MITIGATION PLAN

1. Mitigation Goals and Objectives

Per details in Sheets 2 and 3 of the enclosed Mitigation Exhibits, as compensatory mitigation for impacts to approximately 1.8 acres of wetlands by a previous owner of the property, as well as for temporal loss of function and value, the current owner of the property proposes—on the basis of discussions with USACE on December 18, 2012—to:

A. Mechanically lower uplands to create a total of 6.6 acres of wetland (a 3.7:1 ratio of created to impacted wetland), including:
    - 6.1 acres of high marsh habitat
    - 0.5 acres of open water habitat
B. Preserve a total of 1.6 acres of existing habitat (a 0.89:1 ratio of preserved to impacted), including:
    - 0.5 acres of high marsh
    - 1.1 acres of upland coastal prairie

The proposed mitigation site is located on Mustang Island adjacent (north of) an existing mitigation site (Conservation Area C, created as compensatory mitigation for impacts associated with the Newport Marina development) (see Mitigation Exhibits, Sheet 1).

All created and preserved habitat will be protected in perpetuity by a deed restriction, conservation easement, or an equivalent legal instrument.

2. Site Selection Information

The applicant identified a number of candidate locations for habitat creation within the vicinity of the impacted wetlands, ultimately selecting the proposed mitigation site because it was deemed to have a high probability of success for natural recruitment of target species due to its proximity to existing natural wetlands and to an existing, successful, wetlands creation project.

3. Site Protection Instrument

The created habitat will be protected in perpetuity by a deed restriction, conservation easement, or equivalent legal instrument; this instrument will be established within six months of issuance of the after-the-fact permit.

4. Baseline Information

<u>Impact Site</u>
The approximately 1.8 acres of wetlands on the northern portion of the property that were impacted by fill included two naturalized, manmade drainage features comprising freshwater emergent species (e.g. *Typha sp.*, *Scirpus americanus*, *Hydrocotyle umbellata*) as well as four depression features, best described as freshwater emergent wetlands, that were dense monocultures of *Typha sp*. with *Sesbania drummondii* along the margins.

Mitigation Site

The upland areas to be lowered by mechanical excavation to create freshwater emergent wetlands are best characterized as coastal prairie, typified by *Schizachyrium scoparium*, *Spartina patens*, and *Panicum virgatum*.

5. Number of Credits to be Provided

The applicant proposes to:

A. Create a total of 6.6 acres of wetland (a 3.7:1 ratio of created to impacted wetland), including:
   - 6.1 acres of high marsh habitat
   - 0.5 acres of open water habitat

B. Preserve a total of 1.6 acres of existing habitat (a 0.88:1 ratio of preserved to impacted), including:
   - 0.5 acres of high marsh
   - 1.1 acres of upland coastal prairie

6. Mitigation Work Plan

Construction of the mitigation will be complete within twelve months of issuance of the after-the-fact permit. The applicant will be responsible for constructing the mitigation. The applicant will excavate the mitigation areas to elevations conducive to recruitment and survival of the target species (exact elevations will be determined through a pre-construction reference elevation survey of adjacent existing freshwater emergent wetlands). Excavated material will be placed in uplands onsite or on nearby offsite uplands. Vegetation of converted area will be via natural recruitment.

7. Maintenance Plan

Maintenance of the mitigation sites will be the sole responsibility of the permittee and may include trash removal and/or the removal of invasive species.

8. Monitoring Requirements

The applicant will conduct a post-construction survey of the mitigation area within 60 days of completion of construction and will submit a report to the USACE a report that conforms to the USACE Regulatory Guidance Letter 08-03 and includes monitoring methodology, , and photographs documenting site conditions.

The applicant will also monitor annually for a period of five years or until the USACE has determined that performance standards have been achieved. After each monitoring event, the applicant will submit to the USACE a report that conforms to the USACE Regulatory Guidance Letter 08-03, including a description of monitoring methodology, results, and photographic documentation of site conditions.

9. Ecological Performance Standards

- If 25% coverage of the target habitat is not achieved after one year, the USACE will determine if planting of the mitigation site is required.

- If 50% coverage of the target habitat is not achieved after three years, the USACE will determine if planting of the mitigation site is required.

- If 70% coverage of the target habitat is not achieved by the end of the fifth year, the USACE will determine if planting of the mitigation site is required.

- The USACE may waive the requirement for monitoring at any point during the five year period if the USACE deems that there is sufficient evidence that re-vegetation of the mitigation area meets the success criteria.

