

CALIFORNIA COASTAL COMMISSION

South Coast District Office
200 OceanGate, 10th Floor
Long Beach, California 90802-4416
PH (562) 590-5071 FAX (562) 590-5084

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CALIFORNIA
COASTAL COMMISSION

November 17, 2014

Permit No: 5-11-085

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**COASTAL DEVELOPMENT PERMIT
5-11-085**

On October 9, 2013, the California Coastal Commission granted to the City of Long Beach this permit subject to the attached Standard and Special conditions, for development consisting of:

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

The development is within the coastal zone at: **95-166 Rivo Alto Canal (between Ravenna Drive Bridge and The Toledo East Bridge), Naples Island, City of Long Beach, Los Angeles County.**

Issued on behalf of the California Coastal Commission by:

CHARLES LESTER
Executive Director


Charles R. Posner
Coastal Program Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof. The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part of that: "A Public entity is not liable for injury caused by the issuance... of any permit..." applies to the issuance of this permit.

Date: 11/17/14

Signature 

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

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STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

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

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

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2. **Protection of Marine Resources.** In order to minimize adverse environmental impacts and the unpermitted deposition, spill or discharge of any liquid or solid into Alamitos Bay, the applicant shall implement the following demolition, staging, and construction best management practices during the staging and construction of the Naples Island Seawall Repair Project and Colorado Lagoon Soft Bottom Mitigation Plan:
- A. Silt curtains will be utilized to control turbidity during all in-water construction activities, including the placement of sheet piles.
 - B. Floating booms shall be maintained around the project site use and around barges containing equipment in order to capture floating debris during all construction phases.
 - C. Where permitted, disturbance to the ocean bottom and intertidal areas shall be minimized.
 - D. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
 - E. Prior to grading and/or construction, all large motile native marine invertebrates, including mollusks (snails), echinoderms (sea stars, urchins, sea cucumbers), arthropods (crabs), and any other large motile native marine invertebrates found in the area to be disturbed, including seawalls, piles and dock floats, shall be removed from the project site and relocated to another part of the bay.
 - F. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
 - G. Netting, sandbags, tarps and/or other forms of barriers shall be installed between the water and all work areas and equipment storage areas to prevent any unpermitted material from entering Alamitos Bay.
 - H. The storage or stockpiling of soil, silt, other organic or earthen materials, or any materials and chemicals related to the construction shall not occur where such materials/chemicals could pass into the waters of Alamitos Bay or the sea. Stockpiled fill shall be stabilized with geofabric covers or other appropriate cover.
 - I. Erosion control/sedimentation BMPs shall be used to control sedimentation impacts to coastal waters during project staging and demolition. BMPs shall include a pre-construction meeting to review procedural and BMP guidelines.
 - J. Spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible. Disposal within the coastal zone shall require a coastal development permit.
 - K. Construction vehicles operating at the project site shall be inspected daily to ensure there are no leaking fluids. If there are leaking fluids, the construction vehicles shall be serviced immediately. Equipment and machinery shall be serviced, maintained and washed only in confined areas specifically designed to control runoff and prevent discharges into Alamitos

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Bay or the sea. Thinners, oils or solvents shall not be discharged into sanitary or storm sewer systems.

- L. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than fifty feet away from all storm drains, open ditches and surface waters.
- M. All floatable debris and trash generated by construction activities within the project area shall be disposed of as soon as possible or at the end of each day.
- N. Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- O. The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location in a timely manner. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- P. Any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited. No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) shall be used where it could come into direct contact with the water. All treated timber shall be free of chromium and arsenic.
- Q. In the event that hydrocarbon-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.
- R. At the end of the construction period, the applicant shall inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to recreation or navigation.

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

- 3. **Eelgrass Mitigation Program.** All direct impacts to eelgrass associated with the Naples Island Seawall Repair Project (Phase One) shall be mitigated at the Marine Stadium Eelgrass Mitigation Site which was constructed pursuant to Coastal Development Permit 5-10-263. Colorado Lagoon may be used as an alternative mitigation site if there is not adequate mitigation area at the Marine Stadium Eelgrass Mitigation Site. All direct impacts to eelgrass associated with the Colorado Lagoon Soft Bottom Mitigation Plan required pursuant to **Special Condition Six** shall be mitigated within Colorado Lagoon. All direct impacts to eelgrass shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact) in accordance with the Southern California Eelgrass Mitigation Policy and the following provisions:

