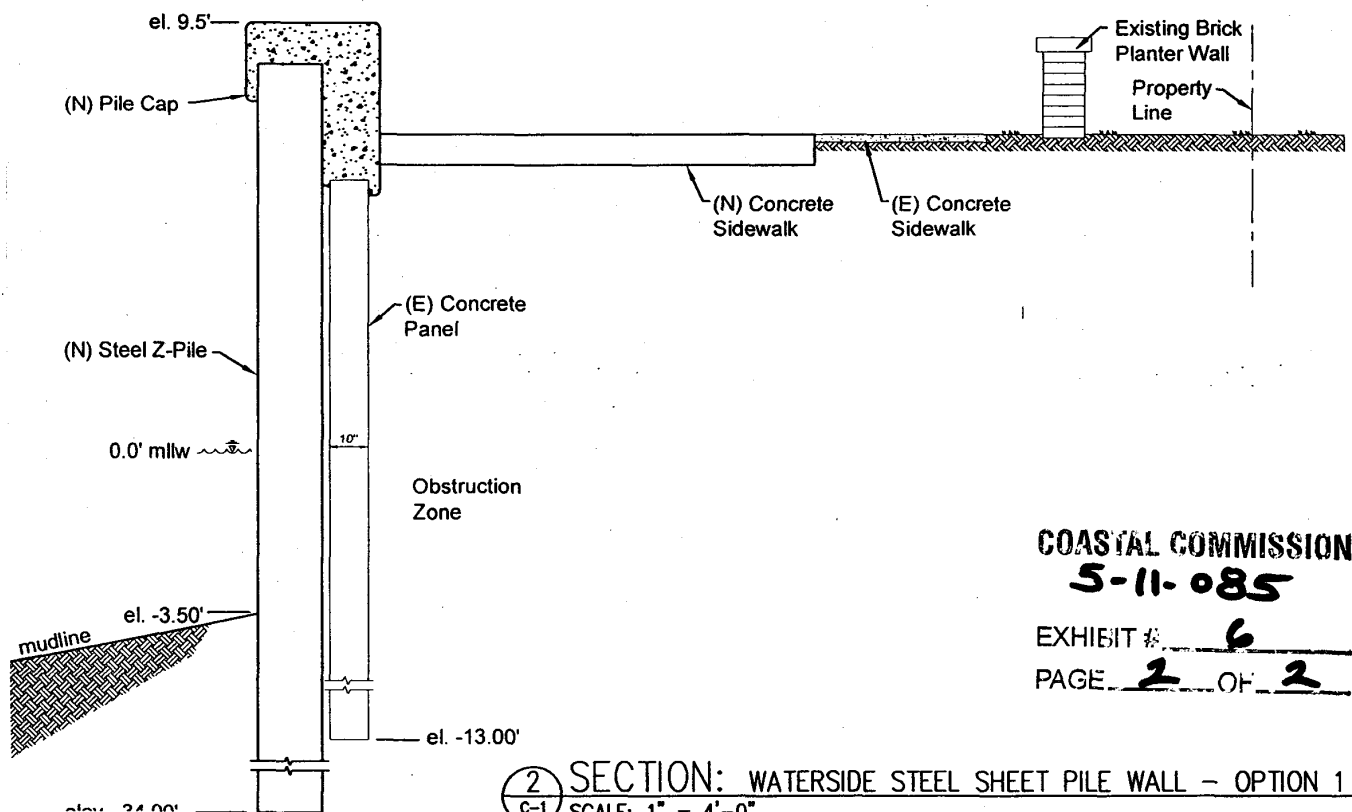
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| <br>TETRA TECH INC.<br>ARCHITECTS, ENGINEERS<br>& SCIENTISTS<br>LONG BEACH, CA<br>562.495.0495 | SOFT BOTTOM IMPACT - AZ28 |                  |             |
|                                                                                                                                                                                   | NAPLES SEAWALL            |                  |             |
|                                                                                                                                                                                   | TT JOB NO.:<br>TC-27046   | DRAWN BY:<br>NSC | SCALE= 1:10 |

COASTAL COMMISSION  
 5-11-085

EXHIBIT #: 6  
 PAGE 1 OF 2



1 PLAN: WATERSIDE STEEL SHEET PILE WALL - OPTION 1  
SCALE: 1" = 4'-0"



2 SECTION: WATERSIDE STEEL SHEET PILE WALL - OPTION 1  
SCALE: 1" = 4'-0"

COASTAL COMMISSION  
5-11-085

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PAGE 2 OF 2

projects\CLB\TC27048\_Naples Seawall\Plans\CO05 Landside Design\Naples Landside Alt\_rev2.dwg



