



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**JACKSONVILLE DISTRICT CORPS OF ENGINEERS**  
**400 HIGH POINT DRIVE, SUITE 600**  
**COCOA, FLORIDA 32926**

**November 29, 2018**

Regulatory Division  
North Permits Branch  
Cocoa Permits Section  
SAJ-2018-02278 (SP-CMM)

Phoenix Park Fund, V.I.P.  
C/O: Dan Winkler  
119 Signature Drive  
Melbourne Beach, FL 32951

Mr. Winkler:

The U.S. Army Corps of Engineers (Corps) has completed the review and evaluation of your Department of the Army permit application, number SAJ-2018-02278. Our regulations require that you have an opportunity to review the terms and conditions prior to final signature by the Department of the Army. Enclosed is an unsigned Department of the Army permit instrument (permit).

Please read carefully the Special Conditions beginning on page 2 of the permit. These were developed to apply specifically to your project. Water Quality Certification is also required prior to issuance of a permit. The Corps has received a copy of the State of Florida certification for your project. In accordance with General Condition 5 of the permit, any special conditions of the Water Quality Certification have been attached to the Department of the Army permit.

**Instructions for Objecting to Permit Terms and Conditions:** This letter contains an initial proffered permit for your proposed project. If you object to certain terms and conditions contained within the permit, you may request that the permit be modified. Enclosed you will find a Notification of Administrative Appeal Options and Process fact sheet and Request for Appeal (RFA) form. If you choose to object to certain terms and conditions of the permit, you must follow the directions provided in Section 1, Part A and submit the completed RFA form to the letterhead address.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria under 33 CFR Part 331.5, and that it has been received by the District office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the letterhead address by **28 January 2019**.

**Instructions for Accepting Terms and Conditions and Finalizing Your Permit:** It is not necessary to submit an RFA form to the District office, if you do not object to the decision in this letter. In this case, the permit must be signed by the applicant in the space provided on the signature page of the permit. In the case of corporations, acceptance must be by an officer of that corporation authorized to sign on behalf of the corporation. The party responsible for assuring the work is done in accordance with the permit terms and conditions must sign the permit. Please type or print the name and title of the person signing below the signature and the date signed.

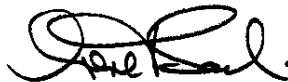
SIGN (PAGE 07) AND RETURN THE ENTIRE PERMIT, INCLUDING ALL ATTACHMENTS, TO THE LETTERHEAD ADDRESS, ALONG WITH A CHECK OR MONEY ORDER FOR \$100 MADE PAYABLE TO THE FINANCE AND ACCOUNTING OFFICER, JACKSONVILLE DISTRICT.

The permit will be signed by the District Engineer or his representative. The Corps will add the permit expiration date to the permit, the permit issuance date on the *Notice of Department of the Army Permit* form (DELETE IF NOT APPLICABLE), and return the permit to you. It is important to note that the permit is not valid until the District Engineer or his representative signs it.

Thank you for your cooperation with our permit program. The Corps' Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to complete our automated Customer Service Survey at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey). Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Your input is appreciated – favorable or otherwise.

If you have any questions concerning this application, you may contact Corey M. Maier in writing at the letterhead address, by electronic mail at [corey.m.miaer@usace.army.mil](mailto:corey.m.miaer@usace.army.mil), or by telephone at 321-504-3771 ext. 15.

Sincerely,



for Shawn H. Zinszer  
Chief, Regulatory Division

Enclosure(s)

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL**

Applicant: Dan Winkler		File Number: <b>SAJ-2018-02278</b>	Date: 20181129
Attached is:		See Section below	
<input checked="" type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
<input type="checkbox"/>	PERMIT DENIAL	C	
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D	
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at [http://www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision you may contact:

**Project Manager as noted in letter**

If you have questions regarding the appeal process you may contact:

Jason W. Steele  
Administrative Appeals Review Officer  
USACE – South Atlantic Division  
60 Forsyth Street SW, Room 10M15  
Atlanta, Georgia 30303-8801  
(404) 562-5137

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

11/29/18

Telephone number:

321-302-1047

# DEPARTMENT OF THE ARMY PERMIT

**Permittee:** PHOENIX PARK FUND, V.I.P.  
C/O: DAN WINKLER  
119 SIGNATURE DRIVE  
MELBOURNE BEACH, FL 32951

**Permit No:** SAJ-2018-02278 (SP-CMM)

**Issuing Office: U.S. Army Engineer District, Jacksonville**

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** THE RECONSTRUCTION OF PREVIOUSLY OPERATIONAL 42 SLIP MULTI-FAMILY MARINA. The work described above is to be completed in accordance with the 8 pages of drawings affixed at the end of this permit instrument.

**Project Location:** The project will affect waters of the United States associated with the Indian River. The project site is located at 160 Versailles Drive in Section 20, Township 28 South, Range 38 East, Melbourne Beach, Brevard County, Florida.

**Directions to site:** From Melbourne Beach, head south on A1A for approximately 2.60 miles and the property will be on the west side of A1A.

**Approximate Central Coordinates:** Latitude: 28.036145° North  
Longitude: -80.550536° West

**Permit Conditions**

**General Conditions:**

1. The time limit for completing the work authorized ends on **30 November 2023**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

PERMIT NUMBER: SAJ-2018-02278  
PERMITTEE: Dan Winkler  
PAGE 2 of 9

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:**

**1. Reporting Address:** The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to the following address:

a. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Special Projects and Enforcement Branch, PO Box 4970, Jacksonville, Florida 32232.

b. For electronic mail [CESAJ-ComplyDocs@usace.army.mil](mailto:CESAJ-ComplyDocs@usace.army.mil) (not to exceed 10 MB).

The Permittee shall reference this permit number, SAJ-2018-02278 (RGP-CMM), on all submittals.

PERMIT NUMBER: SAJ-2018-02278

PERMITTEE: Dan Winkler

PAGE 3 of 9

**2. Commencement Notification:** Within 10 days from the date of initiating the work authorized by this permit/Within 10 days from the date of initiating the work authorized by this permit for each phase of the authorized project, the Permittee shall provide a written notification of the date of commencement of authorized work to the Corps.

**3. Self-Certification:** Within 60 days of completion of the work authorized, the attached Self-Certification Statement of Compliance must be completed and submitted to the U.S. Army Corps of Engineers. Mail the completed form to the Regulatory Division, Special Projects and Enforcement Branch, PO Box 4970, Jacksonville, Florida 32232.

**4. Cultural Resources/Historic Properties:**

a. No structure or work shall adversely affect impact or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical

PERMIT NUMBER: SAJ-2018-02278  
PERMITTEE: Dan Winkler  
PAGE 4 of 9

examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

**5. Turbidity Barriers:** Prior to the initiation of any of the work authorized by this permit, the Permittee shall install floating turbidity barriers with weighted skirts that extend to within 1 foot of the bottom around all work areas that are in, or adjacent to, surface waters. The turbidity barriers shall remain in place and be maintained until the authorized work has been completed and all suspended and erodible materials have been stabilized. Turbidity barriers shall be removed upon stabilization of the work area.

**6. Manatee Conditions:** The Permittee shall comply with the "Standard Manatee Conditions for In-Water Work – 2011" (Attached).

**7. Sea Turtle and Smalltooth Sawfish Conditions:** The Permittee shall comply with National Marine Fisheries Service's "Sea Turtle and Smalltooth Sawfish Construction Conditions" dated March 23, 2006, (Attached)

**8. Project Design Criteria (PDCs) for In-Water Activities:** The Permittee shall comply with National Marine Fisheries Service's "PDCs for In-Water Activities" dated November 20, 2017 (Attached).

**9. Daylight Hours:** All activities must be completed during daylight hours.

**10. Construction Location:** Project construction shall take place from uplands or from floating equipment (e.g., barge); prop or wheel-washing is prohibited.

**11. Assurance of Navigation and Maintenance:** The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.



PERMIT NUMBER: SAJ-2018-02278

PERMITTEE: Dan Winkler

PAGE 5 of 9

**12. Agency Changes/Approvals:** Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the PICK Permits Section. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for modification of this permit.

