

WAA 3: Tidal - 12.8 Acres

V_{typical}: proportion of the site that is covered by vegetation typical of the regional subclass

V_{typical} : proportion of the site that is covered by vegetation typical of the regional subclass

Sapium sebiferum, *Alternanthera philoxeroides*, *Aster spinosus*, *Phragmites drummondii*, *Sesba*

(*Sapium sebiferum*, *Alternanthera philoxeroides*, *Aster spinosus*, *Phragmites drummondii*, *Sesbania drummondii*, *Typha* sp., *Cyperus eriananthus*)

Species	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
10%	0.10					0.10
20%	0.10					0.10
30%	0.20					0.20
40%	0.40					0.40
50%	0.50	X				0.50
60%	0.60		X			0.60
70%	0.70					0.70
80%	0.90			X		0.90
90%	1.00					1.00
100%	1.00				X	1.00

 V_{dive} : distance to water greater than or equal to 6 feet deep

Distance to Navigation Channel or water greater than or equal to 6 ft deep	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Less than 150 ft	0.10						0.10
151–450 ft	0.50						0.50
Greater than 451 ft	1.00	X	X	X	X	X	1.00

 V_{marsh} : average marsh width

Mean Width WAA Distance (ft)	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
0-30 ft	0.10						0.10
31-75 ft	0.25						0.25
76-150 ft	0.50						0.50
151-225 ft	0.60						0.60
226-300 ft	0.80						0.80
301-375 ft	0.85						0.85
376-450 ft	0.90						0.90
451-525 ft	0.95						0.95
526-600 ft	1.00						1.00
Greater than 600 ft	1.00	X	X	X	X	X	1.00

WAA 3: Tidal - 12.8 Acres

Vrough: Manning's roughness coefficient: $n_{base} + n_{topo} + n_{veg} = \text{manning's } n$
(nbase)

Sediment surface	0.025	Base value for bare marsh soil.
	0.03	More than 25% of the sediment surface covered with gravel or broken shell

(ntopo)

Topographic relief	0.001	WAA is flat no microtopographic or macrotopographic relief
	0.005	WAA has 5-25% topographic relief
	0.010	WAA has 26-50% topographic relief
	0.200	WAA has greater than 50% topographic relief

(nveg)

Vegetation	Less 50% cover	50-75% cover	76-100% cover	Description of Conditions
	0.025	0.030	0.035	Predominantly Short flexible stem grass (i.e. <i>Spartina alterniflora</i> , <i>S. patens</i> , <i>Distichlis spicata</i>)
	0.035	0.040	0.050	Predominantly short stiff trailing stems (i.e. <i>Batis</i> & <i>Salicornia</i>)
	0.050	0.060	0.070	Predominantly tall flexible grass (i.e. tall <i>Spartina alterniflora</i> , <i>S. cynosuroides</i> , <i>Scirpus</i> sp.)
	0.070	0.100	0.160	Predominantly tall with stiff leaves or mixed with woody shrubs (i.e. <i>Juncus roemerianus</i> , Mangroves, etc.)

FCI variables sub index (rounded appropriately)

Roughness	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
0.04	0.10						0.10
0.05	0.20		x				0.20
0.06	0.40			x			0.40
0.07	0.60				x		0.60
0.08	0.80						0.80
0.09	1.00	x					1.00
0.10	1.00						1.00

V_{soil}: predominant soil texture

Soil Texture	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Sandy	0.20						0.20
Sandy loam	0.40						0.40
Loam	0.60						0.60
Clay loam	0.80	x	x	x	x	x	0.80
Clay	1.00						1.00

WAA 4: Tidal - 105.0 Acres

V_{site} : the amount of the marsh-water meters/hectare

Site Description	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Marsh shows deterioration due to subsidence large amounts of open water	0.80						0.80
Well developed tidal drainage network present OR Simple tidal network with isolated ponds & depressions in the marsh interior OR Large amount of shallow shoreline in relation to the entire area Simple tidal drainage network...isolated ponds and depressions are few and lacking	1.00 0.70	X	X	X	X	X	1.00 0.70
Marsh lack both tidal creeks & isolated ponds & depressions, shoreline is linear or smooth...Marsh area is large relative to shoreline length. OR the WAA is a depression that is not affected by the daily tide (i.e. high marsh)	0.40						0.40

V_{hydro} : site hydroperiod or degree of hydrological modifications

Site Description	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Site is open, no hydrologic restrictions	1.00		X	X	X	X	1.00
Moderate hydrologic restriction (i.e. low level berms that overtop freq. by waves, or has multi-breaches or large numerous culverts)	0.60	X					0.60
Severe hydrologic restriction (High elevation berm with in freq over-top, small culverts, single opening or breach)	0.30						0.30
Site receives water only during extreme storm events	0.10						0.10
Site is cut off from tidal exchange	0.00						0.00

V_{hab} : The number of habitat types present

(Habitat types: within 150 ft of the edge of the WAA)

Habitat Types:
Low Marsh / High Marsh / Subtidal Creeks / Intertidal Creeks
ponds or depressions / SAVs / Oyster Reef / Unvegetative flats
Algal flats / Mangroves / Coarse woody debris

Number of habitat types	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
1	0.20						0.20
2	0.30						0.30
3	0.50						0.50
4	0.70						0.70
5	0.80	X	X	X	X	X	0.80
6	1.00						1.00

WAA 4: Tidal - 105.0 Acres

V_{typical}: proportion of the site that is covered by vegetation typical of the regional subclass

Invasive species: tallow, alligator weeds, spiny aster, common reed, rattlebox, cattail, flat sedge

(*Sagittum sebiferum*, *Alternanthera philoxeroides*, *Aster spinosus*, *Phragmites drummondii*, *Sesbania drummondii*, *Typha* sp., *Cyperus erianianus*)

