

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
301 E. OCEAN BLVD, SUITE 300  
LONG BEACH, CA 90802-4325  
VOICE (562) 590-5071  
FAX (562) 590-5084



Click here to go  
to staff report

# Th13a

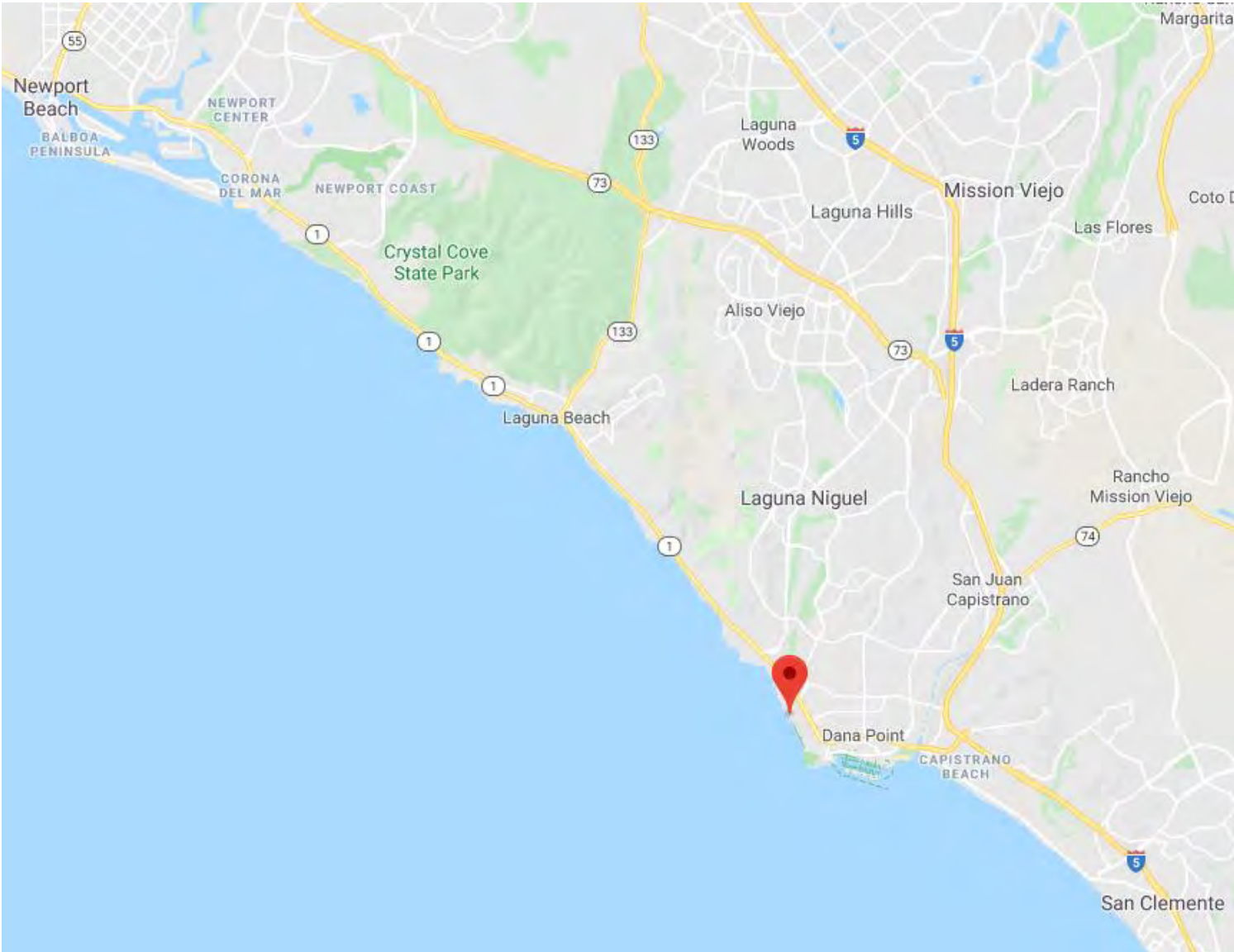
**5-21-0489**  
**(Orange County Parks)**

**MAY 13, 2022**

## **EXHIBITS**

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**Exhibit 1 – Vicinity Map**









Salt Creek Beach

County Park

N. End of Proposed Revetment

S. End of Proposed Revetment

Existing Public Walkway





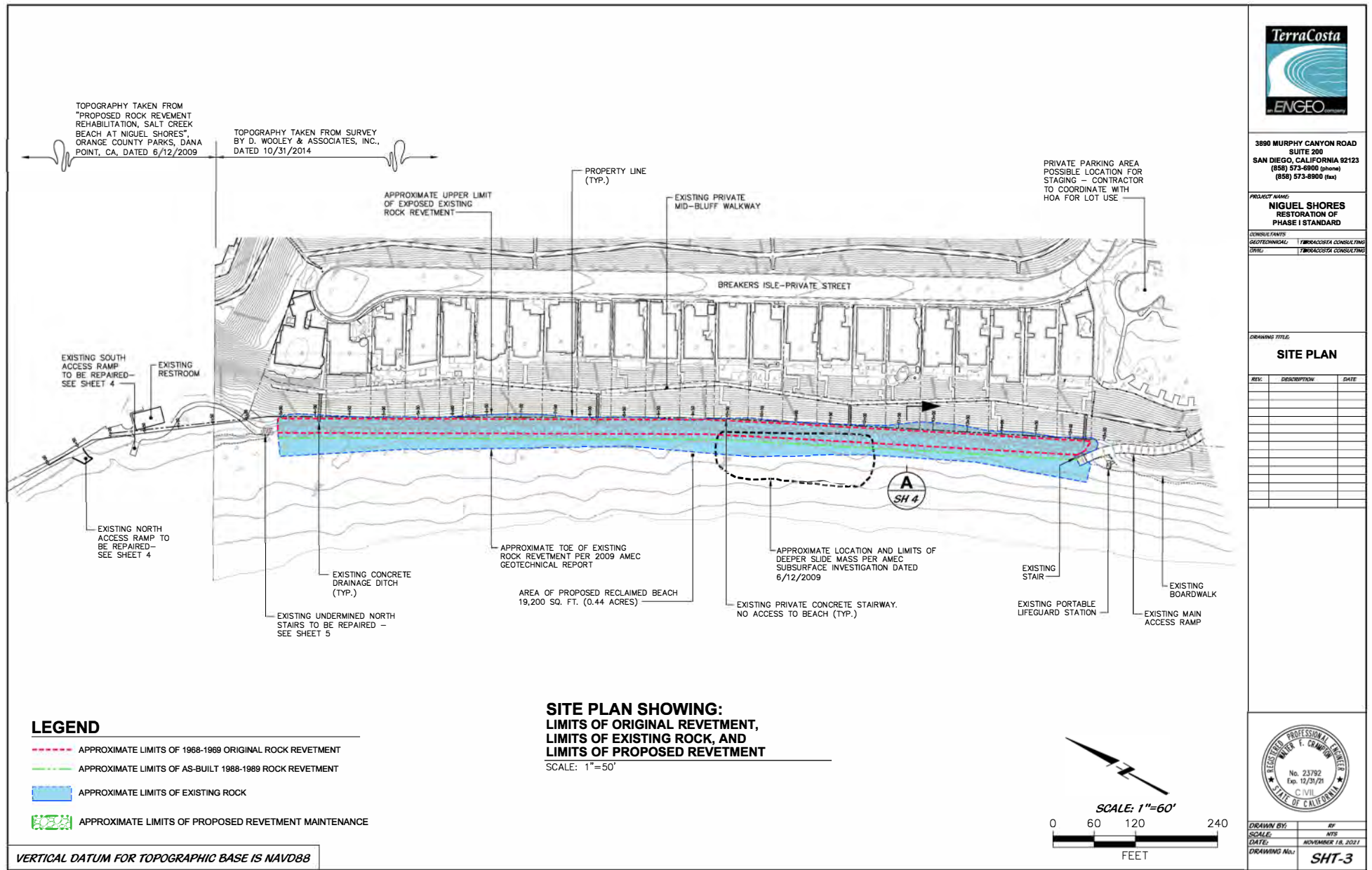
N. End of  
Proposed  
Revetment

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Revetment

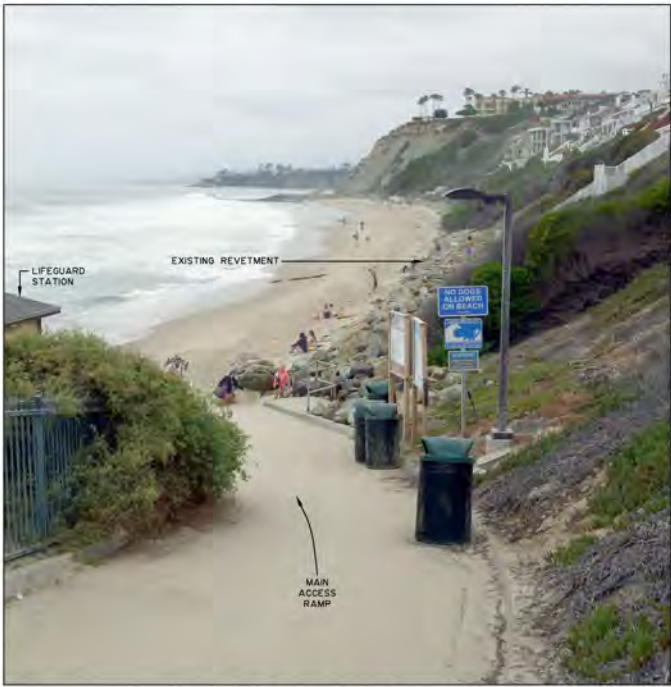
Private Bluff Top Park  
and Parking Lot



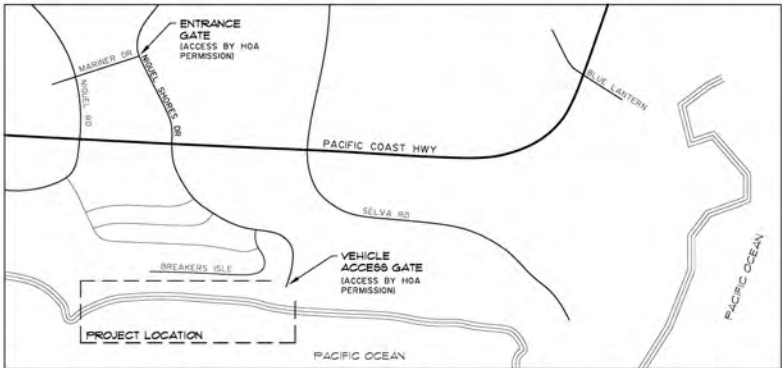
## Exhibit 2 – Site Plans



CONSTRUCTION PLANS FOR:  
NIGUEL SHORES RESTORATION OF PHASE I STANDARD



SITE PHOTO - LOOKING NORTH



VICINITY MAP



LOCATION MAP

**PROJECT DESCRIPTION**

THIS IS A RESTORATION PLAN AS ORIGINALLY DESIGNED BY CONVERSE CONSULTANTS IN 1988. THIS PROJECT PROPOSES THE IMPORTING OF NO MORE THAN 1000 TONS OF 1- TO 1.5-TON ROCK, AND SHALL CONSIST OF THE RESTACKING OF EXISTING AND IMPORTED ROCK TO THE LINES AND GRADES SHOWN ON THE ORIGINAL DRAWING ON SHEET 2 OF THE PLANS. ROCK SHALL BE PLACED DURING A TIME OF LOW SAND LEVELS, WHEN BEACH IS IN A "SCOURED" CONDITION.

**PROJECT TEAM**

PROJECT TEAM: TERRACOSTA CONSULTING GROUP  
DESIGN ENGINEER: WALTER F. CRAMPTON, RCE  
ENGINEERING GEOLOGIST: BRAVEN SMILLIE, GEO  
3890 MURPHY CANYON ROAD, STE 200  
SAN DIEGO, CALIFORNIA 92123  
(858) 573-6900

**SHEET INDEX**

SHEET NO.	DESCRIPTION
1	TITLE SHEET
2	NOTES & SPECIFICATIONS
3	EXISTING SITE PLAN
4	CROSS SECTIONS & DETAILS
5	PHOTOS OF NORTH STAIRS

**TerraCosta Consulting Group**  
ENGINEERS & GEOLOGISTS

3890 MURPHY CANYON ROAD  
SUITE 200  
SAN DIEGO, CALIFORNIA 92123  
(858) 573-6900 (phone)  
(858) 573-6900 (fax)

PROJECT NAME:  
**NIGUEL SHORES  
RESTORATION OF  
PHASE I STANDARD**

CONSULTANTS:  
GEO/TECHNICAL: TERRACOSTA CONSULTING  
CIVIL: TERRACOSTA CONSULTING  
STRUCTURAL: ---

DRAWING TITLE:  
**TITLE SHEET**

REV.	DESCRIPTION	DATE

WALTER F. CRAMPTON  
No. 23792  
Exp. 12/31/21  
CIVIL  
STATE OF CALIFORNIA

DRAWN BY: RF  
SCALE: NTS  
DATE: APRIL 15, 2021  
DRAWING No.: **SHT-1**



1. ALL OPERATIONS CONDUCTED ON THE PREMISES, INCLUDING THE WARMING UP, REPAIR, ARRIVAL, DEPARTURE, OR RUNNING OF TRUCK EARTHMOVING EQUIPMENT, CONSTRUCTION EQUIPMENT, AND ANY OTHER ASSOCIATED EQUIPMENT SHALL BE LIMITED TO THE PERIOD BETWEEN 7:00 A.M. AND 7:00 P.M. EACH DAY, MONDAY THROUGH FRIDAY. PRIOR APPROVAL OF THE COUNTY ENGINEER WILL BE REQUIRED FOR WORK BEFORE 7:00 A.M. AND AFTER 7:00 P.M. OR ON WEEKENDS. NO NIGHTTIME LIGHTING OR WORK ACTIVITY SHALL BE PERFORMED.

2. GRUBBING MAY BE REQUIRED TO REMOVE EXISTING VEGETATION. ALL GRUBBING ACTIVITIES SHALL BE UNDER THE SUPERVISION AND TO THE SATISFACTION OF THE COUNTY OF ORANGE, AND IF ON PRIVATE PROPERTY, THE NIGUEL SHORES HOMEOWNERS ASSOCIATION.

3. DEMOLISHED MATERIALS, VEGETATION, SITE DEBRIS, RUBBISH, AND OTHER MATERIALS RESULTING FROM CONSTRUCTION OPERATIONS SHALL BE REMOVED AND DISPOSED OF OFF SITE IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

4. CONTRACTOR SHALL TAKE EVERY REASONABLE PRECAUTION TO PREVENT FOREIGN MATERIAL AND DEBRIS FROM ENTERING TIDAL WATERS DURING THEIR OPERATIONS. ANY FOREIGN MATERIALS OR EQUIPMENT, BUOYANT OR NON-BUOYANT, WHICH IN THE OPINION OF THE ENGINEER MIGHT CONSTITUTE A NUISANCE OR A DANGEROUS OBSTRUCTION TO NAVIGATION OR CAUSE POLLUTION TO THE WATER, SHALL BE IMMEDIATELY REMOVED BY CONTRACTOR.

5. CONTRACTOR SHALL CONTROL ALL DUST GENERATED AS A RESULT OF HIS OPERATIONS. ALL WORK SHALL BE CONDUCTED IN COMPLIANCE WITH SSPWC SUBSECTION 7-5. SPRINKLING WITH WATER SHALL BE ACCOMPLISHED SO AS TO NOT RESULT IN RUNOFF INTO THE TIDAL ZONE.

8. CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING THE PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE COUNTY OF ORANGE, THE OWNER AND THE ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPT FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR THE ENGINEER.

7. THE CONTRACTOR SHALL TAKE PRECAUTIONARY MEASURES TO ENSURE THAT ALL UTILITY SERVICES WILL REMAIN FUNCTIONAL DURING THE CONSTRUCTION PERIOD.

8. THE CONTRACTOR SHALL OBTAIN AND HAVE AVAILABLE ON THE JOBSITE COPIES OF APPLICABLE STANDARDS SHOWN ON THESE PLANS, AND BE FAMILIAR WITH THEIR REQUIREMENTS.

9. ALL CONSTRUCTION SHALL CONFORM TO ALL LOCAL CODES, ORDINANCES, RESTRICTIONS AND OSHA REQUIREMENTS.

10. THE CONTRACTOR SHALL FIELD VERIFY THE DIMENSIONS OF ALL EXISTING FACILITIES, THE LOCATIONS OF ALL EXISTING UTILITIES, AND ALL OTHER CONDITIONS PRIOR TO COMMENCING CONSTRUCTION.

11. UPON COMPLETION OF EACH DAY'S WORK, THE CONTRACTOR SHALL BE RESPONSIBLE FOR LEAVING THE WORK AREA FREE OF HAZARDS, AND SHALL PROVIDE ALL NECESSARY TEMPORARY SIGNS, WARNING DEVICES, AND BARRICADES.

12. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND ELEVATIONS BEFORE STARTING WORK, AND SHALL NOTIFY THE ENGINEER IMMEDIATELY OF ANY DISCREPANCIES.

13. LOCATION OF ALL EXISTING UTILITIES SHOWN ARE PER AVAILABLE RECORD DRAWINGS OBTAINED DURING DESIGN. CONTRACTOR TO CONTACT APPROPRIATE AGENCIES TO OBTAIN ANY REVISED, UPDATED, OR "AS-BUILT" INFORMATION AVAILABLE JUST PRIOR TO CONSTRUCTION. THE CONTRACTOR IS REQUIRED TO TAKE DUE PRECAUTIONARY MEASURES TO PROTECT AND MAINTAIN THE UTILITY LINES.

14. THE CONTRACTOR SHALL BE RESPONSIBLE TO ENSURE THAT THE REVEGETATION RESTORATION IS BUILT IN ACCORDANCE WITH THESE PLANS. IF THERE IS ANY QUESTION REGARDING THESE PLANS OR FIELD STAKES, THE CONTRACTOR SHALL REQUEST AN INTERPRETATION BEFORE ANY WORK BY CONTACTING THE PROJECT ENGINEER. THE CONTRACTOR SHALL ALSO TAKE THE NECESSARY STEPS TO PROTECT THE PROJECT AND ADJACENT PROPERTY FROM ANY EROSION AND SILTATION THAT RESULT FROM HIS OPERATIONS BY APPROPRIATE MEANS (SAND BAGS, HAY BALES, TEMPORARY DESILTING BASINS, DIKES, SHORING, ETC.) UNTIL SUCH TIME THAT THE PROJECT IS COMPLETED AND ACCEPTED FOR MAINTENANCE BY THE OTHER AGENCY. THE ASSOCIATION IS TO BE ULTIMATELY RESPONSIBLE FOR MAINTENANCE.

UTILITIES HAVE BEEN SHOWN AS ACCURATELY AS POSSIBLE USING EXISTING RECORDS. CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL LOCATIONS AND ELEVATIONS OF ALL EXISTING UNDERGROUND AND OVERHEAD UTILITIES AS REQUIRED PRIOR TO THE START OF WORK.

THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS TO LOCATE AND PROTECT ANY UNDERGROUND OR CONCEALED CONDUIT, PLUMBING OR OTHER UTILITIES WHERE NEW WORK IS BEING PERFORMED. BEFORE EXCAVATING, VERIFY LOCATION OF UNDERGROUND UTILITIES.

SITE ACCESS SHALL BE FROM EITHER THE NORTH ACCESS RAMP FROM SALT CREEK OR DOWN THE MAIN ACCESS RAMP (SEE LOCATION MAP ON SHEET 1 OF PLANS). THE MAIN ACCESS RAMP IS ACCESSIBLE FROM NIGUEL SHORES DRIVE, WHICH IS A GATED, PRIVATE, RESIDENTIAL ROAD. CONTRACTOR SHALL ARRANGE WITH HOMEOWNERS ASSOCIATION TO OBTAIN ACCESS THROUGH GATES.

\*SURVEY MONUMENTS SHALL BE PRESERVED AND REFERENCED BEFORE CONSTRUCTION AND REPLACED AFTER CONSTRUCTION PURSUANT TO SECTION 8771 OF THE BUSINESS AND PROFESSIONAL CODE.\*

1. IN THE CASE OF EMERGENCY, CALL \_\_\_\_\_  
AT WORK TELEPHONE NO. \_\_\_\_\_ OR HOME TELEPHONE NO. \_\_\_\_\_

2. EQUIPMENT AND WORKERS FOR EMERGENCY WORK SHALL BE MADE AVAILABLE AT ALL TIMES DURING THE RAINY SEASON. NECESSARY MATERIALS SHALL BE AVAILABLE ON SITE AND STOCKPILED AT CONVENIENT LOCATIONS TO FACILITATE RAPID CONSTRUCTION OF TEMPORARY DEVICES WHEN RAIN IS IMMINENT.