10. Long-Term Management Plan

As stated above, the created habitat will be protected in perpetuity by a deed restriction, conservation easement, or equivalent legal instrument. Long-term management may include removal of trash and/or invasive species as well as measures agreed upon by the applicant and the USACE if the site does not meet ecological performance standards defined in Section 9.

11. Adaptive Management Plan

If results of the monitoring indicate that the mitigation is not successful, the applicant will coordinate with USACE in attempt to agree upon the appropriate course of action. Potential remedies may include but are not limited to supplemental monitoring, planting efforts, identification of alternative sites, etc.

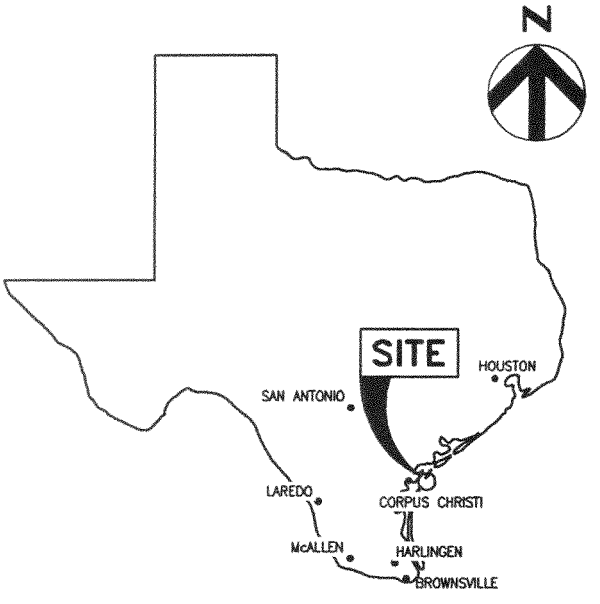
12. Financial Assurances

The applicant, KM Beach, LLC is a solvent company with a compelling track record of completing successful projects. As illustrated by their request to meet with the USACE (December 18, 2012) to vet mitigation concepts, KM Beach, LLC did their due diligence regarding the outstanding regulatory compliance issues associated with the subject property before purchasing it, and KM Beach, LLC is committed to resolving any regulatory compliance issues swiftly and completely, and, as such, is committed to fulfilling any compensatory mitigation requirements.