Total % Cover by typical species	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
10%	0.10						0.10
20%	0.10						0.10
30%	0.20						0.20
40%	0.40						0.40
50%	0.50						0.50
60%	0.60						0.60
70%	0.70						0.70
80%	0.90						0.90
90%	1.00	X	X	X	X	X	1.00
100%	1.00						1.00

V_{align}: distance to water greater than or equal to 6 feet deep

Distance to Navigation Channel or water greater than or equal to 6 ft deep	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Less than 150 ft	0.10	X	X	X	X	X	0.10
151-450 ft	0.50						0.50
Greater than 451 ft	1.00						1.00

V_{width}: average marsh width

Mean Width WAA Distance (ft)	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
0-30 ft	0.10						0.10
31-75 ft	0.25						0.25
76-150 ft	0.50						0.50
151-225 ft	0.60						0.60
226-300 ft	0.80						0.80
301-375 ft	0.85						0.85
376-450 ft	0.90						0.90
451-525 ft	0.95						0.95
526-600 ft	1.00						1.00
Greater than 600 ft	1.00	X	X	X	X	X	1.00

WAA 4: Tidal - 105.0 Acres

Vrough: Manning's roughness coefficient: nbase + ntopo + n veg = manning's n (nbase)

Sediment surface		0.025	Base value for bare marsh soil.
		0.03	More than 25% of the sediment surface covered with gravel or broken shell

(ntopo)

Topographic relief	0.001	WAA is flat no microtopographic or macrotopographic relief
	0.005	WAA has 5-25% topographic relief
	0.010	WAA has 26-50% topographic relief
	0.200	WAA has greater than 50% topographic relief

(nveg)

Vegetation	Less 50% cover	50-75% cover	76-100% cover	Description of Conditions
	0.025	0.030	0.035	Predominantly Short flexible stem grass (i.e. <i>Spartina alterniflora</i> , <i>S. patens</i> , <i>Distichlis spicata</i>)
	0.035	0.040	0.050	Predominantly short stiff trailing stems (i.e. <i>Batis</i> & <i>Salicornia</i>)
	0.050	0.060	0.070	Predominantly tall flexible grass (i.e. tall <i>Spartina alterniflora</i> , <i>S. cynosuroides</i> , <i>Scirpus</i> sp.)
	0.070	0.100	0.160	Predominantly tall with stiff leaves or mixed with woody shrubs (i.e. <i>Juncus roemerianus</i> , Mangroves, etc.)

FCT variables sub index (rounded appropriately)

Roughness	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
0.04	0.10						0.10
0.05	0.20						0.20
0.06	0.40						0.40
0.07	0.60	x	x	x	x	x	0.60
0.08	0.80						0.80
0.09	1.00						1.00
0.10	1.00						1.00

V_{soil}: predominant soil texture

Soil Texture	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Sandy	0.20						0.20
Sandy loam	0.40						0.40
Loam	0.60						0.60
Clay loam	0.80	x	x	x	x	x	0.80
Clay	1.00						1.00

WAA 5: Tidal - 107.1 Acres

V_{edge} : the amount of the marsh-water meters/hectare

Site Description	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Marsh shows deterioration due to subsidence large amounts of open water	0.80						0.80
Well developed tidal drainage network present OR Simple tidal network with isolated ponds & depressions in the marsh interior OR Large amount of shallow shoreline in relation to the entire area	1.00	X	X	X	X	X	1.00
Simple tidal drainage network...isolated ponds and depressions are few and lacking	0.70						0.70
Marsh lack both tidal creeks & isolated ponds & depressions, shoreline is linear or smooth...Marsh area is large relative to shoreline length. OR the WAA is a depression that is not affected by the daily tide (i.e. high marsh)	0.40						0.40

V_{hydro} : site hydroperiod or degree of hydrological modifications

Site Description	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Site is open, no hydrologic restrictions	1.00		X	X	X	X	1.00
Moderate hydrologic restriction (i.e. low level berms that overtop freq. by waves, or has multi-breaches or large numerous culverts)	0.60	X					0.60
Severe hydrologic restriction (High elevation berm with in freq over-top, small culverts, single opening or breach)	0.30						0.30
Site receives water only during extreme storm events	0.10						0.10
Site is cut off from tidal exchange	0.00						0.00

V_{acc} : The number of habitat types present

(Habitat types: within 150 ft. of the edge of the WAA)

Habitat Types:
Low Marsh / High Marsh / Subtidal Creeks / Intertidal Creeks ponds or depressions / SAVs / Oyster Reef / Unvegetative flats
Algal flats / Mangroves / Coarse woody debris

Number of habitat types	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
1	0.20						0.20
2	0.30						0.30
3	0.50						0.50
4	0.70						0.70
5	0.80	X	X	X	X	X	0.80
6	1.00						1.00

WAA 5: Tidal - 107.1 Acres

V_{total}: proportion of the site that is covered by vegetation typical of the regional subclass

Invasive species: tallow, alligator weeds, spiny aster, common reed, rattlebox, cattail, flat sedge

(*Sagittaria arifolia*, *Alternanthera philoxeroides*, *Aster spinosus*, *Phragmites drummondii*, *Sesbania drummondii*, *Typha* sp., *Cyperus eriananthus*)

Total % Cover by typical species	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
10%	0.10						0.10
20%	0.10						0.10
30%	0.20						0.20
40%	0.40						0.40
50%	0.50						0.50
60%	0.60						0.60
70%	0.70						0.70
80%	0.90						0.90
90%	1.00	X	X	X	X	X	1.00
100%	1.00						1.00

V_{avg}: distance to water greater than or equal to 6 feet deep

Distance to Navigation Channel or water greater than or equal to 6 ft deep	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Less than 150 ft	0.10	X	X	X	X	X	0.10
151-450 ft	0.50						0.50
Greater than 451 ft	1.00						1.00