401 East Ocean Blvd., Suite 420  
Long Beach, CA 90802

NAPLES SEAWALL DESIGN ALTERNATIVES  
OPTION 1 - WATERSIDE STEEL SHEET PILE WALL

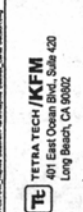


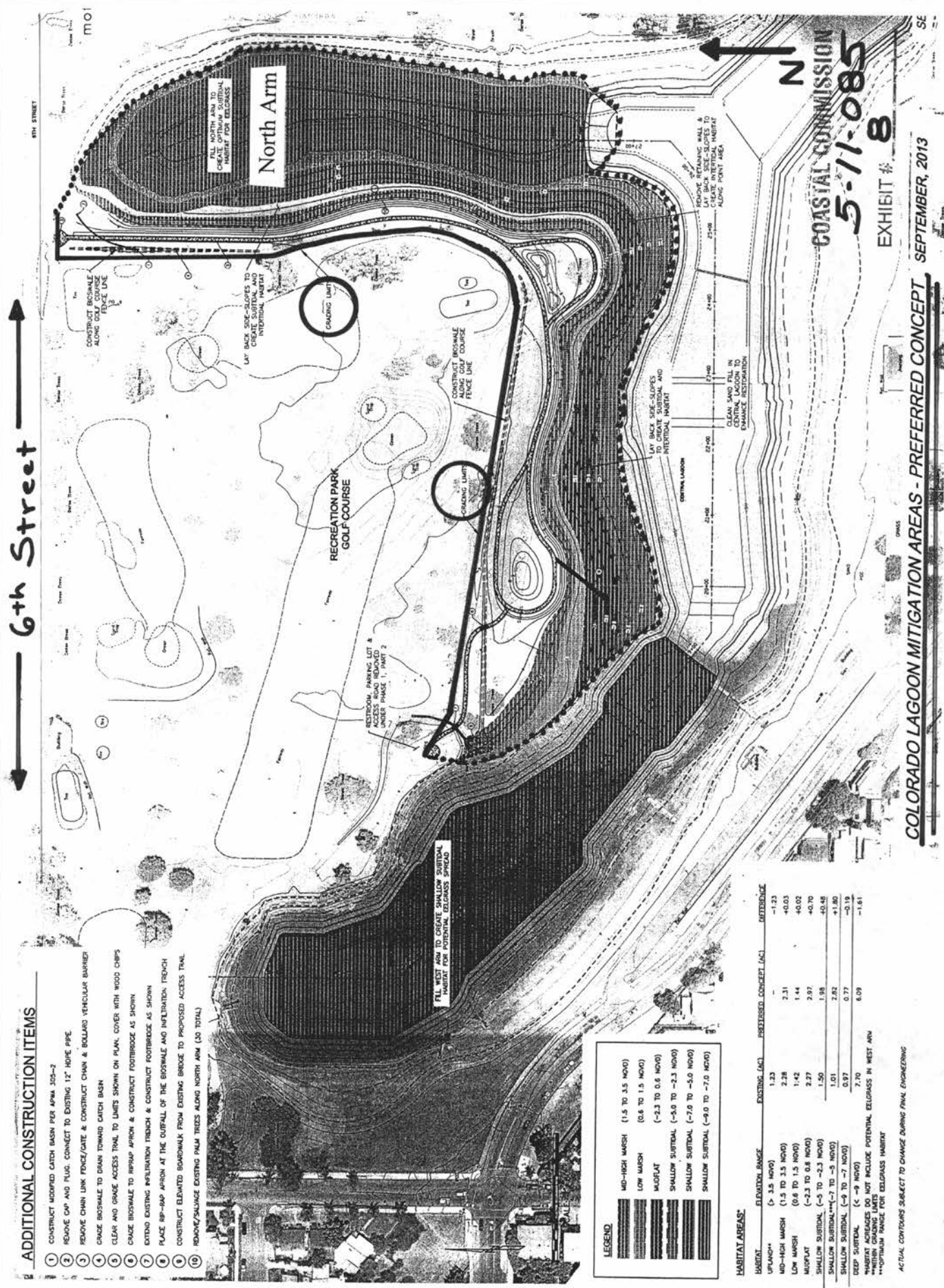
EXHIBIT # 7  
PAGE 1 OF 1

## History of prior Seawall repairs - Naples

6th Street

# ADDITIONAL CONSTRUCTION ITEMS

1. CONSTRUCT MODIFIED CATCH BASIN PER APWA 304-2
2. REMOVE CAP AND PLUG. CONNECT TO EXISTING 12" HOPE PIPE
3. REMOVE CHAIN LINK FENCE/GATE & CONSTRUCT CHAIN & ROLLING VEHICULAR BARRIER
4. GRADE BIOSHALE TO DRAIN TOWARD CATCH BASIN
5. CLEAN AND GRADE ACCESS TRAIL TO LIMITS SHOWN ON PLAN. COVER WITH WOOD CHIPS
6. GRADE BIOSHALE TO IMPROVE APPROX. & CONSTRUCT FOOTBRIDGE AS SHOWN
7. EXTEND EXISTING INFILTRATION TRENCH & CONSTRUCT FOOTBRIDGE AS SHOWN
8. PLACE RIP-RAP APRON AT THE OUTFALL OF THE BIOSHALE AND INFILTRATION TRENCH
9. CONSTRUCT ELEVATED BOARDWALK FROM EXISTING BRIDGE TO PROPOSED ACCESS TRAIL
10. REMOVE/SALVAGE EXISTING PALM TREES ALONG NORTH ARM (30 TOTAL)



**LEGEND**

|           |                                      |
|-----------|--------------------------------------|
| [Pattern] | MD-HIGH MARSH (1.5 TO 3.5 NOVO)      |
| [Pattern] | LOW MARSH (0.6 TO 1.5 NOVO)          |
| [Pattern] | MUDFLAT (-2.3 TO 0.6 NOVO)           |
| [Pattern] | SHALLOW SUBTIDAL (-5.0 TO -2.3 NOVO) |
| [Pattern] | SHALLOW SUBTIDAL (-7.0 TO -5.0 NOVO) |
| [Pattern] | SHALLOW SUBTIDAL (-9.0 TO -7.0 NOVO) |

**HABITAT AREAS\***

| HABITAT                          | EXISTING (AC) | PROPOSED CONCEPT (AC) | DIFFERENCE |
|----------------------------------|---------------|-----------------------|------------|
| UPLAND**                         | 1.23          | -                     | -1.23      |
| MD-HIGH MARSH                    | 2.28          | 2.31                  | +0.03      |
| LOW MARSH                        | 1.42          | 1.44                  | +0.02      |
| MUDFLAT                          | 2.27          | 2.97                  | +0.70      |
| SHALLOW SUBTIDAL                 | 1.50          | 1.98                  | +0.48      |
| SHALLOW SUBTIDAL***              | 1.01          | 2.82                  | +1.81      |
| SHALLOW SUBTIDAL (-4 TO -7 NOVO) | 0.97          | 0.77                  | -0.19      |
| DEEP SUBTIDAL (-8 TO -10 NOVO)   | 7.70          | 6.09                  | -1.61      |

\*HABITAT AREAS DO NOT INCLUDE POTENTIAL ELONGAS IN WEST ARM  
\*\*WITH CHAINING LIMITS  
\*\*\*OPTIMUM RANGE FOR ELONGAS HABITAT