3. EROSION CONTROL DEVICES SHALL NOT BE MOVED OR MODIFIED WITHOUT THE APPROVAL OF THE BUILDING OFFICIAL.

4. ALL REMOVABLE EROSION PROTECTIVE DEVICES SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHEN THE 5-DAY RAIN PROBABILITY FORECAST EXCEEDS 40%.

5. AFTER A RAINSTORM, ALL SILT AND DEBRIS SHALL BE REMOVED FROM STREETS, CHECK BERMS AND BASINS.

6. GRADED AREAS OF THE PERMITTED AREA PERIMETER MUST DRAIN AWAY FROM THE FACE OF SLOPES AT THE CONCLUSION OF EACH WORKING DAY. DRAINAGE IS TO BE DIRECTED TOWARDS DESILTING FACILITIES.

7. THE PERMITTEE AND CONTRACTOR SHALL BE RESPONSIBLE AND SHALL TAKE NECESSARY PRECAUTIONS TO PREVENT PUBLIC TRESPASS ONTO AREAS WHERE IMPOUNDED WATER CREATES A HAZARDOUS CONDITION.

8. THE PERMITTEE AND CONTRACTOR SHALL INSPECT THE EROSION CONTROL WORK AND INSURE THAT THE WORK IS IN ACCORDANCE WITH THE APPROVED PLAN.

1. THE PERMITTEE SHALL NOTIFY ALL GENERAL CONTRACTORS, SUBCONTRACTORS, MATERIAL SUPPLIERS, LESSEES AND PROPERTY OWNERS THAT DUMPING OF CHEMICALS INTO THE STORM DRAIN SYSTEM OR THE WATERSHED IS PROHIBITED.

2. PERMITTEE SHALL MAINTAIN CONSTRUCTION SITE IN A CONDITION THAT AN ANTICIPATED STORM DOES NOT CARRY WASTES OR POLLUTANTS OFF THE SITE. POTENTIAL POLLUTANTS INCLUDE BUT ARE NOT LIMITED TO: SOLID OR LIQUID CHEMICALS, OILS, FUELS, FERTILIZERS, PESTICIDES, SOLVENTS, SEEDS, PESTICIDE HERBICIDES, WOOD PRESERVATIVES AND SOLVENTS, ASBESTOS, FIBERS, PAINT FLAKES OR STUCCO FRAGMENTS, FUELS, OILS, LUBRICANTS, AND HYDRAULIC FLUIDS, RADIATOR OR BATTERY FLUIDS, FERTILIZERS, VEHICLES/EQUIPMENT WASH WATER AND CONCRETE WASH WATER, CONCRETE, DETERGENT OR OTHER WASH WATER, WASTE OILS, FERTILIZERS, PESTICIDES, PAINTS, ANTIMONY, CHEMICAL DEGREASING AND SUPPLY CHLORINATED POTABLE WATER LINE FLUSHING.

3. DURING CONSTRUCTION, PERMITTEE SHALL DISPOSE OF SUCH MATERIALS IN A SPECIFIED AND CONTROLLED TEMPORARY AREA ON-SITE, PHYSICALLY SEPARATED FROM POTENTIAL STORMWATER RUNOFF, WITH ULTIMATE DISPOSAL IN ACCORDANCE WITH LOCAL, STATE AND FEDERAL REQUIREMENTS.

4. PERMITTEE MAY DISCHARGE MATERIAL OTHER THAN STORMWATER ONLY WHEN NECESSARY FOR PERFORMANCE AND COMPLETION OF CONSTRUCTION PRACTICES AND WHERE THEY DO NOT: CAUSE OR CONTRIBUTE TO A VIOLATION OF ANY WATER QUALITY STANDARD; CAUSE OR THREATEN TO CAUSE POLLUTION, CONTAMINATION OR NUISANCE; OR CONTAIN A HAZARDOUS SUBSTANCE IN A QUANTITY REPORTABLE UNDER FEDERAL REGULATION 40 CFR, PARTS 117 AND 302.

5. DEWATERING OF CONTAMINATED GROUNDWATER OR DISCHARGING CONTAMINATED SOILS VIA SURFACE EROSION IS PROHIBITED. DEWATERING OF NON-CONTAMINATED GROUNDWATER REQUIRES A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FROM THE RESPECTIVE STATE REGIONAL WATER QUALITY CONTROL BOARD.

## RIPRAP REVETMENT MATERIALS

1. STONE FOR RIPRAP: QUANTITY SHALL UTILIZE ONLY THOSE MATERIALS INDICATED ON THE "CONVERSE CULVERTS REVESTMENT RESTORATION-TYPICAL DETAIL" DRAWING SHOWN ON THIS SHEET. ONLY "ZONE 3" MATERIAL SHALL BE IMPORTED, AND NO MORE THAN 1,000 TONS MAY BE IMPORTED TO ADD TO EXISTING ROCK CURRENTLY ON THE BEACH.
2. FILTER FABRIC: NOTES REGARDING FILTER FABRIC SHALL BE DISREGARDED. NO FILTER FABRIC SHALL BE PLACED AS A PART OF THIS PROJECT.
3. QUANTITIES: ZONE THREE MATERIAL IMPORT NO MORE THAN 1,000 TONS. ALL OTHER ROCK SHALL BE OBTAINED FROM ON-SITE MATERIALS.

1. EXISTING STONE STOCKPILE AND REPLACEMENT: ALL EXISTING STONE SHALL BE GRADED AND STOCKPILED FOR USE WITHIN THE RESTORED REVEITEMENT. SAND AND CORBLE ROCK SMALLER THAN 6 INCHES IN DIAMETER SHALL BE SPREAD ON THE BEACH.
2. FILTER FABRIC PLACEMENT: THE PLACEMENT OF FILTER FABRIC IS NOT A PART OF THIS PERMIT.
3. ROCK PLACEMENT: ROCK OF EACH CLASS SHALL BE PLACED OR REPLACED TO THE LINE AND GRADED BEACH TO THE ELEVATION OF APPROVED BY THE CITY ENGINEER.
4. NEW REVEITEMENT TO MATCH THE LINE AND GRADE OF THE EXISTING REVEITEMENTS WHERE THEY MEET.
5. TEMPORARY STOCKPILE OF MATERIALS SHALL BE CONFINED TO CONSTRUCTION WORKS ZONE AND/OR

CONTRACTOR IS ADVISED THAT THIS PROJECT INVOLVES WORK IN A FLUCTUATING MARINE TIDAL ENVIRONMENT, AND TO TAKE DUE PRECAUTIONS AND CARE IN ANTICIPATING PROBLEMS THAT MAY ARISE THEREFROM. ALL WORK SHALL BE IN CONFORMANCE WITH ALL REGULATORY AGENCY PERMITS.



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SUITE 200  
SAN DIEGO, CALIFORNIA 92123  
(858) 573-6900 (phone)  
(858) 573-8900 (fax)

**PROJECT NAME:**  
**NIGUEL SHORES**  
RESTORATION OF

CONSULTANTS	
GEOTECHNICAL	FERRACOSTA CONSULTING
ENV.	FERRACOSTA CONSULTING
STRUCTURAL	

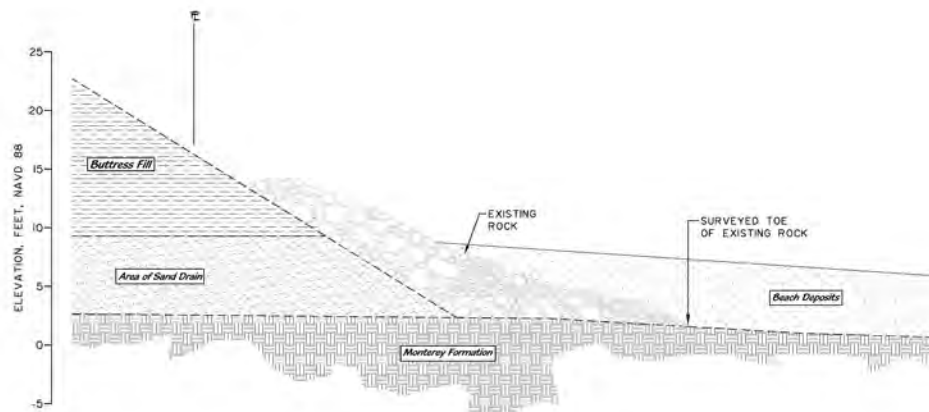
**NOTES &  
SPECIFICATIONS**

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DRAWN BY:	RF
SCALE:	NTS
DATE:	APRIL 15, 2024
DRAWING No.:	SHT-2

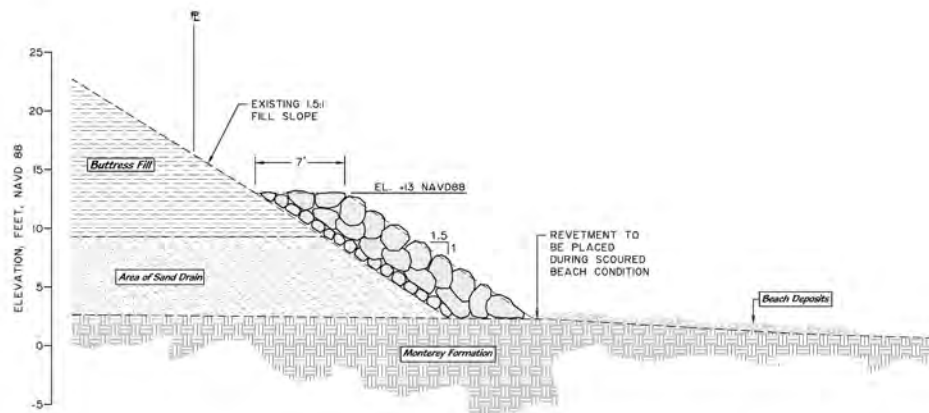






**TYPICAL EXISTING CROSS SECTION**

SCALE: 1"=5'

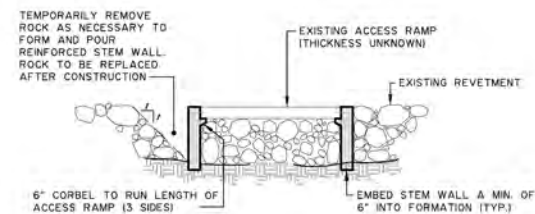


**TYPICAL PROPOSED CROSS SECTION**

SCALE: 1"=5'



**EXISTING SOUTH ACCESS RAMP-  
NORTH RAMP AND NORTH STAIRS SIMILAR**



**TYPICAL CROSS SECTION  
THRU NORTH & SOUTH ACCESS RAMPS**

SCALE: 1"=5'



ENGINEERS & GEOLOGISTS

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(858) 573-6000 (phone)  
(858) 573-9900 (fax)

PROJECT NAME:  
**NIGUEL SHORES  
RESTORATION OF  
PHASE I STANDARD**

CONSULTANTS:  
GEOLOGICAL: TERRACOSTA CONSULTING  
CIVIL: TERRACOSTA CONSULTING  
STRUCTURAL: ---

DRAWING TITLE:  
**SECTIONS &  
DETAILS**

REV.	DESCRIPTION	DATE



DRAWN BY: RF  
SCALE: NTS  
DATE: APRIL 19, 2021  
DRAWING No.: **SHT-4**





NTS



NTS



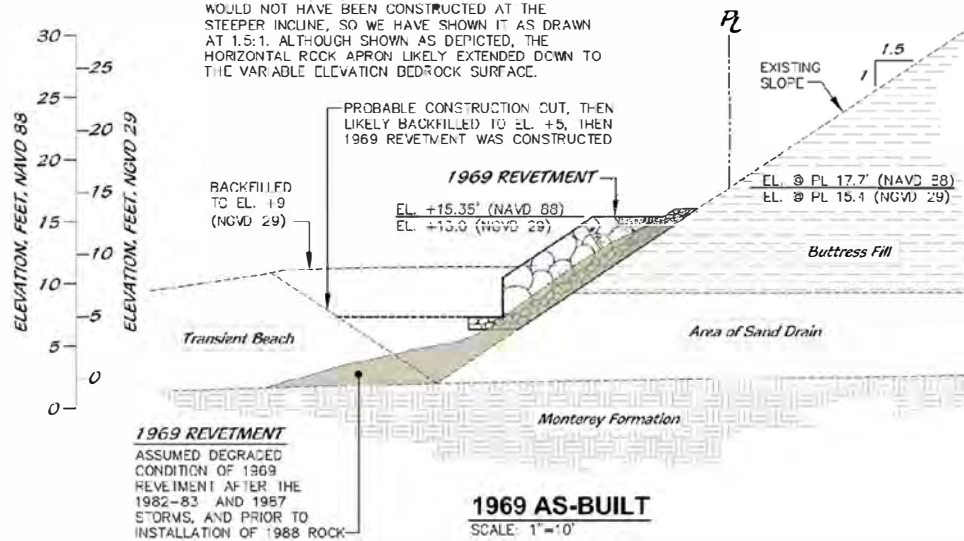
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# Exhibit 4 – Historical Cross Sections

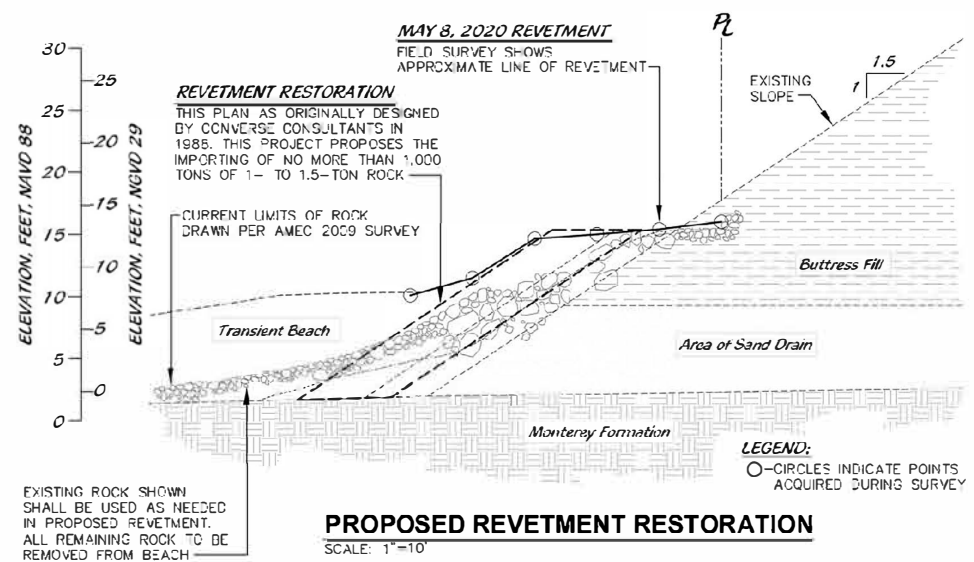
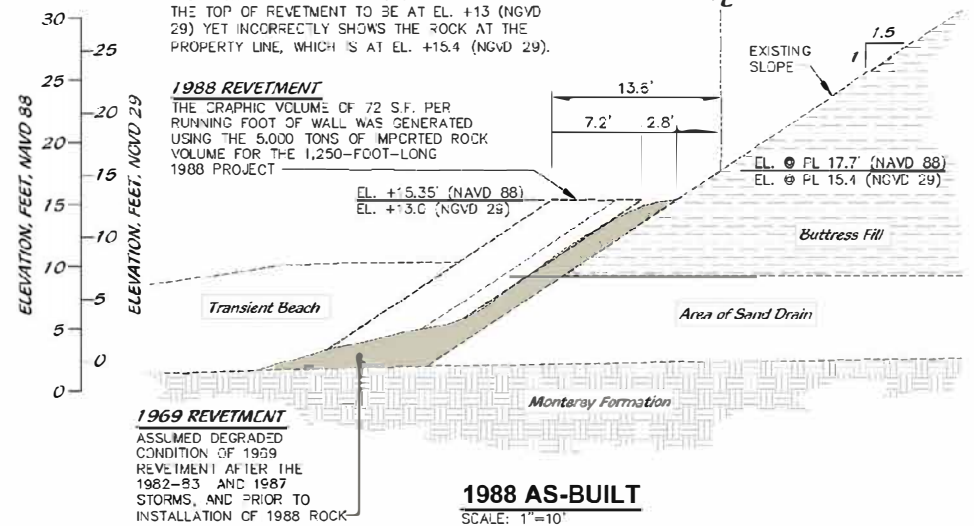
## NOTE:

TYPICAL SECTION FROM 4/16/1969 SHOWS FINISHED SLOPE AT 1-1/8:1, YET IT IS DRAWN AT 1.5:1. SLOPE WOULD NOT HAVE BEEN CONSTRUCTED AT THE STEEPER INCLINE, SO WE HAVE SHOWN IT AS DRAWN AT 1.5:1. ALTHOUGH SHOWN AS DEPICTED, THE HORIZONTAL ROCK APRON LIKELY EXTENDED DOWN TO THE VARIABLE ELEVATION BEDROCK SURFACE.

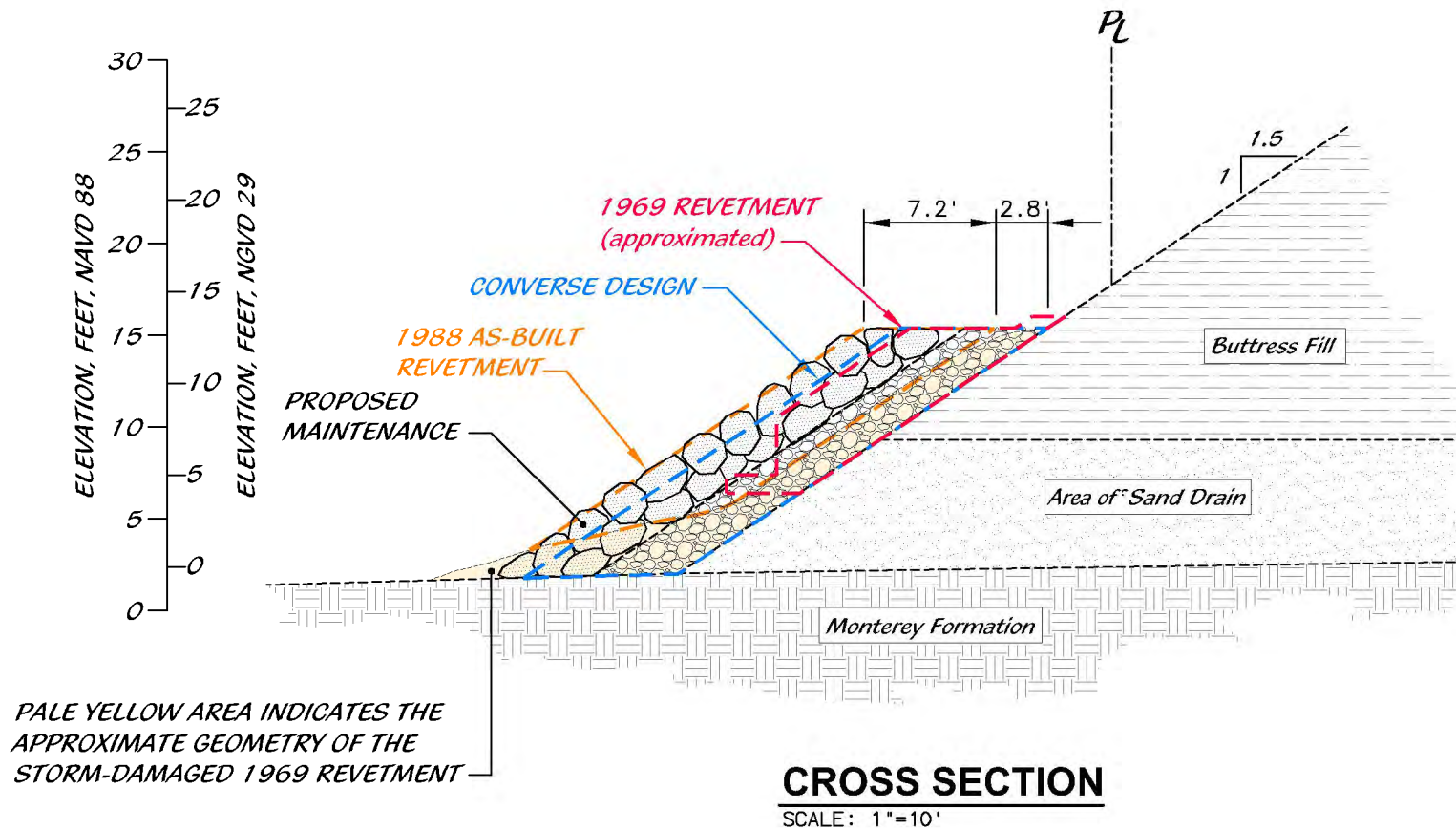


## NOTE:

1988 CONVERSE REVETMENT GEOMETRY INDICATES THE TOP OF REVETMENT TO BE AT EL. +13 (NGVD 29) YET INCORRECTLY SHOWS THE ROCK AT THE PROPERTY LINE, WHICH IS AT EL. +15.4 (NGVD 29).