V_{sub}: average marsh width

Mean Width, WAA Distance (ft)	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
0-30 ft	0.10						0.10
31-75 ft	0.25						0.25
76-150 ft	0.50						0.50
151-225 ft	0.60						0.60
226-300 ft	0.80						0.80
301-375 ft	0.85						0.85
376-450 ft	0.90						0.90
451-525 ft	0.95						0.95
526-600 ft	1.00						1.00
Greater than 600 ft	1.00	X	X	X	X	X	1.00

WAA 5: Tidal – 107.1 Acres

Vrough: Manning's roughness coefficient: $n_{base} + n_{topo} + n_{veg} = \text{manning's } n$
(nbase)

Sediment surface	0.025	Base value for bare marsh soil
	0.03	More than 25% of the sediment surface covered with gravel or broken shell

(ntopo)

Topographic relief	0.001	WAA is flat no microtopographic or macrotopographic relief
	0.005	WAA has 5-25% topographic relief
	0.010	WAA has 26-50% topographic relief
	0.200	WAA has greater than 50% topographic relief

(nveg)

Vegetation	Less 50% cover	50-75% cover	76-100% cover	Description of Conditions
	0.025	0.030	0.035	Predominantly Short flexible stem grass (i.e. <i>Spartina alterniflora</i> , <i>S. patens</i> , <i>Distichlis spicata</i>)
	0.035	0.040	0.050	Predominantly short stiff trailing stems (i.e. <i>Batis</i> & <i>Salicornia</i>)
	0.050	0.060	0.070	Predominantly tall flexible grass (i.e. tall <i>Spartina alterniflora</i> , <i>S. cynosuroides</i> , <i>Scirpus</i> sp.)
	0.070	0.100	0.160	Predominantly tall with stiff leaves or mixed with woody shrubs (i.e. <i>Juncus roemerianus</i> , Mangroves, etc.)

FCI variables sub index (rounded appropriately)

Roughness	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
0.04	0.10						0.10
0.05	0.20						0.20
0.06	0.40						0.40
0.07	0.60	x	x	x	x	x	0.60
0.08	0.80						0.80
0.09	1.00						1.00
0.10	1.00						1.00

V_{sub} : predominant soil texture

Soil Texture	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Sandy	0.20						0.20
Sandy loam	0.40						0.40
Loam	0.60						0.60
Clay loam	0.80	x	x	x	x	x	0.80
Clay	1.00						1.00

WAA 6: Tidal - 0.6 Acres

V_{site}: the amount of the marsh-water meters/hectare

Site Description	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Marsh shows deterioration due to subsidence large amounts of open water	0.80						0.80
Well developed tidal drainage network present OR Simple tidal network with isolated ponds & depressions in the marsh interior OR Large amount of shallow shoreline in relation to the entire area Simple tidal drainage network...isolated ponds and depressions are few and lacking	1.00						1.00
	0.70						0.70
Marsh lack both tidal creeks & isolated ponds & depressions, shoreline is linear or smooth....Marsh area is large relative to shoreline length. OR the WAA is a depression that is not affected by the daily tide (i.e. high marsh)	0.40		x	x	x	x	0.40

V_{index}: site hydroperiod or degree of hydrological modifications

Site Description	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Site is open, no hydrologic restrictions	1.00		x	x	x	x	1.00
Moderate hydrologic restriction (i.e. low level berms that overtop freq by waves, or has multi-breaches or large numerous culverts)	0.60						0.60
Severe hydrologic restriction (High elevation berm with in freq over-top, small culverts, single opening or breach)	0.30						0.30
Site receives water only during extreme storm events	0.10						0.10
Site is cut off from tidal exchange	0.00						0.00

V_{site}: The number of habitat types present

(Habitat types: within 150 ft of the edge of the WAA)

Habitat Types:
Low Marsh / High Marsh / Subtidal Creeks / Intertidal Creeks
ponds or depressions / SAV's / Oyster Reef / Unvegetative flats
Algal flats / Mangroves / Course woody debris

Number of habitat types	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
1	0.20						0.20
2	0.30		x	x	x	x	0.30
3	0.50						0.50
4	0.70						0.70
5	0.80						0.80
6	1.00						1.00

WAA 6: Tidal - 0.6 Acres

$V_{typical}$: proportion of the site that is covered by vegetation typical of the regional subclass

Invasive species: tallow, alligator weeds, spiny aster, common reed, rattlebox, cattail, flat sedge

(*Sapum sebiferum*, *Alternanthera philoxeroides*, *Aster spinosus*, *Phragmites drummondii*, *Typha sp.*, *Cyperus eritranianus*)

Total % Cover by typical species	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
10%	0.10		x				0.10
20%	0.10						0.10
30%	0.20						0.20
40%	0.40			x			0.40
50%	0.50						0.50
60%	0.60						0.60
70%	0.70				x		0.70
80%	0.90						0.90
90%	1.00					x	1.00
100%	1.00						1.00

V_{edge} : distance to water greater than or equal to 6 feet deep

Distance to Navigation Channel or water greater than or equal to 6 ft deep	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Less than 150 ft	0.10						0.10
151-450 ft	0.50						0.50
Greater than 451 ft	1.00		x	x	x	x	1.00

V_{width} : average marsh width

Mean Width WAA Distance (ft)	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
0-30 ft	0.10						0.10
31-75 ft	0.25						0.25
76-150 ft	0.50						0.50
151-225 ft	0.60		x	x	x	x	0.60
226-300 ft	0.80						0.80
301-375 ft	0.85						0.85
376-450 ft	0.90						0.90
451-525 ft	0.95						0.95
526-600 ft	1.00						1.00
Greater than 600 ft	1.00						1.00

WAA 6: Tidal - 0.6 Acres

V_{rough}: Manning's roughness coefficient: $n_{base} + n_{topo} + n_{veg} = \text{manning's } n$
(nbase)

Sediment surface		0.025	Base value for bare marsh soil.
		0.03	More than 25% of the sediment surface covered with gravel or broken shell

