

**STAFF REPORT**

**55**

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S 27

06/28/19

W 24665

L. Pino

**CONSIDER ACCEPTANCE OF AN OFFER OF DEDICATION  
OF LATERAL ACCESS EASEMENT**

**PARTY THAT RECORDED OFFER OF DEDICATION:**

Blue Daisy, LLC, a California limited liability company

**PARTY TO ACCEPT EASEMENT:**

California State Lands Commission

**INTERESTED PARTY:**

California Coastal Commission

**LOCATION:**

The easement is located between the ambulatory mean high tide line of the Pacific Ocean and the deck dripline adjacent to 21100 Pacific Coast Highway, Assessor Parcel Number 4450-010-022 (Subject Property), Malibu, Los Angeles County.

**BACKGROUND:**

Since the adoption of the Constitution of California of 1879, access to California's Public Trust waterways has been a mandated responsibility of State government. The vast majority of the hundreds of title settlement agreements the Commission has entered into since its inception in 1938 have included the provision of public access to the waterways involved.

In the 1960s, an organization with the acronym COAAST (Citizens Organized to Acquire Access to State Tidelands) began a "Save the Coast" campaign that eventually resulted in the adoption of Proposition 20 by the State's voters in 1972. Since the Legislature's passage of the Coastal Act in 1976, more than 1,500 offers to dedicate (OTDs) public access easements, both vertical and lateral (i.e., to and along the coast), have been made involving California's 1,100-mile coastline.

These OTDs were formally made and recorded by property owners as a condition of approval of permits to develop within the Coastal Zone. They have a 21-year life from the date of recording and will expire if not formally accepted by a public agency within that time period.

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The OTDs were required to ensure protection of existing public rights of use and to mitigate and compensate for the impacts to public access caused by development. In many cases, the location of the boundary between the privately owned uplands and the publicly owned tidelands is unsettled. Furthermore, the public may have acquired rights of use through the doctrine of implied dedication and have rights of recreational use in any area subject to the public easement in navigable waters. Therefore, these OTDs may describe and include areas already having public rights of use or public ownership. Acceptance by the Commission of the OTDs does not change the nature of the existing rights but removes any question of the public's right of use of the area described.

The California Coastal Commission has requested that the State Lands Commission review and, where appropriate, accept OTDs of lateral access easements involving sandy beach areas lying adjacent to tidelands managed by the Commission. Commission staff is involved in an ongoing process with the Coastal Commission to analyze the OTDs and determine which offers the Commission should accept.

The Commission has already authorized the acceptance of more than 280 OTDs along the coast of California since April 2, 1991, the majority of which are located in the Malibu area of Los Angeles County.

The Commission's liability for holding these lateral parcels is limited by section 831.2 of the Government Code, which provides that a public entity is not liable for injury caused by a natural condition of any unimproved public property. There should be no maintenance and little management required for these easements because of the lack of improvements on the parcels and because the easements simply provide the public with the right to access and use the beach.

OTDs generally involve sandy beach areas lying between the private structure built on the upper beach and the tidelands which are already State owned and under the Commission's jurisdiction. Therefore, these areas are not only appurtenant to the Commission's existing area of ownership and jurisdiction, but are, for all practical public use purposes, integral to it. Staff reviewed the offer of the property interest shown on the attached Exhibit B-1 and recommends approval.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Statutory Authority:**

Public Resources Code sections 6005, 6106, 6216, 6219, and 6301.

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**Public Trust and State's Best Interests Analysis:**

The proposed action involves acceptance of an OTD to secure a public lateral access easement across a privately held parcel. Public access easements are vital tools for ensuring California's coastline remains open and accessible to the public. The proposed OTD will run the entire width of the Subject Property from the mean high tide line to the deck dripline. The Coastal Development Permit (No. 15-038) that required the OTD at 21100 Pacific Coast Highway as a condition was approved on March 21, 2016, by the City of Malibu (Resolution No. 16-33).

The Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions was recorded by Blue Daisy, LLC, a California limited liability company, on December 23, 2016, as Document No. 20161635859, Official Records of Los Angeles County. The OTD expires on December 12, 2037.

Staff has reviewed the recorded OTD and believes it is appropriate for Commission acceptance. Upon approval by the Commission, the Commission's Executive Officer will execute and record a Certificate of Acceptance, accepting the easement on the Subject Property. Once accepted, the easement will create an additional 50 linear feet of public access along the beach adjacent to the Subject Property.

The addition of this easement will address a gap in the existing lateral access along this portion of the beach, creating greater certainty for the public that the beach is open to the public. As such, staff believes that the proposed action is consistent with and promotes Public Trust needs and values at this location, at this time, and is in the State's best interests.

**OTHER PERTINENT INFORMATION:**

1. Acceptance of the OTD is a discretionary action by the Commission. Each time the Commission accepts an OTD, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law.
2. Acceptance of the OTD promotes Strategy 1.3 of the Commission's Strategic Plan to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. The acceptance of an offer of dedication is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

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Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

**EXHIBITS:**

- A. Location Map
- B-1. Land Description
- B-2. Sketch to Accompany Land Description

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**PUBLIC TRUST FINDING:**

Find that the acceptance of this OTD is consistent with and promotes Public Trust needs and values at this location and is in the State's best interests.

**AUTHORIZATION:**

1. Approve the acceptance of the Irrevocable Offer to Dedicate Public Lateral Access Easement recorded on December 23, 2016, as Document No. 20161635859, Official Records of Los Angeles County.
2. Authorize the Executive Officer or designee to execute and record a Certificate of Acceptance on behalf of the California State Lands Commission.