**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

( ) Section 404 of the Clean Water Act (33 U.S.C. 1344)

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

PERMIT NUMBER: SAJ-2018-02278

PERMITTEE: Dan Winkler

PAGE 6 of 9

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision:** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

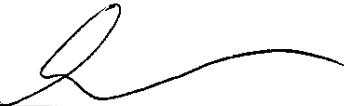
c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions:** General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

PERMIT NUMBER: SAJ-2018-02278  
PERMITTEE: Dan Winkler  
PAGE 7 of 9

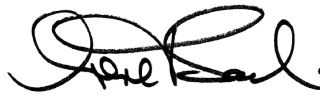
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
\_\_\_\_\_  
(PERMITTEE)

11/29/18  
\_\_\_\_\_  
(DATE)

Phoenix Park Fund V, LP  
Dan Winkler - managing member  
\_\_\_\_\_  
(PERMITTEE NAME-PRINTED)

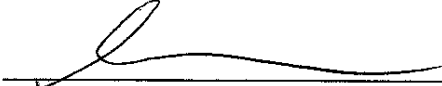
This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
\_\_\_\_\_  
(DISTRICT ENGINEER)  
for Andrew D. Kelly, Jr.  
Colonel, U.S. Army  
District Commander

November 30, 2018  
\_\_\_\_\_  
(DATE)

PERMIT NUMBER: SAJ-2018-02278  
PERMITTEE: Dan Winkler  
PAGE 8 of 9

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

      11/29/18  
(TRANSFEREE-SIGNATURE)      (DATE)

Dan Winkler      Phoenix Park End V, LP.  
- managing member  
(NAME-PRINTED)

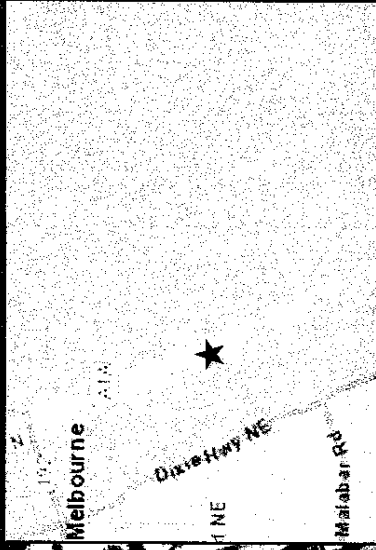
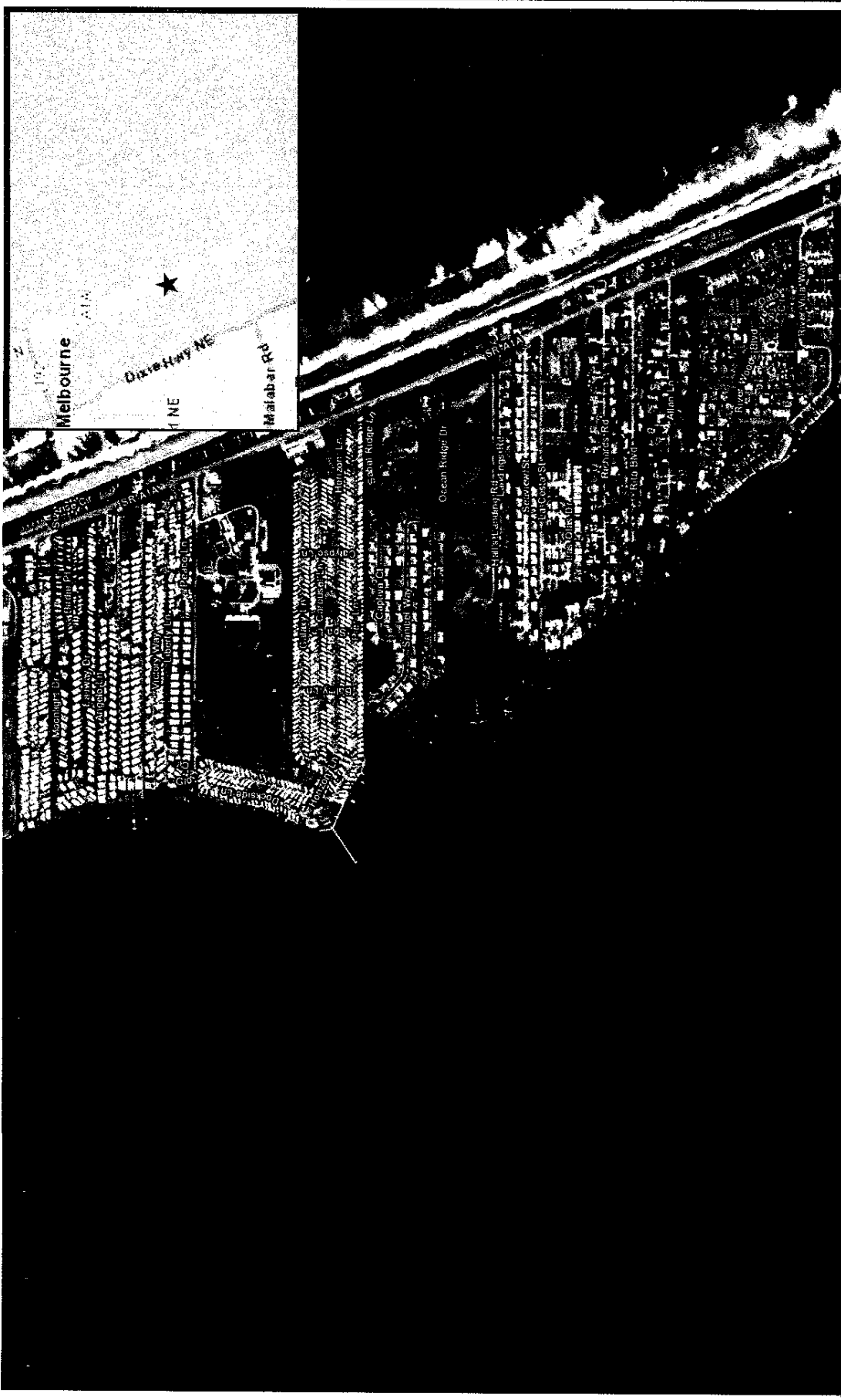
119 Signature Dr  
(ADDRESS)

Melbourne Beach FL 32951  
(CITY, STATE, AND ZIP CODE)

PERMIT NUMBER: SAJ-2018-02278  
PERMITTEE: Dan Winkler  
PAGE 9 of 9

***Attachments to Department of the Army  
Permit Number SAJ-2018-02278***

1. PERMIT DRAWINGS: 8 pages
2. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit. 14 pages.
3. MANATEE CONDITIONS: 2 pages, *Standard Manatee Conditions for In-Water Work – 2011*
4. MANATEE EDUCATION CONDITIONS: 2 pages, *A guide to manatee educational signs – 2009*
5. SEA TURTLE – SAWFISH CONDITIONS: 1 page, *Sea Turtle and Smalltooth Sawfish Construction Conditions, revised March 23, 2006*
6. Project Design Criteria (PDCs) for In-Water Activities: 3 pages
7. SELF-CERTIFICATION FORM: 1 page