(ntopo)

Topographic relief		0.001	WAA is flat no microtopographic or macrotopographic relief
		0.005	WAA has 5-25% topographic relief
		0.010	WAA has 26-50% topographic relief
		0.200	WAA has greater than 50% topographic relief

(nveg)

Vegetation	Less 50% cover	50-75% cover	76-100% cover	Description of Conditions
	0.025	0.030	0.035	Predominantly Short flexible stem grass (i.e. <i>Spartina alterniflora</i> , <i>S. patens</i> , <i>Distichlis spicata</i>)
	0.035	0.040	0.050	Predominantly short stiff trailing stems (i.e. <i>Batis</i> & <i>Salicornia</i>)
	0.050	0.060	0.070	Predominantly tall flexible grass (i.e. tall <i>Spartina alterniflora</i> , <i>S. cynosuroides</i> , <i>Scirpus</i> sp.)
	0.070	0.100	0.160	Predominantly tall with stiff leaves or mixed with woody shrubs (i.e. <i>Juncus roemerianus</i> , Mangroves, etc.)

FCI variables sub index (rounded appropriately)

Roughness	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
0.04	0.10						0.10
0.05	0.20		x	x			0.20
0.06	0.40				x	x	0.40
0.07	0.60						0.60
0.08	0.80						0.80
0.09	1.00						1.00
0.10	1.00						1.00

V_{soil}: predominant soil texture

Soil Texture	Variable Sub index	Baseline	Year 1	Year 3	Year 5	Year 7	Variable Sub index
Sandy	0.20						0.20
Sandy loam	0.40						0.40
Loam	0.60						0.60
Clay loam	0.80		x	x	x	x	0.80
Clay	1.00						1.00

APPENDIX D – USFWS OFFICIAL SPECIES LIST



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058
Phone: (281) 286-8282 Fax: (281) 488-5882
<http://www.fws.gov/southwest/es/TexasCoastal/>
http://www.fws.gov/southwest/es/ES_Lists_Main2.html

In Reply Refer To:
Consultation Code: 02ETTX00-2017-SLI-1503
Event Code: 02ETTX00-2017-E-02969
Project Name: Basford Bayou Mitigation Bank

July 11, 2017

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The U.S. Fish and Wildlife Service (Service) field offices in Clear Lake, Tx, and Corpus Christi, Tx, have combined administratively to form the Texas Coastal Ecological Services Field Office. A map of the Texas Coastal Ecological Services Field Office area of responsibility can be found at: <http://www.fws.gov/southwest/es/TexasCoastal/Map.html>. All project related correspondence should be sent to the field office responsible for the area in which your project occurs. For projects located in southeast Texas please write to: Field Supervisor, U.S. Fish and Wildlife Service, 17629 El Camino Real Ste. 211, Houston, Texas 77058. For projects located in southern Texas please write to: Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 81468, Corpus Christi, Texas 78468-1468. For projects located in six counties in southern Texas (Cameron, Hidalgo, Starr, Webb, Willacy, and Zapata) please write: Santa Ana NWR, ATTN: Ecological Services Sub Office, 3325 Green Jay Road, Alamo, Texas 78516.

The enclosed species list identifies federally threatened, endangered, and proposed to be listed species; designated critical habitat; and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project.

New information from updated surveys, changes in the abundance and distribution of species, changes in habitat conditions, or other factors could change the list. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation for updates to species list and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

Candidate species have no protection under the Act but are included for consideration because they could be listed prior to the completion of your project. The other species information should help you determine if suitable habitat for these listed species exists in any of the proposed project areas or if project activities may affect species on-site, off-site, and/or result in "take" of a federally listed species.

"Take" is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. In addition to the direct take of an individual animal, habitat destruction or modification can be considered take, regardless of whether it has been formally designated as critical habitat, if the activity results in the death or injury of wildlife by removing essential habitat components or significantly alters essential behavior patterns, including breeding, feeding, or sheltering.

Section 7

Section 7 of the Act requires that all Federal agencies consult with the Service to ensure that actions authorized, funded or carried out by such agencies do not jeopardize the continued existence of any listed threatened or endangered species or adversely modify or destroy critical habitat of such species. It is the responsibility of the Federal action agency to determine if the proposed project may affect threatened or endangered species. If a "may affect" determination is made, the Federal agency shall initiate the section 7 consultation process by writing to the office that has responsibility for the area in which your project occurs.

Is not likely to adversely affect - the project may affect listed species and/or critical habitat; however, the effects are expected to be discountable, insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effects. The Federal agency or the designated non-Federal representative should seek written concurrence from the Service that adverse effects have been eliminated. Be sure to include all of the information and documentation used to reach your decision with your request for concurrence. The Service must have this documentation before issuing a concurrence.

Is likely to adversely affect - adverse effects to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable, insignificant, or beneficial. If the overall effect of the proposed action is beneficial to the listed species but also is likely to cause some adverse effects to individuals of that species, then the proposed action "is likely to adversely affect" the listed species. An "is likely to adversely affect" determination requires the Federal action agency to initiate formal section 7 consultation with this office.

No effect - the proposed action will not affect federally listed species or critical habitat (i.e., suitable habitat for the species occurring in the project county is not present in or adjacent to the action area). No further coordination or contact with the Service is necessary. However, if the project changes or additional information on the distribution of listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered.

Regardless of your determination, the Service recommends that you maintain a complete record

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of the evaluation, including steps leading to the determination of affect, the qualified personnel conducting the evaluation, habitat conditions, site photographs, and any other related articles.

Please be advised that while a Federal agency may designate a non-Federal representative to conduct informal consultations with the Service, assess project effects, or prepare a biological assessment, the Federal agency must notify the Service in writing of such a designation. The Federal agency shall also independently review and evaluate the scope and contents of a biological assessment prepared by their designated non-Federal representative before that document is submitted to the Service.