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- A. Pre-Construction Eelgrass Survey. The applicant shall complete a valid pre-construction eelgrass (*Zostera marina*) survey during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of the eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of the approved development.
- B. Post Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in Subsection A of this condition above, within one month after the conclusion of construction, the applicant shall survey the project site to quantify the amount of eelgrass that was adversely impacted. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 ratio in accordance with the Southern California Eelgrass Mitigation Policy. The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply.
- C. Marine Stadium Eelgrass Mitigation Site (Coastal Development Permit 5-10-263). The first and highest priority for the use of the eelgrass mitigation site in Marine Stadium shall be to mitigate the eelgrass impacts of the Alamitos Bay Marina Rehabilitation Project (Coastal Development Permit 5-10-263). Additional eelgrass mitigation area in the Marine Stadium Eelgrass Mitigation Site that is not necessary to mitigate the Alamitos Bay Marina rehabilitation project may be used to mitigate the eelgrass impacts of the first phase of the Naples Island Seawall Repair Project.
- D. Annual Reports - Marine Stadium Eelgrass Mitigation Site. The applicant shall submit annual eelgrass surveys and monitoring reports (each January), for the review and approval of the Executive Director, that quantify the amount of eelgrass that exists in the Marine Stadium Eelgrass Mitigation Site. The annual reports shall include an accounting of all mitigation requirements (referenced by coastal development permit numbers) which are permitted/required to be satisfied in the Marine Stadium Eelgrass Mitigation Site. Monitoring of the Marine Stadium Eelgrass Mitigation Site shall be carried out in conformance with the Eelgrass Field Survey, Impact Assessment, and Mitigation Plan for the Alamitos Bay Marina Renovation Project, prepared by Coastal Resources Management, Inc. (December 15, 2007, revised October 1, 2009).
- E. If Colorado Lagoon is utilized as an alternative mitigation site, a detail Eelgrass Mitigation and Monitoring Plan for Colorado Lagoon shall be submitted to the Executive Director,

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prior to the completion of the Phase One Naples Seawall Replacement Project approved pursuant to this coastal development permit.

4. ***Caulerpa Taxifolia* Pre-Construction Survey.** Prior to construction in Rivo Alto Canal and Colorado Lagoon, the applicant shall undertake a *Caulerpa Taxifolia* Survey consistent with the following provisions:
 - A. No earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least ten meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
 - B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the National Marine Fisheries Service.
 - C. Within five business days of completion of the survey, the applicant shall submit the survey for the review and approval of the Executive Director; and to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Wildlife (858/467-4218) or National Marine Fisheries Service (562/980-4043).
 - D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until: 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
5. **Construction and Pile Driving Noise Level Restrictions.** By acceptance of this coastal development permit, the applicant agrees to retain the services of a qualified independent biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director, to conduct a biological survey of the trees within five hundred feet of the project site prior (within seven days) to the commencement of construction activities, and once a week upon commencement of construction activities that include use of heavy equipment that can cause excessive noise, odors, or vibrations (e.g., pile driving). The environmental resource specialist shall be directed to conduct the survey in order to determine the presence of black-crowned night herons, great blue herons, snowy egrets, raptors, or other sensitive species within five hundred feet of the work site and immediately report the findings of the survey to the applicants and the Executive Director of the Coastal Commission.

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

- A. Construction noise reduction measures such as sound shields made from plywood or sound-board or molded sound shields shall be used and measures shall be taken to minimize loud noise generation to the maximum feasible extent during construction. Permanent lighting shall be shielded and directed downward. Bright upward shining lights shall not be used during construction and construction employees shall not bring pets (e.g. dogs and cats) to the construction site.
 - B. Noise generated by construction (including, but not limited to, pile driving) shall not exceed 65 dB at any active nesting site within five hundred feet of project site for black-crowned night herons, snowy egrets, great egrets, great blue herons, raptors, or other sensitive species. If construction noise exceeds 65 dB, then alternative methods of pile driving (including, but not limited to, vibratory pile driving, press-in pile placement, drilling, dewatered isolation casings, etc.) or other sound mitigation measures (including, but not limited to, sound shielding and noise attenuation devices) shall be used as necessary to achieve the required dB threshold levels. If these sound mitigation measures do not reduce noise levels, construction within five hundred feet of the nesting trees shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.
6. **Colorado Lagoon Soft Bottom Habitat Mitigation Plan.** Prior to the submittal of the application for the next phase (Phase Two) of the Naples Island Seawall Repair Project, and not later than one year from the date of Commission action on this application (or within such additional time as the Executive Director may grant for good cause), the applicant shall implement the proposed Colorado Lagoon Soft Bottom Mitigation Plan, which entails the excavation and re-contouring of the northern bank and north arm of Colorado Lagoon in order to create at least 20,908 additional square feet of submerged soft bottom habitat to mitigate (at a minimum ratio of 2:1) the fill of the bay that will result from the implementation of the Naples Island Seawall Repair Project (Phases One through Six). The draft Colorado Lagoon Soft Bottom Habitat Mitigation Plan is attached as **Exhibit #8 of the Staff Report dated September 27, 2013.**