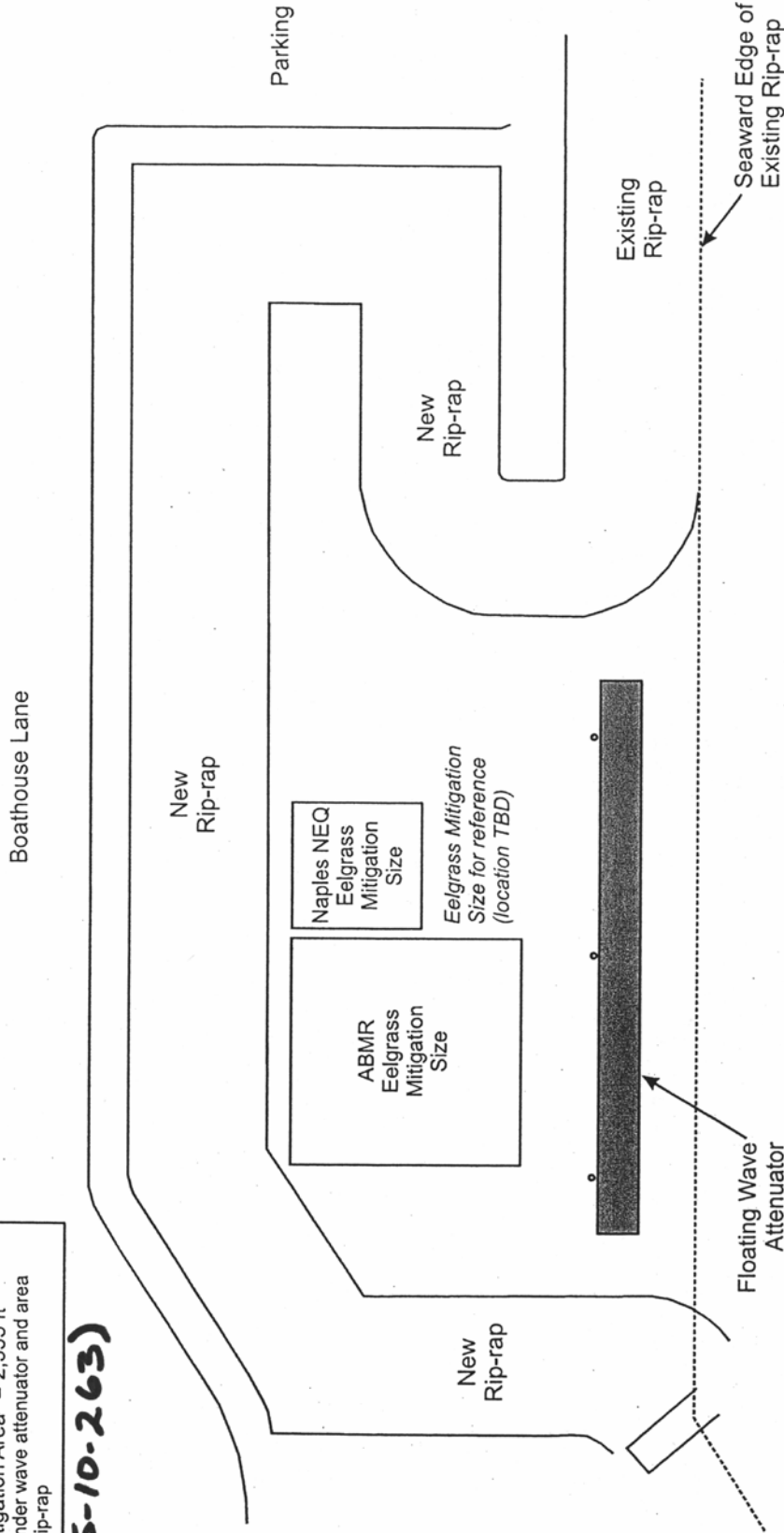
ACTUAL CONTOURS SUBJECT TO CHANGE DURING FINAL ENGINEERING

COASTAL COMMISSION  
5-11-085  
EXHIBIT # 8

COLORADO LAGOON MITIGATION AREAS - PREFERRED CONCEPT SEPTEMBER, 2013

ABMR Eelgrass Mitigation Area = 1,648 ft<sup>2</sup>  
 Naples NEQ Eelgrass Mitigation Area = 527 ft<sup>2</sup>  
 Soft Bottom Mitigation Area\* = 2,533 ft<sup>2</sup>  
 \* shaded area under wave attenuator and area  
 along edge of rip-rap

(See 5-10-263)



Mitigation Design Source: TransSystems 2011



**Tetra Tech, Inc.**  
 ENGINEERS ARCHITECTS SCIENTISTS  
 401 East Ocean Blvd., Suite 420  
 Long Beach, California 90802  
 Ph. (562) 495-0495 fax (562) 495-5029