**NOTES:**

1. TYPICAL SECTION FROM 4/16/1969 REVETMENT SHOWS ROUGH APPROXIMATION ONLY GIVEN THE LACK OF ANY AVAILABLE SCALED DRAWINGS, ENGINEERED PLANS, DESIGN DETAILS, AS-BUILT SURVEYS, ETC.
2. THE 1988 AS-BUILT REVETMENT INDICATES THE CONVERSE PLAN AS APPROVED, CONSTRUCTED ON THE REMNANT REVETMENT MATERIALS OF THE STORM-DAMAGED 1969 REVETMENT AND NOT ON THE SLOPE FACE. CONVERSE PLAN SPECIFICALLY NOTED "MATERIAL SHALL BE PLACED ON BEDROCK OR COMPETENT RIPRAP OF COMPARABLE SIZE AS REQUIRED BY ENGINEER".



TERRACOSTA CONSULTING GROUP ENGINEERS AND GEOLOGISTS 3890 MURPHY CANYON ROAD, SUITE 200 SAN DIEGO, CA 92123 (858) 573-6900	FIGURE NUMBER -
PROJECT NAME NIGUEL SHORES	PROJECT NUMBER T2923.000.000

ESTIMATED HISTORIC REVETMENT SECTIONS  
WITH PROPOSED REVETMENT REPAIR SECTION

# Exhibit 5 – 1988 Exemption and Converse Plans

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA  
245 WEST BROADWAY, SUITE 380  
LONG BEACH, CA 90802  
(213) 590-5071



### EXEMPTION LETTER

DATE: December 28, 1988

NAME: Thomas J. Scheil  
Converse Consultants  
9272 Jeronimo Road, Suite 123-A  
Irvine, CA. 92718

LOCATION: Lots 1 - 23, Tract 6988, Niguel Shores Community, Orange County

PROJECT: The replacement of an existing rip-rap revetment damaged during the January, 1988 storms. Replacement shall be of the same material and shall be placed in the same location as previously existed and shall not result in any increase in height, bulk or seaward extension beyond that which existed prior to the 1982-83 and 1988 winter storms (commonly referred to as phase I).

This is to certify that this location and/or proposed project has been reviewed by the staff of the Coastal Commission. A coastal development permit is not necessary for the reasons checked below.

\_\_\_\_\_ The site is not located within the coastal zone as established by the California Coastal Act of 1976, as amended.

\_\_\_\_\_ The proposed development is included in Categorical Exclusion No. \_\_\_\_\_ adopted by the California Coastal Commission.

\_\_\_\_\_ The proposed development is judged to be repair or maintenance activity not resulting in an addition to or enlargement or expansion of the object of such activities (Section 30610(d) of Coastal Act).

\_\_\_\_\_ The proposed development is an improvement to an existing single family residence (Section 30610(c) of the Coastal Act) and not located in the area between the sea and the first public road or within 300 feet of the inland extent of any beach (whichever is greater) (Section 13250(b)(4) of 14 Cal. Admin. Code.

\_\_\_\_\_ The proposed development is an improvement to an existing single family residence and is located in the area between the sea and the first public road or within 300 feet of the inland extent of any beach (whichever is greater) but is not a) an increase of 10% or more of internal floor area, b) an increase in height over 10%, or c) a significant non-attached structure (Sections 30610(a) of Coastal Act and Section 13250(b)(4) of Administrative Regulations).



- \_\_\_ The proposed development is an interior modification to an existing use with no change in the density or intensity of use (Section 30106 of Coastal Act).
- \_\_\_ The proposed development involves the installation, testing and placement in service of a necessary utility connection between an existing service facility and development approved in accordance with coastal development permit requirements, pursuant to Coastal Act Section 30610(f).
- \_\_\_ The proposed development is an improvement to a structure other than a single family residence or public works facility and is not subject to a permit requirement (Section 13253 of Administrative Regulations).
- X The proposed development is the rebuilding of a structure, other than a public works facility, destroyed by natural disaster. The replacement conforms to all of the requirements of Coastal Act Section 30610(g).
- \_\_\_ Other:

Please be advised that only the project described above is exempt from the permit requirements of the Coastal Act. Any change in the project may cause it to lose its exempt status. This certification is based on information provided by the recipient of this letter. If, at a later date, this information is found to be incorrect or incomplete, this letter will become invalid, and any development occurring at that time must cease until a coastal development permit is obtained.

Truly yours,

By: Mary Jimenez  
Title: Superior, LCP Planning

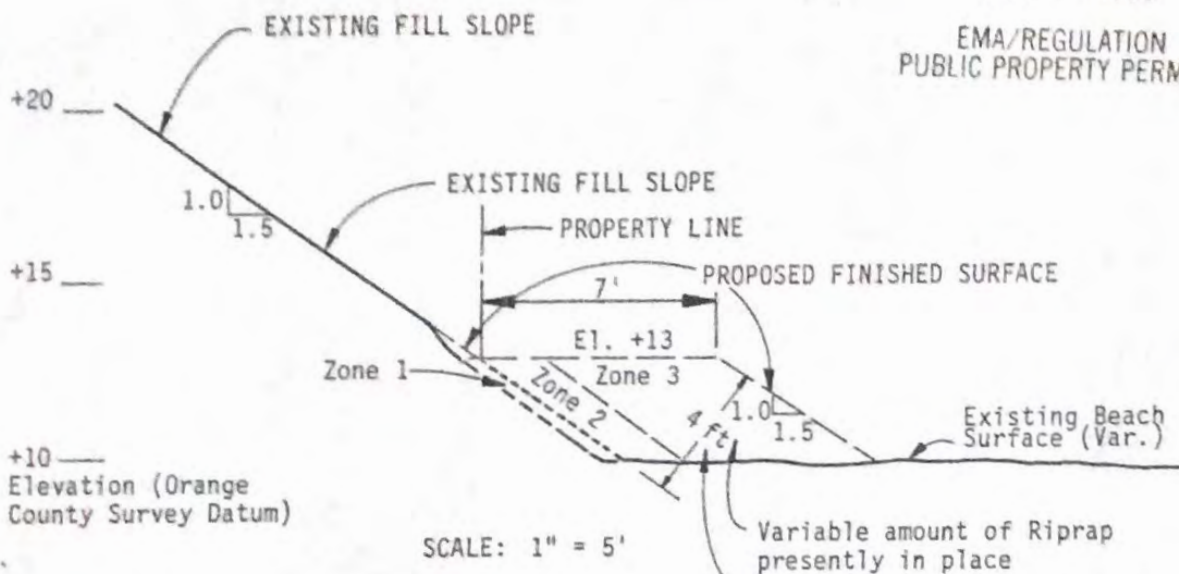
GT  
8419A

87-01725 (Hc)

RECEIVED

NOV 07 1988

EMA/REGULATION  
PUBLIC PROPERTY PERMITS



Zone 2 and Zone 3 material shall be placed on bedrock or competent riprap of comparable size as required by the Engineer. Rock currently in the revetment area that does not meet the project specifications as to size or quality, shall be removed.

NOTES:

1. Zone 1 material: 5-20 lb. stone.
2. Zone 2 material: 200-400 lb. stone.
3. Zone 3 material: 1.0-1.5 ton stone.
4. A minimum of 6" of Zone 1 material shall be placed between existing fill material and Zone 2 material, or as required by the Engineer.
5. A minimum of 1 foot of Zone 2 material shall be placed between Zone 1 and Zone 3 material.
6. Filter fabric shall be installed between existing fill/beach surface and Zone 1 material, or as required by the Engineer. Upper portion of filter fabric shall be buried in trench at least 12 inches beneath finished surface. Backfill material shall be compacted to a minimum of 90% of relative compaction (ASTM D1557).
7. See Project Specifications for additional requirements.

Date: 10/10/88

REVETMENT RESTORATION-TYPICAL DETAIL

LOT 1, TRACT 6950  
LOTS 1-23, TRACT 6988  
NIGUEL SHORES COMMUNITY

Project No.  
86-32303-01



Converse Consultants Orange County

Figure No.

1

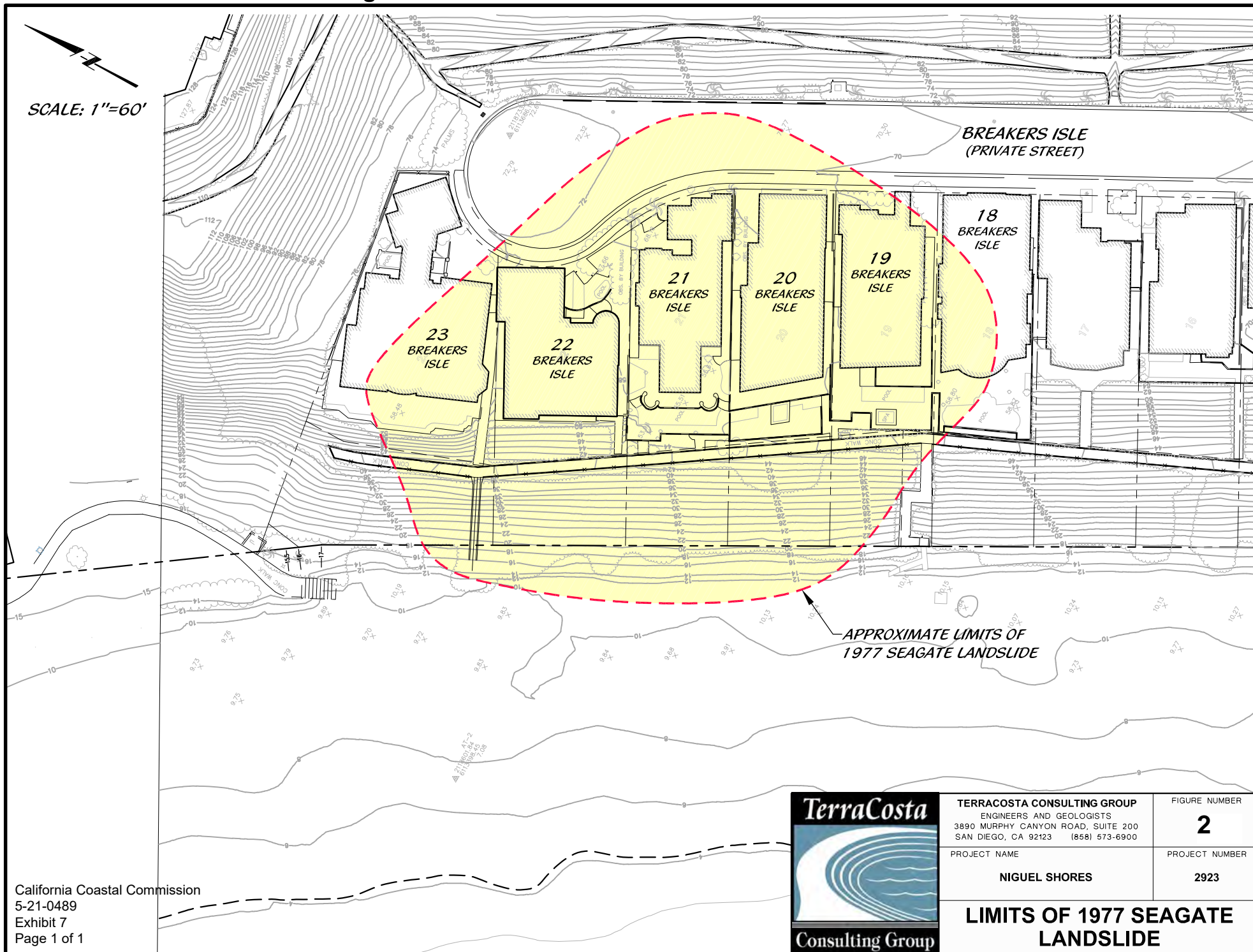


## Exhibit 6 – Stones with Distinctive Bedding





# Exhibit 7 – Limits of 1977 Seagate Landslide



**TERRACOSTA CONSULTING GROUP**  
ENGINEERS AND GEOLOGISTS  
3890 MURPHY CANYON ROAD, SUITE 200  
SAN DIEGO, CA 92123 (858) 573-6900

PROJECT NAME

**NIGUEL SHORES**

FIGURE NUMBER

**2**

PROJECT NUMBER

**2923**

**LIMITS OF 1977 SEAGATE  
LANDSLIDE**



# RECORD OF SURVEY 2014-1152

## LINE DATA:

L1 = N28°36'58"W 110.08' (110.05' R1)  
L2 = N26°36'58"W (HELD 18.55' R1)  
L3 = N28°04'39"W 148.04' (145.90' R1)  
L4 = N63°51'02"E (HELD 1.01' R2)  
L5 = N32°03'54"E 34280.22' (TIE ONLY)  
L6 = N85°34'47"E 36696.86'

CITY OF DANA POINT, COUNTY OF ORANGE  
STATE OF CALIFORNIA

DATE OF SURVEY: JUNE, JULY & OCTOBER 2014

DAVID E. WOOLLEY P.L.S. 7304  
D. WOOLLEY & ASSOCIATES, INC.

## NORTH ARROW:

\*\*MAGNETIC DECLINATION WAS PROVIDED BY THE NATIONAL GEOPHYSICAL DATA CENTER AND WAS CALCULATED USING THE CURRENT WORLD MAGNETIC MODEL (WMM2010) = <http://www.ngdc.noaa.gov/geomag-web>.

## GRID COORDINATES:

MONUMENT NOTE #	NORTHING	EASTING	(NGVD 1929, 1986 ADJUSTMENT) ELEVATION	NORTH LATITUDE (H-M-S)	WEST LONGITUDE (H-M-S)	CONVERGENCE ANGLE	SCALE	X	ELEV	COMBINATION = FACTOR
1	2118715.39	6113465.88	15.09	33-28-21.06472	117-43-11.34077	-0-48-27.68	0.99995706	1.00000430	0.99996136	
2	2118495.72	6113611.23	19.69	33-28-18.51613	117-43-09.58184	-0-48-26.72	0.99995703	1.00000408	0.99996111	
3	2118141.14	6113788.20	19.56	33-28-15.42848	117-43-07.46416	-0-48-25.55	0.99995699	1.00000409	0.99996108	
4	2118059.31	6113827.20	18.41	33-28-14.62472	117-43-06.96683	-0-48-25.28	0.99995698	1.00000429	0.99996127	
5	2117788.64	6113962.20	18.83	33-28-11.94607	117-43-05.32769	-0-48-24.38	0.99995695	1.00000412	0.99996107	
6	2117655.02	6114025.49	16.44	33-28-10.65283	117-43-04.55874	-0-48-23.96	0.99995694	1.00000424	0.99996117	
P471	2150592.81	616841.07	690.53	33-33-43.61732	117-32-27.04787	-0-42-33.63	0.99996204	0.99997198	0.99993403	
SBCC	2147749.08	6131653.86	408.09	33-33-10.76922	117-39-41.28356	-0-46-32.25	0.99996142	0.99995550	0.99994692	

## MONUMENT DESCRIPTIONS:

- FOUND 2" IRON PIPE WITH 2-1/4" ALUMINUM DISK AND PUNCH MARK, STAMPED "ORANGE COUNTY SURVEYOR", PER RECORD OF SURVEY BOOK 95, PAGES 27-32, DOWN 1.3' IN SAND.
- FOUND LEAD, TACK AND 1-1/4" BRASS TAG, STAMPED "ORANGE COUNTY SURVEYOR 11-83", FLUSH IN TOP OF WALL, 0.48' EASTERLY OF THE WESTERLY END PER ORANGE COUNTY ALIGNMENT NOTES A/B-8, PAGES 1858 AND 1859.
- FOUND LEAD WITH HOLE, FLUSH IN TOP OF WALL, 0.25' EASTERLY OF THE WESTERLY END. ACCEPTED AS THE POSITION OF LEAD AND 1-1/4" TAG PER ORANGE COUNTY ALIGNMENT NOTES A/B-8, PAGES 1858 AND 1859. SET BRASS TACK AND BRASS TAG, STAMPED "PLS 7304".
- FOUND 2" IRON PIPE WITH 2-1/4" ALUMINUM DISK AND PUNCH MARK, STAMPED "ORANGE COUNTY SURVEYOR", PER RECORD OF SURVEY BOOK 95, PAGES 27-32, DOWN 1.1' IN DIRT.
- FOUND LEAD, TACK AND 1-1/4" BRASS TAG, STAMPED "ORANGE COUNTY SURVEYOR 11-83", FLUSH IN TOP OF WALL, 0.64' EASTERLY OF THE WESTERLY END PER ORANGE COUNTY ALIGNMENT NOTES A/B-8, PAGES 1858 AND 1859. HELD AS A 1.01' OFFSET PER SAID NOTES. THE POSITION HEREIN IS EXAGGERATED FOR CLARITY.
- FOUND 2" IRON PIPE WITH 2-1/4" BRASS DISK AND CENTER PLUS MARK, STAMPED "ORANGE COUNTY SURVEYOR RW 11-83", PER ORANGE COUNTY ALIGNMENT NOTES A/B-8, PAGES 1858 AND 1859, DOWN 0.8' IN DIRT.

## ESTABLISHMENT NOTES:

- WESTERLY LINE OF PARCEL 3, PARCEL MAP BOOK 40, PAGES 19 THROUGH 24, INCLUSIVE OF PARCEL MAPS AND FORMERLY THE WESTERLY LINE OF LOT 1 AND THE ORDINARY HIGH TIDE LINE SURVEYED APRIL 1, 1969 AT 2.02 FEET ABOVE MEAN SEA LEVEL PER TRACT NO. 6950, BOOK 257, PAGES 38 THROUGH 40, INCLUSIVE, MISCELLANEOUS MAPS. HELD RECORD ANGLES PER SAID MAP, SCALED AND ROTATED TO THE ESTABLISHED EASTERLY LINE.
- MEAN HIGH WATER ELEVATION = 4.50 FEET. SEE MHW ELEVATION ESTABLISHMENT NOTE ON SHEET 1.

## BASIS OF BEARINGS & DATUM STATEMENT:

(PURSUANT TO THE CALIFORNIA PUBLIC RESOURCE CODE, SECTIONS 8811, 8813.1, 8815.1, 8856 & 8857)

THE BEARINGS AND HORIZONTAL COORDINATES SHOWN HEREIN ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM (CCS83), ZONE 6, 1991.35 EPOCH, RELATIVE TO THE NORTH AMERICAN DATUM OF 1983 (NAD 83), AND WERE DETERMINED BY GLOBAL POSITIONING SYSTEM (G.P.S.) TIES TO 2 CONTINUOUS GLOBAL POSITIONING STATIONS (C.G.P.S.) REFERRED TO AS P471 AND (C.S.R.N.) IN PUBLIC HORIZONTAL COMMITTEE AND C.G.P.S.

THE ORTHOMETRIC ELEVATIONS SHOWN HEREIN ARE BASED ON ORANGE COUNTY SURVEYOR'S BENCHMARK 3MM-5-78R86 DESCRIBED BY THE ORANGE COUNTY SURVEYOR IN 2003 AS FOLLOWS:

FOUND 3-3/4" CCS ALUMINUM BENCHMARK DISK STAMPED "3MM-5-78R86", SET IN THE SOUTHWESTERLY CORNER OF A 4 FT. BY 11 FT. CONCRETE CATCH BASIN. MONUMENT IS LOCATED IN THE NORTHEASTERLY CORNER OF THE INTERSECTION OF NIGUEL ROAD AND STONEHILL DRIVE, 42 FT. NORTHERLY OF THE CENTERLINE OF STONEHILL AND 82 FT. EASTERLY OF THE CENTERLINE OF NIGUEL. MONUMENT IS SET LEVEL WITH THE SIDEWALK.

BENCHMARK 3MM-5-78R86 ELEVATION = 189.256 (NAVD88 LEVELED 1991)

ALL VALUES ARE EXPRESSED IN U.S. SURVEY FEET (1 FOOT = 1200/3937 METERS).

ALL COORDINATES SHOWN HEREON ARE GRID. ALL MEASURED DISTANCES SHOWN HEREIN ARE GRID DISTANCES. TO OBTAIN GROUND DISTANCES, DIVIDE GRID DISTANCES USING THE COMBINATION FACTORS SHOWN IN THE GRID COORDINATES.

## SURVEY PROCEDURES & STATED ACCURACY NOTE:

(PURSUANT TO THE CALIFORNIA PUBLIC RESOURCE CODE, SECTION 8813.1 AND 8813.2)

ALL MONUMENTS SHOWN HEREIN WERE EITHER DOUBLE DETERMINED OR OCCUPIED USING CONVENTIONAL EQUIPMENT (TRIMBLE S6) OR STATIC G.P.S. RECEIVERS (LEICA SYSTEM 500) WITH FIXED-HEIGHT TRIPODS AND THE PRIMARY NETWORK CONTROL WAS DOUBLE OR TRIPLE OCCUPIED.