1 inch = 1,000 feet

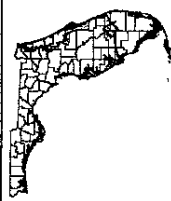
Date: 5/4/2018

Sections: 30  
Township: 28S  
Range: 38E



Figure 1: Location Map  
Brevard County, Florida

Harbor Beach Club  
Dock Refurbishment Project



1775 Mack Center  
Melbourne, FL 32940  
Tel: 321.255.2200  
Email: info@atkins.com

**ATKINS**



<p><b>GENERAL NOTES:</b></p> <ol style="list-style-type: none"> <li>NOTES BELOW ARE NOT INTENDED TO REPLACE SPECIFICATIONS. REFER TO THE PROJECT SPECIFICATIONS FOR REQUIREMENTS IN ADDITION TO THESE GENERAL NOTES. ALL WORK SHALL CONFORM TO THE REQUIREMENTS OF THESE PLANS AND OF THE PROJECT SPECIFICATION.</li> <li>THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND LOCATIONS OF ALL EXISTING STRUCTURES AND UTILITIES AND NOTIFY THE PROJECT REPRESENTATIVE IN WRITING OF ANY DISCREPANCIES IN EITHER DIMENSIONS OR LOCATIONS. THE CONTRACTOR SHALL NOT BEGIN CONSTRUCTION IN ANY SUCH AREA UNTIL THE DISCREPANCY HAS BEEN RESOLVED BY THE CONTRACTOR AND APPROVED BY THE PROJECT REPRESENTATIVE.</li> <li>THE CONTRACTOR SHALL MAINTAIN ALL UTILITIES FROM REMOVAL TO THE COMPLETION OF THE WORK. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES AND NOTIFY THE PROJECT REPRESENTATIVE OF ANY DISCREPANCIES. THE CONTRACTOR SHALL MAINTAIN ALL UTILITIES AND SHALL BE RESPONSIBLE FOR PROVIDING TEMPORARY SUPPORT FOR MAINS STRUCTURES AND SERVICES DURING CONSTRUCTION.</li> <li>THE CONTRACTOR SHALL COMPLY WITH ALL WATER QUALITY REQUIREMENTS AND REGULATORY PERMITS ISSUED BY LOCAL, STATE AND FEDERAL AGENCIES PRIOR TO THE START OF CONSTRUCTION.</li> <li>THE CONTRACTOR SHALL PROVIDE ALL WARNING SIGNS, LIMITS, SIGNALS AS REQUIRED BY THE PROJECT REPRESENTATIVE TO ADEQUATELY WARN THE PUBLIC AGAINST DANGER AND TRAFFIC WITHIN THE DESIGNATED CONSTRUCTION SITE.</li> </ol> <p><b>COORDINATION:</b></p> <ol style="list-style-type: none"> <li>ALL STRUCTURAL, MECHANICAL, ELECTRICAL, AND ARCHITECTURAL BUILDINGS STRUCTURAL, MECHANICAL, ELECTRICAL, AND ARCHITECTURAL WORK SHALL BE COORDINATED WITH THE PROJECT REPRESENTATIVE BEFORE PROCEEDING WITH THE WORK.</li> <li>THE CONTRACTOR SHALL COORDINATE ALL HIS ON-SITE CONSTRUCTION ACTIVITIES WITH BREVARD COUNTY PROJECT REPRESENTATIVE.</li> </ol> <p><b>LOCAL BUILDING CODES:</b></p> <ol style="list-style-type: none"> <li>THE LOCAL BUILDING CODES IS THE FLORIDA BUILDING CODE (FBC) 2017 EDITION WITH LATEST SUPPLEMENTS. ALL BREVARD COUNTY AND TOWN OF MELBOURNE BEACH ORDINANCES AND AMENDMENTS TO THE BUILDING CODE SHALL APPLY AS OF THE DATE OF THE PROJECT SPECIFICATIONS.</li> </ol> <p><b>GEOTECHNICAL DATA:</b></p> <ol style="list-style-type: none"> <li>TIMBER PILE FOUNDATIONS FOR MARINER DOCKS AND TIMBER MOORING PILES ARE PER THE GEOTECHNICAL EXPLORATION REPORTS ATTACHED.</li> <li>SOILS SHALL BE CLASSIFIED AND DESCRIBED IN ACCORDANCE WITH THE DESIGNATION OF SOILS IN THE GEOTECHNICAL EXPLORATION REPORTS ATTACHED.</li> <li>THE REPORTS WERE PREPARED BY: AERAMAK &amp; ASSOCIATES, INC., 16550 LAKERS BLVD., SUITE 100, CROFTON, CA 95030. PHONE: 925-482-2500. REPORTS ARE AVAILABLE UPON WRITTEN REQUEST TO THE PROJECT REPRESENTATIVE.</li> </ol> <p><b>ELEVATIONS:</b></p> <ol style="list-style-type: none"> <li>ELEVATIONS ARE REFERENCED TO THE NATIONAL GEODETIC VERTICAL DATUM - 1928 (NOV 29).</li> </ol> <p><b>DIMENSIONS:</b></p> <ol style="list-style-type: none"> <li>DIMENSIONS SHOWN ON THE MARINE STRUCTURAL (MS) DRAWINGS ARE APPROXIMATE BASED ON BEST AVAILABLE INFORMATION.</li> <li>ALL NEW STRUCTURAL WORK INCLUDING SHEET PILING, CONCRETE AND WOOD PILING, AND MARINER DOCK AND MOORING MATERIALS SHALL BE ACCURATELY FIELD MEASURED AND DIMENSIONS VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.</li> <li>CONTRACTOR SHALL BE PREPARED TO MAKE FIELD ADJUSTMENTS TO ACCURATELY FIT THE NEW WORK TO EXISTING CONDITIONS.</li> </ol> <p><b>DESIGN CRITERIA:</b></p> <ol style="list-style-type: none"> <li>THE MARINER DOCKS SHALL BE DESIGNED FOR:       <ol style="list-style-type: none"> <li>DESIGN WIND SPEED = 135 MPH.</li> <li>DESIGN WAVE HEIGHT = 10.0 FEET.</li> <li>LATERAL LOADING ON MOORING PILES = 1,700 POUNDS.</li> <li>DESIGN WAVE PERIOD = 10.0 SECONDS.</li> </ol> </li> <li>THE MARINER DOCKS SHALL BE DESIGNED FOR:       <ol style="list-style-type: none"> <li>DESIGN WIND SPEED = 145 MPH.</li> <li>DESIGN WAVE PERIOD = 10.0 SECONDS.</li> <li>BUILDING CATEGORY = I.</li> <li>WIND EXPOSURE CLASS = C.</li> <li>WIND EXPOSURE COEFFICIENT ON DOCKS = 1.25 P.F.F.</li> </ol> </li> </ol> <p><b>CONTRACTOR'S SUBMITTALS:</b></p> <p>THE FOLLOWING SUBMITTALS SHALL BE PREPARED BY THE CONTRACTOR AND SUBMITTED TO THE OWNER'S ENGINEER FOR REVIEW AND APPROVAL PRIOR TO CONSTRUCTION ACTIVITY. REFER TO PROJECT SPECIFICATIONS FOR ADDITIONAL SUBMITTAL REQUIREMENTS:</p> <ol style="list-style-type: none"> <li>TIMBER PILING SPECIFICATIONS.</li> <li>MOORING KLEATS AND HARDWARE.</li> <li>DESIGN OF MARINER DOCK AND MOORING PILES.</li> <li>DESIGN OF MARINER DOCK FENCINGS.</li> <li>PILE DRIVING CRITERIA AND PROCEDURES.</li> <li>OTHER AS SPECIFIED.</li> </ol>																																										
<p><b>GENERAL NOTES:</b></p> <p><b>HARBOR ISLAND BEACH CLUB</b></p> <p><b>DOCK REFURBISHMENT</b></p> <p><b>PHOENIX PARK, L.L.C.</b></p> <p><b>ATKINS</b></p> <p>PROJECT NO. 18-0001      SHEET NO. 18-0001-01      DATE: 10/20/18</p> <p>CLIENT: PHOENIX PARK, L.L.C.      PROJECT: HARBOR ISLAND BEACH CLUB DOCK REFURBISHMENT      ADDRESS: 10000 S. WINDY HILLS BLVD., SUITE 100, PHOENIX PARK, FL 32956      PHONE: (407) 255-1234      FAX: (407) 255-1235      WWW.ATKINS.COM</p> <p>DESIGNED BY: J. SMITH      CHECKED BY: M. JONES      DATE: 10/20/18</p> <p>SCALE: AS SHOWN      UNIT: FEET AND INCHES      TOLERANCES: UNLESS OTHERWISE SPECIFIED</p> <p>REVISIONS:</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10/20/18</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>2</td> <td>10/20/18</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> <tr> <td>3</td> <td>10/20/18</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> <tr> <td>4</td> <td>10/20/18</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> <tr> <td>5</td> <td>10/20/18</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> <tr> <td>6</td> <td>10/20/18</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> <tr> <td>7</td> <td>10/20/18</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> <tr> <td>8</td> <td>10/20/18</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> <tr> <td>9</td> <td>10/20/18</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> <tr> <td>10</td> <td>10/20/18</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> </tbody> </table> <p>APPROVED FOR CONSTRUCTION:</p> <p>DATE: 10/20/18</p> <p>MEAN HIGH WATER (MHW) = EL. 0.00' NAVD83</p>										NO.	DATE	DESCRIPTION	1	10/20/18	ISSUED FOR PERMIT	2	10/20/18	ISSUED FOR CONSTRUCTION	3	10/20/18	ISSUED FOR CONSTRUCTION	4	10/20/18	ISSUED FOR CONSTRUCTION	5	10/20/18	ISSUED FOR CONSTRUCTION	6	10/20/18	ISSUED FOR CONSTRUCTION	7	10/20/18	ISSUED FOR CONSTRUCTION	8	10/20/18	ISSUED FOR CONSTRUCTION	9	10/20/18	ISSUED FOR CONSTRUCTION	10	10/20/18	ISSUED FOR CONSTRUCTION
NO.	DATE	DESCRIPTION																																								
1	10/20/18	ISSUED FOR PERMIT																																								
2	10/20/18	ISSUED FOR CONSTRUCTION																																								
3	10/20/18	ISSUED FOR CONSTRUCTION																																								
4	10/20/18	ISSUED FOR CONSTRUCTION																																								
5	10/20/18	ISSUED FOR CONSTRUCTION																																								
6	10/20/18	ISSUED FOR CONSTRUCTION																																								
7	10/20/18	ISSUED FOR CONSTRUCTION																																								
8	10/20/18	ISSUED FOR CONSTRUCTION																																								
9	10/20/18	ISSUED FOR CONSTRUCTION																																								
10	10/20/18	ISSUED FOR CONSTRUCTION																																								
<p><b>WOOD PILES:</b></p> <ol style="list-style-type: none"> <li>ALL WOOD PILES SHALL BE SPECIALLY DESIGNED, MANUFACTURED, DRY STACKED, AND SEALED TO ACHIEVE A MINIMUM WATER ABSORBENCY OF 15% (10 TONS SERVICE LOAD), AND TO A MINIMUM BULKING CAPACITY OF 75% (10 TONS SERVICE LOAD).</li> <li>REFER TO PROJECT SPECIFICATION.</li> </ol> <p><b>STRUCTURAL ABBREVIATIONS:</b></p> <p>AB - ANCHOR BOLT      AD - ADDITIONAL      B - BOTTOM      C - CENTERLINE      D - DIMENSION      E - EACH      EL - ELEVATION      EX - EXISTING      F - FINISH      GR - GRADE      H - HORIZONTAL      I - INTERIOR      J - JOINT      K - KEYS      L - LENGTH      M - MEMBER      N - NORTH      O - OFFSET      P - PILE      R - RADIUS      S - SURFACE      T - TOP      U - UNDER      V - VERTICAL      W - WIDTH</p> <p>REFER TO NATIONAL GEODETIC VERTICAL DATUM 1988 (NOV 29) FOR MEAN HIGH WATER (MHW) = EL. 0.00' NAVD83</p>																																										