The Service's Consultation Handbook is available online to assist you with further information on definitions, process, and fulfilling Act requirements for your projects at:
http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf

Section 10

If there is no federal involvement and the proposed project is being funded or carried out by private interests and/or non-federal government agencies, and the project as proposed may affect listed species, a section 10(a)(1)(B) permit is recommended. The Habitat Conservation Planning Handbook is available at:
http://www.fws.gov/endangered/esa-library/pdf/HCP_Handbook.pdf

Service Response

Please note that the Service strives to respond to requests for project review within 30 days of receipt, however, this time period is not mandated by regulation. Responses may be delayed due to workload and lack of staff. Failure to meet the 30-day timeframe does not constitute a concurrence from the Service that the proposed project will not have impacts to threatened and endangered species.

Proposed Species and/or Proposed Critical Habitat

While consultations are required when the proposed action may affect listed species, section 7(a)(4) was added to the ESA to provide a mechanism for identifying and resolving potential conflicts between a proposed action and proposed species or proposed critical habitat at an early planning stage. The action agency should seek concurrence from the Service to assist the action agency in determining effects and to advise the agency on ways to avoid or minimize adverse effect to proposed species or proposed critical habitat.

Candidate Species

Candidate species are species that are being considered for possible addition to the threatened and endangered species list. They currently have no legal protection under the ESA. If you find you have potential project impacts to these species the Service would like to provide technical assistance to help avoid or minimize adverse effects. Addressing potential impacts to these species at this stage could better provide for overall ecosystem health in the local area and avert potential future listing.

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Several species of freshwater mussels occur in Texas and four are candidates for listing under the ESA. The Service is also reviewing the status of six other species for potential listing under the ESA. One of the main contributors to mussel die offs is sedimentation, which smothers and suffocates mussels. To reduce sedimentation within rivers, streams, and tributaries crossed by a project, the Service recommends that that you implement the best management practices found at: <http://www.fws.gov/southwest/es/TexasCoastal/FreshwaterMussels.html>.

Candidate Conservation Agreements (CCAs) or Candidate Conservation Agreements with Assurances (CCAAs) are voluntary agreements between the Service and public or private entities to implement conservation measures to address threats to candidate species. Implementing conservation efforts before species are listed increases the likelihood that simpler, flexible, and more cost-effective conservation options are available. A CCAA can provide participants with assurances that if they engage in conservation actions, they will not be required to implement additional conservation measures beyond those in the agreement. For additional information on CCAs/CCAAs please visit the Service's website at <http://www.fws.gov/endangered/what-we-do/cca.html>.

Migratory Birds

The Migratory Bird Treaty Act (MBTA) implements various treaties and conventions for the protection of migratory birds. Under the MBTA, taking, killing, or possessing migratory birds is unlawful. Many may nest in trees, brush areas or other suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals or eggs. If project activities must be conducted during this time, we recommend surveying for active nests prior to commencing work. A list of migratory birds may be viewed at <http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html>.

The bald eagle (*Haliaeetus leucocephalus*) was delisted under the Act on August 9, 2007. Both the bald eagle and the golden eagle (*Aquila chrysaetos*) are still protected under the MBTA and BGEPA. The BGEPA affords both eagles protection in addition to that provided by the MBTA, in particular, by making it unlawful to "disturb" eagles. Under the BGEPA, the Service may issue limited permits to incidentally "take" eagles (e.g., injury, interfering with normal breeding, feeding, or sheltering behavior nest abandonment). For more information on bald and golden eagle management guidelines, we recommend you review information provided at <http://www.fws.gov/midwest/eagle/pdf/NationalBaldEagleManagementGuidelines.pdf>.

The construction of overhead power lines creates threats of avian collision and electrocution. The Service recommends the installation of underground rather than overhead power lines whenever possible. For new overhead lines or retrofitting of old lines, we recommend that project developers implement, to the maximum extent practicable, the Avian Power Line Interaction Committee guidelines found at <http://www.aplic.org/>.

Meteorological and communication towers are estimated to kill millions of birds per year. We recommend following the guidance set forth in the Service Interim Guidelines for

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Recommendations on Communications Tower Siting, Constructions, Operation and Decommissioning, found online at:

<http://www.fws.gov/habitatconservation/communicationtowers.html>, to minimize the threat of avian mortality at these towers. Monitoring at these towers would provide insight into the effectiveness of the minimization measures. We request the results of any wildlife mortality monitoring at towers associated with this project.

We request that you provide us with the final location and specifications of your proposed towers, as well as the recommendations implemented. A Tower Site Evaluation Form is also available via the above website; we recommend you complete this form and keep it in your files. If meteorological towers are to be constructed, please forward this completed form to our office.

More information concerning sections 7 and 10 of the Act, migratory birds, candidate species, and landowner tools can be found on our website at:

<http://www.fws.gov/southwest/es/TexasCoastal/ProjectReviews.html>.

Wetlands and Wildlife Habitat

Wetlands and riparian zones provide valuable fish and wildlife habitat as well as contribute to food control, water quality enhancement, and groundwater recharge. Wetland and riparian vegetation provides food and cover for wildlife, stabilizes banks and decreases soil erosion. These areas are inherently dynamic and very sensitive to changes caused by such activities as overgrazing, logging, major construction, or earth disturbance. Executive Order 11990 asserts that each agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial value of wetlands in carrying out the agency's responsibilities. Construction activities near riparian zones should be carefully designed to minimize impacts. If vegetation clearing is needed in these riparian areas, they should be re-vegetated with native wetland and riparian vegetation to prevent erosion or loss of habitat. We recommend minimizing the area of soil scarification and initiating incremental re-establishment of herbaceous vegetation at the proposed work sites. Denuded and/or disturbed areas should be re-vegetated with a mixture of native legumes and grasses. Species commonly used for soil stabilization are listed in the Texas Department of Agriculture's (TDA) Native Tree and Plant Directory, available from TDA at P.O. Box 12847, Austin, Texas 78711. The Service also urges taking precautions to ensure sediment loading does not occur to any receiving streams in the proposed project area. To prevent and/or minimize soil erosion and compaction associated with construction activities, avoid any unnecessary clearing of vegetation, and follow established rights-of-way whenever possible. All machinery and petroleum products should be stored outside the floodplain and/or wetland area during construction to prevent possible contamination of water and soils.