CONVENTIONAL SURVEY EQUIPMENT HAS BEEN CALIBRATED AS OF THE FOLLOWING DATE:

TRIMBLE S6 1" HIGH PRECISION TOTAL STATION (SERIAL NO. 92120355): JANUARY, 2014

THE GRID COORDINATES SHOWN ARE THE RESULT OF A LEAST SQUARE ADJUSTMENT (STARNET V7.0) OF CONVENTIONAL FIELD MEASUREMENTS AND GPS STATIC MEASUREMENTS. THE GRID COORDINATES WERE DERIVED AS STATED ABOVE IN THE BASIS OF BEARINGS & DATUM STATEMENT AND THEN HELD "FIXED" HORIZONTALLY FOR THE ON-SITE CONSTRAINT.

THIS SURVEY WAS NOT PERFORMED TO ANY FEDERAL GEODETIC CONTROL SUBCOMMITTEE (F.G.C.S.) STANDARD. THE ACCURACY STATED IS RELATIVE TO THE MEASURED LOCAL NETWORK AND CONstrained AS INDICATED. THE LARGEST STANDARD ERROR BASED ON THE ADJUSTMENT WAS 0.019 NORTHING, 0.022 EASTING, AND 0.031 ELEVATION AT ONE SIGMA.

## NOTE:

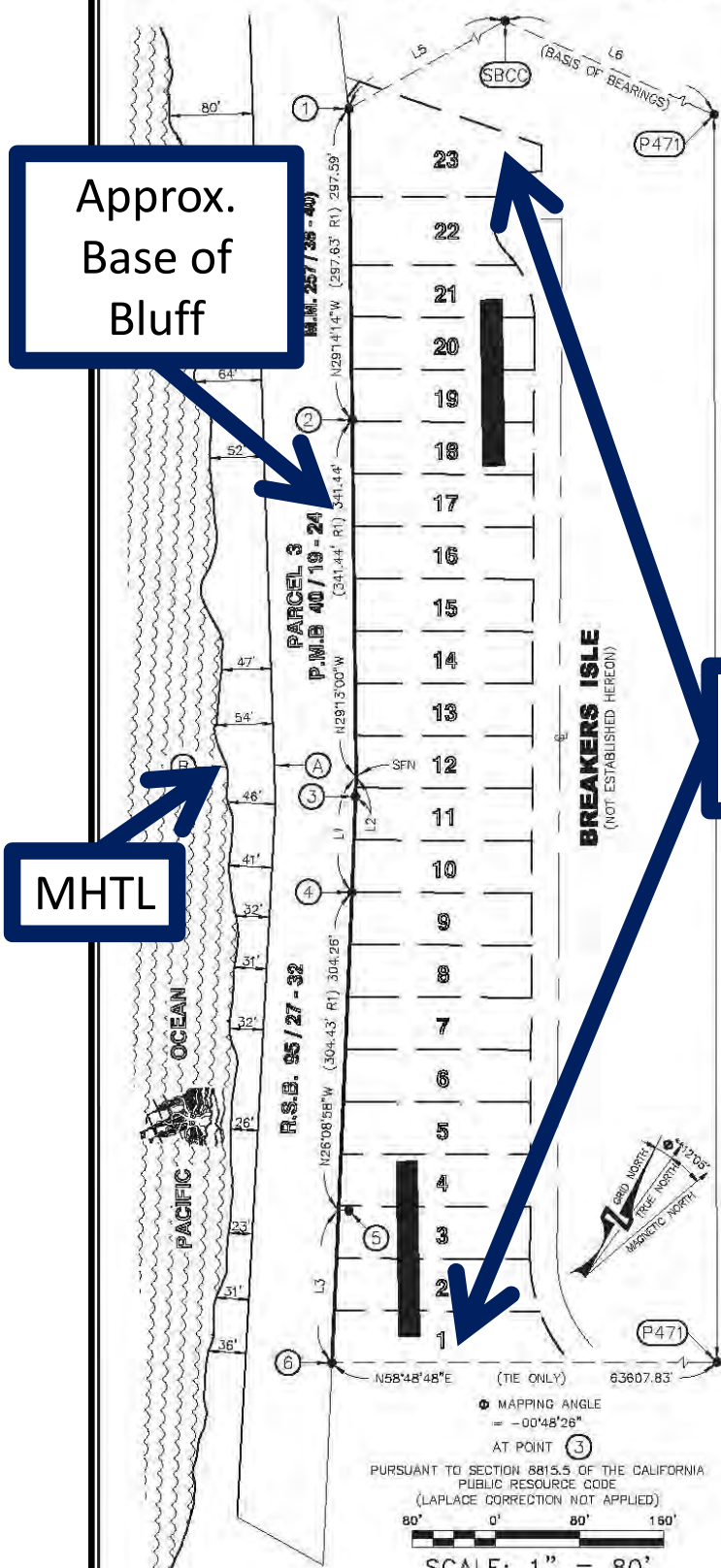
SEE SHEET 1 FOR SURVEYOR'S STATEMENTS, PURPOSE OF SURVEY, ACCURACY NOTE, MHW ELEVATION ESTABLISHMENT AND TOPOGRAPHY NOTE.

SHEETS 3-6 FOR TOPOGRAPHIC SURVEY AND EASEMENT LOCATION.

SEE SHEET 7 FOR CROSS SECTIONS AND NOTES PERTAINING TO EASEMENTS.

## RECORD REFERENCES:

(R1) - INDICATES RECORD OR CALCULATED DATA PER ORANGE COUNTY ALIGNMENT NOTES A/B-8, PAGES 1858 AND 1859.



## Exhibit 9 – Legal Summary and Settlement Agreements

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South Coast Region

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CALIFORNIA  
COASTAL COMMISSION

### Legal History of County Obligation to Repair Niguel Shores Revetment:

In 1969, the Laguna Niguel Corporation, later known as Avco Community Developers, (Avco) sought permits from the County of Orange to develop the property, which is now known as "Niguel Shores." This development, which ultimately involved several subdivisions, comprised approximately 1000 homes.

By 1970, a tentative subdivision map was approved, which eventually became Tract 6988. A grading permit was issued for the grading and construction of 23 lots in Tract 6988, these "Breakers Isle" lots are adjacent to the southeastern portion of Niguel Beach, now known as Salt Creek Beach. In order to provide support for the toe of the 50 foot high engineered fill slope supporting the lots (the Slope), and to protect the Slope from tidal and wave action, the grading plans called for the construction and placement of a rock revetment (Revetment) along the toe of the Slope for a distance of approximately 1400 feet. The lots, Slope and the Revetment were built and in place in 1969. The majority of the Revetment was on adjacent beach property, parcel 3 of Tract 6950. At that time, that parcel and tract were also owned by Avco.

On September 22, 1971, Avco and the Orange County Harbor District entered into an Agreement wherein the District bought the beach, parking lot areas, and access paths to the beach. The District also agreed to pay Avco to construct the improvements for a proposed "Niguel Beach Park" which later became known as the "Salt Creek Beach Regional Park."

Associated with the original development in the late 1960s, the geotechnical consultant designed a large earthen buttress extending up to and underneath the Breakers Isle residences. A landslide occurred in 1977, shortly after the site was rough graded. Later, a portion of the landslide was reactivated during the heavy rains of the winter of 1977-78, severely damaging six of the residential lots and a portion of the Breakers Isle roadway. The landslide repair commenced in mid-September 1980 and was completed by the end of February 1981.

In 1984, following storm damage sustained in 1983, the Niguel Shores Community Association (Association) sued the Orange County Harbors, Beaches and Parks District and Avco Community Developers, the developer of Niguel Shores, regarding the alleged failure of the Slope. The claims against the County in connection with maintenance of the Slope were based on a September 1971 agreement, which obligated Avco to build improvements and obligated the County to maintain those improvements for a period of 15 years.

On June 15, 1989, the County and the Association entered into an "Agreement and Covenant (Running With The Land)" as settlement of the lawsuit, which included a covenant obligating the County to design, build, repair and maintain the Revetment to protect the Slope from water damage. The Covenant includes the County's agreement to indemnify the HOA with regard to the Revetment, including for any disputes, which may arise from it. The County is required to maintain the Revetment to at least its then existing condition as identified in the Agreement and Covenant. The County has maintained the Revetment in compliance with the Covenant.

Due to deterioration of the Revetment in 2011, the County sought a Coastal Development Permit from the Coastal Commission in a plan to repair the Revetment by adding additional



rock to raise it to the level required by the Covenant. The County sought to work with Coastal Commission staff, who advised that it preferred a public walkway on top of the Revetment to improve public access at the beach. The County sought support from the homeowners for a repair of the Revetment that would include a design for a lateral walkway along the entire length of the Revetment that would also allow for beach access.

The initial design of the Revetment repair in 2011 called for constructing new armor facing with the allowance for a public walkway on top that extended onto the homeowners property. The Homeowners were adamantly opposed to providing an easement and the public walkway and as a result, the walkway was deleted from the final design for the application. In 2012, the Commission denied the application for the Coastal Development Permit. Coastal staff indicated it could only recommend issuance of a Coastal Development Permit if the Revetment crest elevation was raised and if it was designed to include a public walkway to improve public access as stated in the Coastal Staff Report of June 28, 2012. Coastal staff referred to a walkway on top of the Revetment below Niguel Shores and along the beachfront as the "missing link" for public access in the area, since revetments with walkways on top then existed immediately to the north (at Salt Creek beach) and to the south (at The Strand) of Niguel Shores. Coastal staff also suggested that the Revetment move further landward to reduce impact on the beach area, however moving the Revetment toward the hillside would encroach on the homeowners' property and would have a catastrophic effect on the massive subsurface landslide adjacent to the Revetment.

### **The Current Lawsuit and Enforcement of the Covenant as to the County**

In 2013, a lawsuit was filed in Orange County Superior Court by the homeowners at Breakers Isle in Dana Point against the Niguel Shores Community Association and the County of Orange in the case of *Dovey v. Niguel Shores Community Association*. Plaintiffs Third Amended Complaint (TAC) in the case sought to enforce the terms of the June 15, 1989 Covenant between the County of Orange and the Association, which at Paragraph 22 of the TAC states:

"Paragraph 4 (a) of the Covenant requires COUNTY OF ORANGE to "maintain, repair, fix, overhaul, patch, mend, rebuild, recondition, reconstruct, preserve, sustain, keep-up (hereinafter collectively referred to as REPAIRS) ... the 'Rock Shore Revetment Protection Improvement'... located on [Plaintiffs' properties] . . . in good repair and in a neat, orderly, safe and sanitary condition" within a certain minimum standard as set forth in the Covenant, and in a timely manner." (TAC p. 6)

The Association filed a cross-complaint for declaratory relief (naming all 23 Breakers Isle Homeowners as cross-defendants), in which the Association sought a judicial declaration holding either that the Association has the legal power to convey the easement interests needed by the County to build the Revetment and walkway, or that if barred from doing so, the Association should be exonerated from its duty to maintain and protect the Slope that protects those Homeowners from damage. The Association sought to compel arbitration under the 1989 Settlement and Covenant as to the dispute with the County to repair the Revetment. The Association attempted to amend the Association's Covenants, Conditions and Restrictions (CC&Rs) to eliminate the Association's slope maintenance obligations. The Breakers Isle plaintiff-Homeowners obtained an injunction enjoining the Association from recording and/or enforcing the amendment, and enjoining the Association from entering into any agreement with the County pending the outcome of the lawsuit.

The County recognized that in order to obtain approval of the project and a Coastal Development Permit from the Coastal Commission to repair the Revetment, it needed to follow the suggestions of Coastal staff as contained in the Coastal Staff Report of June 28, 2012, to the extent geotechnically feasible and physically possible, considering the County's obligations under the Covenant and the safety of the public.

During mediation in May 2015 with the assistance of Judge Enrique Romero as mediator, the County and homeowners engaged in difficult negotiations and agreed that a walkway on top of the Revetment was necessary for Coastal Commission approval, as well as raising the height as Coastal Commission staff had suggested previously. It was stressed by the County negotiators to the homeowners that these changes to the Revetment repair design were necessary, so that the project could be approved by the Coastal Commission and the Revetment could be repaired to protect their property. Since the Revetment could not be moved landward into the slope without causing a catastrophic failure of the massive landslide underlying the hillside, with major damage to homes and possible loss of life, the County design would minimize effects on the beach area. The design also would significantly increase the crest elevation of the walkway to prevent wave overtopping and erosion and greatly improve public access by including a lateral, all-weather pedestrian walkway. Following the mediation a formal Settlement Agreement was approved and signed by all parties, including their counsel and the Orange County Board of Supervisors.

Pursuant to the Settlement Agreement, the County is responsible for preparing an application to the Coastal Commission for a Coastal Development Permit to reconstruct the Revetment and incorporate a walkway. The Settlement Agreement provides that the case cannot be dismissed until the Coastal Commission approves the Revetment repair project and issues a Coastal Development Permit.

The case is assigned to Orange County Superior Court Judge Sheila B. Fell, who is supervising the progress of the settlement. Judge Fell has held hearings in 2016, 2017 and 2018 as to the status of obtaining Coastal Commission approval for the Coastal Development Permit. The parties have reported to the Court that the Coastal Commission staff had questions and required more information from the County as to the application. The parties reported that the County had answered staff's questions and provided the requested information, resulting in the application being found complete. At the last Court hearing in December 2018, the County reported the project was on the Commission calendar for hearing and the Court and all parties expected since all questions had been answered that the Commission hearing would proceed, the project would be approved and the Coastal Development Permit would be issued. However, the County was asked in January 2019 by Commission staff to withdraw and resubmit the application.

Orange County Superior Court Judge Sheila B. Fell has the case on calendar for an Order to Show Cause hearing on April 10, 2019. The Court will want to know why the Commission had the County withdraw the application and when can the Court expect the Commission to approve the project and issue the CDP so that the case can be dismissed and the project can commence in a manner consistent with the settlement agreement.



WHEN RECORDED MAIL TO:

FIGORE, NORDBERG, WALKER & WOOLF-WILLIS  
A Professional Law Corporation  
2301 Dupont Drive, Suite 500  
Irvine, CA 92715

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SPACE ABOVE FOR RECORDER'S USE

AGREEMENT AND COVENANT (Running With The Land)

THIS AGREEMENT AND COVENANT, Running With The Land, (hereinafter "COVENANT") is made and entered into between, on the one hand, the County of Orange, the successor in interest to the Orange County Harbors, Beaches and Parks District, also known as Orange County Harbors District (hereinafter referred to as "COVENANTOR") and on the other hand, NIGUEL SHORES COMMUNITY ASSOCIATION, a California non-profit corporation, (hereinafter referred to as "COVENANTEE"), and is effective as of the date provided for herein.

RECITALS

A. COVENANTOR is a public agency and political subdivision of the State of California duly organized and existing under the laws of the State of California. COVENANTOR is the owner of that property consisting of a portion of the area known as Salt Creek Beach Regional Park in Orange County, California, (hereinafter referred to as the "SUBJECT PROPERTY"), and said real property being more particularly described on the attached Exhibit "A," which is incorporated herein by this reference.

B. COVENANTEE is a non-profit mutual benefit corporation organized and existing under the laws of the State of California and was established and incorporated as part of a general plan, to provide for the management, protection, maintenance, improvement and development of certain real property commonly described as the community of Niguel Shores in Orange County, California, and more particularly described in the attached Exhibit "B", and in the Declaration as hereinafter defined. COVENANTEE has certain ownership interests, rights, duties and/or privileges regarding the property described in Exhibit "B" as set forth in the following recorded Covenants, Conditions and Restrictions (hereinafter collectively referred to as the "DECLARATION").

(i) Declaration of Covenants, Conditions and Restrictions, recorded December 3, 1969 at Book 9153, pages 259, et. seq., of the Official Records of Orange County, as amended.

(ii) Amendment to Declaration of Establishment of Protective Covenants, Conditions and Restrictions, recorded June 11, 1970 at Book 9314, pages 571, et. seq., of the Official Records of Orange County.

(iii) Supplemental Declaration of Covenants, Conditions and Restrictions, (Tract No. 6988), recorded June 11, 1970 at Book 9314, pages 558, et. seq., of the Official Records of Orange County.

(iv) Second Amendment to Declaration of Establishment of Protective Covenants, Conditions and Restrictions, recorded June 14, 1974 at Book 11171, pages 1218, et. seq., of the Official Records of Orange County.

(v) Supplemental Declaration of Covenants, Conditions and Restrictions recorded February 4, 1971 at Book 9537, pages 237, et. seq., of the Official Records of Orange County.

(vi) Supplemental Declaration of Covenants, Conditions and Restrictions (Tract No. 7203), recorded July 8, 1971 at Book 9710, pages 605 et. seq., of the Official Records of Orange County.

(vii) Declaration of Establishment of Protective Covenants, Conditions and Restrictions, recorded January 7, 1972 at Book 9957, pages 970 et. seq., of the Official Records of Orange County.

(viii) Amendment of Declaration of Covenants, Conditions, and Restrictions (Tract No. 7515, 6881, and 6884) recorded June 2, 1983 at Book 83, pages 232687 et. seq., in the Official Records of Orange County.

(ix) Supplementary Declaration of Covenants, Conditions and Restrictions (Tract No. 7447) recorded January 7, 1972 at Book 9958, pages 1 et. seq., in the Official Records of Orange County.

(x) Supplementary Declaration of Covenants, Conditions and Restrictions (Tract No. 7573) recorded July 30, 1972 at Book 10250, pages 292 et. seq., of the Official Records of Orange County.

(xi) Supplementary Declaration of Covenants, Conditions and Restrictions (Tract No. 6881-Townhomes) recorded December 1, 1972 at Book 103453, pages 798 et. seq., of the Official Records of Orange County.



(xii) Supplementary Declaration of Covenants, Conditions and Restrictions (Tract No. 8038) recorded January 26, 1973 at Book 10529, pages 358, et. seq., of the Official Records of Orange County.

(xiii) Declaration of Establishment of Protective Covenants, Conditions and Restrictions (Tract No. 8602-Townhomes) recorded August 9, 1974 at Book 11217, pages 879, et. seq., of the Official Records of Orange County.

(xiv) Supplementary Declaration of Covenants, Conditions and Restrictions (Tract No. 8602) recorded August 9, 1974 at Book 11216, pages 1705, et. seq., of the Official Records of Orange County.

(xv) Second Restatement and Amendment of Supplementary Declaration of Covenants, Conditions and Restrictions recorded October 24, 1977 at Book 12427, pages 1923, et. seq., of the Official Records of Orange County.

(xvi) Supplementary Declaration of Covenants, Conditions and Restrictions (Tract No. 6782) recorded May 19, 1972 at Book 10133, pages 581 et. seq., of the Official Records of Orange County.

(xvii) Supplementary Declaration of Covenants, Conditions and Restrictions (Tract No. 6884-Townhomes), recorded August 30, 1972 at Book 10302, pages 600 et. seq., of the official Records of Orange County; Supplementary Declaration of Covenants, Conditions and Restrictions, (Tract No. 6884), recorded August 30, 1972 at Book 10302, pages 604 et. seq., of the Official Records of Orange County, subjecting Tract 6884 to the Master Declaration and Townhomes Declaration, and any and all modifications or amendments thereto.

C. COVENANTEE is the owner of the real property and has an interest in real property in the form of easements located adjacent to and near the SUBJECT PROPERTY, as more particularly described in Exhibit "C" ["ASSOCIATION'S PROPERTY"]. The properties described in Exhibits "B" and "C" are hereinafter individually and collectively referred to as the "BENEFITED PROPERTY" and incorporated herein by this reference.

D. Orange County Harbors, Beaches and Parks District, also known as the Orange County Harbors District, as been dissolved pursuant to Government Code Section 25523 and 56000, et. seq. and Resolution number 88-931 of the Board of Supervisors dated 6/28/88, pursuant to which that entity's assets and liabilities transferred to the County of Orange.

E. It is the intention of COVENANTOR and COVENANTEE that this COVENANT be made and entered into pursuant to the provisions of California Civil Code Section 1468, in effect as of the effective date of this COVENANT, and that this COVENANT shall run with the land of the COVENANTOR (the SUBJECT PROPERTY) and the land of the COVENANTEE (the BENEFITED PROPERTY) and each individuals parcel thereof, and that it shall benefit and be binding upon each successive owner of the SUBJECT PROPERTY and of the BENEFITED PROPERTY during their ownership of any portion of the land affected hereby, and upon each person having any interest in the land derived through any owner thereof.

NOW, THEREFORE, in consideration of the terms and conditions herein, COVENANTOR and COVENANTEE agree to the following COVENANT.

#### COVENANT

1. The Recitals set forth above are incorporated by reference herein and constitute a material part of this COVENANT.

2. The land of the COVENANTOR (the SUBJECT PROPERTY) which is affected by this COVENANT is located in Orange County, State of California, and is legally described in the attached Exhibit "A," which is incorporated herein by reference.

3. The land of the COVENANTEE (the BENEFITED PROPERTY) which is affected and benefited by this COVENANT (and each of the individual parcels of land comprising the BENEFITED PROPERTY), is located in Orange County, State of California, and is legally described in the attached Exhibits "B" and "C", which are incorporated herein by reference.