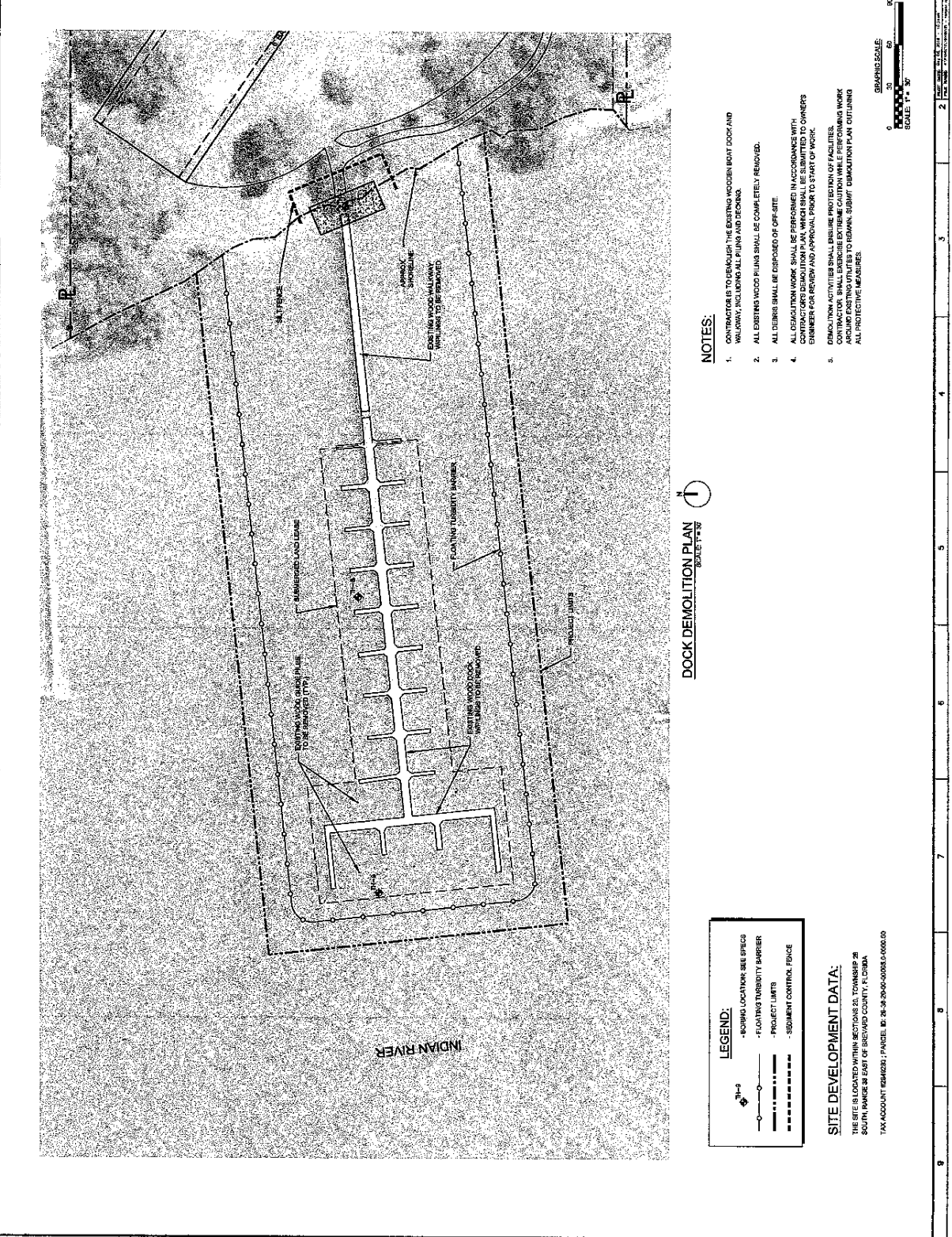


NO.	DATE	ISSUED FOR

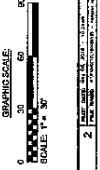
**PHOENIX PARK, L.L.C.**  
**HARBOR ISLAND BEACH CLUB**  
**DOCK REFURBISHMENT**  
**DOCK DEMOLITION PLAN**

**ATKINS**  
 1000 N. W. 10th St., Suite 1000  
 Fort Lauderdale, FL 33304  
 TEL: 954.576.4000  
 FAX: 954.576.4001  
 PROJECT NO. 2008-0005  
 DATE: 11/10/09

ATKINS is the engineer for this project. It is the responsibility of the contractor to verify the accuracy of the information provided by the owner and to ensure that the project is completed in accordance with the approved plans and specifications. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The contractor shall also be responsible for ensuring that the project is completed in a safe and sound manner, and that all applicable laws and regulations are followed. The contractor shall also be responsible for ensuring that the project is completed in a timely manner, and that all costs are kept to a minimum. The contractor shall also be responsible for ensuring that the project is completed in a manner that is consistent with the owner's requirements and expectations.



- NOTES:**
1. CONTRACTOR IS TO DEMOLISH THE EXISTING WOODEN BOAT DOCK AND WALKWAY, INCLUDING ALL PILING AND BECKING.
  2. ALL EXISTING WOOD PILING SHALL BE COMPLETELY REMOVED.
  3. ALL DEBRIS SHALL BE DISPOSED OF OFF-SITE.
  4. ALL DEMOLITION WORK SHALL BE PERFORMED IN ACCORDANCE WITH CONTRACTOR'S DEMOLITION PLAN, WHICH SHALL BE SUBMITTED TO OWNER'S ENGINEER FOR REVIEW AND APPROVAL PRIOR TO START OF WORK.
  5. DEMOLITION ACTIVITIES SHALL ENSURE PROTECTION OF FACILITIES. CONTRACTOR SHALL EXERCISE EXTREME CAUTION WHILE PERFORMING WORK ON EXISTING UTILITY PIPES TO REMAIN. SUBMIT DEMOLITION PLAN OUTLINE ALL PROTECTIVE MEASURES.