**Site Plan**  
**Marine Stadium NE Corner Tidal Basin**  
**Mitigation Site**  
 Alamitos Bay, Long Beach, California

**COASTAL COMMISSION**  
**5-11-085**  
 EXHIBIT # **9**  
 PAGE **1** OF **1**  
**FIGURE 1**  
**April 2011**

# POLICY PLAN

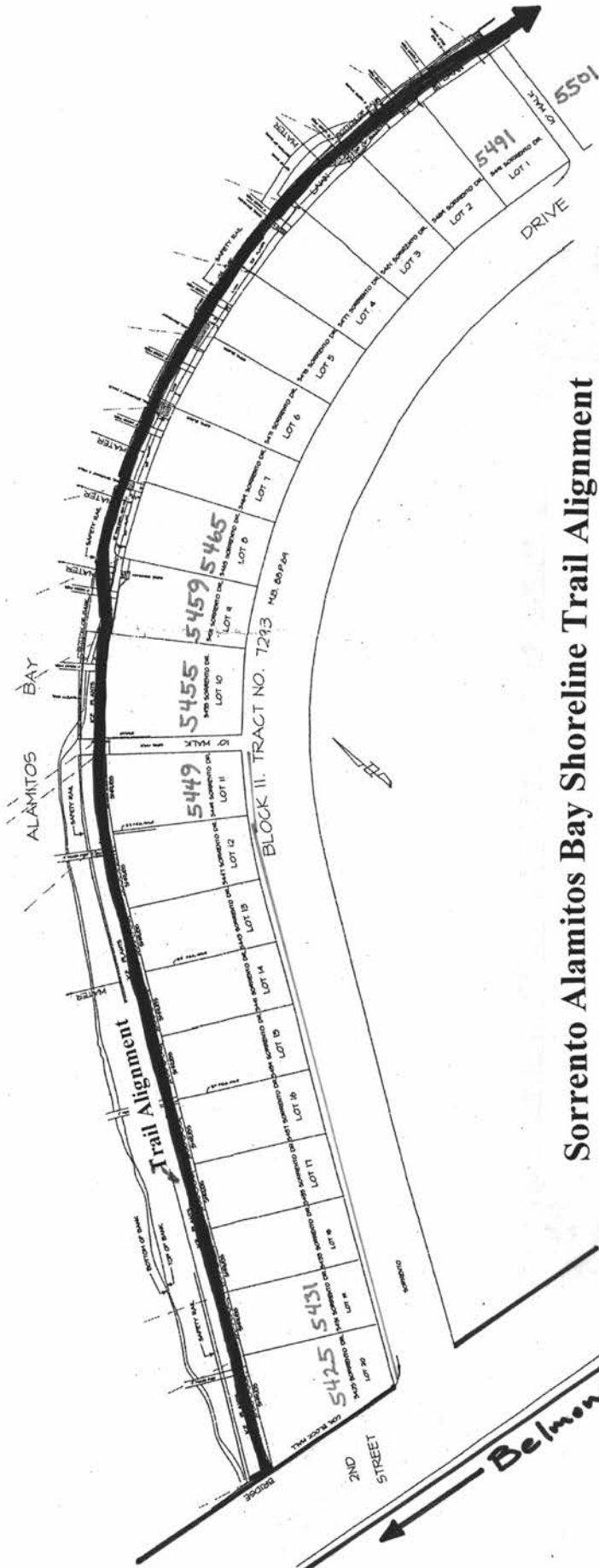


580-11-5

EXHIBIT # 10

PAGE 1 OF 1

Alamitos Bay

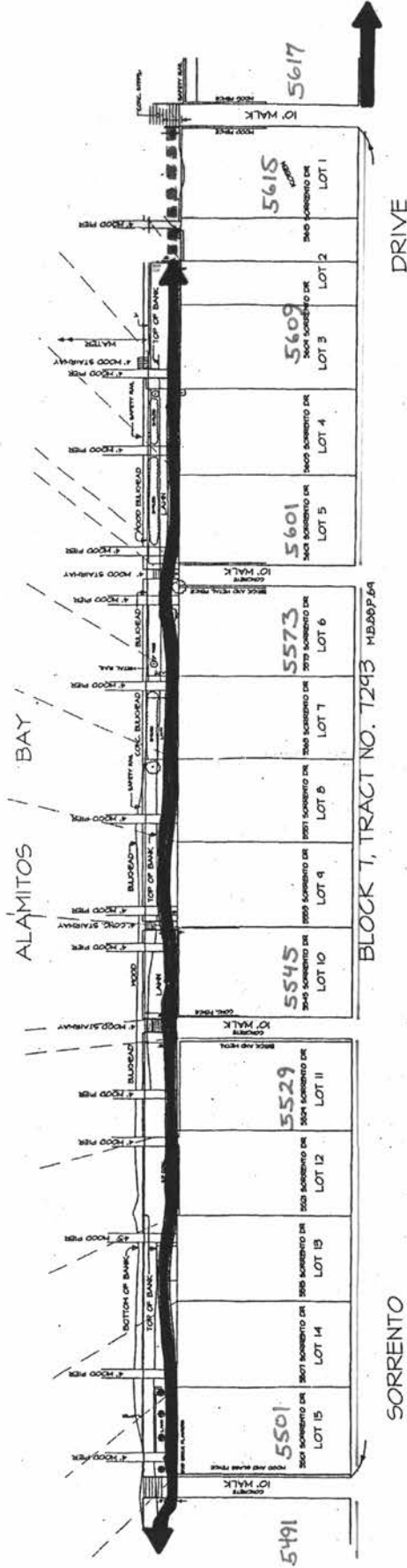


Sorrento Alamitos Bay Shoreline Trail Alignment

COASTAL COMMISSION  
S-11-085

EXHIBIT # 11  
PAGE 1 OF 3

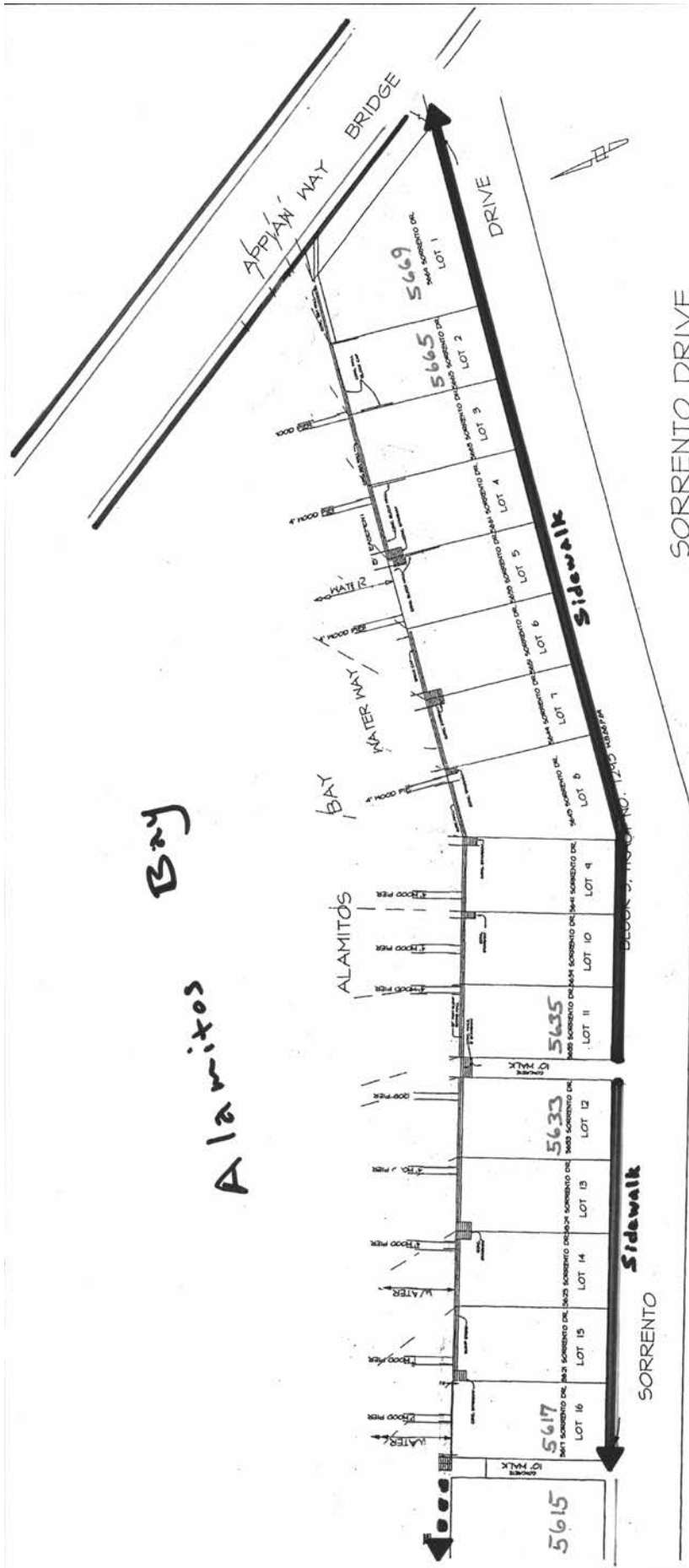
# Alamitos Bay



## Sorrento Alamitos Bay Shoreline Trail Alignment

COASTAL COMMISSION  
5-11-085

EXHIBIT # 11  
PAGE 2 OF 3



# Sorrento Alamos Bay Shoreline Trail Alignment

COASTAL COMMISSION

5-11-085

EXHIBIT # 11

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# MEMORANDUM

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**To:** Jack Ainsworth  
**From:** Sorrento Drive Neighborhood Association  
**Re:** Proposed Sorrento "Improvements"  
**Date:** August 20, 2013

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Naples is a unique community that has been widely recognized by everyone, including the Coastal Commission, as one of a kind. Naples celebrates its uniqueness and goes out of its way to include the community at large. Unlike many beach communities, Naples provides access to the public and has numerous points of entry, Mothers Beach, its parks, the canals and the numerous streets that connect to the 2<sup>nd</sup> Street and Appian Way. The only public access point to the water, other than Mother's Beach, is on Sorrento.

Now without involving Sorrento residents, without any notice to Sorrento residents and contrary to the interests of Sorrento residents there have been meetings that have been held and plans that have been made and - budgets that have been prepared that will destroy the texture of the community around Sorrento, destroy the natural habitat around Sorrento; destroy the home values of the Sorrento residents, to achieve something that already exists.

Currently, there is a balanced ecosystem that incorporates a 5' path and a tidal area in front of Sorrento residences. This does not occur anywhere else on Naples. The residents surrounding Sorrento launch their kayaks, stand up paddleboards, boats, swim and use the beach. It works. Instead of letting the current plan work there is a proposal that has been made that is unworkable.

## **DUE PROCESS:**

Obviously, the failure to notify us that there were discussions on a matter which directly impacts our property rights and values, until after decisions have already been made and understandings and agreements entered into, deprived us of notice and an opportunity to make a meaningful contribution to the discussion at a time when we could still influence those decisions and agreements.

That puts us in the very difficult position of having to beg the City and Coastal Commission to rescind those agreements and delay the hearing so that we can now be a part of the dialogue. These actions have needlessly created an adversarial relationship where none need exist.

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**NEXUS:**

There is no proper nexus between the Rivo Alto canal project and the mitigation which is being applied to our properties.

**MITIGATION:**

If the Coastal Commission requires mitigation for the work on the seawall, the Colorado Lagoon; the Los Cerritos Wetlands, L.A. River or even the Marine Stadium are more relevant areas for mitigation, if mitigation on the canals is found not to be possible.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

This is a project which would likely require a very expensive Environmental Impact Report. The fact that some agencies have signed on does not allow circumvention of legally required formal analysis, which would, by the way, allow us to give considered input.

What is the environmental impact of the proposed work?

The current "walkway," and bay frontage is a thriving environmental habitat teeming with over 100 bird species, including egrets, herons, terns, grebes, gulls, loons, geese, ducks, sandpipers, skimmers, kingfishers, swallows, ravens, crows, sparrows, and of course sea gulls. As the tide comes and goes these birds forage along the beach and the proposed pathway.

The same area is also frequented by sea hares (or sea slugs), crabs, rays, starfish, octopus, halibut, shark, bass, and our friendly seals. Depends on the time of day, the tide and the time of the year as to what you will see.

Finally, you will also find raccoons and possum that frequent the bay front.

The current proposal would destroy our local habitat that is enjoyed by everyone.

**INVERSE CONDEMNATION:**

We bought homes that have existed on this street for over 70 years. At no time did anyone ever tell us that there was anything other than a City owned easement that had never been used for anything other than the locals to swim, play and launch their boats on an occasional basis. No one ever told us that the rules would change and we would have a pathway built in front of our homes that would be a thoroughfare from 2<sup>nd</sup> Street to Appian Way. No one ever told us that we ran a risk that the Coastal Commission would want our piers built so they would block our views to the water and deprive physically challenged residents access to the water. In fact we were told that when we built our homes we could

**COASTAL COMMISSION**

Re: Proposed Sorrento "Improvements"

Page 3

do nothing that would block the view out to the water from the public walkway. We pulled our permits and played by the rules.