4. COVENANTOR agrees and covenants with COVENANTEE to do or refrain from doing the following acts on the land of COVENANTOR (the SUBJECT PROPERTY) which acts relate to the use, repair, maintenance or improvement of the SUBJECT PROPERTY, and which doing or refraining from doing is expressly for the benefit of the land of COVENANTEE (the BENEFITED PROPERTY):

(a) COVENANTOR agrees, without further notice from COVENANTEE, to maintain, repair, fix, overhaul, patch, mend, rebuild, recondition, reconstruct, preserve, sustain, keep-up (hereinafter referred to collectively as "REPAIRS") the certain improvement, and each and all of the component parts thereof, more specifically described as the "Rock Shore Revetment Protection Improvement" (hereinafter "REVETMENT"), located on the SUBJECT PROPERTY and on a portion of the "Benefitted Property" subject of this COVENANT in good repair and in a neat, orderly, safe and sanitary condition. The standard of REPAIRS to which the REVETMENT shall be kept and maintained by COVENANTOR is not

less than that Phase I construction and repair of the REVETMENT, as more particularly described in Exhibit "D", as prepared by the COVENANTEE'S consultants and approved by COVENANTOR, attached hereto and incorporated herein by this reference. The COVENANTOR shall be reimbursed by the COVENANTEE for those portions of the REPAIRS made to the REVETMENT as described in Paragraph 5(a), below.

(b) COVENANTOR agrees to perform its duties and REPAIRS, as set forth in Paragraph 4(a) above and in conformance with all Governmental Codes, Public Contract Codes and related statutes of the State of California, in a prompt, expeditious, swift and timely manner, (hereinafter "TIMELY MANNER") and to take all action necessary to implement the REPAIRS in a TIMELY MANNER, including but not limited to engineering, materials, labor, supervision and applications for all necessary permits and other approvals required by all Federal, State, Local and other governmental and quasi-governmental agencies.

(c) In the event that COVENANTOR fails to perform its duties and the REPAIRS set out in Paragraphs 4(a) and (b) above, COVENANTEE shall have the right but not the duty, upon seven (7) days written notice to the COVENANTOR of its intention to do so, to perform any necessary REPAIRS on the REVETMENT required of COVENANTOR within the scope of this COVENANT. COVENANTOR further grants COVENANTEE an easement of ingress and egress in, under, over and upon the SUBJECT PROPERTY for the purpose of making those REPAIRS pursuant to this paragraph.

(d) COVENANTOR agrees that in the event the COVENANTEE performs as a matter of right, but not duty, those REPAIRS pursuant to Paragraph 4(c), above, COVENANTOR shall reimburse COVENANTEE for any and all expenses and costs resulting from or related to those REPAIRS made to that portion of the REVETMENT located on the SUBJECT PROPERTY including, but not limited to, expenses and costs for engineering, materials, labor, supervision, applications and permits required by all Federal, State, local and other governmental and quasi-governmental agencies, incurred by COVENANTEE, said reimbursement to be made within thirty (30) days after written notice by COVENANTEE that the REPAIRS to the SUBJECT PROPERTY have been completed, and of the expenses and costs incurred, separately itemized with invoices attached. The COVENANTOR shall not be required to reimburse COVENANTEE for any costs and expenses incurred in the REPAIRS of the REVETMENT that exceed Phase I standards as more particularly described in Exhibit "D". COVENANTOR further agrees that in the event COVENANTEE, pursuant to this Paragraph and Paragraph 4(c) above, makes REPAIRS to the REVETMENT, COVENANTOR shall aid, assist, cooperate and help procure on behalf of COVENANTEE in a TIMELY MANNER all necessary, required and proper permits and other approvals from all Federal, State or Local and or other governmental or quasi-governmental agencies.



(e) COVENANTOR accepts all liability and responsibility for any damages resulting to COVENANTOR, the SUBJECT PROPERTY, COVENANTEE, the BENEFITED PROPERTY, property and structures adjacent to SUBJECT PROPERTY or to the BENEFITED PROPERTY, persons and other real or personal property arising from or related to the REPAIRS to the REVETMENT or to COVENANTOR'S failure to make REPAIRS to the REVETMENT in a TIMELY MANNER pursuant to this COVENANT.

(f) COVENANTOR agrees to indemnify COVENANTEE, its members, officers, directors, managers, agents, representatives and employees, and to save and hold them harmless, and to defend them at COVENANTOR'S sole expense, from any liability, or claims, demands, damages, costs or judgments that COVENANTEE, its members, officers, directors, managers, agents, representatives and employees may suffer arising out of or related to the REPAIRS to the REVETMENT, or to COVENANTOR'S failure to make REPAIRS to the REVETMENT in a TIMELY MANNER pursuant to this COVENANT.

(g) COVENANTOR shall reimburse COVENANTEE, upon demand, for any damages, losses, costs and judgments resulting to COVENANTEE from the REPAIRS to the REVETMENT or from COVENANTOR'S failure to make REPAIRS in a TIMELY MANNER to the REVETMENT pursuant to the COVENANT.

5. COVENANTEE agrees and covenants with COVENANTOR to do and refrain from doing the following acts which acts relate to the use, repair, maintenance or improvement of the BENEFITED PROPERTY, and which doing or refraining from doing is expressly for the benefit of the land of COVENANTOR (the SUBJECT PROPERTY).

(a) COVENANTEE agrees to pay COVENANTOR that portion of the actual expenses incurred by the COVENANTOR in making the REPAIRS as set forth in Paragraph 4(a) above which are attributable directly to the REPAIRS to that portion of the REVETMENT that is located on the BENEFITED PROPERTY except to the extent that such repair and maintenance is the result of a breach by COVENANTOR of its obligations with respect to the REPAIRS to the REVETMENT pursuant to this COVENANT.

(b) COVENANTEE agrees to pay those sums as set out in Paragraph 5(a), above, within thirty (30) days after notification in writing from the COVENANTOR: (1) that the REPAIRS to that portion of the REVETMENT located on the BENEFITED PROPERTY have been completed, and (2) of the expenses incurred attributable to the REPAIRS to that portion of the REVETMENT on the BENEFITED PROPERTY, separately itemized with invoices attached.

(c) COVENANTEE agrees and grants that the COVENANTOR shall have a license of ingress and egress over that part of the BENEFITED PROPERTY on which the REVETMENT lies for the purpose of REPAIRS to the REVETMENT.

(d) COVENANTEE agrees that the maintenance and repair obligations pursuant to the DECLARATION for the engineered filled slopes located on the BENEFITED PROPERTY contiguous to the REVETMENT shall remain and continue to be the responsibility of the COVENANTEE except to the extent that such repair and maintenance is the result of a breach by COVENANTOR of its obligations with respect to the REPAIRS to the REVETMENT pursuant to this COVENANT.

6. COVENANTOR and COVENANTEE further agree and covenant that the covenants provided herein shall run with both the land owned by COVENANTOR (the SUBJECT PROPERTY) and the land owned by COVENANTEE (the BENEFITED PROPERTY) and shall benefit or be binding upon each successive owner, during such successor's ownership of any portion of the land affected by this COVENANT (the SUBJECT PROPERTY and the BENEFITED PROPERTY) and upon each person having any interest in such land and derived through any owner thereof; further, that the successive owners of the land (the SUBJECT PROPERTY) of COVENANTOR and of the land (the BENEFITED PROPERTY) of COVENANTEE are to be bound by the covenants provided herein for the benefit of the land (the BENEFITED PROPERTY) of COVENANTEE and of the land (the SUBJECT PROPERTY) of COVENANTOR as herein provided.

7. COVENANTOR acknowledges and agrees that this AGREEMENT and COVENANT will be recorded with the County Recorder, Orange County, California, and may therefore affect title to or the value of COVENANTOR's interest in the SUBJECT PROPERTY. COVENANTOR consents to the recording of this COVENANT by COVENANTEE in the Recorder's Office of Orange County, State of California.

8. If a dispute arises in reference to any provision or part of this COVENANT including, but not limited to payment for REPAIRS due by COVENANTEE or COVENANTOR, which the parties hereto are unable to resolve without the intervention of a third party, it is agreed that such a dispute shall be submitted to arbitration, which shall be binding on all parties to and affected by this COVENANT. In the event a dispute is submitted to arbitration pursuant to this paragraph, the complaining party shall submit to the adverse party a list of at least five (5) names of arbitrators who may preside over the arbitration from which the adverse party shall choose the arbitrator. If the adverse party is unwilling or unable to select an arbitrator within thirty (30) days of the submittal of the list of proposed arbitrators, the complaining party shall have the right to select an arbitrator from the list of names submitted and proceed to arbitrate the dispute, or at its discretion, to initiate a legal action at law or equity in lieu of arbitration.

9. This COVENANT shall be subject to, governed by, and construed pursuant to the laws of the State of California.

10. If arbitration, including legal action, is instituted to enforce any of the terms and conditions of this COVENANT, the prevailing party to such action shall be entitled to recover its reasonable attorney's fees and costs incurred in such action.

11. The covenants contained in this COVENANT shall be deemed separate, distinct and severable covenants between COVENANTOR and COVENANTEE as to the SUBJECT PROPERTY and as to each of the individual parcels of land comprising the BENEFITED PROPERTY.

12. This COVENANT shall be effective upon its execution by COVENANTOR and COVENANTEE and its recordation in the Office of the County Recorder, Orange County, State of California.

Dated: 6/15/89

COVENANTOR  
COUNTY OF ORANGE, successor in  
interest to the ORANGE COUNTY  
HARBORS, BEACHES AND PARKS  
DISTRICT

By [Signature]  
Member of the Orange County  
Board of Supervisors

Dated: 6/8/89

Approved as to form:

By [Signature]  
Attorney for the COUNTY OF  
ORANGE

Dated: 6/7/89

COVENANTEE  
NIGUEL SHORES COMMUNITY  
ASSOCIATION, a California  
non-profit corporation

By [Signature]  
Its President

By [Signature]  
Its Secretary

Dated: 6/8/89

Approved as to form:  
FIORE, NORDBERG, WALKER  
& WOOLF-WILLIS

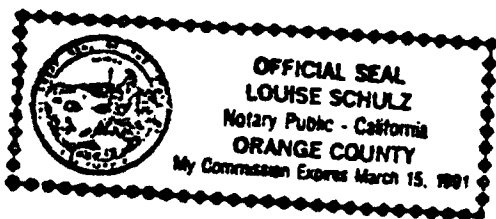
By [Signature]  
DANIEL A. NORDBERG  
Attorneys for Niguel Shores  
Community Association



STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On June 15, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared THOMAS F. RILEY, known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument [AGREEMENT AND COVENANT (Running With The Land)], and acknowledged to me that he/she executed same.

WITNESS my hand and official seal.

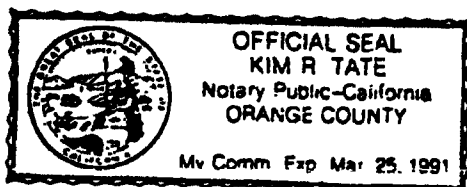


Louise Schulz  
Notary Public in and for said  
County and State

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF Orange )

On June 7, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared Samuel H. Aldrich Jr. and R. A. Gudeke, President and Secretary, respectively, of THE NIGUEL SHORES COMMUNITY ASSOCIATION, a California non-profit corporation, the corporation that executed the within instrument [AGREEMENT AND COVENANT (Running With The Land)] known to me, or proved to me on the basis of satisfactory evidence, to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its Bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.



Kim R Tate  
Notary Public in and for said  
County and State

**EXHIBIT A**

**The SUBJECT PROPERTY is legally described as follows:**

**That portion of Parcel 3, as shown on a map filed in Book 40, Pages 19 to 24 inclusive, of Parcel Maps, in the Office of the County recorder of Orange County, California. Also described as**

**Parcel 3, Lot 1 Tract 6950 of said Maps**

**The True Owner of the aforementioned property is:**

**THE ORANGE OF COUNTY, STATE OF CALIFORNIA, successor in interest of said property to ORANGE COUNTY HARBORS, BEACHES AND PARKS DISTRICT also known as the ORANGE COUNTY HARBOR DISTRICT, a public agency and a political sub-division of the State of California.**

**Exhibit "A"**

## EXHIBIT B

THAT PORTION OF SECTIONS 15 & 16, TOWNSHIP 8 SOUTH, RANGE 1 WEST, S. & L.M. AS PER THE OFFICIAL PLAT OF SAID LAND, FILED IN THE DISTRICT LAND OFFICE ON APRIL 12, 1875, AND AS SHOWN ON RECORD OF SURVEY 89/17, ON FILE IN ORANGE COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at the most northeasterly corner of said Record of Survey; thence southerly  $0^{\circ} 01' 53''$  E along the easterly boundary of said Record of Survey 1,575.46 feet; thence  $S 0^{\circ} 52' 44''$  W 2,277.23 feet; thence  $S 0^{\circ} 53' 34''$  W 1,674.47 feet; thence leaving said easterly boundary  $N 89^{\circ} 06' 26''$  W 75.93 feet to the beginning of a tangent curve concave southeasterly having a radius of 1,000.00 feet; thence westerly 569.39 feet along said curve through a central angle of  $32^{\circ} 37' 25''$ ; thence  $S 58^{\circ} 16' 09''$  W tangent to said curve 227.52 feet to the beginning of a tangent curve concave northwesterly having a radius of 1,600.00 feet; thence westerly 348.83 feet along said curve through a central angle of  $12^{\circ} 29' 30''$ ; thence  $S 70^{\circ} 45' 39''$  W tangent to said curve 668.00 feet to the beginning of a tangent curve concave southeasterly having a radius of 1,000.00 feet; thence westerly 161.08 feet along said curve through a central angle of  $9^{\circ} 13' 45''$ ; thence  $S 61^{\circ} 31' 54''$  W tangent to said curve 216.39 feet to the beginning of a tangent curve concave southeasterly having a radius of 800.00 feet; thence southwesterly 635.96 feet along said curve through a central angle of  $45^{\circ} 32' 49''$ ; thence  $N 89^{\circ} 13' 14''$  W non-tangent to said curve 954.10 feet; thence  $N 25^{\circ} 32' 36''$  W 681.68 feet; thence  $N 30^{\circ} 29' 24''$  W 881.09 feet; thence  $N 59^{\circ} 30' 36''$  E 18.60 feet; thence  $N 45^{\circ} 21' 12''$  E 436.74 feet; thence  $N 33^{\circ} 07' 39''$  E 652.18 feet to the beginning of a tangent curve concave northwesterly having a radius of 472.00 feet; thence northeasterly 84.14 feet along said curve through a central angle of  $10^{\circ} 12' 49''$ ; thence  $N 22^{\circ} 54' 50''$  E tangent to said curve 6.73 feet; thence  $N 18^{\circ} 23' 05''$  W 55.64 feet; thence  $N 30^{\circ} 18' 52''$  E 100.00 feet to a point of intersection of a curve concave northeasterly having a radius of 300.00 feet a radial line from said curve to said point bears  $S 30^{\circ} 18' 52''$  W; thence westerly 6.39 feet along said curve through a central angle of  $1^{\circ} 13' 11''$ ; thence  $N 61^{\circ} 31' 54''$  E non-tangent to said curve 309.81 feet; thence  $S 26^{\circ} 25' 06''$  E 200.01 feet; thence  $N 61^{\circ} 31' 54''$  E 118.90 feet to the beginning of a tangent



## EXHIBIT B

curve concave northwesterly having a radius of 1,600.00 feet; thence easterly and northerly 1,989.67 feet along said curve through a central angle of  $71^{\circ} 15' 00''$ ; thence  $N 9^{\circ} 43' 06'' W$  tangent to said curve 965.00 feet to the beginning of a tangent curve concave easterly having a radius of 1,600.00 feet; thence northerly 1,103.05 along said curve through a central angle of  $39^{\circ} 30' 00''$ ; thence  $N 29^{\circ} 46' 54'' E$  tangent to said curve 545.00 feet to the beginning of a tangent curve concave northwesterly having a radius of 1,600.00 feet; thence southeasterly 812.86 along said curve through a central angle of  $29^{\circ} 06' 30''$ ; thence  $S 52^{\circ} 37' 14'' E$  non-tangent to said curve 486.30 feet; thence  $S 53^{\circ} 31' 32'' E$  156.74 feet; thence  $S 81^{\circ} 02' 24'' E$  983.91 feet; thence  $S 74^{\circ} 39' 25'' E$  231.80 feet to the point of beginning.

The above described parcel contains 404.92 acres.

## EXHIBIT C

### Association Property NIGUEL SHORES COMMUNITY ASSOCIATION

<u>PASCEL</u>	<u>LEGAL DESCRIPTION</u>
(1)	Lots A through F, inclusive, of Tract No. 6935 as shown on a map recorded in Book 259, Pages 39 to 42, inclusive, of Miscellaneous Maps, in the Office of the County Recorder of said County.
(2)	Lots A and 102 through 104, inclusive, of Tract No. 7515 as shown on a map recorded in Book 291, Pages 19 through 22, inclusive, of Miscellaneous Maps, in the Office of the County Recorder of said County.
(3)	Lots A through K, inclusive, of Tract No. 7447 as shown on a map recorded in Book 282, Pages 7, 8 and 9 of Miscellaneous Maps, in the Office of the County Recorder of said County.
(4)	Lot A of Tract No. 6782 as shown on a map recorded in Book 299, Pages 17, 18 and 19 of Miscellaneous Maps, in the Office of the County Recorder of said County.
(5)	Lots 99 through 104, inclusive, of Tract No. 6884 as shown on a map recorded in Book 304, Pages 27 through 31, inclusive, of Miscellaneous Maps, in the Office of the County Recorder of said County.
(6)	Lots 41 through 45, inclusive, of Tract No. 6881, as shown on a map recorded in Book 311, Pages 33 through 36, inclusive, of Miscellaneous Maps, in the Office of the County Recorder of said County.
(7)	Lot A of Tract No. 8038, as shown on a map recorded in Book 316, Pages 26 and 27 of Miscellaneous Maps, in the Office of the County Recorder of said County.
(8)	Lot B of Tract No. 8038, as shown on a map recorded in Book 316, Pages 26 and 27 of Miscellaneous Maps, records of Orange County, California.
(9)	Lot B of Tract No. 6782 as shown on a map recorded in Book 299, Pages 17 through 19, inclusive, of Miscellaneous Maps, in the Office of the County Recorder of said County.
(10)	Lot 127 of Tract No. 6782 as shown on a map recorded in Book 299, Pages 17 through 19, inclusive, of Miscellaneous Maps, in the Office of the County

## **EXHIBIT C**

Recorder of said County.

- (11) Lot B of Tract No. 6988, as per map recorded in Book 265, Pages 46 and 47, of Miscellaneous Maps in the Office of the County Recorder of Orange County, California.
- (12) Lots E, C and D of Tract No. 7156 as per map recorded in Book 266, Pages 11 through 14, inclusive, of Miscellaneous Maps in the Office of the County Recorder of Orange County, California.
- (13) Lot A of Tract No. 7156 as per map recorded in Book 266, Pages 11 through 14, inclusive, of Miscellaneous Maps in the Office of the County Recorder of Orange County, California.
- (14) Lot A of Tract 6988, as per map recorded in Book 265, Pages 46 and 47 of Miscellaneous Maps, Records of Orange County, California; except those portions of said Lot A described as follows:
  - (a) Beginning at a point on the south line of said Lot A, which bears N 80 degrees 39' 12" E. 15.00 feet from the most southerly corner thereof, thence along the boundary of said lot the following courses, S 80 degrees 39' 12" W 15.00 feet, N 35 degrees 30' 21" W 200.92 feet, and N 46 degrees 21' 12" E 30.00 feet; thence S 49 degrees 38' 48" E 73.00 feet; thence S 31 degrees 08' 43" E 120.00 feet; thence S 13 degrees 57' 04" W 32.83 feet to the point of beginning, and
  - (b) Parcel 4 as shown on map filed in Book 40, Pages 19 through 24 of Parcel Maps in the Office of the County Recorder of said County.
- (15) Lots 61 and 62 of Tract No. 6883, as per map recorded in Book 269, Pages 15 through 17, inclusive, of Miscellaneous Maps in the Office of the County Recorder of Orange County, California.
- (16) Lots 72 and 73 and Lot A of Tract No. 7203, as per map recorded in Book 282, Pages 1, 2 and 3 of Miscellaneous Maps in the Office of the County Recorder of Orange County, California.
- (17) Lot B of Tract No. 7573, as per map recorded in Book 302, Pages 12 and 13 of Miscellaneous Maps in the Office of the County Recorder of Orange County, California.
- (18) That portion of Section 16, Township 8 South, Range 8 West, S.B.M., in the County of Orange, State of California, as shown on the official plat of said land



## EXHIBIT C

filed in the District Land Office on April 12, 1875 and as shown on a map filed in Book 89, Page 17 of Records of Surveys, of said County, lying 30.00 feet on each side of the following described centerline:

Commencing at the most Southerly corner of Lot "A," Niguel Shores Drive (private street), as shown on a map of Tract No. 6935, filed in Book 259, Pages 39 to 42, inclusive, of Miscellaneous Maps, records of said Orange County; thence along the Southwesterly line thereof, N 28 degrees 28' 06" W 30.00 feet to a point on the centerline of said Niguel Shores Drive, said point being the true point of beginning; thence along the Westerly prolongation of said centerline, S 61 degrees 31' 54" W 136.32 feet to a tangent curve concave Southeasterly and having a radius of 300.00 feet; thence Southwesterly along said curve 120.82 feet through a central angle of 23 degrees 04' 26" to a compound curve, concave Southeasterly and having a radius of 1000.00 feet; thence Southwesterly along said compound curve 410.57 through a central angle of 23 degrees 31' 27" to the Northeasterly line of Lot "C," Niguel Shores Drive (private street), as shown on a map of Tract No. 6950 filed in Book 257, Pages 38 to 40, inclusive, of Miscellaneous Maps, records of said Orange County.