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

- A. **Final Plans.** The applicant shall submit, for review and approval of the Executive Director, final project plans subsequent to the approval of the project by the appropriate regulatory agencies. The final plans shall include a re-vegetation plan and five-year monitoring plan. The Executive Director shall review the final plans to determine whether there are any substantial changes which may require an amendment to this coastal development permit pursuant to the requirements of the Coastal Act and the California Code of Regulations.
- B. **Eelgrass Impacts.** The applicant shall conduct pre-construction and post-construction eelgrass surveys for Colorado Lagoon, and submit the surveys for the review and approval.

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of the Executive Director, as required by **Special Condition Three** of this coastal development permit. If any eelgrass is impacted as a result of the implementation of the Colorado Lagoon Soft Bottom Mitigation Plan, the applicant shall submit a detailed Eelgrass Mitigation and Monitoring Plan for Colorado Lagoon, for the review and approval by the Executive Director, within six months of the post-construction eelgrass survey. All direct impacts to eelgrass associated with the Colorado Lagoon Soft Bottom Mitigation Plan shall be mitigated in Colorado Lagoon, consistent with the requirements of **Special Condition Three**, within 36 months of the grading and re-contouring associated with the Colorado Lagoon Soft Bottom Mitigation Plan and maintained through at least sixty months.

- C. **Native Vegetation.** The proposed project shall not result in a net loss of native vegetation. Prior to commencement of construction, the applicant shall conduct a biological survey and submit the biological survey for the review and approval of the Executive Director. The biological survey shall identify all native vegetation that will be affected by the excavation and re-contouring of the northern bank and north arm of Colorado Lagoon. All affected plants shall be protected and/or transplanted as part of the project.
- D. **Erosion Control.** Immediately upon completion of the approved excavation and re-contouring of the lagoon's banks, the applicant shall install silt curtains along the entire length of the water's edge to prevent siltation of the lagoon. Jute matting (with no plastic netting) shall be placed on all slopes immediately following the approved excavation and re-contouring of the lagoon's banks. In addition, the applicant shall implement the following temporary erosion control measures during the restoration project: temporary sediment basins (including debris basins, de-silting basins or silt traps), temporary drains and swales, sand bag barriers, and additional silt fencing as needed.
- E. **Re-vegetation.** Re-vegetation of the disturbed areas shall commence as soon as possible following the approved excavation and re-contouring of the lagoon's banks. All vegetation planted on the site shall consist of native plants typically found on the banks of Alamitos Bay and the Los Cerritos Wetlands. As much as possible, the seeds and cuttings employed shall be from local sources adjacent to Alamitos Bay and the Los Cerritos Wetlands. The existing native vegetation and all required plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the re-vegetation plan. Re-vegetation activities may continue during the least tern nesting season.
- F. **Invasive Plants.** No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property.
- G. **Monitoring.** The applicant shall actively monitor the site, remove non-natives and reinstall plants that have failed for at least five years following the initial planting, consistent with the final re-vegetation plan approved by the Executive Director. The applicant shall

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monitor and inspect the site no less than once each thirty days during the first year that follows the initial planting. Thereafter, the applicant will monitor the site at least once every ninety days or on the City's regular landscape maintenance schedule, whichever is more frequent.