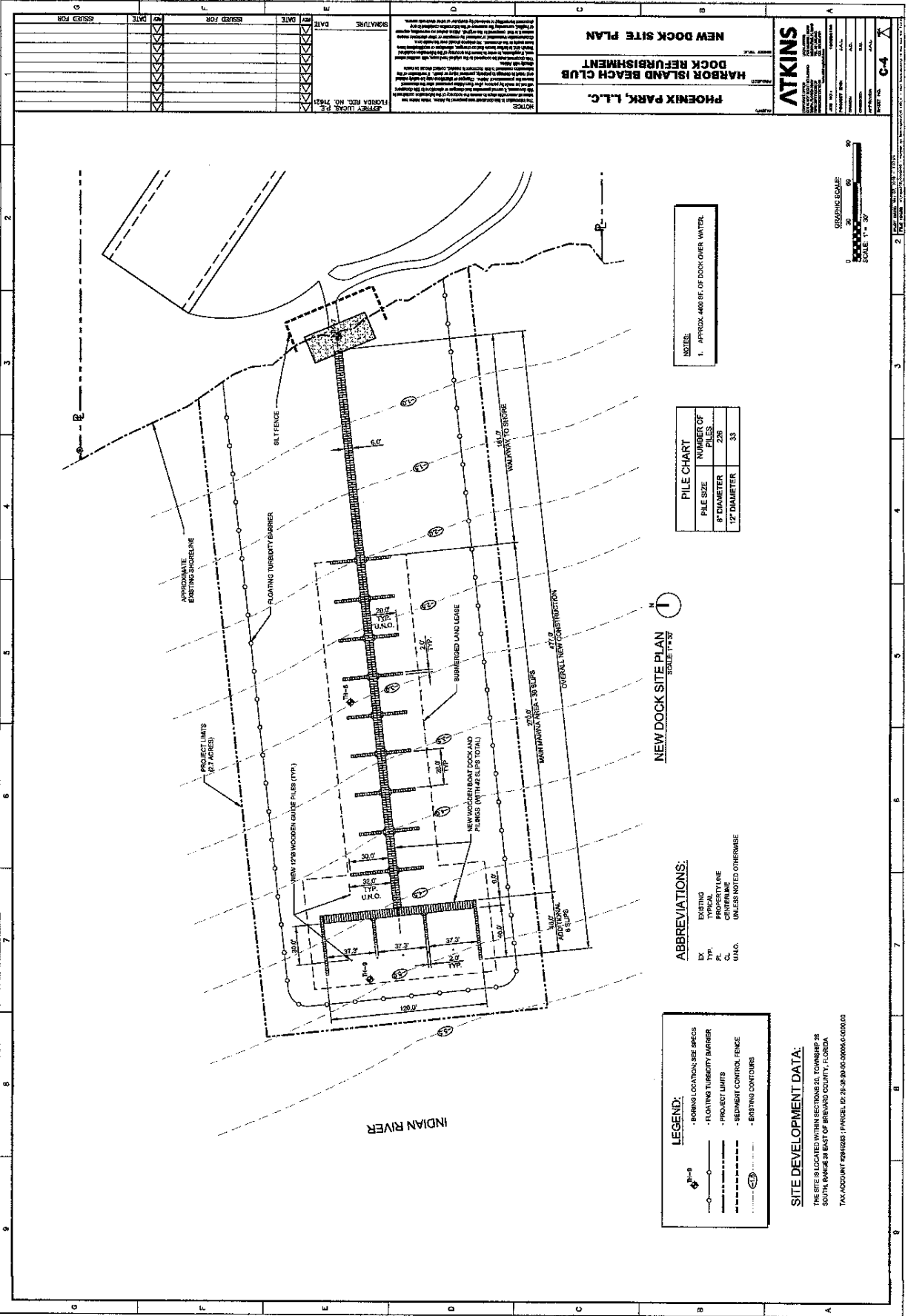


**DOCK DEMOLITION PLAN**  
 SCALE: 1" = 30'

**LEGEND:**

- BOARD LOCATION, SEE SPEC
- FLOATING TURBIDITY BARRIER
- PROJECT LIMITS
- SEDIMENT CONTROL FENCE

**SITE DEVELOPMENT DATA:**  
 THE SITE IS LOCATED WITHIN SECTIONS 21, TOWNSHIP 28  
 SOUTH, RANGE 38 EAST OF BREVARD COUNTY, FLORIDA  
 TAX ACCOUNT 6284281 / PARCEL ID: 28-38-20-90-0005-01000-00



NO.	DATE	ISSUED FOR	BY DATE	SCALE

**PHOENIX PARK, L.L.C.**  
**HARBOR ISLAND BEACH CLUB**  
**DOCK REFURBISHMENT**  
**NEW DOCK SITE PLAN**

**ATKINS**  
 10000 W. BOULEVARD  
 SUITE 200  
 BOCA RATON, FLORIDA 33433  
 PHONE: 561.990.1100  
 FAX: 561.990.1101  
 WWW.ATKINSINC.COM

**NOTES:**  
 1. APPROX. 400 SF OF DOCK OVER WATER.

PILE SIZE	NUMBER OF PILES
8" DIAMETER	229
12" DIAMETER	33



**NEW DOCK SITE PLAN**  
 SHEET 17-37

**ABBREVIATIONS:**  
 EX EXISTING  
 TYP. TYPICAL  
 P. PROPERTY LINE  
 U.A.O. UNLESS NOTED OTHERWISE

**LEGEND:**  
 - BORING LOCATION, SIZE SPEC.  
 - FLOATING TURBIDITY BARRIER  
 - PROJECT LIMITS  
 - SEDIMENT CONTROL FENCE  
 - EXISTING CONTOURS

**SITE DEVELOPMENT DATA:**  
 THE SITE IS LOCATED WITHIN SECTIONS 20, TOWNSHIP 28  
 SOUTH, RANGE 28 EAST OF BREVARD COUNTY, FLORIDA.  
 TAX ACCOUNT 0261225; PARCEL ID. 26-38-00-00000.0-0000.00