- (19) Lots 78 through 81, inclusive, of Tract No. 8602, as shown on a map recorded in Book 342, Pages 19 through 23, inclusive, of Miscellaneous Maps, in the Office of the County Recorder of said County.
- (20) Lot D of Tract No. 6950 in the County of Orange, State of California, as per map recorded in Book 257, Pages 38, 39 and 40 of Miscellaneous Maps, in the Office of the County Recorder of said County.
- (21) Lots A, B and C of Tract No. 6950 in the County of Orange, State of California, as per map recorded in Book 257, Pages 38, 39 and 40 of Miscellaneous Maps, in the Office of the County Recorder of said County.
- (22) Lot 1 of Tract No. 6950 in the County of Orange, State of California, as per map recorded in Book 257, Pages 38, 39 and 40 of Miscellaneous Maps, in the Office of the County Recorder of said County. Except Parcels 2 and 3 as shown on a map filed in Book 40, Pages 19 to 24, inclusive, of Parcel Maps, in the Office of the County Recorder of said County.
- (23) Lots 76, 77, 78 and 79 of Tract No. 9098, in the County of Orange, State of California, as per map recorded in Book 397, Pages 24 through 28, inclusive, of Miscellaneous Maps, in the Office of the County

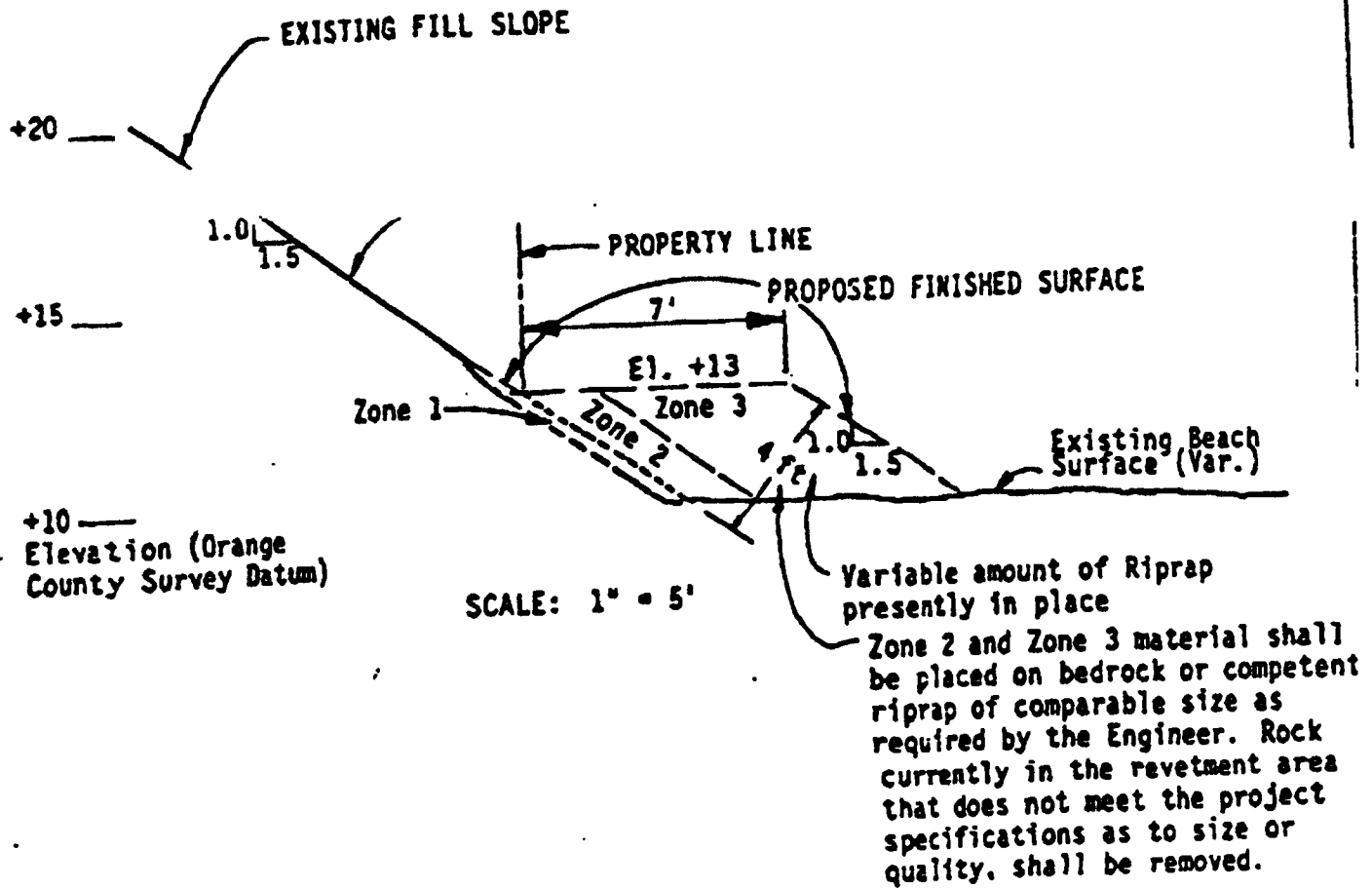
## EXHIBIT C

Recorder of said County.

- (24) An easement, pursuant to the Grant of Easement recorded June 26, 1970, in Book 9329, Page 394 (Instrument No. 18644), Official Records of said County, over the rear slopes of Lots 1 through 23, inclusive, of Tract No. 6988, as per map recorded in Book 265, Pages 46 and 47, of Miscellaneous Maps, in the Office of the County Recorder of said County, said easement being more particularly described in that certain Supplementary Declaration of Covenants, Conditions, and Restrictions recorded June 11, 1970, in Book 9314, Pages 558 to 564, inclusive, (the "Supplementary Declaration"), which Supplementary Declaration is incorporated herein by this reference, for the purposes and subject to the terms and conditions set forth in the Supplementary Declaration.

S2C/11

# EXHIBIT D



## NOTES:

1. Zone 1 material: 5-20 lb. stone.
2. Zone 2 material: 200-400 lb. stone.
3. Zone 3 material: 1.0-1.5 ton stone.
4. A minimum of 6" of Zone 1 material shall be placed between existing fill material and Zone 2 material, or as required by the Engineer.
5. A minimum of 1 foot of Zone 2 material shall be placed between Zone 1 and Zone 3 material.
6. Filter fabric shall be installed between existing fill/beach surface and Zone 1 material, or as required by the Engineer. Upper portion of filter fabric shall be buried in trench at least 12 inches beneath finished surface. Backfill material shall be compacted to a minimum of 90% of relative compaction (ASTM D1557).
7. See Project Specifications for additional requirements.

Date: 10/10/86

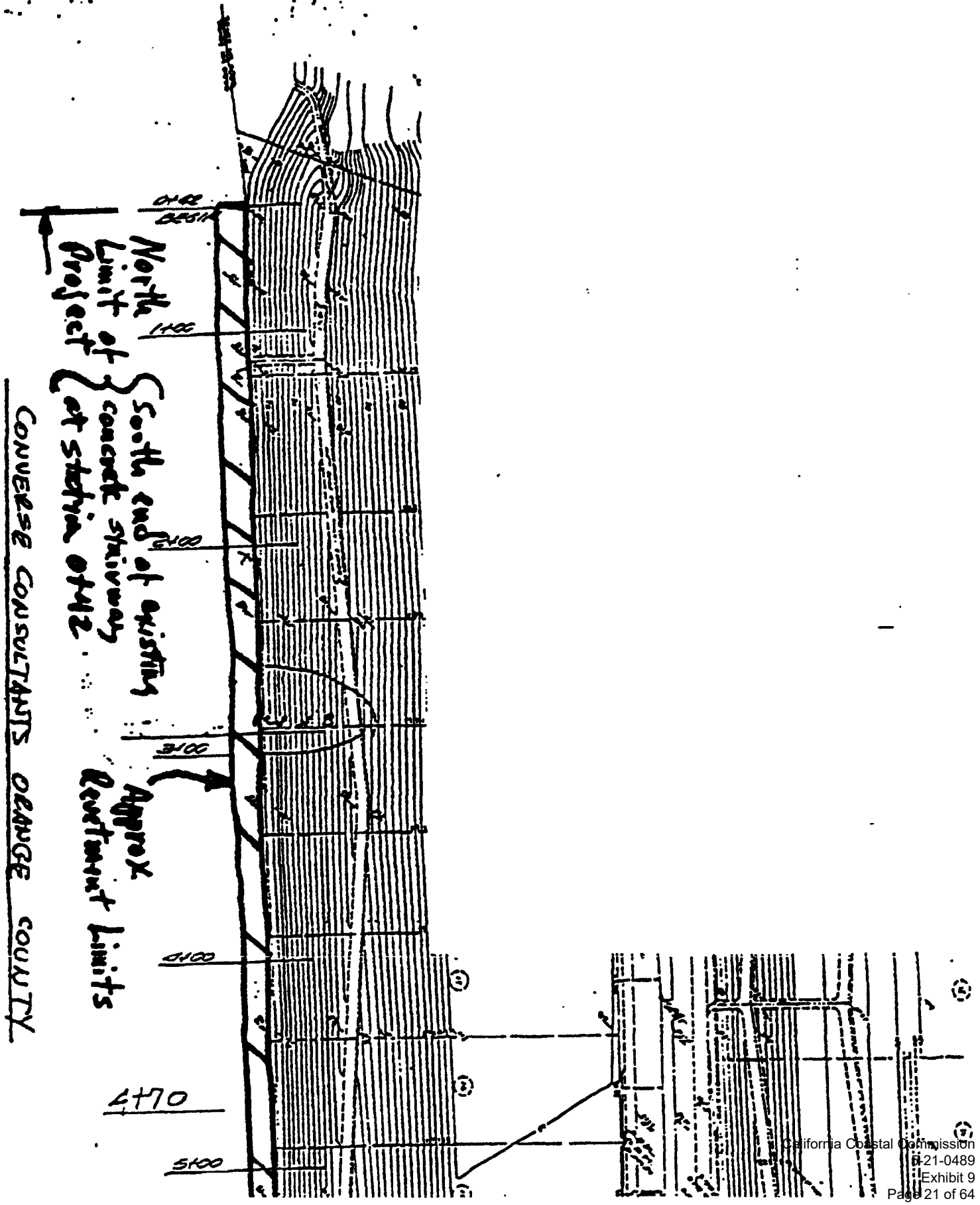
## REVETMENT RESTORATION-TYPICAL DETAIL

LOT 1, TRACT 8880  
LOTS 1-23, TRACT 8880  
NIGUEL SHORES COMMUNITY

EXHIBIT D

Project No. 86-02303-C  
California Coastal Commission  
5-21-0469  
Exhibit 9  
Figure No.





IV

S

EXHIBIT D

5470

5400

5474

5400

N

AS BUILT TOPOGRAHY

7467

5400

5400

5470

5400

Miguel Shores Reclamation - Pie I Repair  
Laguna Nauri CA

15. Rectructment - Dr I Repair  
use Miquel, CA

EG-32303-01

South  
Limit of  
Project

11+63

12+80

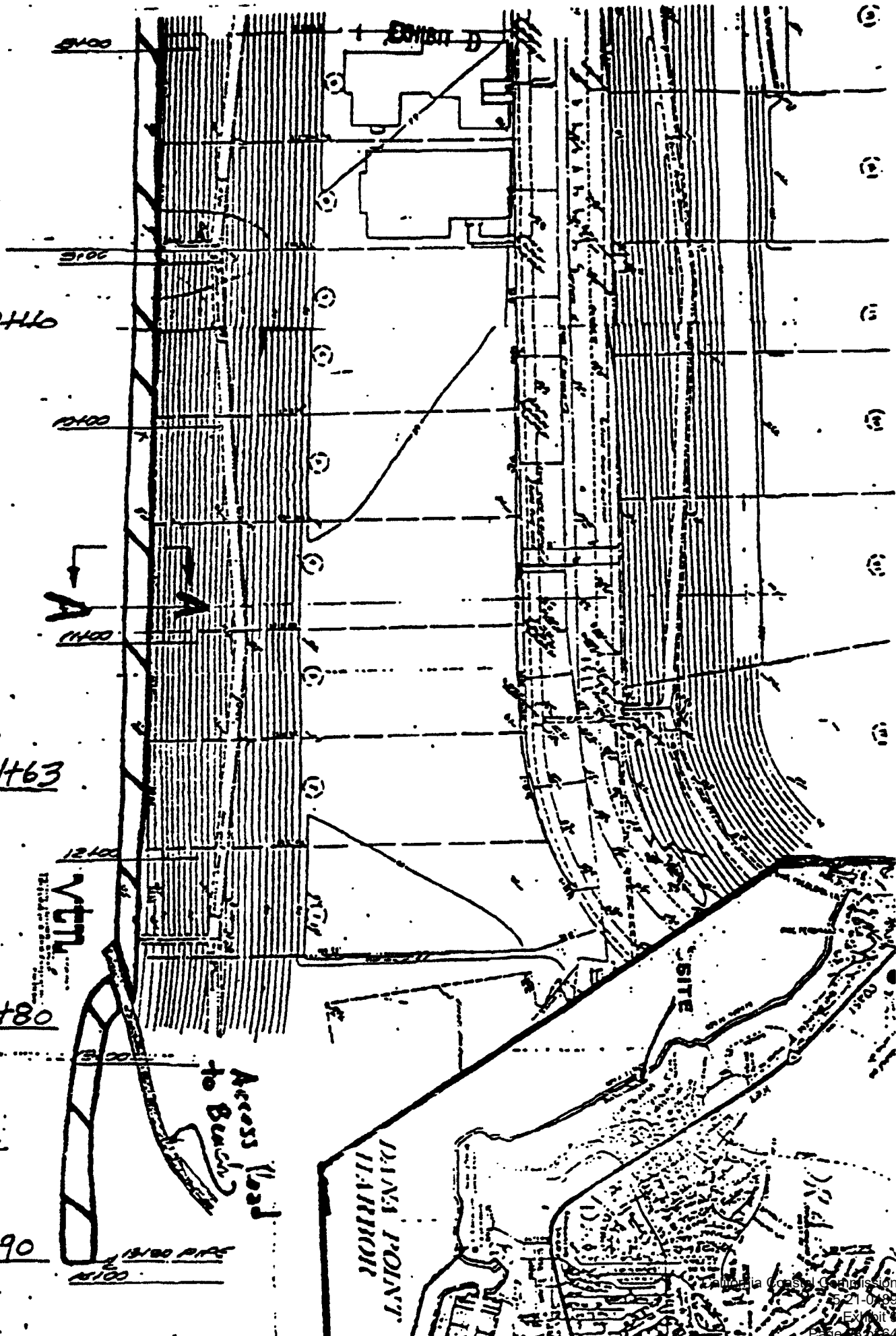
13+90

VTN

Access Road  
to Beach

DANA POINT  
HARBOR

SITE





## **SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS**

**Plaintiffs:** JAMES E. DOVEY, an individual; HOWARD and RUTH KOENIG, as Trustees of the Koenig Family Trust; DENNIS DAY, as Trustee of the D & M Day Revocable Trust; JAMES PINOLA, as Trustee of the James J. Pinola Revocable Trust; CHARLES L. MAXEY, as Trustee of the Maxey Family Trust; HENRY A. and RITA KRIEGER, as Trustees of the Krieger Family Trust; PAUL and AILEEN BRAZEAU, individuals; ERMA JEAN TRACY, an individual; BARBARA BARTOLME, as Trustee of the GR Bartolme Residuary Trust; HARVEY A. BOOKSTEIN, as Trustee of the Breaker Isle-SSP Trust; SVS DANA POINT LLC

**Defendants:** NIGUEL SHORES COMMUNITY ASSOCIATION, a California nonprofit mutual benefit corporation; COUNTY OF ORANGE, a California public entity; and DOES 1 through 100

**Cross-Complainant:** NIGUEL SHORES COMMUNITY ASSOCIATION, a California nonprofit mutual benefit corporation

**Cross-Defendants:** JAMES E. DOVEY, an individual; BURR MCKEEHAN, as Trustee of the McKeehan Family Trust; HOWARD and RUTH KOENIG, as Trustees of the Koenig Family Trust; DENNIS DAY, as Trustee of the D & M Day Revocable Trust; JAMES PINOLA, as Trustee of the James J. Pinola Revocable Trust; MERILYN CASHMAN, as Trustee of the Cashman Family Trust; CHARLES L. MAXEY, as Trustee of the Maxey Family Trust; HENRY A. & RITA KRIEGER, as Trustees of the Krieger Family Trust; PAUL and AILEEN BRAZEAU, individuals; ERMA JEAN TRACY, an individual; BARBARA BARTOLME, as Trustee of the GR Bartolme Residuary Trust; HARVEY A. BOOKSTEIN, as Trustee of the Breaker Isle-SSP Trust; SVA DANA POINT LLC; DENNIS H. LOWE and SHELLY HOLCOMB LOWE, as Trustees of the Dennis H. Lowe Family Trust; TED MOOSCHEKIAN, an individual; MARK S. MOOSCHEKIAN, as Trustee of the Ted Mooschekian Personal Residence Trust; HRAIR DARAKJIAN and NADIA DARAKJIAN, as Trustees of the Hrair and Nadia Darakjian Family Trust; ROBERT S. SANCHEZ, an individual; PHYLLIS J. SANCHEZ, an individual; LORRAINE J. ANTIOCO, as Trustee of the Lorraine J. Antioco Trust; CHARLES K. CLARK and NANCY B. CLARK, as Trustees U/T/A dated December 11, 1989 F/B/O the Clark Family; PAUL SAVAS COLUMBUS, as Trustee of the EcrossB Trust; EVELYN A. FREED, as Trustee of the Evelyn A. Freed Living Trust; HERMAN AHLERS, an

individual; DONNA AHLERS, an individual; JOSEF SCIGLIANO and GISELA SCIGLIANO, as Trustees of the Scigliano 2006 Revocable Trust Agreement

### **RECITALS**

- A. Plaintiffs' original Complaint was filed in Orange County Superior Court on May 23, 2013, Case No. 30-2013-00651468-CU-OR-CJC, *James E. Dovey, et al. v. Niguel Shores Community Association, et al.* Plaintiffs' First Amended Complaint was filed on May 31, 2013.

In response to Plaintiffs' First Amended Complaint, NIGUEL SHORES COMMUNITY ASSOCIATION (hereinafter "the Association") filed a Cross-Complaint for Declaratory Relief against Plaintiffs on July 12, 2013. Plaintiffs filed their Second Amended Complaint on October 16, 2013 and their Third Amended Complaint, which is the operative pleading, on March 6, 2014. The Third Amended Complaint arose out of allegations concerning claims for Declaratory Relief, Breach of Fiduciary Duty, and Negligence. The initial Complaint, First Amended Complaint, Second Amended Complaint and Third Amended Complaint are referred to collectively herein as "Complaint".

- B. On July 12, 2013, Defendant Association filed an Answer to the Complaint and a Cross-Complaint for Declaratory Relief against Plaintiffs and Cross-Defendants. The Association filed subsequent Answers on October 30, 2013, November 9, 2013 and April 2, 2014.
- C. Defendant County of Orange ("County") filed an Answer to the Complaint on April 14, 2014.
- D. Cross-Defendants Dovey, McKeehan, Koenig, Day, Pinola, Cashman, Maxey, Krieger, Brazeau, Tracy, Bartolme, Bookstein, SVS Dana Point LLC, Lowe and Columbus filed an Answer to the Cross-Complaint on November 12, 2013. Cross-Defendant Antioco filed an Answer to the Cross-Complaint on January 16, 2014. Cross-Defendant Ahlers filed an Answer to the Cross-Complaint on January 6, 2014. Cross-Defendant Freed filed an Answer to the Cross-Complaint on August 11, 2013.
- E. All Cross-Defendants other than Dovey, McKeehan, Koenig, Day, Pinola, Maxey, Krieger, Brazeau, Tracy, Bartolme, Bookstein, SVS Dana Point LLC, Lowe, Columbus, Antioco, Freed and Ahlers have entered into separate settlement agreements with the Association and/or have had default entered against them and are not parties to this Agreement.
- F. The Complaint, Cross-Complaint and all Answers to the Complaint and Cross-Complaint are collectively referred to herein as the "Action".