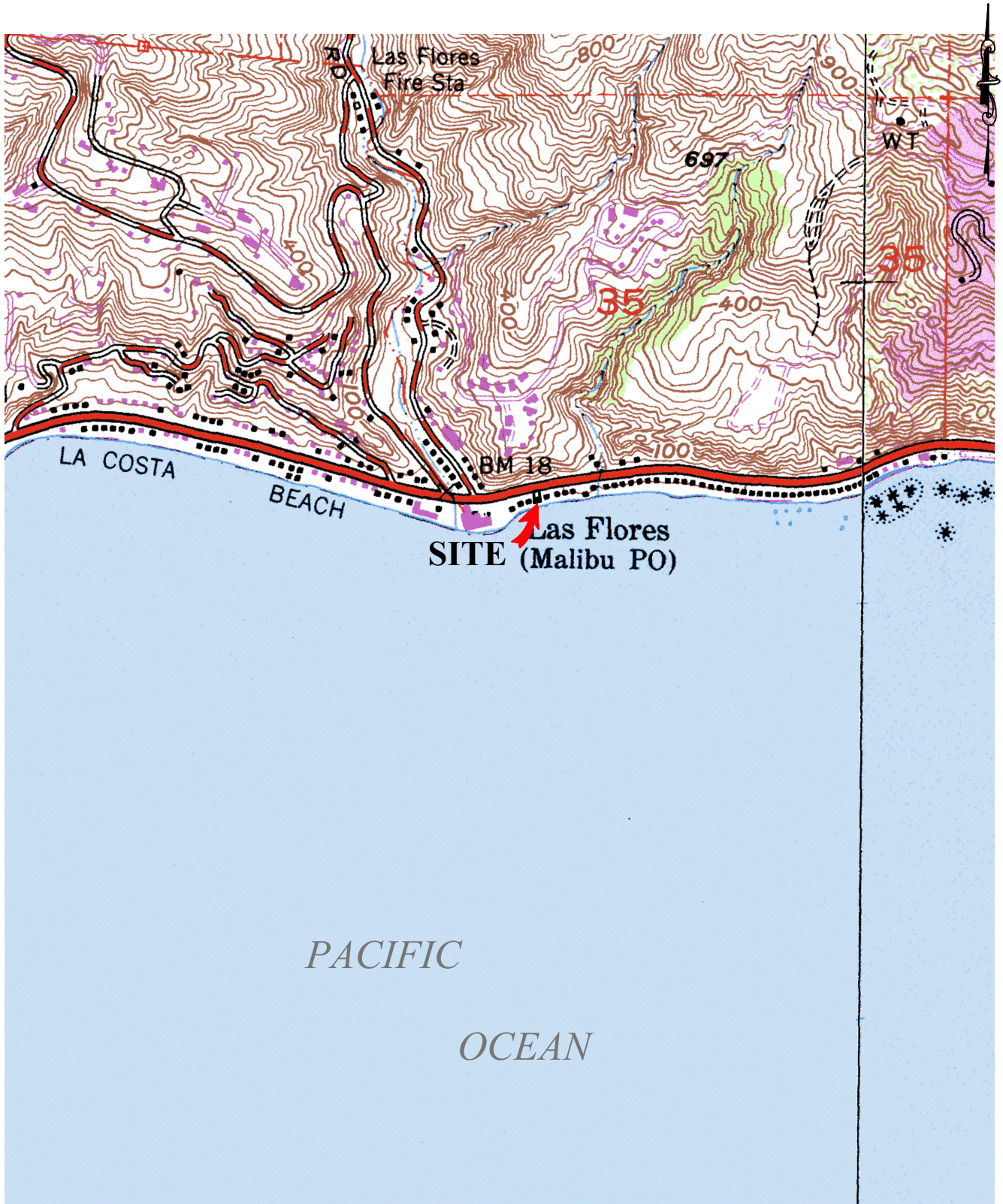


EXHIBIT A

TS 05/13/19

W 24665  
 21100 PACIFIC COAST HIGHWAY,  
 MALIBU, LOS ANGELES COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION



**EXHIBIT "C-1"**


**Legal Description of Easement Area**

THAT PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN GRANT DEED RECORDED NOVEMBER 3, 2014 AS INSTRUMENT NO. 2014-1163245 OF OFFICIAL RECORDS, LOS ANGELES COUNTY, BEING A PORTION OF LOTS 69 AND 70 OF TRACT NO. 12634, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 260, PAGES 25 TO 27 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL; THENCE SOUTH 7°37'35" EAST 38.87 FEET ALONG THE WEST LINE OF SAID PARCEL TO THE **TRUE POINT OF BEGINNING**; THENCE NORTH 76°45'47" EAST 42.00 FEET; THENCE SOUTH 10°24'23" EAST 2.65 FEET; THENCE NORTH 79°35'43" EAST 5.25 FEET TO A POINT IN THE EAST LINE OF SAID PARCEL, DISTANT THEREON SOUTH 10°24'17" EAST 40.94 FEET FROM THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 10°24'17" EAST ALONG SAID EAST LINE TO A POINT IN THE AMBULATORY MEAN HIGH TIDE LINE OF THE PACIFIC OCEAN; THENCE WESTERLY ALONG SAID AMBULATORY MEAN HIGH TIDE LINE TO A POINT IN THE WEST LINE OF SAID PARCEL; THENCE NORTH 7°37'35" WEST ALONG SAID WEST LINE TO THE TRUE POINT OF BEGINNING.

NOTE: THE SOUTHERN BOUNDARY OF THE EASEMENT AREA IS AMBULATORY AND IS DESCRIBED/DEPICTED FOR ILLUSTRATIVE PURPOSES ONLY.