Wetlands and riparian areas are high priority fish and wildlife habitat, serving as important sources of food, cover, and shelter for numerous species of resident and migratory wildlife. Waterfowl and other migratory birds use wetlands and riparian corridors as stopover, feeding, and nesting areas. We strongly recommend that the selected project site not impact wetlands and riparian areas, and be located as far as practical from these areas. Migratory birds tend to concentrate in or near wetlands and riparian areas and use these areas as migratory yways or

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corridors. After every effort has been made to avoid impacting wetlands, you anticipate unavoidable wetland impacts will occur; you should contact the appropriate U.S. Army Corps of Engineers office to determine if a permit is necessary prior to commencement of construction activities.

If your project will involve filling, dredging, or trenching of a wetland or riparian area it may require a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers (COE). For permitting requirements please contact the U.S. Corps of Engineers, District Engineer, P.O. Box 1229, Galveston, Texas 77553-1229, (409) 766-3002.

Beneficial Landscaping

In accordance with Executive Order 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping (42 C.F.R. 26961), where possible, any landscaping associated with project plans should be limited to seeding and replanting with native species. A mixture of grasses and forbs appropriate to address potential erosion problems and long-term cover should be planted when seed is reasonably available. Although Bermuda grass is listed in seed mixtures, this species and other introduced species should be avoided as much as possible. The Service also recommends the use of native trees, shrubs, and herbaceous species that are adaptable, drought tolerant and conserve water.

State Listed Species

The State of Texas protects certain species. Please contact the Texas Parks and Wildlife Department (Endangered Resources Branch), 4200 Smith School Road, Austin, Texas 78744 (telephone 512/389-8021) for information concerning fish, wildlife, and plants of State concern or visit their website at:

http://www.tpwd.state.tx.us/huntwild/wild/wildlife_diversity/texas_rare_species/listed_species/.

If we can be of further assistance, or if you have any questions about these comments, please contact 281/286-8282 if your project is in southeast Texas, or 361/994-9005, ext. 246, if your project is in southern Texas. Please refer to the Service consultation number listed above in any future correspondence regarding this project.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058
(281) 286-8282

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Project Summary

Consultation Code: 02ETTX00-2017-SLI-1503

Event Code: 02ETTX00-2017-E-02969

Project Name: Basford Bayou Mitigation Bank

Project Type: LAND - RESTORATION / ENHANCEMENT

Project Description: Approximately 409 acre wetland mitigation bank site located between Basford Bayou and the Highland Bayou Diversion Canal along Harbor Drive in Galveston County Texas.

Project Location:

Approximate location of the project can be viewed in Google Maps:

<https://www.google.com/maps/place/29.30939567799868N94.99255256136159W>

Counties: Galveston, TX

Endangered Species Act Species

There is a total of 9 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area. Please contact the designated FWS office if you have questions.

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Mammals

NAME

STATUS

West Indian Manatee (*Trichechus manatus*)

Threatened

There is a **final critical habitat** designated for this species. Your location is outside the designated critical habitat.

Species profile: <https://ecos.fws.gov/ecp/species/4469>

Birds

NAME

STATUS

Attwater's Greater Prairie-chicken (*Tympanuchus cupido attwateri*)

Endangered

No critical habitat has been designated for this species.

Species profile: <https://ecos.fws.gov/ecp/species/7259>

Piping Plover (*Charadrius melodus*)

Threatened

Population: except Great Lakes watershed

There is a **final critical habitat** designated for this species. Your location is outside the designated critical habitat.

Species profile: <https://ecos.fws.gov/ecp/species/6039>

Red Knot (*Calidris canutus rufa*)

Threatened

No critical habitat has been designated for this species.

Species profile: <https://ecos.fws.gov/ecp/species/1864>

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Reptiles

NAME	STATUS
Green Sea Turtle (<i>Chelonia mydas</i>) Population: North Atlantic DPS No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6192	Threatened
Hawksbill Sea Turtle (<i>Eretmochelys imbricata</i>) There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3656	Endangered
Kemp's Ridley Sea Turtle (<i>Lepidochelys kempii</i>) No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5523	Endangered
Leatherback Sea Turtle (<i>Dermochelys coriacea</i>) There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1493	Endangered
Loggerhead Sea Turtle (<i>Caretta caretta</i>) Population: Northwest Atlantic Ocean DPS There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1110	Threatened

Critical habitats

There are no critical habitats within your project area.

APPENDIX E –TITLE POLICY

THE LANGUAGE SET FORTH BELOW *MUST* BE INCORPORATED INTO A COVER LETTER AND SUCH COVER LETTER *MUST* BE ATTACHED TO ALL TITLE INSURANCE COMMITMENTS. EXCEPTION: IF THE RECIPIENT IS AN OUT-OF-COUNTY TITLE COMPANY, USE THE OUT-OF-COUNTY TITLE COMPANY COVER LETTER.

Required Language for a Title Insurance Commitment Cover Letter

The attached title insurance commitment contains information which has been obtained or derived from records and information owned by Title Data, Inc. or one of its subsidiaries (collectively "Title Data"). Title Data owns and maintains land title plants for various Texas counties. Title Data created its title plants through the investment of extensive time, labor, skill and money. **The information contained in the title plants is protected by federal copyright law and Texas common law on trade secrets and contract.**

Title Data has granted our company a license to use one or more of its title plants. Our company's right to access and use Title Data's title plants is governed by our contract with Title Data. Our contract with Title Data restricts who can receive and/or use a title insurance commitment which is based, in whole or in part, upon Title Data's records and information.