If the proposed plan on the City easement is advocated and adopted this would be condemnation. It would devalue our homes. Let's be practical - we bought our homes and paid high prices because of the view - because we have no man-made public walkway. We pay higher property taxes because of our home values. If our home values go down the rest of the city will suffer due to loss of tax revenue as a result of a decrease in property values.

**ADA:**

The proposed walkway does not comply with ADA. The only way to comply with ADA would be to destroy the habitat for birds and sea life and destroy the property values of the homes.

The stairs at 5609 Sorrento from the beach to the pathway do not comply with ADA. To connect the 2<sup>nd</sup> Street bridge to the pathway near the grey apartment building at minimum would require a ramp to be built that is ADA compliant. Based upon the required 8.33% maximum slope, this ramp would require at minimum 144 feet of length, drop 10' feet from the bridge to the walkway; it would require switchbacks or flat areas to comply with the code as otherwise the ramp would be too steep. Another option is an elevator. It would also result in a condemnation of property in front of the apartments.

A seven foot clearance under each pier would result in stairs on piers in front of homes that would deny access to the piers of handicapped or elderly residents. While this is not public property it is the same concept.

**COST/BENEFIT:**

The proposed walkway would be very expensive (as much as \$5,000,000.00 as estimated by the City). We think the cost is substantially higher. It would provide no benefit to the public. The fact is that public access is already in place, and could be enhanced by relatively inexpensive refinements of the walkway which already exists.

The fact is that portions of the easement are completely under water at high tide in front of one-half of the homes on Sorrento. Accordingly, in order to provide a walkway in the easement at some point near the West end of the proposed walkway (East of the apartments), or any of the easement East of 5609 Sorrento, sensitive beach habitat currently used by birds would have to be destroyed. The project would require "armoring" of the shoreline by building bulkheads in order to raise the walkway in the easement to a level where it would be dry at high tide, in order to connect the easement to 2<sup>nd</sup> Street in a continuous fashion. Such armoring would necessarily result in eelgrass and other habitat destruction. Existing piers would have to be altered or rebuilt, at great expense, inconvenience and destruction of habitat.

**COASTAL COMMISSION**

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Re: Proposed Sorrento "Improvements"

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We should consider that the present state of the easement on Sorrento is unique and attractive and provides an interesting alternative to the public waterfront access provided elsewhere on Naples. For example, access on Sorrento allows contact with the water, as it functions as a public beach, where elsewhere, other than at Mothers Beach, no such contact is possible. Public viewing of wildlife foraging on the beach launching of watercraft, access for swimming, and other beach activities which are presently possible because of the partially sandy shoreline would no longer be available to the public if a bulkhead were installed in order to provide for a continuous dry walkway at high tide.

It makes no sense to destroy a unique and functioning waterfront trail and spend millions of dollars in precious public funds to create something that is inferior.

**SECURITY:**

The homes on Sorrento were built in reliance on City plans and permits and open toward the water. Currently, the access provided works extremely well. Can you imagine a pathway created from bridge to bridge? There would be no security. 2<sup>nd</sup> Street has more than its share of crime, a significant homeless population and it is easy to envision this crime problem flowing down to the Sorrento walkway and into the homes. If you want to quickly get off 2<sup>nd</sup> Street and hide from the police this would be a place to go. The police should weigh in on the City's proposal. It would create a dangerous condition. The existing vertical Sorrento walkways provides adequate access from the base of the 2<sup>nd</sup> Street bridge to the base of the Appian Way bridge.

**LIABILITY:**

The proposed "trail" raises significant liability issues for both the homeowners and the City. Who will be responsible for injuries or damage either to the public or to the private property of homeowners which might be caused by the members of the public using the walkway. Will homeowners be expected to provide insurance to indemnify for injuries which might be incurred by users of the walkway? Who will be responsible for injuries suffered at the property line between homes where the walkway changes from one material to another? Who is responsible for people jumping off the bulkheads into the bay? Will lifeguards and police be deployed to protect against people being harmed? This has not been thought through.

**FENCING:**

Will a new fence be required, similar to what exists on the rest of Naples Island? If so, how is that an improvement of the public's waterfront access or the views of the public on the walkway?

**COASTAL COMMISSION**

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**LIGHTING:**

Will the pathway be lighted? If so, who pays for the lighting, maintenance, and utilities. As the proposed pathway may be comprised of various different materials on different properties, it is conceivable that it would be difficult for members of the public, who may not be familiar with the pathway, to navigate the path safely in the dark. One of the letters talks about 24-hour access. It would be extremely expensive for the City to install lighting for 24 7hour access.

**THE NEW DOCK FEE STRUCTURE:**

The New Dock Fee Structure is based upon a flawed analysis. While it may be true that renters of slips in the public marines pay a multiple of the fee charged to the owners of private docks on Naples, that simple comparison is insufficient to evaluate the difference between what is being paid by renters and the expenses incurred by dock owners.

The owners of private piers and docks pay for the design, engineering, construction, and maintenance of their piers and docks. The cost of design, construction, legal fees, and related dock building expenses, at least on Sorrento Drive, where building a pier to access the dock is a necessity, can easily exceed \$150,000.00. Maintenance costs include periodic painting, repair, cleaning, and eventual rebuilding or replacement of the pier and dock. In addition, private dock owners pay for insurance and utilities, including electrical power and water. Perhaps even more significantly, homeowners with boat docks pay substantially higher purchase prices for their homes and substantially higher property taxes than non dock owners, since homes with boat docks are worth significantly more than homes which do not have docks, all else being equal.

Renters of public boat docks do not have any of those responsibilities or expenses, and can walk away from any dock related expenses at will. Accordingly, it is evident that the justification for the dock fee increase does not hold water, and a new analysis which takes these other very real expenses into account should be conducted before any decision on a fee increase is made. The City's plan to raise revenue for bulkhead maintenance or replacement should not be based on a false premise.

Let us summarize, the current proposal not only negatively impacts the Sorrento landowners but also affects everyone on Naples and the rest of the City. Access is important. Destruction of habitat and property is wrong.

**COASTAL COMMISSION**

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PAGE 5 OF 5

*James N. McCabe*

**RECEIVED**  
South Coast Region

AUG 01 2012

**CALIFORNIA**  
**COASTAL COMMISSION**

Curtis Fossum  
Executive Officer  
California State Lands Commission  
100 Howe Ave.  
Sacramento, CA 95825-8202

Charles Lester  
Executive Director  
California Coastal Commission  
45 Freemont Street  
San Francisco, CA 94105-2219

July 27, 2012

Re: City of Long Beach Seawall Restoration Project.

Gentlemen:

I am a resident of the City of Long Beach. For years, I was the Long Beach Deputy City Attorney charged with dealing with matters involving City Tidelands including the seawalls in the Naples area of Long Beach. My understanding is that the above captioned matter is presently before the Coastal Commission. The subject matter discussed below is also within the ambit of the State Lands Commission.

Sometime in the 1990s, the Department of Parks, Recreation, and Marine together with the office of the City Attorney met with Councilman Doug Drummond and Naples waterfront homeowners to try to figure out a way to finance the repair of the Naples seawalls. That meeting took place at the Naples Elementary School. The writer was present as the Deputy City Attorney charged with handling Tidelands matters for the City.