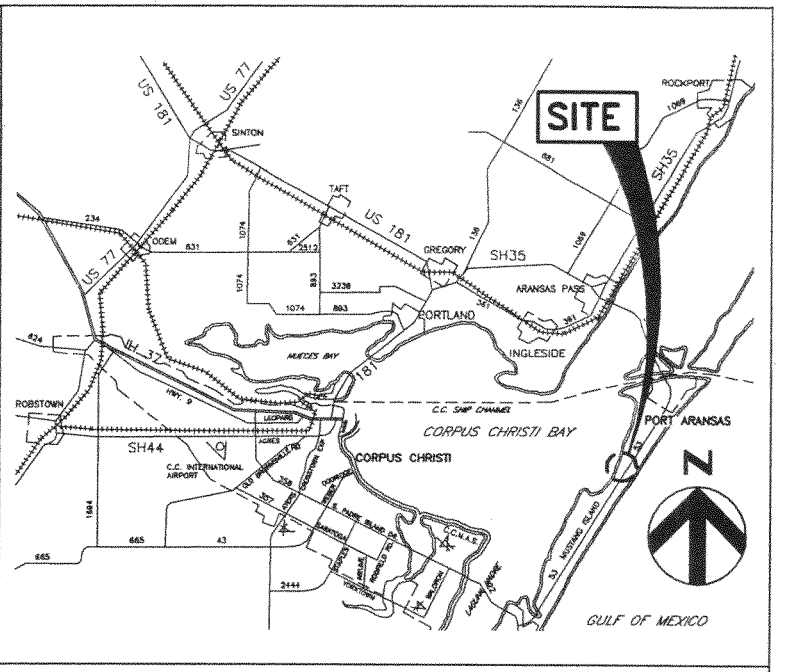
Attachment A

SWG-2007-01623

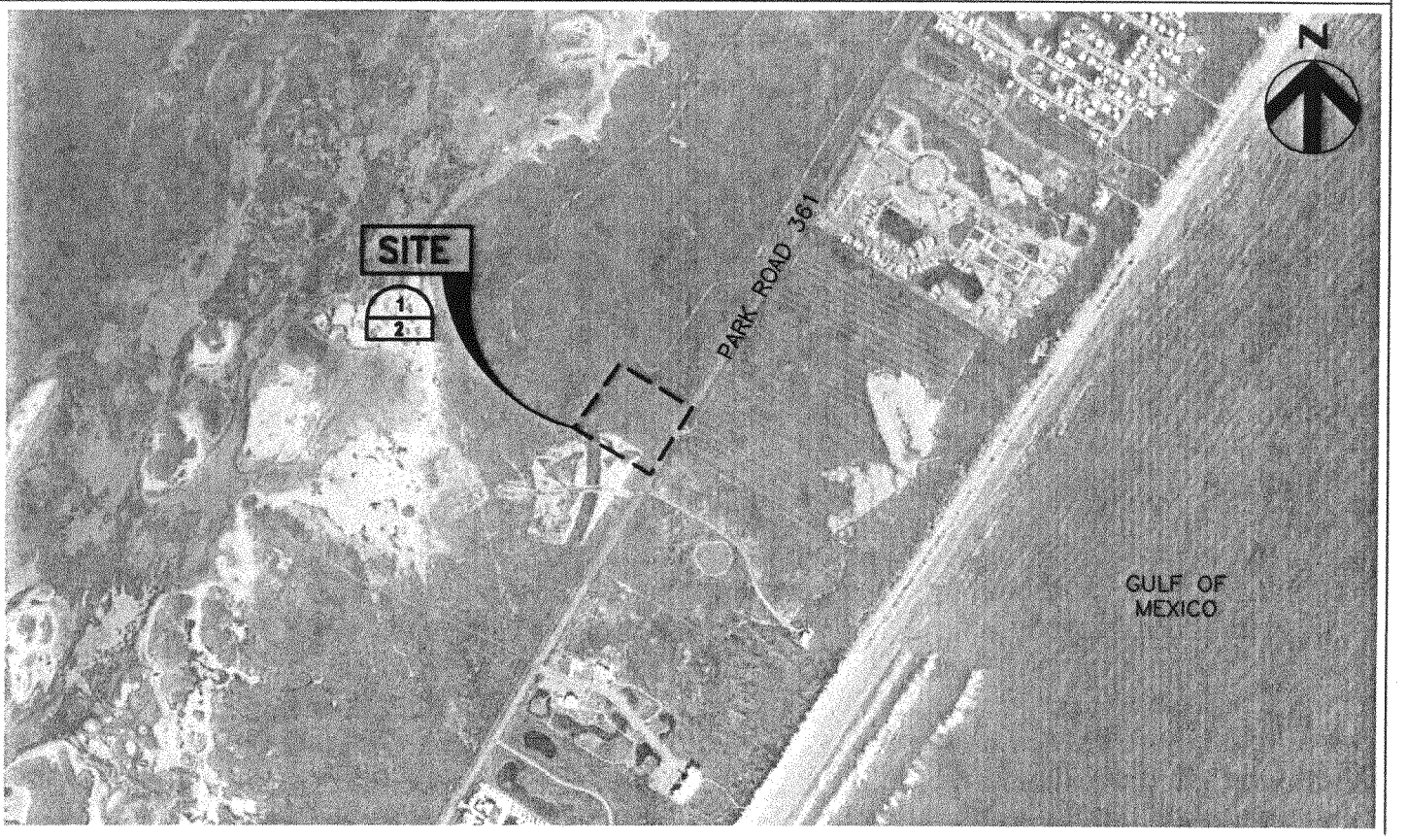
JUN 07 2013



VICINITY MAP



LOCATION MAP



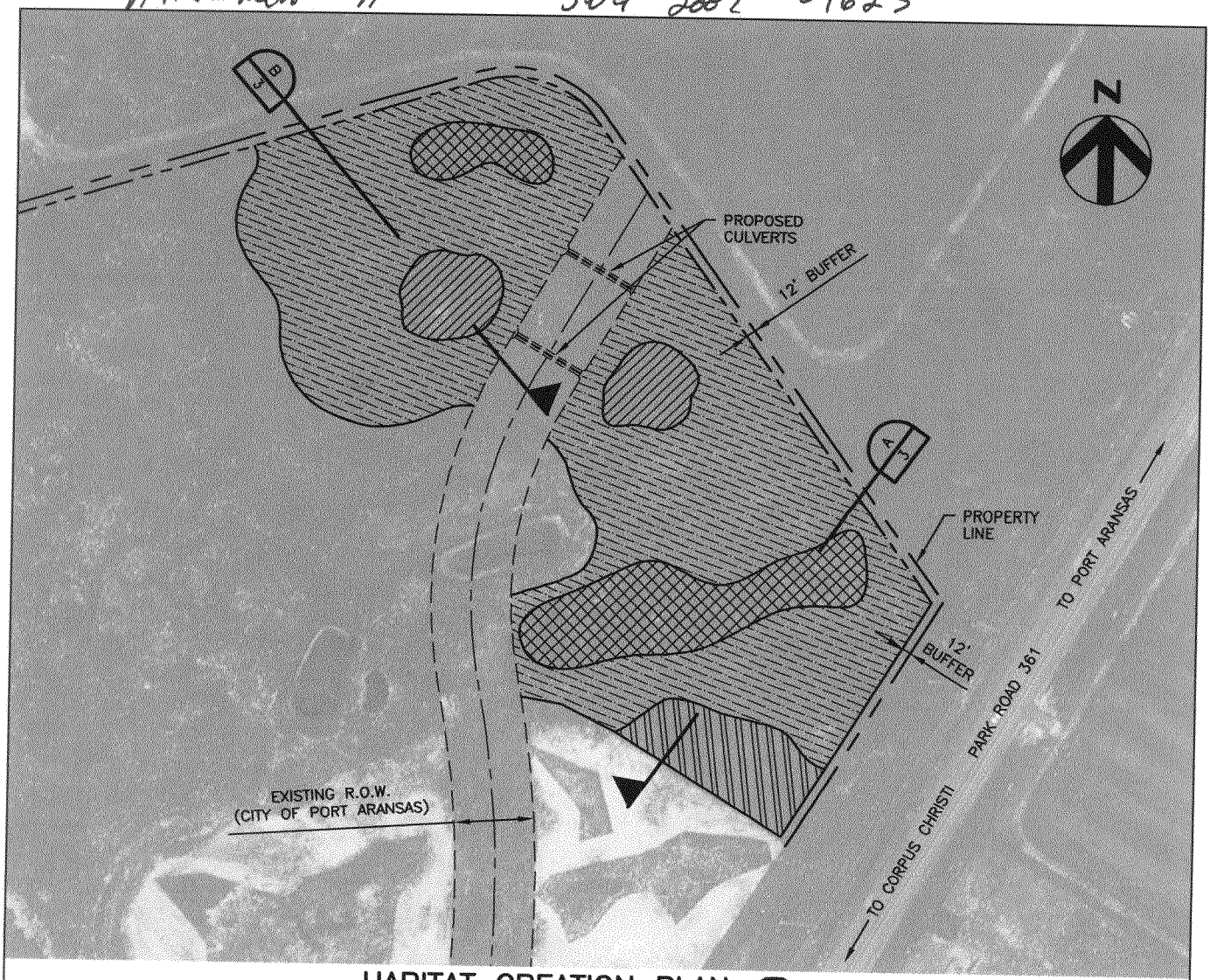
FOR COE USE ONLY
Permit Application No.:
Applicant Name:
Sheet ____ of ____

HDR

HDR Engineering, Inc.
TEXAS FIRM REGISTRATION NUMBER 754

ACTIVITY: AFTER-THE-FACT PERMIT APPLICATION – MITIGATION PLAN	
APPLICANT: KM BEACH, LLC	DATUM:
DATE: 05/03/13	REV. DATE: 06-05-2013
HDR JOB NO: 202178	SHEET 1 OF 3

Attachment A SWG-2007-01623



HABITAT CREATION PLAN

SCALE: 0 100' 200'