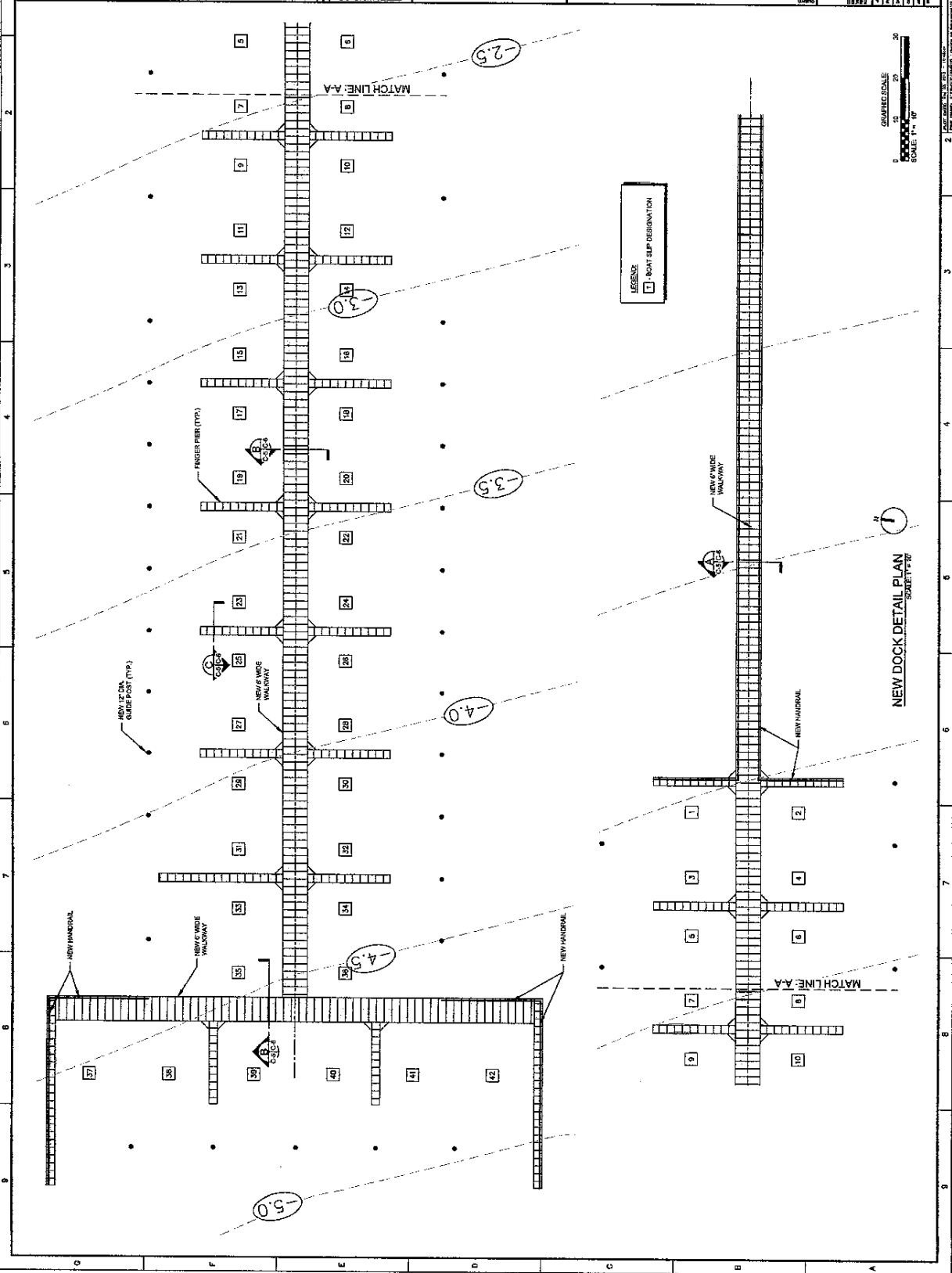
**ATKINS**

PHOENIX PARK, L.L.C.  
 HARBOR ISLAND BEACH CLUB  
 DOCK REFURBISHMENT  
 NEW DOCK DETAIL PLAN

PROJECT NO. 03-00000000  
 SHEET NO. C-5

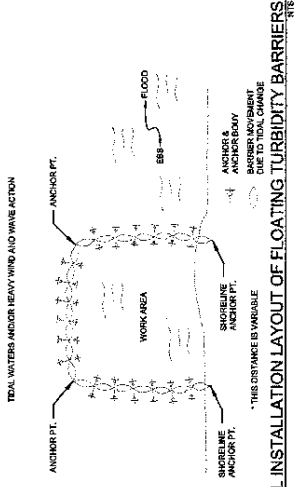
DATE: 11/11/11  
 ISSUED FOR: [ ]  
 DATE: [ ]  
 ISSUED FOR: [ ]

NOTICE: This document is the property of Atkins. It is to be used only for the project and site identified herein. It is not to be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Atkins. Atkins makes no warranty, expressed or implied, for the use of the information contained herein for purposes other than those intended by Atkins. The user assumes all liability for the use of the information contained herein.

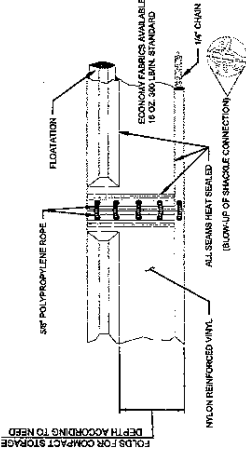




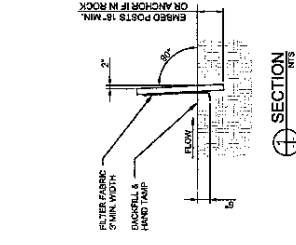
<b>ATKINS</b> CONSULTING ENGINEERS, INC. 1100 WEST WASHINGTON AVENUE ANN ARBOR, MI 48106 TEL: 734.769.3000 WWW.ATKINS.COM	<b>PHOENIX PARK, L.L.C.</b> HARBOR ISLAND BEACH CLUB DOCK REPAIRS/IMPROVEMENT SWPP DETAILS	DATE: ISSUED FOR: SCALE: SHEET NO. C-9	DATE: ISSUED FOR: SCALE: SHEET NO. C-9	DATE: ISSUED FOR: SCALE: SHEET NO. C-9	DATE: ISSUED FOR: SCALE: SHEET NO. C-9
--	---	---	---	---	---



**TYPICAL INSTALLATION LAYOUT OF FLOATING TURBIDITY BARRIERS**  
WTS



**FLOATING TURBIDITY BARRIER TYPE 1**  
WTS



**SECTION**  
WTS

- A. This system is designed to be used in areas with frequent E.D.S. action. In extreme conditions, the barrier shall be removed and replaced by the contractor.
- B. Materials. Turbidity barrier fabric shall be made of high strength, non-elastic material which has sufficient buoyancy to provide the barrier with continuous support, and a minimum of 6 inches thickness. The sections of flotation shall be installed such that they can be moved along inside the shore and the spaces between sections shall not be more than twice the thickness of the flotation material.
- C. Lead Lines. Lead lines shall be minimum 3/16 in. vinyl coated galvanized aircraft aluminum. Adjustment lines shall be minimum 1/2 in. nylon rope.
- D. Mooring Lines. Adjustment lines shall be minimum 1/2 in. nylon rope.
- E. Adjustment Lines and The Downes. Adjustment lines and the down lines shall be minimum 1/2 in. nylon rope.
- F. Bottom. Bottom shall be minimum 5/16 in. galvanized steel chain.
- G. Anchors. Turbidity barrier/curtain sections shall have a sufficient mass and spread to secure the barrier as recommended by the manufacturer depending on the current velocities.
- H. Mooring Buoys. Mooring buoys shall have provisions for the mooring line up to be attached and be sufficiently buoyant to remain under water under normal tidal conditions.
- I. Lighted Buoys. Lighted buoys shall be manufactured self-contained buoy with automatic flashing lights (on a deck, off a lamp) installed at 100 ft. on center along the outer edge of the barrier.
- J. Construction. Construction methods, workmanship, equipment and materials used shall conform to the various items of the standard specifications which govern the items of work to be performed under this contract and as specified on the plans. Place the barrier prior to the start of the excavation and as specified on the plans. The barrier shall be installed to prevent the entrance of turbid water from the excavation and adjoining area.

**SPECIAL SPECIFICATION**  
5613  
**Floating Turbidity Barrier**

1. Description. This item shall govern the manufacture of fabric, equipment and materials for the complete supply, installation, maintenance, and removal of floating turbidity barrier (FTB) at the locations as shown on the construction permit application plans, or as directed by the Engineer. The floating turbidity barrier shall be constructed in accordance with the specifications and the floating turbidity barrier details in the project plans. The barrier and installation shall be as follows for a tidal flow condition where the velocity of flow may reach 1.5 feet per second (or a current of approximately 3 knots).

2. Materials. The floating turbidity barrier material shall be a standard manufactured product. All materials shall be as specified. Materials to be water tested shall be deposited with the contractor. Materials to be tested shall be deposited with the contractor. A certification that the product replaced meets the requirements of this specification.

The floating turbidity barrier consists of a PVC coated nylon section and a geotextile barrier/curtain section, lead line, mooring lines, adjustment lines and tie-downs, flotation, ballast anchors, mooring buoys, and lighted buoy.

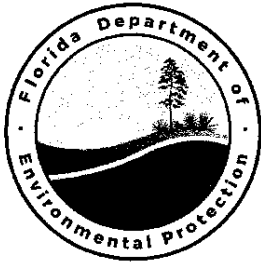
A. Turbidity Barrier/curtain. The turbidity barrier/curtain geotextiles shall have the following properties:

- The top section shall consist of an 18-22 oz. per square yard PVC coated nylon fabric. It shall be a light yellow or orange color to be easily seen.
- The curtain material shall consist of a tightly woven monofilament yarn fiber fabric as specified below:

Property	ASTM Test Method	Minimum Value
Length	ASTM D-4871	75.00 ft.
Tensile Strength	ASTM D-4871	300 x 200 lbs
Tensile Elongation	ASTM D-4871	100 x 40%
Seam Strength	ASTM D-4871	100 x 40%
Flow Rate	ASTM D-4871	100 x 40%
UV Resistance	ASTM D-4871	25%
E.D.S.	ASTM D-4871	70% Minimum

1. SET POSTS AND EXCAVATE A 4"x4" TRENCH 18" DEEP AND EXTEND IT INTO THE TRENCH.
2. STAPLE WIRE FENCING TO THE POSTS.
3. ATTACH THE FILTER FABRICS TO THE WIRE FENCE AND EXTEND IT INTO THE TRENCH.
4. BACKFILL AND COMPACT THE EXCAVATED SOIL.