City staff suggested to the homeowners that they could expedite the repair of those, already old, seawalls by the implementation of a modest increase in the fees paid by those owners for their boat slips situated over the City owned canals. Several weeks later, Drummond came back to City Hall with the message that the canal front homeowners would not "pay a dime" towards the repair of their seawalls.

On June 15, 2010, the City Council considered a motion to pay \$9.5 million for the repair of a small portion of those seawalls most in need of repair. Over my objection (as a retired Deputy Attorney), the Council approved the payment of that money from the Citywide Tidelands Fund, a fund dedicated by law to the public benefit of all taxpayers and citizens. Contrary to the intent of settled law, the expenditure of this fund of taxpayer's money was approved for the private use of the relatively small number of private, and wealthy, homeowners in Naples.

EXHIBIT # 13  
PAGE 1 OF 3

It is apparent that public money spent on Naples seawall repair is money spent overwhelmingly for private, not public, benefit. Those seawalls keep private residences and their yards from falling into the canals. The private homeowners' private floating boat docks are attached to the sea walls. The market value of those private homes is benefitted to the tune of hundreds of thousands of dollars for each residence. The private homeowners get the benefit of a "water view" and access for their back yard private boats to Alamitos Bay and the ocean.

Any benefit of the seawalls to the public is minor by comparison. A very small portion of the public, outside of Naples, actually take walks along or boat along those canals. If it were up to the homeowners, Naples would be a gated community specifically excluding the public. That request has actually been made in the past.

I respectfully suggest that beyond the shadow of a doubt, that these expensive repairs of the Naples area seawalls solely from the City of Long Beach Tideland Fund amounts to a gift of public funds from the public at large to a very few Naples landowners. Such a gift is prohibited by the Constitution of the State of California as well as the Grants of Tidelands to the City of Long Beach.

At the June 15 City Council meeting, Councilwoman Gabelich moved an amendment, which was adopted, which directed the City Manager to look into and report to the Council on what methods might be available for the private canal side homeowners to contribute to the \$9.5 million being spent in large part for their private benefit. City Attorney Shannon noted, at that meeting, that the City could legally assess the owners for all or part of the expense. Councilwoman Gabelich herself noted that the Naples homeowners were paying, for the right to have their private docks on public water, about one twelfth the price of what marina rents were paying for less desirable docks. For that small fraction of the public marina charges, the Naples residents get a private dock in their backyard. They don't have to drive to a Long Beach public marina and dock with those boat owners at twelve times the expense.

In January 2011, I submitted a Public Record Act Request to the City of Long Beach, regarding Item #29 at the June 15 Council meeting, asking for any documents or electronic messages from city staff reflecting the Council's charge to the City Manager to "provide a report to the City Council on funding alternatives, including a possible change in slip fee rates, for repair of ... seawalls in the Naples area." (See minutes to Item #29.)

The City's response to my Record Act Request was that not even one slip of paper had been generated in response the mentioned mandate. Nothing has been done to identify "funding alternatives." The private canal front homeowners will still "not pay a dime" toward the repair of their seawalls.

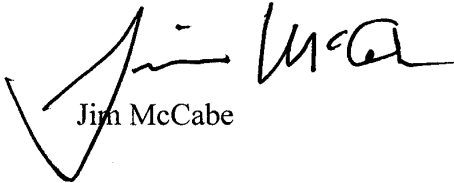
In fact the wide differentiation in charges for pier space over public waters at the City run municipal marina on the one hand and the dramatically lower charges for pier space over public waters conveniently adjacent to Naples landowners property owners appears to be a clear violation of the proscription of "discrimination in rates, tolls or charges" for pier usage found in Chapter 158, Statutes of 1935 in the Grant of Tidelands to the City of Long Beach, Section (d.)

It has been estimated that, in the next few years, as much or more than fifty million dollars will have to be spent repairing these seawalls. Assuming that the private canal front homeowners will still pay nothing of this cost, all of that money will be taken from the Tidelands Fund, a fund intended for the benefit of all taxpayers and citizens.

Respectfully, the City of Long Beach has no legal right to spend money intended for the benefit of all the citizens of the State of California for a purpose that is overwhelmingly to the benefit of a handful of privileged local citizens without some meaningful contribution from the benefited group.

Again respectfully, I thank you very much for your consideration in this matter. My address is 359 Loma Ave. Long Beach, CA 90814. My e-mail address is jim\_mcc@earthlink.net.

Very truly yours,



Jim McCabe

COASTAL COMMISSION  
5-11-085

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PAGE 3 OF 3

**RECEIVED**  
South Coast Region

FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATIONS

AUG 12 2013

CALIFORNIA  
COASTAL COMMISSION

Date and time of communication:

MAY 22 2013

Location of communication:

BY MAIL

(If communication was sent by mail or  
facsimile, indicate the means of transmission.)

Identity of person(s) initiating communication:

MAUREEN POE, Chair of Naples Seawall  
CMTC.

Identity of person(s) receiving communication:

Commissioner ROBERT GARCIA

Name or description of project:

Naples Seawall Project

Description of content of communication:

(If communication included written material, attach a copy of the complete text of the written material.)

petition w/ names of people that would like to hold this  
item to the June Coastal Commission meeting

Date

5/29/2013

  
Signature of Commissioner

If communication occurred seven (7) or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven (7) days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven (7) days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

APPENDIX 2

COASTAL COMMISSION

5-11-085

EXHIBIT #

14

PAGE

1

OF

1

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**To:** Posner, Chuck@Coastal  
**Subject:** FW: Long Beach Sea Wall Project et al:

-----Original Message-----

From: [cacrewood8@fastmail.fm](mailto:cacrewood8@fastmail.fm) [mailto:[cacrewood8@fastmail.fm](mailto:cacrewood8@fastmail.fm)]  
Sent: Wednesday, September 04, 2013 3:20 PM  
To: [cacrewood8@fastmail.fm](mailto:cacrewood8@fastmail.fm); Christen, Matt@Coastal  
Cc: [district3@longbeach.gov](mailto:district3@longbeach.gov); O'Neill, Beverly  
Subject: Long Beach Sea Wall Project et al:

Would you be so kind and forward this to Mr. Charles Lester as well as the good Mr. Chuck Posner in your Long Beach Office:

As this thirty four year resident of Lone Beach- who is:

.An ardent Coastal Recreationist(rower,sailor,windsurfer;former neighbor of Rachel Carson (many of whose teachings are interwoven into the fabric of Long Beach,s Jack Dunster Marine Biological Reserve;Marine Stadium-end habitat reserve;Colorado Lagoon Restoration Project)

Fully supports a RESPONSIBLE approach to the Naples Sea Wall Project---as well as using PUBLIC monies to do so-visa a via the presence of PUBLIC SIDEWALKS on top of said Sea Walls.

However, the current suggested approach by the OBTUSE---to undertake the re building/re pair/ restoration in a manner which would:

CONSTRICT

NARROW

REDUCE

by ONE Yard-36 INCHES(18 inches on each side of the canal) waters ways encircling Naples-

IS AT WAR----with the best interest of the People of the Long Beach,People of the State of California People of the United States.