1
1

LEGEND

- CREATED OPEN WATER HABITAT (0.5 ACRES)
- PRESERVED UPLAND COASTAL PRAIRIE (1.08 ACRES)
- PRESERVED EXISTING HIGH MARSH (0.50 ACRES)
- CREATED HIGH MARSH (6.1 ACRES)

NOTES:

1. NO ROADWAY CONSTRUCTION IS PROPOSED AS PART OF THIS MITIGATION. THE EXISTING R.O.W. DEPICTED HERE IS A LONG-STANDING FEATURE OF THE CITY OF PORT ARANSAS'S PUD AND HAS THUS BEEN EXCLUDED FROM THE PROPOSED MITIGATION AREA.

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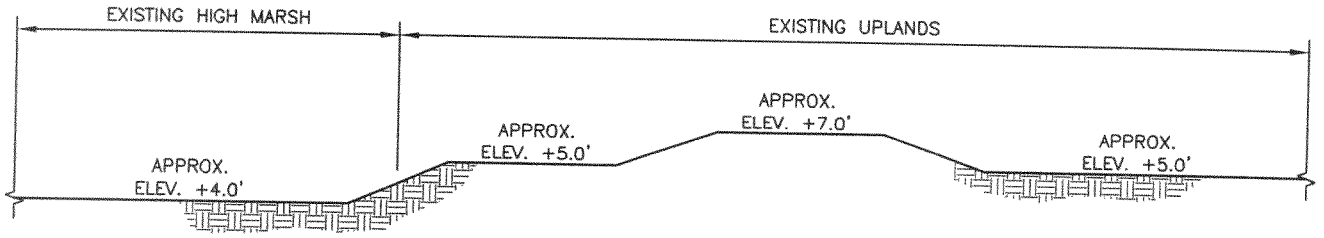
Permit Application No.:
Applicant Name:
Sheet ____ of ____