The applicant shall undertake the approved development in accordance with this condition and the final plans approved by the Executive Director. To ensure compliance, the applicant shall include the requirements of this condition on all plans and contracts issued for the project. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. **Tree Trimming/Removal.** The removal and/or trimming of trees shall not interfere with or disrupt any active birds' nests, and shall comply with the 1918 Migratory Bird Treaty Act. Prior to the removal, transplanting or trimming of trees in the project area, the applicant shall provide documentation, subject to the review and approval of the Executive Director, which demonstrates that a qualified biologist or resource specialist has inspected the trees and confirmed in writing that no active bird nests will be disturbed. In the event that any nests are discovered, or evidence of past or present roosting or nesting, or reproductive or nesting behavior is observed in the trees on the project site, the applicant shall cease all work and immediately notify the Executive Director. The applicant shall submit a request to amend the permit in order to modify the proposed development in order to avoid the disturbance of the trees used by birds or develop mitigation measures to minimize disturbance of the bird habitat.
8. **Dock Float Dimensions.** In order to reduce further encroachment of development into the navigable channel, the dimensions of dock floats in Rivo Alto Canal and Naples Canal shall be restricted to a width of six feet (the width is the dimension of the dock float that is measured seawardly from the inland edge of the float to the seaward edge of the float). All dock floats in Rivo Alto Canal and Naples Canal shall conform to the size limits when they are replaced or substantially repaired, and all docks shall comply with the size limitation no later than December 31, 2023. The City shall include the dock float size limit on all future dock leases and/or permits.
9. **Dock Floats - Temporary Storage.** A) *Prior to the issuance of the coastal development permit*, the applicant shall submit a float storage plan, subject to the review and approval of the Executive Director, which identifies the proposed location(s) for the temporary storage of the residents' dock floats while the proposed seawalls are being installed. The location(s) of the temporary dock float storage area(s) shall not adversely affect public access to the shoreline, public recreational activities, or sensitive environmental resources (e.g., eelgrass). If the proposed location of any temporary dock float storage area is located in the water, the applicant shall provide a valid eelgrass survey with the float storage plan which clearly demonstrates that no proposed float storage location is located within any area where eelgrass is growing.

B) The applicant shall inspect each dock float prior to attaching the dock float to the walls of the canal upon completion of the seawall repairs. Any dock float deemed unsafe or in a deteriorated condition by the applicant shall be removed from the water, and shall be disposed

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of properly in compliance with all environmental regulations. In addition, the applicant shall inventory and measure the dimensions of all dock floats in the canal, record the location of each dock float placed in the canal, and submit a copy of the dock float inventory to the Executive Director within three months of reinstallation.

10. **Dock Float and Pier Leases.** Prior to the placement of any dock floats into Rivo Canal after the completion of the approved Phase One seawall repairs, the applicant shall institute a lease program for the project area (at a minimum, the Phase One area), with appropriate prices established in relation to the lease area and temporal length of each lease. The lease program shall allow for the limited-term private use and occupation of state tidelands for development associated with recreational boating activities (i.e., private docks and piers). The money generated by the leases shall be deposited into the City's Tidelands Fund to be utilized for public access improvements, including the public walkway required by **Special Condition Fourteen** of this coastal development permit, and future seawall repairs.
11. **Public Access.** The applicant and the development shall not interfere with public access and use of the public walkways situated immediately inland of the seawalls of Rivo Alto Canal (except for the temporary disruptions that may occur during the completion of the permitted development).
12. **Development on the Rivo Alto Canal Public Right-of-Way.** *Prior to issuance of the coastal development permit*, the applicant shall submit, for review and approval of the Executive Director, final project plans for the development proposed on the public property (e.g., sidewalks, benches, and all private encroachments such as walls, yards landscaped areas) located between the canal and the private properties that run along both side of the canal.
 - A. The final plans shall include a public sidewalk at least six feet wide along both sides of the canal for the entire length of the project area, and public benches. The sidewalks shall remain open and accessible to the general public 24 hours a day, consistent with the other Naples Island public walkways. The Executive Director shall review the final plans to determine whether there are any substantial changes which may require an amendment to this coastal development permit pursuant to the requirements of the Coastal Act and the California Code of Regulations.
 - B. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property.

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

13. **No Future Seaward Extension of the Shoreline Protective Device.** By acceptance of this coastal development permit, the applicant waives, on behalf of itself and all successors and assigns, any rights that may exist under Public Resources Code Section 30235 to extending

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development seaward of the shoreline protective device approved as part of Phase One of the Naples Island Seawall Repair Project.