Under the terms of our contract with Title Data, we are permitted to provide you with the attached title insurance commitment **for limited use and distribution only**. Specifically, you are sublicensed to deliver, exhibit, or furnish the attached title insurance commitment (or any copies thereof) **ONLY** to your bona fide employees and a third party who is playing a bona fide role in this proposed real estate transaction, including a lawyer, a lender, a surveyor, a real estate broker or agent, and the parties to this proposed transaction.

For purposes of our agreement with Title Data, "deliver, exhibit, or furnish" includes, without limitation, copying this title insurance commitment (whether such copying be by means of a photocopier, facsimile machine, another electronic scanning device, or any other method of reproduction) and providing such copy to any third party.

Your furnishing of the attached title insurance commitment to anyone not specifically enumerated above is not permitted by our contract with Title Data and constitutes a breach of our sublicense to you. Your furnishing of the attached title insurance commitment to anyone not specifically enumerated above is also a violation of federal copyright law and Texas common law.

Therefore, as an express condition of us providing you with the attached title insurance commitment, you specifically agree to limit its uses to those set forth herein, and to provide a copy of this letter to any party to whom you deliver, exhibit, or furnish the attached title insurance commitment (or any copies thereof).

In the event you are unable or unwilling to comply with these conditions, immediately return the attached title insurance commitment to our company, without reviewing, copying, or otherwise utilizing in any way the information contained therein.

A COPY OF THIS LETTER MUST ACCOMPANY THE ATTACHED TITLE INSURANCE COMMITMENT AT ALL TIMES. ALL DOWNSTREAM RECIPIENTS MUST PROVIDE A COPY OF THIS LETTER TO ANY OTHER AUTHORIZED USERS OF THE ATTACHED TITLE INSURANCE COMMITMENT.

Commitment

COMMITMENT FOR TITLE INSURANCE (T-7)

Issued By:

Commitment Number:



Chicago Title Insurance Company

CTT15650727B

THE FOLLOWING COMMITMENT FOR TITLE INSURANCE IS NOT VALID UNLESS YOUR NAME AND THE POLICY AMOUNT ARE SHOWN IN SCHEDULE A, AND OUR AUTHORIZED REPRESENTATIVE HAS COUNTERSIGNED BELOW.

We (Chicago Title Insurance Company, a Nebraska corporation) will issue our title insurance policy or policies (the Policy) to You (the proposed insured) upon payment of the premium and other charges due, and compliance with the requirements in Schedule C. Our Policy will be in the form approved by the Texas Department of Insurance at the date of issuance, and will insure your interest in the land described in Schedule A. The estimated premium for our Policy and applicable endorsements is shown on Schedule D. There may be additional charges such as recording fees, and expedited delivery expenses.

This Commitment ends ninety (90) days from the effective date, unless the Policy is issued sooner, or failure to issue the Policy is our fault. Our liability and obligations to you are under the express terms of this Commitment and end when this Commitment expires.

Chicago Title Insurance Company

By:

President

Attest:



Secretary

Mary Centu

CONDITIONS AND STIPULATIONS

1. If you have actual knowledge of any matter which may affect the title or mortgage covered by this Commitment that is not shown in Schedule B you must notify us in writing. If you do not notify us in writing, our liability to you is ended or reduced to the extent that your failure to notify us affects our liability. If you do notify us, or we learn of such matter, we may amend Schedule B, but we will not be relieved of liability already incurred.
2. Our liability is only to you, and others who are included in the definition of Insured in the Policy to be issued. Our liability is only for actual loss incurred in your reliance on this Commitment to comply with its requirements, or to acquire the interest in the land. Our liability is limited to the amount shown in Schedule A of this Commitment and will be subject to the following terms of the Policy: Insuring Provisions, Conditions and Stipulations, and Exclusions.

APR 23 2015

Prospectus - SWG-2017-00718 Basford Bayou Mitigation Bank
April 20, 2018

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

SCHEDULE A

Effective Date: March 19, 2015 at 8:00 AM
Commitment No.: CTT15650727B-Commitment for Title Insurance
(T-7) - 2014

GF No.: CTH-MM-CTT15650727BMC
Issued: March 25, 2015 at 8:00 AM

1. The policy or policies to be issued are:

- a. OWNER'S POLICY OF TITLE INSURANCE (Form T-1)
(Not applicable for improved one-to-four family residential real estate)

Policy Amount:
PROPOSED INSURED:

- b. TEXAS RESIDENTIAL OWNER'S POLICY OF TITLE INSURANCE
ONE-TO-FOUR FAMILY RESIDENCES (Form T-1R)

Policy Amount:
PROPOSED INSURED:

- c. LOAN POLICY OF TITLE INSURANCE (Form T-2)

Policy Amount: [REDACTED]
PROPOSED INSURED: Romspen Mortgage Limited Partnership, an Ontario limited partnership, and each
successor in ownership of the indebtedness secured by the insured mortgage, except a
successor who is an obligor under the provisions of Section 12 (c) of the Conditions
Proposed Borrower: HDFI Land Holdings LP, a Texas limited partnership

- d. TEXAS SHORT FORM RESIDENTIAL LOAN POLICY OF TITLE INSURANCE (Form T-2R)

Policy Amount:
PROPOSED INSURED:
Proposed Borrower:

- e. LOAN TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN (Form T-13)

Policy Amount:
PROPOSED INSURED:
Proposed Borrower:

- f. OTHER

Policy Amount:
PROPOSED INSURED:

2. The interest in the land covered by this Commitment is:

Fee Simple

3. Record title to the land on the Effective Date appears to be vested in:

HDFI Land Holdings, LP, a Texas limited partnership (subject to requirements)