HDR Engineering, Inc.
TEXAS FIRM REGISTRATION NUMBER 754

ACTIVITY: AFTER-THE-FACT PERMIT APPLICATION – MITIGATION PLAN	
APPLICANT: KM BEACH, LLC	DATUM:
DATE: 05/03/13	REV. DATE: 07-30-2013
HDR JOB NO: 202178	SHEET 2 OF 3

Attachment A SWG-2007-01623 JUN 07 2013



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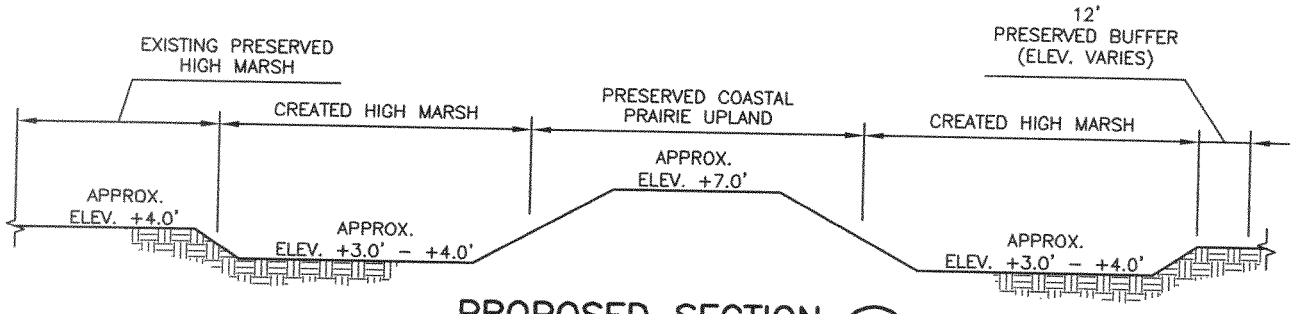

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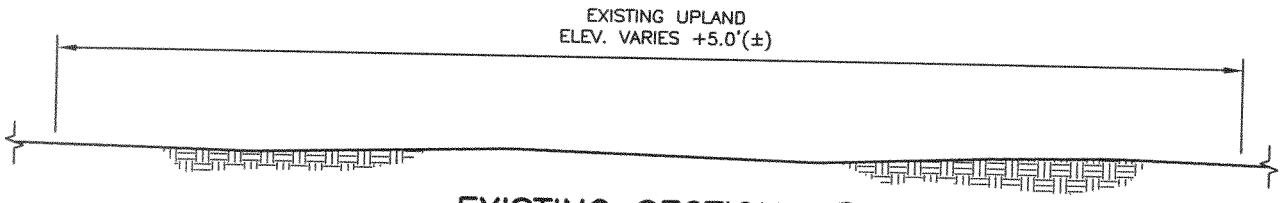

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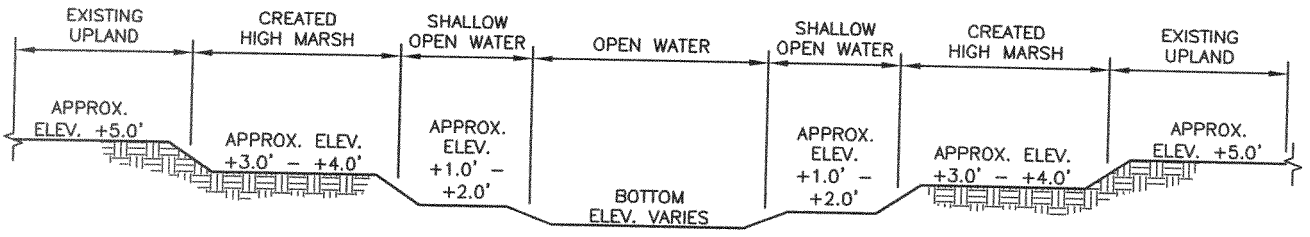

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Permit Application No.:
Applicant Name:
Sheet ____ of ____

HDR
HDR Engineering, Inc.
TEXAS FIRM REGISTRATION NUMBER F54

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DATUM:
DATE: 05/03/13
REV. DATE: 06-05-2013
HDR JOB NO: 202178
SHEET 3 OF 3