- A) By acceptance of this coastal development permit, the applicant agrees, on behalf of itself and all successors and assigns, that: 1) no future repair or maintenance, enhancement, reinforcement, modifications to address rising sea level, increased risk of flooding or other hazards, or any other activity affecting the shoreline protective device approved pursuant to Coastal Development Permit 5-11-085, shall be undertaken if such activity extends the footprint seaward of the subject shoreline protective device, and 2) no activity (i.e., attaching tiebacks, etc.) affecting the shoreline protective device approved pursuant to Coastal Development Permit 5-11-085 shall be undertaken if such activity would preclude the requirement for no future seaward extension of the shoreline protective device. All future repair or maintenance, enhancement, reinforcement, or modifications shall be evaluated for compliance with this condition pursuant to a coastal development permit.
- B) *Prior to issuance of the coastal development permit*, the applicant shall provide the Executive Director with evidence that the proposed project does not include any construction barriers that would preclude the requirement for no future seaward extension of the shoreline protective device. This can be demonstrated through identification of the construction steps necessary for the future construction of a shoreline protective device (i.e., new seawall) that is in the same footprint, or inland of, the currently approved development; and submittal of plans that identify all structures that will need to be removed and/or modified in order to ensure that there will be no future seaward extension of the shoreline protection.
14. **Sorrento Alamitos Bay Shoreline Trail.** By acceptance of this coastal development permit, the applicant agrees to propose and act upon a local coastal development permit application for the construction of a public walkway within the fifteen-foot wide public right-of-way (Sorrento Alamitos Bay Shoreline Trail) that runs along the northwestern shoreline of Naples Island. The City shall design an improved public walkway along the general alignment depicted on **Exhibit #11 of the Staff Report dated September 27, 2013**. The design shall include a public input process and consider the factors which are set forth in Public Resources Code Section 30214(b), and shall also consider the following:
- A) **Community Process.** Conduct an extensive community input process to include the Sorrento Residents Association, members of the public, and interested stakeholders. Public input meetings will be noticed and open to all interested parties. The purpose of the meetings will be to facilitate participation and feedback on the design and implementation of the public walkway improvements and associated elements.
- B) **Trail Alignment.** The western end of the improved public walkway will begin in the public right-of-way at 5425 East Sorrento Drive and be extended in a continuous manner to the existing improved walkway and beach stairway that was constructed in the public right-of-way fronting 5609 East Sorrento Drive pursuant to Coastal Development Permit 5-12-088 (City of Long Beach). From 5609 East Sorrento Drive, the public accessway may continue east on the sandy beach/mudflat (in an unimproved state) to the vertical accessways adjacent to 5633 and 5617 East Sorrento Drive. The vertical accessways adjacent to 5633

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and 5617 East Sorrento Drive should be connected to East Apian Way via an improved public sidewalk on the northern side of East Sorrento Drive.

- C) Avoid New Fill. Construction of the walkway and supporting walls shall be restricted to existing filled areas (above high tide line) within the fifteen-foot wide public-right-of-way, to the extent feasible.
- D) Privacy Walls. Low scale privacy walls, fences or other separations may be allowed to provide privacy to the residences which abut the improved walkway. Such walls will require review and approval by the City.
- E) Vertical Accessways. All existing vertical public accessways shall be maintained at their existing locations. Consideration should be given to what improvements, if any, should be made to the existing vertical accessways. The Sorrento Alamitos Bay Shoreline Trail and vertical accessways (which connect the shoreline trail to the sidewalk along the northern side of East Sorrento Drive) shall remain open and accessible to the general public 24 hours a day, consistent with the other Naples Island public walkways.
- F) Signage Plan. Coastal access signage should be installed in key locations along East Sorrento Drive, at the vertical access points, and along the public walkway to inform the general public of the public nature of the vertical accessways and the improved shoreline walkway. The signage should clearly indicate that the Sorrento Alamitos Bay Shoreline Trail is open to the general public.
- G) Width and Material. As part of the design and community input process, consideration shall be given to the width of the public walkway and the appropriate material and design.
- H) Lighting Plan. The City shall consider whether nighttime lighting should be included along any portion of the public walkway.
- I) ADA Access. The City shall consider whether ADA access along all or part of the existing, or new improved public walkway, is appropriate or may be required by law.

The City shall prepare construction and phasing plans for the Sorrento Alamitos Bay Shoreline Trail and construct the improvements in phases concurrent with the phased construction of the proposed Naples Island Seawall Repair Project. After approval of the local coastal development permit for the public walkway and associated improvements, the City shall give the Commission a Notice of Final Action on such local coastal development permit. The Sorrento Alamitos Bay Shoreline Trail local coastal development permit shall be acted on by the City of Long Beach prior to the submittal of the application for the next phase (Phase Two) of the Naples Island Seawall Repair Project, and not later than one year from the date of Commission action on this application (or within such additional time as the Executive Director may grant for good cause).

15. **Resource Agencies.** The applicant shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the

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approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

16. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit, the applicant, on behalf of 1) themselves; 2) their successors and assigns and 3) any other holder of the possessory interest in the development authorized by this permit, acknowledge and agree (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).

17. **Liability for Costs and Attorney's Fees.** By acceptance of this coastal development permit, the Applicant/Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorney's fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorney's fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.