**TEMPORARY SEDIMENT CONTROL FENCE & SILT BARRIER FENCE**  
WTS



**Florida Department of  
Environmental Protection**

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

Rick Scott  
Governor

Carlos Lopez-Cantera  
Lt. Governor

Jonathan P. Steverson  
Interim Secretary

**Permittee:**

The Hamptons Associates, LTD  
C/o Edwin Harley  
160 Versailles Drive  
Melbourne Beach, FL 32951  
[ed@harleyproperty.com](mailto:ed@harleyproperty.com)

**Agent:**

David Purkerson  
Atlantic Environmental Solutions  
657 Montreal Ave.  
Melbourne, FL 32935  
[dpurk@cfl.rr.com](mailto:dpurk@cfl.rr.com)

**The Hamptons Associates, LTD –Authorization for an existing 42 slip marina**

**Environmental Resource Permit**

**State-owned Submerged Lands Authorization – Granted**

**U.S. Army Corps of Engineers Authorization – Pending**

**Permit No.: ERP 05-0292305-001 EI**

**Permit Issuance Date: September 23, 2016**  
**Permit Construction Phase Expiration Date: September 22, 2021**



# Florida Department of Environmental Protection

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

Rick Scott  
Governor

Carlos Lopez-Cantera  
Lt. Governor

Jonathan P. Steverson  
Interim Secretary

## Consolidated Environmental Resource Permit and Sovereignty Submerged Lands Authorization

**Permittee: The Hamptons Associates, LTD**  
**Permit No: ERP 05-0292305-001-EI**

### **PROJECT LOCATION**

The proposed project is located at 160 Versailles Drive, Parcel # 28-38-20-00-00006.0-0000.00, Melbourne Beach, FL 32951, in Brevard County.

### **PROJECT DESCRIPTION**

The Permit is to authorize an existing 42-slip commercial docking facility in the Indian River Aquatic Preserve, Outstanding Florida Water. Authorized activities are depicted on the attached exhibits.

### **AUTHORIZATIONS**

**The Hamptons Associates, LTD –Authorization for an existing 42 slip marina**

#### Environmental Resource Permit

The Department has determined that the activity qualifies for an Environmental Resource Permit. Therefore, the Environmental Resource Permit is hereby granted, pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Chapter 62-330, Florida Administrative Code (F.A.C.).

#### Sovereignty Submerged Lands Authorization

The activity is located on sovereignty submerged lands owned by the State of Florida. It therefore also requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.77, F.S., and Chapter 258, F.S. As staff to the Board of Trustees under Sections 253.002, F.S., the Department has determined that the activity qualifies for and requires a **lease** as long as the work performed is located within the boundaries as described and is consistent with the terms and conditions herein. The facility currently authorized under lease 0500002964.

#### Federal Authorization

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **shall be required** from the Corps. A copy of your permit application has been forwarded to the Corps for their review. The Corps will issue their authorization directly to

you or contact you if additional information is needed. If you have not heard from the Corps within 30 days from the date your application was received at the local FDEP Office, contact the Irene Sadowski at the USACE, Region 4, Cocoa Office at (321) 504-3771, ext. 12 for status and further information. **Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.**

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection, or Duly Authorized Designee, State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

#### Coastal Zone Management

Issuance of this authorization also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.

#### Water Quality Certification

This permit constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

#### Other Authorizations

You are advised that authorizations or permits for this activity may be required by other federal, state, regional, or local entities including but not limited to local governments or municipalities. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

The activity described may be conducted only in accordance with the terms, conditions and attachments contained in this document. Issuance and granting of the permit and authorizations herein do not infer, nor guarantee, nor imply that future permits, authorizations, or modifications will be granted by the Department.

#### **PERMIT/ SOVEREIGNTY SUBMERGED LANDS CONDITIONS**

The activities described herein must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The Special Consent Conditions**
- **The General Conditions for Sovereignty Submerged Lands Authorization**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to beginning the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings herein. If you are using a contractor, the contractor also should read and understand these conditions and drawings prior to beginning any activity. Failure to comply with these conditions, including any mitigation requirements, shall be grounds for the Department to revoke the permit and authorization and to take appropriate enforcement action. Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit and sovereignty submerged lands authorization, as described.



## **SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES**

### Turbidity & Water Quality:

1. Best management practices (primarily turbidity screens and floating turbidity barriers) for erosion and turbidity control shall be implemented and maintained at all times during construction and operation of the permitted activity to prevent siltation and turbid discharges in excess of State water standards pursuant to Chapter 62-302, F.A.C. The permittee shall be responsible for ensuring that erosion and turbidity control devices and procedures are inspected and maintained daily during all phases of construction authorized by this permit until all areas that were disturbed during construction are sufficiently stabilized to prevent erosion, siltation, and turbid discharges.
2. Upon final completion of the project and upon reasonable assurance that the project is no longer a potential turbidity source, the permittee will be responsible for the removal of the turbidity barriers. The turbidity control devices shall be removed no later than one year from completion of the project. All turbidity control devices shall be disposed of in an upland disposal area.
3. The limits of construction shall be delineated by silt fencing or a floating turbidity barrier. The permittee shall bear the responsibility of notifying all construction workers that silt fencing or turbidity barrier represents the limits of all construction activities. The permittee shall bear the responsibility of keeping all construction workers and equipment out of the adjacent wetlands and surface waters where work has not been permitted for impacts.

### Construction:

4. Any vessel mooring at the structure shall have a **minimum of 12 inches between the deepest draft of the vessel of the submerged bottom at mean low water, both within the slips and during ingress and egress of the dock.**
5. There shall be no stock piling of tools, materials (i.e., lumber, pilings, riprap, and debris) within wetlands, along the shoreline within the littoral zone, or elsewhere within wetlands/waters of the state unless specifically approved in this permit. Any and all construction debris shall be removed from wetlands/ waters of the state within 14 days of completion of the work authorized by this permit.
6. There shall not be any excess lumber, scrap wood, trash, garbage, etc. within the wetlands and waters of the State.
7. This permit does not authorize the construction of any additional structures/fill not illustrated on the permit drawings. Examples of additional structures include but are not limited to walkways, awnings, enclosed sides and covers over slip areas, finger piers, step-down stairs, storage closets and decking.
8. The structure shall maintain ½ inch spacing between the deck boards after shrinkage.

9. The structure shall have handrails along the entire perimeter of the access walkway and any areas of the terminal platform not used to access a vessel. Handrails shall be installed as the structure is built and maintained functional for the life of the facility.
10. To provide reasonable assurance that the dock pilings will not cause degradation of ambient water quality, Sections 62-4.242(1)(a) and (b), 62-4.242(2) and (3), and 62-302.300, F.A.C., the permittee shall wrap any new pilings with high density polyethylene wrap to prevent the leaching of constituents contained in treated wood.
11. Construction equipment shall not be repaired or refueled in wetlands or elsewhere within waters of the state.
12. The permittee shall report any damage to the Department within 24 hours that occurs to the wetlands/surface waters/submerged bottoms as a result of construction. If any damage occurs to wetlands or surface waters as a result of any construction activities, the permittee shall be required to restore the impacted area by regrading the damaged areas back to the natural reconstruction elevations and planting vegetation of the size, densities and species that exist in the adjacent areas pursuant to a consent order. The restoration shall be completed within 30 days of completion of the construction and shall be done to the satisfaction of the Department.
13. There shall be no fish cleaning stations, boat repair facilities or equipment and fueling facilities on the boardwalk, pier or dock.
14. There shall be no bait houses, storage shelters, screen porches, wet bars, living quarters, or other non-water-dependent structures over waters of the State or on the boardwalk, pier or dock.
15. Waterborne craft moored over sovereign submerged lands at the docking facility, on either a temporary or permanent basis, shall not extend beyond the limits of the sovereignty submerged land lease. The slip sizes shown on the attached permit drawings and on the survey to be attached to the sovereignty submerged land lease indicate a length over all (LOA) for the slips designated. The permittee is advised that compliance with the LOA may not result in compliance with the terms of this specific condition or the sovereign submerged lands lease. The permittee shall take all measures necessary to ensure all boats moored over sovereign submerged lands at the docking facility are completely within the limits of the submerged land lease.
16. All vessels docked at the marina shall moor only within the approved mooring areas and shall be limited to a maximum of 42 vessels at any time.
17. Impacts to mangroves and/or submerged aquatic vegetation are prohibited under this authorization.
18. Overboard discharges of trash, human or animal waste, or fuel shall not occur at the dock.