- G. Plaintiffs and Cross-Defendants are the owners of certain residential properties on Breakers Isle in the City of Dana Point, California, as specifically identified in the Complaint and Cross-Complaint ("Breakers Isle Properties"), which are located within the Association.
- H. Breakers Isle Properties and the Association are governed by the Declaration of Establishment of Protective Covenants, Conditions and Restrictions recorded in the Official Records of the Orange County Recorder's Office on December 3, 1969, Book 9153, Pages 259-300 ("Declaration"); the Supplementary Declaration of Covenants, Conditions and restrictions recorded in the Official Records of the Orange County Recorder's Office on June 11, 1970, Book 9314, Pages 558-564 ("Supplementary Declaration"); and the December 5, 1989 Agreement and Covenant between the Association and County ("Covenant"). The Supplementary Declaration establishes certain Slope Control Areas on the lots of Plaintiffs and Cross-Defendants and provides for their repair and maintenance.
- I. On December 9, 2013, the Association held a special membership meeting for the purpose of holding a vote of the members to amend the Supplementary Declaration by eliminating the Slope Control Area easements and maintenance obligations of the Association therein, which amendment was passed by a majority of the membership. On December 11, 2013, the Court issued a Temporary Restraining Order enjoining the Association and any of its agents from enforcing or recording the amendment to the Supplementary Declaration. The Court issued a Preliminary Injunction consistent with the TRO on or about January 27, 2014.
- J. The Complaint alleges that Plaintiffs are entitled to certain rights and obligations under the Declaration and Supplementary Declaration, and the Covenant with respect to maintenance and repair obligations of Slope Control Areas within Plaintiff's Properties and a rock revetment adjacent thereto on County property. The Complaint seeks damages, specific performance, and/or declaratory relief.
- K. The parties hereto have engaged in formal mediation, and desire to enter into this Settlement Agreement for the purpose of resolving the disputes among the parties as alleged in the Action, subject to and contingent on the terms set forth herein.

## **1.0 SETTLEMENT PAYMENTS**

**1.1** Each of the above Recitals, and specifically Paragraphs A through K, is incorporated herein by this reference as though fully set forth herein.

**1.2** By and through its insurer, Civil Service Employees Safeguard Insurance Company (hereinafter referred to as "CSE"), Association will pay the total sum of One Million Dollars (\$1,000,000.00), by way of one payment of Two Hundred Twenty Thousand Dollars (\$220,000.00) to the Law Office of Jeri E. Tabback Client Trust Account, and one payment of Seven Hundred Eighty Thousand Dollars (\$780,000.00)

payable to the County of Orange. These payments will be made within forty-five (45) days of the execution of this agreement by all parties. These settlement payments will only be negotiated by the plaintiffs' and County upon approval by the CCC of the CDP. If these settlement checks become void due to the passage of time, CSE will re-issue replacement checks.

**1.3** CSE will have no responsibility for any costs associated with the planning, construction, design, application for permits, cost of repair, contractors, subcontractors, design engineers and or maintenance, or other aspects of the revetment/injunction, etc. project with the property which is the subject of this release.

## **2.0 REVETMENT REHABILITATION**

**2.1** Consultant Walter Crampton (hereinafter referred to as "Crampton") will be retained by County to prepare an application for a Coastal Development Permit (hereinafter referred to as "CDP") to be approved by the California Coastal Commission (hereinafter referred to as "CCC") to rebuild the revetment referenced in Paragraph J. of the Recitals hereto. Crampton will prepare design and related engineering and environmental assessment documents for the construction of the revetment to be consistent with CCC requirements and which shall: (1) include a public walkway running laterally along or atop the revetment; (2) be consistent with the conceptual design section prepared by Crampton attached to this Agreement as Exhibit 1; (3) preserve the three presently existing direct beach access slope stairways and pathways from Breaker Isle Properties, over the revetment and down onto the sand, with the location of the pathways over the revetment being designed where they are currently located, subject to Crampton's engineering recommendations and approval of the CCC; (4) not encroach or be constructed on or over the Breaker Isle Properties (hereinafter referred to as "Proposed Design"). Consultant David Skelly (hereinafter referred to as "Skelly") will be retained by Plaintiffs and designated representative(s) on behalf of Cross-Defendant Freed ("Freed") to provide review, input and recommendation to Crampton and County for the Proposed Design, including but not limited to security and access concerns. Crampton and/or County shall not present any application to CCC which has not first been reviewed by and received input from Skelly and designated representatives of Freed; however, County is the ultimate decision-maker as to the application that will be presented to CCC for approval. All of the parties will cooperate with whatever documentation is needed in order to prepare and finalize the application for submission to CCC. This Agreement shall expressly conditioned upon the CCC issuing a CDP for the Proposed Design, and specifically, approving each of the requirements identified in this Paragraph 2.1.

**2.2** Following CDP approval by the CCC, County will make all reasonable efforts to retain Crampton as the engineer-of-record to complete constructible design documents. This Agreement contemplates County's retention of Crampton as engineer-of-record for design and construction of the revetment. Should Crampton not be retained as the engineer-of-record despite all reasonable efforts by County, County will, in its sole discretion, select a new project engineer.



**2.3** County will use best efforts to prepare the application for submittal to the CCC for review and approval of CDP by December 31, 2015. County will also use best efforts to rebuild the revetment as expeditiously as possible following approval of the CDP by the CCC.

**2.4** The costs for the preparation of construction plans will be paid by County.

**2.5** During construction, the Association, Plaintiffs and Cross-Defendants will provide County with all necessary access to their lots, including the Slope Control Area, and any necessary encroachment permit or equivalent access rights necessary for construction of the revetment, as well as any related drainage improvements encroaching onto private property. Any such drainage improvement or portion thereof which is constructed on Breakers Isle Properties, and the fence and access gates constructed between the public walkway and the Slope Control Area, shall be deemed improvement within the Slope Control Area for which Association has the obligation to maintain and repair pursuant to Article X(b) of the Declaration and Paragraph 4 of the Supplementary Declaration.

**2.6** County will be responsible for the maintenance and repair of the revetment and walkway after completion of construction and the Association, Plaintiffs and Cross-Defendants agree to provide reasonable access to County to undertake ongoing repair and maintenance. The Association will be responsible for maintenance of the fence and access gates separating the public walkway from the Breakers Isle Properties as set forth in Paragraph 2.5 of this Agreement. Any drainage improvements within the Slope Control Area easement will be the responsibility of the Association under its existing slope maintenance obligations, as set forth in Paragraph 2.5 above. The Association will replant the slope pursuant to a landscape plan prepared by Association's consultants following completion of revetment construction. The Association will provide review, input and recommendation to County as to the specifications, design and materials for the fence and access gates constructed between the public walkway and the Slope Control Area.

### **3.0 AMENDMENT TO SUPPLEMENTARY DECLARATION**

**3.1** Plaintiffs and Association agree to seek a judicial determination as to whether the preliminary injunction identified in Paragraph I. of the Recitals to this Agreement should become a mandatory permanent injunction and whether Judgment should be entered permanently enjoining Association from enforcing or recording the amendment to the Supplementary Declaration identified in Paragraph I. The Association and Plaintiffs will request that the Court make its determination on Stipulated of Facts to be prepared jointly by Plaintiffs and Association and presented to the Court. This settlement is contingent on the Court setting aside the vote by the Association's member and invalidating, and permanently enjoining the recording and enforcement of, the amendment to the Supplementary Declaration (hereinafter the "Permanent Injunction").

#### **4.0 MUTUAL RELEASES**

##### **4.1 Release by Plaintiffs.**

Except, subject to and contingent on full performance of the terms set forth in this Agreement, and conditioned upon: (1) Plaintiffs' receipt of the payment of \$220,000.00 (Two Hundred Twenty Thousand Dollars and 00/100) from the Association as described above, (2) the CCC's issuance of a CDP for the Proposed Design, and (3) the Court's issuance of the Permanent Injunction, the Plaintiffs do hereby fully, finally, and forever release, discharge and exonerate the County and the Association, and their subsidiaries, successors, predecessors, affiliates, assigns, officers, directors, employees, agents, servants, attorneys, insurance companies of County and only CSE for the Association, reinsurance companies, surety companies (including without limitation all companies issuing performance bonds, payment bonds, stop notice release bonds, mechanic lien release bonds and/or license bonds, for any of the foregoing), and all other individuals, corporations and legal entities whatsoever, whether described herein or otherwise related to the County, the Association or any of the other identified entities, from any and all claims, obligations, promises, demands, rights, actions, causes of action, litigation and liability of any kind, whatsoever, whether known or unknown, matured or contingent, regarding, arising from or relating to the Claims alleged in the Action, up to and including the date of execution of this Agreement. (All of which are hereinafter referred to as the "Released Matters").

##### **4.2 Release by County.**

Except, subject to and contingent on full performance of the terms set forth in this Agreement, and conditioned upon: (1) approval of this Agreement by the Orange County Board of Supervisors, (2) receipt by the County of the payment of \$780,000.00 (Seven Hundred Eighty Thousand Dollars and 00/100) from the Association as described above, (3) Plaintiffs' filing of the Request for Dismissal of the Complaint in the Action as required herein, and (4) the CCC's issuance of a CDP for the Proposed Design, the County on behalf of itself and its Board of Supervisors does hereby fully, finally, and forever release, discharge and exonerate the Plaintiffs and the Association, their subsidiaries, successors, predecessors, affiliates, assigns, officers, directors, employees, agents, servants, attorneys, insurance companies, reinsurance companies, surety companies (including without limitation all companies issuing performance bonds, payment bonds, stop notice release bonds, mechanic lien release bonds and/or license bonds, for any of the foregoing), and all other individuals, corporations and legal entities whatsoever, whether described herein or otherwise related to the Plaintiffs, the Association, or any of the other identified entities, from any and all claims, obligations, promises, demands, rights, actions, causes of action, litigation and liability of any kind, whatsoever, whether known or unknown, matured or contingent, regarding, arising from or relating to the Released Matters.

#### **4.3 Release by Association.**

Except, subject to and contingent on full performance of the terms set forth in this Agreement, and conditioned upon: (1) receipt by the County and by Plaintiffs of the payments of \$780,000.00 (Seven Hundred Eighty Thousand Dollars) and \$220,000.00 (Two Hundred Twenty Thousand Dollars), respectively, collectively totaling \$1,000,000.00 (One Million Dollars), as described above, (2) upon Plaintiffs' filing of the Request for Dismissal of the Third Amended Complaint in the action as required herein, and (3) the CCC's issuance of a CDP for the Proposed Design, the Association on behalf of itself and its Board of Directors, does hereby fully, finally, and forever release, discharge and exonerate the County, Plaintiffs, and Cross-Defendants, their subsidiaries, successors, predecessors, affiliates, assigns, officers, directors, employees, agents, servants, attorneys, insurance companies, reinsurance companies, surety companies (including without limitation all companies issuing performance bonds, payment bonds, stop notice release bonds, mechanic lien release bonds and/or license bonds, for any of the foregoing), and all other individuals, corporations and legal entities whatsoever, whether described herein or otherwise related to the County, Plaintiffs, Cross-Defendants, or any of the other identified entities, from any and all claims, obligations, promises, demands, rights, actions, causes of action, litigation and liability of any kind, whatsoever, whether known or unknown, matured or contingent, regarding, arising from or relating to the Released Matters.

#### **4.4 Release by Cross-Defendants.**

Except, subject to and contingent on full performance of the terms set forth in this Agreement, and conditioned upon: (1) the CCC's issuance of a CDP for the Proposed Design, (2) Associations' filing of the Request for Dismissal of the Cross-Complaint as required below, and (3) the Court's issuance of the Permanent Injunction, the Cross-Defendants do hereby fully, finally, and forever release, discharge and exonerate the Association and the County, and their subsidiaries, successors, predecessors, affiliates, assigns, officers, directors, employees, agents, servants, attorneys, all insurance companies for the County, only CSE for the Association, surety companies (including without limitation all companies issuing performance bonds, payment bonds, stop notice release bonds, mechanic lien release bonds and/or license bonds, for any of the foregoing), and all other individuals, corporations and legal entities whatsoever, whether described herein or otherwise related to the County, the Association, or any of the other identified entities, from any and all claims, obligations, promises, demands, rights, actions, causes of action, litigation and liability of any kind, whatsoever, whether known or unknown, matured or contingent, regarding, arising from or relating to the Released Matters.

#### **4.5 Full and Complete Releases.**

These releases are intended to be full and complete releases of any and all claims that the Parties have regarding the Released Matters and, in so doing, the

Parties are acting on behalf of and with respect to all other persons who have now or may later acquire any interest in the claims released herein including any successors, assigns, dependents, heirs, executors and administrators of the Parties.

**4.6 Agreement Does Not Release Obligations Under The Agreement or the Governing Documents.**

The releases contained in this Agreement do not release any of the rights or obligations of the parties as may be created under this Agreement or under the Association's governing documents, including the Declaration or Supplementary Declaration. Nothing in this release shall be deemed a release or waiver of any claims which may exist by and between the Association and CSE, on the one hand, and Philadelphia Indemnity Insurance Company, St. Paul-Travelers, or Liberty Insurance Underwriters, on the other. The parties do not release any of their ongoing obligations under the Association's governing documents.

**4.7 Conditional Settlement.** If the conditions identified in the releases in Paragraph 4.1, 4.2, 4.3, and 4.4, are not fulfilled, then this Agreement shall be null and void and of no force or effect whatsoever.

**5.0 PERFORMANCE, ASSIGNMENTS, AGREEMENTS AND GOOD FAITH**

The Parties agree as follows:

**5.1** This Settlement Agreement is contingent on approval by the Board of Supervisors for Orange County, which such approval is evidenced by the execution of this Agreement by the County, and subject to contribution from the Association's only participating insurance carrier, CSE.

**5.2** That said, settlement is made among the parties hereto, in good faith and in full recognition of the implications such settlement may have under Code of Civil Procedure Sections 877 et seq., and that there are no considerations for said settlement and release other than as set forth in this agreement.

**5.3** This Agreement and Releases set forth herein shall apply to **ONLY** NIGUEL SHORES' Insurance Company, CSE, and their past, present and future officers, directors, stockholders, attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors and successors in interest, and assigns and all other persons, firms or corporations with whom any of the former have been, are now, or may hereafter be affiliated. This agreement does not involve or include any other insurance carriers for NIGUEL SHORES other than CSE, the only participating carrier in this agreement.

**5.4** CSE has been assigned all rights from NIGUEL SHORES to pursue recovery against all non-participating carriers and CSE is reserving all rights under this agreement related to recovery rights against non-participating carriers. The known non-



participating carriers at this time are Philadelphia Insurance Company and Liberty International Underwriters.

**5.5** This Agreement and the Releases set forth herein shall also apply to the County and their insurer's past, present and future officers, directors, stockholders, attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors and successors in interest, and assigns and all other persons, firms or corporations with whom any of the former have been, are now, or may hereafter be affiliated.

**5.6** This Agreement shall be fully binding and a complete settlement among the Plaintiffs and Defendants and their Insurers, heirs, assigns and successors.

**5.7** The Plaintiffs agree they have accepted payment of the sums specified herein, and agree to the terms of this Agreement as a complete compromise of matters involving disputed issues of law and fact as set forth in the Action, and assume the risk that the facts or law may be other than their beliefs. It is understood and agreed to by the Plaintiffs that this settlement is a compromise of a disputed claim, and not to be construed as an admission of liability whatsoever on the part of Defendants by whom liability is expressly denied.

**5.8** It is further understood and agreed that all rights under Section 1542 of the Civil Code of California and any similar law of any state or said territory of the United States are EXPRESSLY WAIVED as to the Released Matters.

SAID SECTION READS AS FOLLOWS:

"§1542: CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN THEIR FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY THEM MUST HAVE MATERIALLY AFFECTED THEIR SETTLEMENT WITH THE DEBTOR."

**5.9** The Plaintiffs agree that a condition of settlement is that they are responsible for the satisfaction of any and all past, present and future liens pertaining to the respective claims.

**5.10** Plaintiffs agree not to assign any lien interest relating to this claim to any health care provider or governmental entity. Plaintiffs will personally be responsible for any such liens.

**5.11 Discharge of Obligation**

The obligation of Defendants, the Insurers and/or Assignees to make Payment shall be discharged upon the delivery of two valid checks in the total amount of

\$1,000,000.00, (1) \$220,000.00 payable to the Law Offices of Jeri Tabback Client Trust Account; and (2) \$780,000.00 payable to the County of Orange.

#### **5.12 Attorneys' Fees**

Each party hereto shall bear all attorney's fees and costs arising from the actions of their own counsel in connection with this Settlement Agreement and Release, the matters and documents referred to herein, and all related matters.

#### **5.13 Delivery of Dismissal with Prejudice**

Concurrent with the delivery of the settlement proceeds, counsel for Plaintiffs shall deliver to counsel for Defendants a signed copy of a Dismissal of the Complaint and Cross-Complaint with prejudice, which counsel for Association shall execute as required and return to counsel for Plaintiffs for ultimate filing with the court pursuant to this Agreement. Counsel for Plaintiff shall also file a Notice of Conditional Settlement with the Court. Said Dismissal shall be filed with the Court, by the Plaintiffs, upon approval of the CDP by the CCC, as described in Section 2.1 of this Agreement. Dismissal of the Cross-Complaint by the Association shall also operate to withdraw any and all previous arbitration demands made by Association to the County pursuant to the 1989 Covenant.

#### **5.14 1989 Covenant**

Upon approval from the CCC of a CDP, the County will construct the revetment and walkway, and will maintain the revetment and walkway as constructed pursuant to this Agreement and the plans approved by the CCC. The parties agree that performance under this Agreement will constitute performance under the Covenant referred to in Paragraph H of the Recitals hereto. Upon approval from the CCC of a CDP for repair and construction of the Revetment, and upon completion of the Revetment construction pursuant to the permitted specifications, the Revetment (including public walkway) shall thereafter be maintained to such specifications and to meet its intended purpose of providing for the structural stability of the slope and additionally providing for unencumbered public access. Section 4(a) of the 1989 Covenant will thereafter be modified to reflect this minimum standard. Otherwise, nothing in this Agreement changes, modifies or in any way abrogates the rights and responsibilities of the County and the Association as set forth in the 1989 Covenant between the County and the Association.

### **6.0 MISCELLANEOUS PROVISIONS**

**6.1 Representation of Comprehension of Document.** In entering into this Settlement Agreement, the Plaintiffs represent that the terms of this Settlement Agreement have been completely read and explained to Plaintiffs by their attorney, and that the terms of this Settlement Agreement are fully understood and voluntarily accepted by Plaintiffs.

**6.2 Warranty of Capacity to Execute Agreement.** Plaintiffs represent and warrant that Plaintiffs have the sole right and exclusive authority to execute this Settlement Agreement and receive the sums specified in it; and that Plaintiffs have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Settlement Agreement.

**6.3 Governing Law.** This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of California.

**6.4 Additional Documents.** All parties agree to cooperate fully and execute any and all supplementary documents and take all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Settlement Agreement.

**6.5 Entire Agreement and Successors in Interest.** This Settlement Agreement contains the entire agreement between the parties with regard to the matters set forth in it and shall be binding upon and inure to the benefits of the executors, administrators, personal representatives, heirs, successors and assigns of each.

**6.6 Binding on Successors.** This Agreement and its terms shall inure to the benefit of and be binding upon each of the parties hereto and each and all of their respective successors, assignees, buyers, grantees, vendees, or transferees, and their past or present, direct or indirect, affiliates, partners, joint venturers, subsidiaries, parents, representatives, receivers, trustees, officers, directors, employees, agents, attorneys, shareholders and elected and appointed officials and each of them, as though they were parties hereto, wherever located.

**6.7 Settlement of Disputed Claims.** The parties hereto understand and agree that this settlement is a compromise of disputed claims, and that no party's actions under this Agreement shall be construed as an admission of liability with respect to the Action.

**6.8 Entire Agreement.** This writing constitutes the entire agreement among the parties, and no modification of this Agreement shall be valid unless executed in writing by the parties hereto. Further, none of the parties to this Agreement shall be bound by any representations, warranties, promises, statements, or information unless expressly set forth herein.

**6.9 Factual Investigation.** Each party has conducted its own factual investigation, is not relying on any other party, and assumes the risk that there are material unknown facts or that facts are other than as is presumed. The parties further acknowledge that they are aware that they may hereafter discover material facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of this Agreement, and further acknowledge that there may be future events, circumstances, or occurrences materially different from those they

know or believe likely to occur, but that it is their intention to enter into and be bound by this Agreement.

**6.10 Enforcement.** The Parties hereby acknowledge, agree and stipulate that each has the right to enforce any provision of this Agreement by filing any appropriate action, proceeding, or motion, including without limitation, a motion pursuant to Code of Civil Procedure sections 664.6, in the appropriate law and motion department of the Orange County Superior Court of the State of California where the Action is venued. The Parties further acknowledge, agree, and stipulate that the Court in the Action shall retain jurisdiction over the Parties to enforce the settlement until performance in full of its terms, and to reopen the Action after it is dismissed and to hear any motion brought pursuant to Code of Civil Procedure sections 664.6.