While tress and plants might well have to be removed to realize the desired repair/restoration---THEY can always be re placed-if not in the immediate--in proximi consistent with mitigation paradigms.  
NOT SO WITH WATERS----which are dail

--

[cacrewood8@fastmail.fm](mailto:cacrewood8@fastmail.fm)

**Posner, Chuck@Coastal**

**5-11-085**

**From:** dbakerlaw@aol.com  
**Sent:** Wednesday, August 21, 2013 2:41 PM  
**To:** Ainsworth, John@Coastal  
**Cc:** Posner, Chuck@Coastal; suzanne.frick@longbeach.gov; gary@fieldslawcorp.com; tmschooley@aol.com; andrea@andreaware.com  
**Subject:** Sorrento

Dear Mr. Ainsworth

I am writing on behalf of the residents of the Sorrento Neighborhood Association. We would like to express our gratitude to you for your thoughtful response to our concerns regarding proposed changes within the Sorrento Drive easement.

We were particularly gratified to hear that you plan to delay the Coastal Commission hearing on this proposal to allow for consideration of the issues we raised during our meeting and tour of the area yesterday.

The homeowners understand and support your goal of improving access to the waterfront. We believe that this can be done while preserving the unique and attractive character of our neighborhood, and while respecting and protecting the security and privacy of the Sorrento homeowners.

We strongly believe that the waterfront on Sorrento is special and worthy of preservation in its present state, and that it provides an interesting and pleasing alternative to the concrete and steel public waterfront access available elsewhere on Naples. For example, access on Sorrento allows contact with the water, as it functions as a public beach, where elsewhere, other than at Mothers Beach, no such contact is possible. Public viewing of wildlife foraging on the beach, gathering of bait and fishing, launching of watercraft, access for swimming, and other beach activities which are presently possible because of the predominantly sandy shoreline on Sorrento would no longer be available if bulkheads and fence railings were installed in order to provide for a continuous dry walkway at high tide.

I have outlined below some of the key issues which we discussed yesterday, and which we have previously raised with Long Beach City officials.

#### **DUE PROCESS.**

Obviously, the City's failure to notify us that they were in discussions with the Coastal Commission on a matter which directly impacts our property values and quality of life until after decisions and agreements had already been made deprived us of notice and an opportunity to make a meaningful contribution to the discussion prior to the Coastal Commission vote which was scheduled for September.

Your willingness to delay the hearing in order to examine the issues we have raised is exactly the kind of response to our concerns that we hope for from our government officials, and is commendable.

#### **NEXUS**

There is no proper nexus between the Rivo Alto canal project and the mitigation which is being applied to our properties. We would agree to work with the City and the Coastal Commission on this access issue outside of the framework of Rivo Alto repair mitigation by de-linking the Sorrento project from the Rivo Alto project, if that would help the City in its efforts to expedite the Rivo Alto repairs.

## COST/BENEFIT

The proposed walkway would be very expensive (as much as \$5,000,000.00 as estimated by the City), and would provide little in the way of new benefit to the public. The fact is that public access is already in place, and could be enhanced by relatively inexpensive refinements of the walkway which already exists, together with improvements in signage at the vertical easement access points and improvement by the City of the City owned vertical access walkways and stairs.

If the City and the Coastal Commission wished to do so they could put in place a system of fines designed to prohibit encroachment upon or blockage of the easement, all at little or no cost to the public. In this way they could reach their desired goal of ensuring public access in a much more cost efficient way.

The fact is that, as you have seen for yourself, portions of the easement are completely under water at higher tide levels in front of some of the properties near the West end of Sorrento, as is the case for all of the easement East of 5609 Sorrento. Accordingly, in order to provide a walkway in the easement at some points near the West end of the proposed walkway (just East of the apartments), or in any of the easement East of 5609 Sorrento, sensitive beach habitat currently used by birds foraging for ghost shrimp (and fisherman gathering shrimp or shellfish for use as bait) would have to be destroyed.

The project would require "armoring" of the shoreline by building bulkheads or installing a concrete boardwalk in order to raise the walkway in the easement to a level where it would be dry at high tide, in order to connect the easement to 2nd Street in a continuous fashion. Any bulkheads or walkways would be required by State building codes to have 42" high railings with openings no wider than 4", which would destroy views for both homeowners and visitors and ruin the existing pastoral and natural ambiance of the waterfront. Such armoring would necessarily result in eelgrass and other habitat destruction. Existing piers, some of them new, would have to be altered or rebuilt, at great expense and inconvenience to homeowners.

We feel that it makes no sense to spoil a unique, attractive, and functioning natural waterfront by installing concrete and fences and to spend millions of dollars in scarce public funds in order to achieve something which may be aesthetically and functionally inferior to what already exists.

We suggest that relatively small improvements to the existing walkway, including elevation transition improvements and more signage, will provide the lateral access you seek and won't require the massive engineering and construction efforts which were previously envisioned. As confirmed by Chuck Posner, many of the existing bulkheads may require replacement with concrete bulkheads in order to meet engineering codes for support of a public "trail" as currently envisioned by the Coastal Commission.

We believe that when coupled with the City's promised significant improvements to the vertical access points located between every fifth house, the cumulative result of these less intrusive improvements to the easement will provide greatly enhanced public access while at the same time preserving the natural connection between land and water which makes this area of the bayfront attractive to visitors in the first place. There are miles of concrete walkways and bulkheads in the Alamitos Bay area. We think that your goals of improving access can be accomplished while at the same time preserving the existing more natural and unarmored land/water interface which currently exists on Sorrento.

## EQUAL PROTECTION

The City of Long Beach is planning to use public Tidelands funds to pay for rebuilding the bulkheads in the Rivo Alto Canal, including, presumably, the rebuilding of the public sidewalks in front of the Rivo Alto homes which will likely be required. At the same time, it appears that the City proposes, as it has in the past, to require the homeowners on Sorrento to pay for improvements to support mandated improvements to the public walkway on the Sorrento waterfront such as bulkhead replacement and maintenance. This clearly raises Equal Protection issues, as Sorrento residents are incurring a burden not shared by Rivo Alto residents.

## LIABILITY

**COASTAL COMMISSION**

The proposed "trail" raises significant liability issues for both the homeowners, the Coastal Commission, and the City. Who will be responsible for injuries or damage to the public which might be suffered by members of the public using the proposed "unpaved" walkway? Will homeowners be expected to provide insurance to indemnify for injuries which might be incurred by users of the proposed walkway? Who will be responsible for injuries suffered at the property line between homes, or at the border between the unpaved walkway and private property, or on the engineered bulkheads which will be required to support the trail?

#### MAINTENANCE

The proposed "trail" raises significant issues regarding ownership and responsibility for maintaining the pathway and the improvements, including any new bulkhead supporting the easement and any required fencing, and the interface between the walkway and the private piers.

#### FENCING

Will new fencing be required, similar to what exists on the rest of Naples Island? If so, how is that an improvement of the public's waterfront access or the views of the public on the walkway? Current California building codes require a minimum 42" high fence with openings no wider than 4" on any pier, dock or elevation which is more than 30" high. This code section would apply to any new bulkhead. This would impair views for both homeowners and the public, and destroy the natural appearance and feel of the interface between land and water which currently exists along the Sorrento shoreline.

#### LIGHTING

The City's correspondence with the Coastal Commission contemplates that the easement will be open 24 hours a day. Will the pathway be lighted? If so, who pays for the lighting, maintenance, and utilities? It is conceivable that it would be difficult for members of the public, who may not be familiar with the pathway, to navigate the path safely in the dark. Adequate lighting of the trail would create glare and significant privacy problems for residents of homes along Sorrento, all of which are located directly adjacent to the easement.