19. Watercraft associated with the construction/repair of the facility shall operate within waters of sufficient depth to preclude bottom scouring/prop dredging.

Manatee Conditions:

20. The Standard Manatee Construction Conditions for In-water Work (2011) must be followed for all in-water activity.

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at [ImperiledSpecies@myFWC.com](mailto:ImperiledSpecies@myFWC.com)
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at [MyFWC.com/manatee](http://MyFWC.com/manatee). Questions concerning these signs can be sent to the email address listed above.

## GENERAL CONDITIONS FOR INDIVIDUAL PERMITS

The following general conditions are binding on all individual permits issued under Chapter 62-330, F.A.C., except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," [October 1, 2013], which is incorporated by reference in paragraph 62-330.350(1)(d), F.A.C., indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
  - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex – "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or
  - b. For all other activities – "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].

- c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
    - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as-built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
    - b. Within 30 days of submittal of the as-built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity" [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.
  8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.
  9. This permit does not:
    - a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
    - b. Convey to the permittee or create in the permittee any interest in real property;
    - c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
    - d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
  10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
  11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
  12. The permittee shall notify the Agency in writing:
    - a. Immediately if any previously submitted information is discovered to be inaccurate; and
    - b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

#### **SPECIAL CONSENT CONDITIONS**

1. The applicant agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the applicant's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.
2. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the

Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.

3. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
4. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.
5. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

#### **GENERAL CONDITIONS FOR SOVEREIGNTY SUBMERGED LANDS AUTHORIZATION**

Any use of sovereignty submerged lands is subject to the following general conditions are binding upon the applicant and are enforceable under Chapter 253, F.S. and Chapter 258, F.S.

1. Sovereignty submerged lands may be used only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use will constitute a violation. Violation of the authorization will result in suspension or revocation of the applicant's use of the sovereignty submerged lands unless cured to the satisfaction of the Board of Trustees.
2. Authorization under Rule 18-21.005, F.A.C., conveys no title to sovereignty submerged lands or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.
3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S. and Chapter 18-14, F.A.C.
4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.
5. Construction, use, or operation of the structure or activity will not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.

6. Structures or activities will not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.

7. Structures or activities will not create a navigational hazard.

8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.

9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.

10. The applicant agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the applicant's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.

11. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.

12. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.

13. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.

14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.



## NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

### Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any email address, any facsimile number, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

### Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S. must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another

party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

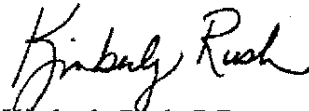
The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review

Any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Executed in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



Kimberly Rush, P.E.  
Permitting and Waste Cleanup  
Program Administrator  
Florida Department of Environmental Protection

**Attachments:**

Project Drawings

As-built Certification and Request for Conversion to Operational Phase/ Form 62-330.310(1)

Request for Transfer to the Perpetual Operation Entity/Form 62-330.310(2)

Request to Transfer Permit/Form 62-330.340(1)

**Copies furnished to:**

Brevard County Natural Resources-LeeAnn McCullough-Wham [LeeAnn.McCullough-Wham@brevardcounty.us](mailto:LeeAnn.McCullough-Wham@brevardcounty.us)

Kimberly Eisele, [Kim.Eisele@dep.state.fl.us](mailto:Kim.Eisele@dep.state.fl.us)

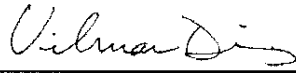
File

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this permit and authorization to use sovereignty submerged lands, including all copies, was mailed before the close of business on September 23, 2016 to the above listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under 120.52(7) of the Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

September 23, 2016

Date

**U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological  
Opinion (JaxBO) Project Design Criteria (PDCs) for In-Water Activities**

**November 20, 2017**

- 1) **(AP.7.) Education and Observation:** The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at:  
[http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/threatened\\_endangered/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html)
  
- 2) **(AP.8.) Reporting of interactions with protected species:**
  - a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to [takereport.nmfsser@noaa.gov](mailto:takereport.nmfsser@noaa.gov) and [SAJ-RD-Enforcement@usace.army.mil](mailto:SAJ-RD-Enforcement@usace.army.mil).
  - b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email [Sawfish@MyFWC.com](mailto:Sawfish@MyFWC.com)
  - c) Sturgeon: Report dead sturgeon to 1-844-STURG 911 (1-844-788-7491) or email [nmfs.ser.sturgeonnetwork@noaa.gov](mailto:nmfs.ser.sturgeonnetwork@noaa.gov)
  - d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
  - e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.
  
- 3) **(AP.9.) Vessel Traffic and Construction Equipment:** All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:
  - a) *Construction Equipment:*
    - i) All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
    - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
    - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of

construction equipment and shall not resume until the species has departed the area of its own volition.

- iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.

b) *All Vessels:*

- i) Sea turtles: Maintain a minimum distance of 150 ft.
- ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
- iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (<http://www.fisheries.noaa.gov/pr/shipstrike/>).
- iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
- v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
- vi) When these animals are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
- vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.

- 4) **(AP.10.) Turbidity Control Measures during Construction:** Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:

- a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
- b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
- c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
- d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
- e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm

Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):

- i) Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
  - ii) The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cableline). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.
- 5) **(AP.11.) Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.
- a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
  - b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Southeast Regional Office  
263 13th Avenue South  
St. Petersburg, FL 33701

## SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

The permittee shall comply with the following protected species construction conditions:

- a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.
- c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.
- d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.
- e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.
- f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.
- g. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

Revised: March 23, 2006

O:\forms\Sea Turtle and Smalltooth Sawfish Construction Conditions.doc



## STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or in Vero Beach (1-772-562-3909) for south Florida, and emailed to FWC at [ImperiledSpecies@myFWC.com](mailto:ImperiledSpecies@myFWC.com).
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at [http://www.myfwc.com/WILDLIFEHABITATS/manatee\\_sign\\_vendors.htm](http://www.myfwc.com/WILDLIFEHABITATS/manatee_sign_vendors.htm). Questions concerning these signs can be forwarded to the email address listed above.



# CAUTION: MANATEE HABITAT

All project vessels

## IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work  
all in-water activities must

## SHUT DOWN

Report any collision with or injury to a manatee:



Wildlife Alert:

**1-888-404-FWCC(3922)**

cell \*FWC or #FWC

**SELF-CERTIFICATION STATEMENT OF COMPLIANCE**

**Permit Number: SAJ-2018-02278**

Permittee's Name & Address (please print or type): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Location of the Work: \_\_\_\_\_

\_\_\_\_\_

Date Work Started: \_\_\_\_\_ Date Work Completed: \_\_\_\_\_

\_\_\_\_\_

**PROPERTY IS INACCESSIBLE WITHOUT PRIOR NOTIFICATION: YES \_\_\_\_\_ NO \_\_\_\_\_**

**TO SCHEDULE AN INSPECTION PLEASE CONTACT \_\_\_\_\_  
AT \_\_\_\_\_**

Description of the Work (e.g. bank stabilization, residential or commercial filling, docks, dredging, etc.): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Acreage or Square Feet of Impacts to Waters of the United States: \_\_\_\_\_

Describe Mitigation completed (if applicable): \_\_\_\_\_

\_\_\_\_\_

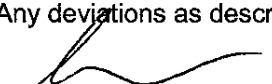
\_\_\_\_\_

Describe any Deviations from Permit (attach drawing(s) depicting the deviations):

\_\_\_\_\_

\*\*\*\*\*

I certify that all work, and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit. Any deviations as described above are depicted on the attached drawing(s).

 - Phoenix Park and U, LP.  
Maryann Mander  
\_\_\_\_\_  
Signature of Permittee

11/29/18.  
\_\_\_\_\_  
Date