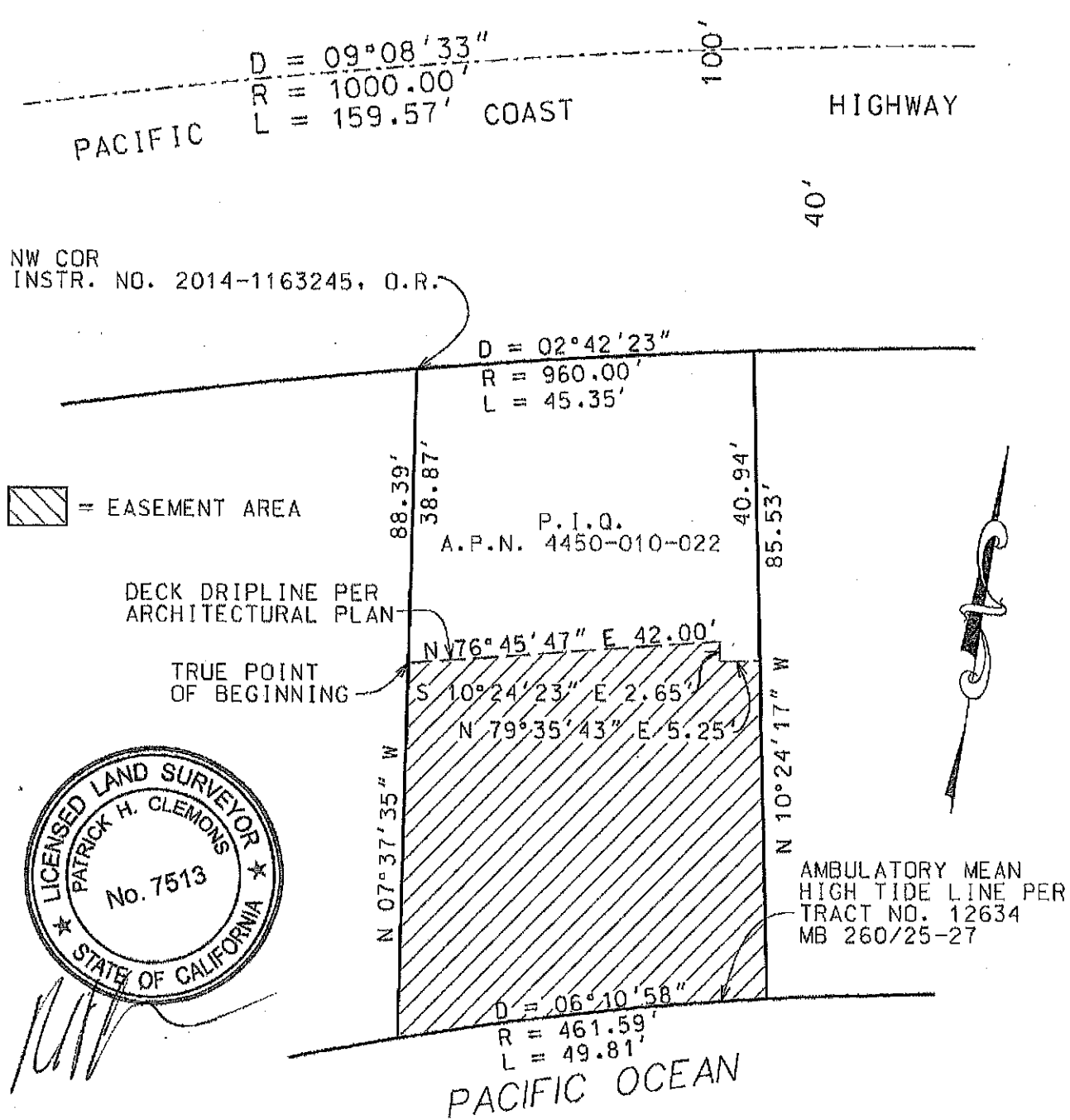
THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE CALIFORNIA PROFESSIONAL LAND SURVEYOR'S ACT.

SIGNATURE   
PATRICK H. CLEMONS, L.S. 7513 (EXP. 12/31/17)

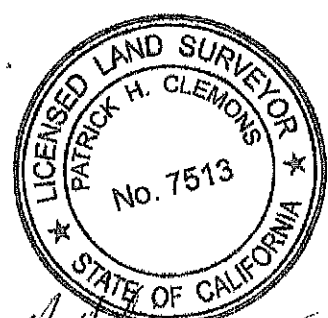
DATE 11/04/16



# EXHIBIT "C-2" DEPICTION OF EASEMENT AREA



= EASEMENT AREA



PREPARED BY:  
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