By comparison, the Spinnaker Bay waterfront walkway is closed at night, per agreement with the Coastal Commission, even though the walkway is situated 5 feet below the decks of the homes and is separated from the homes by railings located on the decks above the walkways. This arrangement was, no doubt, made in recognition of obvious security and privacy issues. Many public beaches are closed at night, and even public marina docks are locked and secured at night, and often during the day as well, for the same reasons. The idea of 24 hour access and lighting of a walkway directly in front of homes which were designed to be open to the waterfront should be reconsidered.

#### SECURITY

Unlike homes on the other parts of Naples Island, where sidewalks were in place before homes were built, the homes on Sorrento Drive were built based on an assumption that the lateral easement would not be connected to 2nd Street, and would be relatively lightly used, as has been the case historically. Accordingly, the existing homes are, in most cases, designed to be wide open to the easement and have little or no provision for privacy or security on the water side.

By comparison, many of the homes located on the existing sidewalks in other areas of Naples and the Peninsula were designed to accommodate the privacy and security concerns created by proximity to a public walkway by having "upside down" designs, with the living areas upstairs, or with raised porches and decks and railings designed to prevent members of the public from looking or walking directly into the homes. Significantly changing the historic level of use of the walkway will result in considerable negative security and privacy impacts to the residents of the existing homes on Sorrento, and the interests of those homeowners should be considered in any redesign of the walkway. Additionally, and importantly, 2nd Street has more than its share of crime and a significant homeless problem, and one could easily envision that problem spilling onto the easement and into the homes on Sorrento Drive, should a direct 2nd Street connection be developed.

#### ADA ACCESS

**COASTAL COMMISSION**

It might be difficult, if not impossible, to reconcile the 2nd Street connection, the 5609 Sorrento stairs, the vertical access improvements to the easement which would be necessary as a result of the new walkway design, and the proposed "unpaved" materials used in the construction of the new "trail" itself, with Federal law requirements for Handicapped Access. Who would pay fines for violations of that law? The proposed connector from 2nd Street to the walkway would require an 8.33% maximum slope with flat portions at intervals which would result in a minimum 144 feet of length to achieve a 10' elevation change, per ADA regulations. If ADA ramps were required at the City owned vertical access points located between the houses the interface between the ramps and the proposed lateral "trail" might prove problematic and expensive to design and install, and might be required to intrude onto the beach, with resulting habitat destruction.

THE NEW 7 FOOT HEIGHT REQUIREMENT for clearance under the piers will block views from the homes as well as the views of users of the new "trail". The fact is that the homes located East of 5609 Sorrento face on mudflats which are submerged at higher tides, which renders the increased vertical clearance useless for access half the time. At lower tide levels there is adequate access under the existing piers for those who choose to walk in the easement, as is evident from the current significant level of use of that area of the easement. It is safe to say that anyone who uses that portion of the easement is prepared to get muddy, sandy, or wet feet, and to walk under the existing piers, which is part of the experience. That experience is not available anywhere else but on the Sorrento portion of the waterfront. It is worth preserving in its current state.

And finally, regarding another of the proposed "mitigations",

THE NEW DOCK FEE STRUCTURE is based upon a flawed analysis. While it may be true that renters of slips in the public marinas pay a multiple of the fee charged to the owners of private docks on Naples, that simple comparison is insufficient to evaluate the difference between what is being paid by renters and the expenses incurred by dock owners.

The owners of private piers and docks pay higher prices for homes with boat docks, and pay for the design, engineering, construction, and maintenance of their piers and docks when built or replaced. The cost of design, construction, legal fees, and related dock building expenses, at least on Sorrento Drive, where building a pier to access the dock is a necessity, can easily exceed \$150,000.00, based upon my experience. Maintenance costs include periodic painting, repair, cleaning of the float to remove mussels and growth, and eventual rebuilding or replacement of the pier and dock. In addition, private dock owners pay for insurance and utilities, including electrical power and water. Perhaps even more significantly, homeowners with boat docks pay substantially higher homeowners' property taxes than non dock owners, since homes with boat docks are worth significantly more than homes which do not have docks, all else being equal.

Renters of public boat docks do not have any of those responsibilities or expenses, and can walk away from any dock related expenses at will. Accordingly, it is evident that the justification for the dock fee increase does not hold water, (pun intended) and a new analysis which takes these other very real expenses into account should be conducted before any decision on a fee increase is made. The City's plan to raise revenue for bulkhead maintenance or replacement should not be based on a false premise.

In closing, I wish to again thank you for your time and attention to this matter. We look forward to working with the Coastal Commission and the City of Long Beach to reach a mutually satisfactory agreement which will accommodate the goals of the Commission while respecting the interests of the Sorrento homeowners.

Very truly yours,

David Baker  
(310)779-8667

COASTAL COMMISSION

5-11-085

EXHIBIT # 16

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# Naples Seawalls, Phase 1 (Northeast Quadrant)

## Summary Comparison Spreadsheet of Design Alternatives

### City of Long Beach

| Key Considerations                                                                                 | Proposed Waterside Seawall           | Landside Seawall Option 1                                                              | Landside Seawall Option 2            | Hybrid Seawall (Landside on North & Waterside on South) |
|----------------------------------------------------------------------------------------------------|--------------------------------------|----------------------------------------------------------------------------------------|--------------------------------------|---------------------------------------------------------|
| Impact to existing mature trees                                                                    | 11                                   | 67                                                                                     | 67                                   | 44                                                      |
| Construction duration                                                                              | 120 working days                     | 180 working days                                                                       | 380 working days                     | 180 - 220 working days                                  |
| Significant construction concerns                                                                  | None                                 | Size/Weight of construction equip.; limited work area; access; existing infrastructure |                                      |                                                         |
| Requires cutting existing tiebacks during construction                                             | No                                   | No, but significant risk of failure due to condition of tie-rods                       | Yes                                  | No                                                      |
| Contractor liability/risk (the higher, the more limited # of available bidders and increased cost) | Low (Many available contractors)     | Medium-High                                                                            | High (limited available contractors) | Medium-High                                             |
| Level of protection                                                                                | Provides highest level of protection | Meets requirements                                                                     | Meets requirements                   | Meets requirements                                      |
| Construction cost estimate                                                                         | \$13.6M                              | \$25.3M                                                                                | \$36.3M                              | \$22 - 27M                                              |
| Noise/Vibration/Construction Impacts                                                               | Low                                  | Medium                                                                                 | High                                 | Medium-High                                             |
| Narrows canal width                                                                                | Yes, by 3-4' (requires mitigation)   | No                                                                                     | No                                   | No                                                      |
| Impact to public access area                                                                       | Increased by 3-4'                    | Reduced by 5-7'                                                                        | Reduced by 5-7'                      | Reduced by 5-7' on Northside                            |
| Impacts existing landscaping adjacent to homes                                                     | No                                   | Yes                                                                                    | Yes                                  | Yes on Northside; No on Southside                       |
| Allows future seawall to be constructed on landside with minimal constructability issues           | Yes                                  | No                                                                                     | No                                   | No on Northside; Yes on Southside                       |
| Requires future seawall to be constructed on waterside                                             | No                                   | Yes                                                                                    | Yes                                  | No on Southside; Yes on Northside                       |
| Completion if construction begins August 2012                                                      | January 2014                         | April 2014                                                                             | January 2015                         | April 2014 - June 2014                                  |