**6.11 Captions.** The captions of the various sections in this Agreement are for convenience and organization only, and are not intended to be any part of the body of this Agreement, nor are they intended to be referred to in construing the provisions of this Agreement.

**6.12 Severability.** If any terms or provisions of this Agreement or the application of any term(s) or provision(s) of this Agreement to a particular situation, is (are) held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Agreement or the application of this Agreement to other situations, shall remain in full force and effect unless amended or modified by mutual consent of the parties.

**6.13 Counterparts.** This Agreement may be executed in one or more counterparts, and all the counterparts shall constitute but one and the same agreement, notwithstanding that all Parties hereto are not signatories to the same or original counterpart.

**6.14 Nonwaiver.** Unless otherwise expressly provided in this Agreement, no waiver by a party of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such party. No delay or omission in the exercise of any right or remedy accruing to any party upon any breach under this Agreement shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by a party of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other term, covenant or condition.

**6.15 Authority.** The persons signing below represent that they have the authority to bind their respective party and that all necessary board of directors', members', shareholders' or Board of Supervisors' or other approvals have been obtained.

**6.16 Understanding of Terms.** The parties each hereby affirm and acknowledge that they have read this Agreement that they know and understand its terms, and have signed it voluntarily and on the advice of counsel. The parties have



had a full and unhindered opportunity to consult with their attorneys, accountants, financial advisors and such other consultants, as they may have desired prior to executing this Agreement.

**6.17 Construction.** The parties acknowledge that each party and its counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendment or exhibits hereto.

**6.18 Exhibits.** The Exhibits referenced in this Agreement shall be incorporated herein by reference as if set forth herein in full.

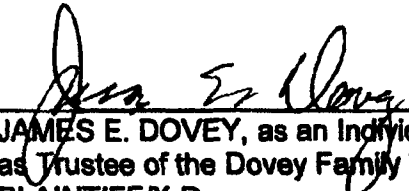
**6.19 No Third Party Beneficiaries.** The parties agree that no third party beneficiary to this Agreement exists and that nothing contained herein shall be construed as giving any other person or entity third party beneficiary status.

**6.20 Further Assurances.** Each party shall promptly perform, execute and/or deliver or cause to be performed, executed and/or delivered any and all acts, deeds and assurances, including the delivery of any documents, as the other part(y/ies) may reasonably require in order to carry out the intent and purpose of this Agreement.

THE UNDERSIGNED HAVE READ THE FOREGOING TWELVE (12)  
PAGE RELEASE DOCUMENT AND FULLY UNDERSTANDS IT

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 9/16, 2015

  
\_\_\_\_\_  
JAMES E. DOVEY, as an Individual and  
as Trustee of the Dovey Family Trust,  
PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
HOWARD KOENIG, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
RUTH KOENIG, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
DENNIS DAY, PLAINTIFF/X-D

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THE UNDERSIGNED HAVE READ THE FOREGOING TWELVE (12)  
PAGE RELEASE DOCUMENT AND FULLY UNDERSTANDS IT

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
JAMES E. DOVEY, as an Individual and  
as Trustee of the Dovey Family Trust,  
PLAINTIFF/X-D

Dated: 9/18, 2015

\_\_\_\_\_  
Howard Koenig  
Digitally signed by Howard Koenig  
DN: cn=Howard Koenig, o=US,  
email=HowardKoenig@gmail.com, c=United States,  
givenName=Howard Koenig  
Date: 2015.09.18 10:25:34 -0700  
HOWARD KOENIG, PLAINTIFF/X-D

Dated: 9/18, 2015

\_\_\_\_\_  
Ruth Ann Koenig  
Digitally signed by Ruth Ann Koenig  
DN: cn=Ruth Ann Koenig, o=ou,  
email=ruthannkoenig@gmail.com, c=US  
Date: 2015.09.18 10:35:38 -0700  
RUTH KOENIG, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
DENNIS DAY, PLAINTIFF/X-D

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**THE UNDERSIGNED HAVE READ THE FOREGOING TWELVE (12) PAGE RELEASE DOCUMENT AND FULLY UNDERSTANDS IT**

**I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
JAMES E. DOVEY, as an individual and  
as Trustee of the Dovey Family Trust,  
PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
HOWARD KOENIG, PLAINTIFF/X-D

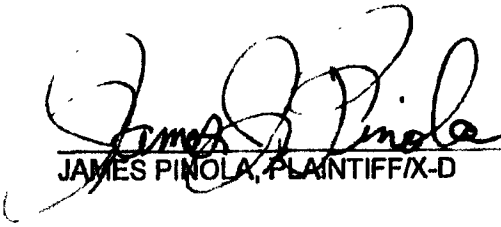
Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
RUTH KOENIG, PLAINTIFF/X-D

Dated: 9/16, 2015

D. J. R.  
\_\_\_\_\_  
DENNIS DAY, PLAINTIFF/X-D

Dated: 9-21, 2015

  
JAMES PINOLA, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

CHARLES L. MAXEY, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

HENRY A. KRIEGER, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

RITA KRIEGER, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

PAUL BRAZEAU, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

AILEEN BRAZEAU, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

ERMA JEAN TRACY, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

BARBARA BARTOLME, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

HARVEY A. BOOKSTEIN, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

SVS DANA POINT LLC  
PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

DENNIS H. LOWE, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

JAMES PINOLA, PLAINTIFF/X-D

Dated: 9/21, 2015

Charles L. Maxey  
CHARLES L. MAXEY, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

HENRY A. KRIEGER, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

RITA KRIEGER, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

PAUL BRAZEAU, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

AILEEN BRAZEAU, PLAINTIFF/X-D

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ERMA JEAN TRACY, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

BARBARA BARTOLME, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

HARVEY A. BOOKSTEIN, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

SVS DANA POINT LLC  
PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

DENNIS H. LOWE, CROSS-DEFENDANT



Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
JAMES PINOLA, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
CHARLES L. MAXEY, PLAINTIFF/X-D

Dated: September 17, 2015

Henry A. Krieger  
\_\_\_\_\_  
HENRY A. KRIEGER, PLAINTIFF/X-D

Dated: September 17, 2015

Rita Krieger  
\_\_\_\_\_  
RITA KRIEGER, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

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Dated: \_\_\_\_\_, 2015

HENRY A. KRIEGER, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

RITA KRIEGER, PLAINTIFF/X-DDated: 9/27, 2015PAUL BRAZEAU, PLAINTIFF/X-DDated: 9-21, 2015AILEEN BRAZEAU, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

ERMA JEAN TRACY, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

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PAUL BRAZEAU, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
AILEEN BRAZEAU, PLAINTIFF/X-D

Dated: SEP 16, 2015

  
\_\_\_\_\_  
ERMA JEAN TRACY, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

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ERMA JEAN TRACY, PLAINTIFF/X-DDated: 9-17-, 2015Barbara Bartolme  
BARBARA BARTOLME, PLAINTIFF/X-D

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BARBARA BARTOLME, PLAINTIFF/X-D

Dated: Sept. 21, 2015

\_\_\_\_\_  
HARVEY A. BOOKSTEIN, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

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Dated: \_\_\_\_\_, 2015

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HARVEY A. BOOKSTEIN, PLAINTIFF/X-D

*[Handwritten Signature]*

\_\_\_\_\_  
SVS DANA POINT LLC  
PLAINTIFF/X-D

\_\_\_\_\_  
DENNIS L. LOWE, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

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HARVEY A. BOOKSTEIN, PLAINTIFF/X-D

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
SVS DANA POINT LLC  
PLAINTIFF/X-D

Dated: 9/18, 2015

  
\_\_\_\_\_  
DENNIS H. LOWE, CROSS-DEFENDANT

Dated: 7/13, 2015

Shelly Holcomb Lowe  
SHELLY HOLCOMB LOWE,  
CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
BURR McKEEHAN, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
LORRAINE J. ANTIOCO,  
CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
PAUL SAVAS COLUMBUS,  
CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
EVELYN A. FREED, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
HERMAN AHLERS, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
DONNA AHLERS, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
Defendant, THE COUNTY OF ORANGE  
By: Todd Spitzer  
Chairman of the Orange County Board of  
Supervisors

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
SHELLY HOLCOMB LOWE,  
CROSS-DEFENDANT

Dated: 9-16, 2015

\_\_\_\_\_  
BURR MCKEEHAN, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

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LORRAINE J. ANTIOCO,  
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Dated: 9/17, 2015

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Dated: \_\_\_\_\_, 2015

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Dated: \_\_\_\_\_, 2015

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Defendant, THE COUNTY OF ORANGE  
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Supervisors



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CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

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PAUL SAVAS COLUMBUS,  
CROSS-DEFENDANT

Dated: 9-17, 2015

*Evelyn A. Freed, Trustee*  
EVELYN A. FREED, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
HERMAN AHLERS, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

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DONNA AHLERS, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
Defendant, THE COUNTY OF ORANGE  
By: Todd Spitzer  
Chairman of the Orange County Board of  
Supervisors

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
SHELLY HOLCOMB LOWE,  
CROSS-DEFENDANT

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BURR MCKEEHAN, CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
LORRAINE J. ANTIOCO,  
CROSS-DEFENDANT

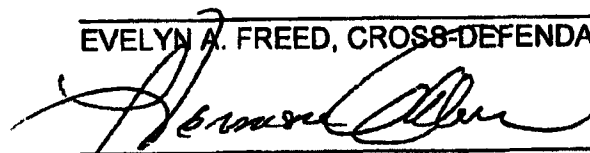
Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
PAUL SAVAS COLUMBUS,  
CROSS-DEFENDANT

Dated: \_\_\_\_\_, 2015

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EVELYN A. FREED, CROSS-DEFENDANT

Dated: 9-21, 2015

  
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\_\_\_\_\_  
DONNA AHLERS, CROSS-DEFENDANT

Dated: 10/6/, 2015

\_\_\_\_\_  
Defendant, THE COUNTY OF ORANGE  
By: Todd Spitzer  
Chairman of the Orange County Board of  
Supervisors



FACSIMILE SIGNATURE AUTHORIZED  
PER G.C. SEC. 25103, RESO 79-1535  
SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIR OF THE BOARD

ATTEST:

Valerie Sanchez

CLERK OF THE BOARD OF SUPERVISORS  
ORANGE COUNTY, CALIFORNIA

Dated: 9/16, 2015

Jeannie K Stiche  
Defendant, NIGUEL SHORES COMMUNITY  
ASSOCIATION

By: President

Dated: 9/16, 2015

Suzanne Enis  
Defendant, NIGUEL SHORES COMMUNITY  
ASSOCIATION

By: Secretary

**DECLARATION OF ATTORNEY**

I am an attorney licensed to practice law in the State of California, and I hereby represent and declare that I have fully explained the foregoing Settlement Agreement and Mutual Release of All Claims to my clients, who in turn have acknowledged to me an understanding of said release and the legal effect thereof; and the signatures on the Release was personally made by Plaintiffs upon my advice and recommendation.

Dated: \_\_\_\_\_, 2015

THE LAW OFFICES OF JERI E. TABBACK

By: \_\_\_\_\_

Jeri E. Tabbac, Esq.  
Attorney for Plaintiffs

APPROVED AS TO FORM:

Dated: \_\_\_\_\_, 2015

FIORE RACOBS & POWERS

By: \_\_\_\_\_

John R. MacDowell, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION

Dated: \_\_\_\_\_, 2015

Defendant, NIGUEL SHORES COMMUNITY  
ASSOCIATION

By:

Dated: \_\_\_\_\_, 2015

Defendant, NIGUEL SHORES COMMUNITY  
ASSOCIATION

By:


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Dated: 9-17, 2015

THE LAW OFFICES OF JERI E. TABBACK

By:

  
Jeri E. Tabbach, Esq.  
Attorney for Plaintiffs

APPROVED AS TO FORM:

Dated: \_\_\_\_\_, 2015

FIORE RACOBS & POWERS

By:

\_\_\_\_\_  
John R. MacDowell, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION

Dated: \_\_\_\_\_, 2015

Defendant, NIGUEL SHORES COMMUNITY  
ASSOCIATION

By:

Dated: \_\_\_\_\_, 2015

Defendant, NIGUEL SHORES COMMUNITY  
ASSOCIATION

By:

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Dated: \_\_\_\_\_, 2015

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By:

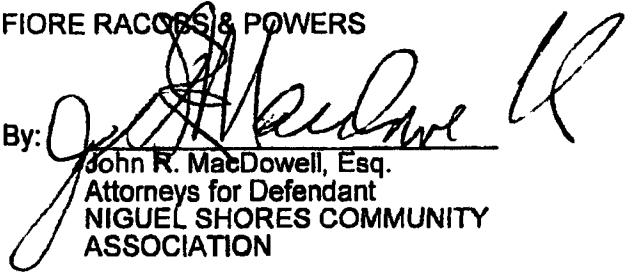
\_\_\_\_\_  
Jeri E. Tabbac, Esq.  
Attorney for Plaintiffs

APPROVED AS TO FORM:

Dated: SEPT. 16, 2015

FIGORE RACOS & POWERS

By:

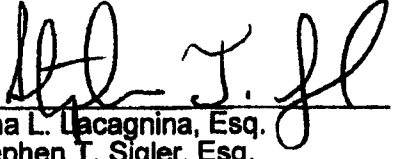
  
\_\_\_\_\_  
John R. MacDowell, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION



Dated: 9/16, 2015

NEIL, DYMOTT, FRANK, MCFALL,  
TREXLER, MCCABE & HUDSON  
A Professional Law Corporation

By:

  
Gina L. Lacagnina, Esq.  
Stephen T. Sigler, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION

Dated: \_\_\_\_\_, 2015

DALEY & HEFT

By:

\_\_\_\_\_  
Robert H. Quayle, Esq.  
Shiva E. Stein, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION

Dated: \_\_\_\_\_, 2015

By:

\_\_\_\_\_  
Rebecca S. Leeds, Esq.  
Steven C. Miller, Esq.  
Attorneys for Defendant  
COUNTY OF ORANGE

Dated: \_\_\_\_\_, 2015

WATTS LAW, APLC

By:

\_\_\_\_\_  
Aaron C. Watts, Esq.  
Attorneys for Cross-Defendant  
EVELYN A. FREED, as Trustee of  
the Evelyn A. Freed Living Trust

Dated: \_\_\_\_\_, 2015

NEIL, DYMOTT, FRANK, MCFALL,  
TREXLER, MCCABE & HUDSON  
A Professional Law Corporation

By: \_\_\_\_\_

Gina L. Lacagnina, Esq.  
Stephen T. Sigler, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION

Dated: 9-16-15, 2015

DALEY & HEFT

By: \_\_\_\_\_

Robert H. Quayle, Esq.  
Shiva E. Stein, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION

Dated: \_\_\_\_\_, 2015

By: \_\_\_\_\_

Rebecca S. Leeds, Esq.  
Steven C. Miller, Esq.  
Attorneys for Defendant  
COUNTY OF ORANGE

Dated: \_\_\_\_\_, 2015

WATTS LAW, APLC

By: \_\_\_\_\_

Aaron C. Watts, Esq.  
Attorneys for Cross-Defendant  
EVELYN A. FREED, as Trustee of  
the Evelyn A. Freed Living Trust

Dated: \_\_\_\_\_, 2015

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A Professional Law Corporation

By: \_\_\_\_\_

Gina L. Lacagnina, Esq.  
Stephen T. Sigler, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION

Dated: \_\_\_\_\_, 2015


DALEY & HEFT

By: \_\_\_\_\_

Robert H. Quayle, Esq.  
Shiva E. Stein, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION

Dated: 9/24, 2015

By: \_\_\_\_\_

  
Rebecca S. Leeds, Esq.  
Steven C. Miller, Esq.  
Attorneys for Defendant  
COUNTY OF ORANGE

Dated: \_\_\_\_\_, 2015

WATTS LAW, APLC

By: \_\_\_\_\_

Aaron C. Watts, Esq.  
Attorneys for Cross-Defendant  
EVELYN A. FREED, as Trustee of  
the Evelyn A. Freed Living Trust

Dated: \_\_\_\_\_, 2015

NEIL, DYMOTT, FRANK, MCFALL,  
TREXLER, MCCABE & HUDSON  
A Professional Law Corporation

By:

\_\_\_\_\_  
Gina L. Lacagnina, Esq.  
Stephen T. Sigler, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION

Dated: \_\_\_\_\_, 2015

DALEY & HEFT

By:

\_\_\_\_\_  
Robert H. Quayle, Esq.  
Shiva E. Stein, Esq.  
Attorneys for Defendant  
NIGUEL SHORES COMMUNITY  
ASSOCIATION

Dated: \_\_\_\_\_, 2015


By:

\_\_\_\_\_  
Rebecca S. Leeds, Esq.  
Steven C. Miller, Esq.  
Attorneys for Defendant  
COUNTY OF ORANGE

Dated: Sept 17, 2015

WATTS LAW, APLC

By:

  
\_\_\_\_\_  
Aaron C. Watts, Esq.  
Attorneys for Cross-Defendant  
EVELYN A. FREED, as Trustee of  
the Evelyn A. Freed Living Trust

Dated: September 21, 2015

MURCHISON & CUMMING, LLP

By:



Dan L. Longo, Esq.  
Gregory A. Sargenti, Esq.  
Attorneys for Cross-Defendants  
HERMAN and DONNA AHLERS

# **EXHIBIT 1**

## **EXHIBIT 1**

ACCESSIBLE ROUTE FOR  
FOLK BEACH ACCESS MUST  
BE PROVIDED EVERY HALF-MILE.

PROVIDE ACCESS TO THE  
FOUNT OF HIGH TIDE (+7.1')

LIMIT OF EXCAVATION FOR  
TEMPORARY REMOVAL &  
REPLACEMENT OF SAND

EASEMENT BOUNDARY LINE

APPROXIMATE EXTENT OF  
EXISTING REVETMENT STONE

2 TO 25 ION  
ARMOR STONE

EXISTING SAND  
LEVEL VARIES

\* TC 5 TON  
TGE STONE -

30" (8)  
SEAT  
WALL—

~~7. NN-4 PPEAC 2 HIGH TEE (+7.1')~~

22 MAY 1961

**REFERENCES**

**Abstract:**

**NOBIL**

7301 DUPONT DRIVE, SUITE 820  
IRVINE, CA 92612  
(714) 757-1030  
(714) 757-8383 (FAX)

LIMIT OF EXISTING  
REVEMENT STONE

**PRELIMINARY - NOT FOR CONSTRUCTION**

## CROSS SECTION

**SCALE: 1"=10'**



**TERRACOSTA CONSULTING GROUP**  
ENGINEERS AND GEOLOGISTS  
3064 MURPHY CANYON ROAD, SUITE 200  
SAN DIEGO, CA 92123 (619) 573-8999

**PROJECT NAME**

## REGULAR SHOWS

**FIGURE NUMBER**

1

**PROJECT NUMBER**

2001

### EXISTING REVETMENT WITH PROPOSED IMPROVEMENTS

REPRODUCED FROM CALIFORNIA COASTAL COMMISSION STAFF  
REPORT, APPL. NO 5-II-053, EXHIBIT 2, DATED NOV 18, 2017



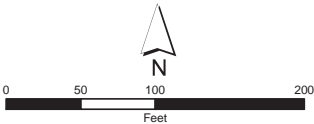
Exhibit 10 –  
Existing Bluff  
Vegetation



Vegetation Community Surveys	
Native Stands	
	Sea Lavender (0.004 ac)
	Big Saltbush Scrub (0.005 ac)
	Goldenbush Scrub (0.020 ac)
Ornamental Landscaping Stands	
	Acacia Trees (0.449 ac)
	Mixed Iceplant Ground Cover (0.595 ac)
	Sea Rocket (0.011 ac)
	Myoporum Trees (0.239 ac)
	Pampas Grass (0.003 ac)
Other (Unvegetated)	
	Developed (0.271 ac)
	Rock Revetment (0.116 ac)

Legend

- Photo Point (with direction)
- Project Area 2017
- Project Boundary (2009)



Vegetation Communities  
Breakers Isle – Niguel Shores  
Figure 1

Name: 21016 Fig1 Veg Survey 2017.Mxd  
Print Date: 7/5/2017, Author: stondre





## WALKER SCALE GRAPHIC

**W-0:** no fish, or 1 or 2 scouts  
no spawning



**W-1:** 10-100 fish spawning at different times  
in one or several locations



**W-2:** 100-500 fish spawning at different times,  
in one or several locations



**W-3:** hundreds of fish spawning in  
several locations or over a broad area  
of the beach



**W-4:** thousands of fish together,  
little sand visible between them over  
relatively small area for less than one hour



**W-5:** fish covering the beach, not possible to walk  
through the run without stepping on fish,  
run lasts for an hour or more over large area.