4. Legal description of land:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

END OF SCHEDULE A

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

**SCHEDULE B
EXCEPTIONS FROM COVERAGE**

Commitment No.: CTT15650727B

GF No.: CTH-MM-CTT15650727BMC

In addition to the Exclusions and Conditions and Stipulations, your Policy will not cover loss, costs, attorney's fees, and expenses resulting from:

1. Deleted.
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Homestead or community property or survivorship rights, if any of any spouse of any insured.
(Applies to the Owner Policy only.)
4. Any title or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities,
 - a. to tidelands, or lands comprising the shores or beds or navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
 - b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
 - c. to filled-in lands, or artificial islands, or
 - d. to statutory water rights, including riparian rights, or
 - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.
(Applies to the Owner Policy only.)
5. Standby fees, taxes and assessments by any taxing authority for the year 2015 and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership; but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax years. (If Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R) is issued, that policy will substitute "which become due and payable subsequent to Date of Policy" in lieu of "for the year 2015 and subsequent years.")
6. The terms and conditions of the documents creating your interest in the land.
7. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A, if the land is part of the homestead of the owner. (Applies to the Mortgagee Title Policy Binder on Interim Construction Loan only, and may be deleted if satisfactory evidence is furnished to us before a binder is issued.)
8. Liens and leases that affect the title to the land, but that are subordinate to the lien of the insured mortgage.
(Applies to Mortgagee Policy (T-2) only.)

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

**SCHEDULE B
EXCEPTIONS FROM COVERAGE**

(continued)

9. The Exceptions from Coverage and Express Insurance in Schedule B of the Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R). (Applies to Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R) only. Separate exceptions 1 through 8 of this Schedule B do not apply to the Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R).

10. The following matters and all terms of the documents creating or offering evidence of the matters (We must insert matters or delete this exception):

AS TO TRACTS 1, 2, 3 AND 4:

- a. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

CHICAGO TITLE INSURANCE COMPANY**COMMITMENT NO.: CTT15650727B****SCHEDULE B
EXCEPTIONS FROM COVERAGE**
(continued)

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

AS TO TRACTS 5A, 5B AND 5C:

- x. Right of way for road to Mitchell & Associates, Inc., as described in instrument recorded in Volume 2271, Page 146, in the Office of the County Clerk of Galveston County, Texas.
- y. Right-of-way easement(s) to Seadrift Pipeline Corporation as set forth and defined by instrument(s) filed for record in Volume 2621, Page 668, as amended in Volume 2669, Page 51, both in the Office of the County Clerk of Galveston County, Texas. (as to Tract 5B)
- z. Pipeline right of way easement in favor of Defense Plant Corporation as set forth in instrument recorded in Volume 669, Page 48, in the Office of the County Clerk of Galveston County, Texas.
- aa. Pipeline right of way easement in favor of Dow Chemical Company, as set forth in instrument recorded in Volume 811, Page 131, and amended in Volume 1360, Page 455, both in the Office of the County Clerk of Galveston County, Texas.
- ab. Pipeline right of way easement in favor of Pan American Refining Corporation, as set forth in instrument recorded in Volume 893, Page 340, and assigned to American Oil Company, by assignment recorded in Volume 1990, Page 719, both in the Office of the County Clerk of Galveston County, Texas.
- ac. Right of way easement in favor of Seadrift Pipeline Corporation, as set forth in instrument recorded in Volume 1421, Page 403, in the Office of County Clerk of Galveston County, Texas.
- ad. Right of way easement in favor of Monsanto Chemical Company, as set forth in instrument recorded in Volume 1423, Page 57, in the Office of the County Clerk of Galveston County, Texas. (as to Tract 5B)
- ae. Roadway easement 60 feet wide for ingress and egress as described in instrument of record in Volume 1537, Page 521, in the Office of the County Clerk of Galveston County, Texas.

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

**SCHEDULE B
EXCEPTIONS FROM COVERAGE**

(continued)

- af. A pipeline(s) easement granted to Amoco Pipeline Company, by instrument(s) filed for record in Volume 2303, Page 616 and Volume 2275, Page 524, both in the Office of the County Clerk of Galveston County, Texas.
- ag. Spoil easement to County of Galveston as described in instrument of record in Volume 2441, Page 704 and Volume 2431, Page 550, and corrected in Volume 2451, Page 213, all in the Office of the County Clerk of Galveston County, Texas.
- ah. Easement to County of Galveston as described in instrument of record in Volume 2451, Page 222, in the Office of the County Clerk of Galveston County, Texas.
- ai. Pipeline right-of-way easement(s) in favor of Gulf Oil Chemical Company as set forth and defined by instrument(s) filed for record under Galveston County Clerk's File No(s). 8135174, 8220339 and 2011065392. (as to Tract 5B)
- aj. Easement for Highland Bayou Flood Control Project Diversionary Channel over and across Flamingo Road to County of Galveston as set forth and defined by instrument(s) filed for record in Volume 2267, Page 272 and Volume 2454, Page 707, both in the Office of the County Clerk of Galveston County, Texas.
- ak. Easement to County of Galveston as described in instrument of record in Volume 2441, Page 704, and in Volume 2451, Page 213, both in the Office of the County Clerk of Galveston County, Texas.
- al. A pipeline(s) easement granted to Mobil Producing Texas & New Mexico, Inc., as set forth and defined by instrument(s) filed for record under Galveston County Clerk's File No(s). 8940818 and 9102531. (as to Tract 5A)
- am. A pipeline(s) easement in favor of Monsanto Chemical Company, as set forth in instrument recorded in Volume 1423, Page 58, in the Office of the County Clerk of Galveston County, Texas.
- an. Pipeline right of way easement in favor of Seadrift Pipeline Corporation, as set forth in instrument recorded in Volume 1435, Page 155, in the Office of the County Clerk of Galveston County, Texas.
- ao. Right of way for canal to the County of Galveston as described in instrument of record in Volume 2267, Page 272, and in Volume 2441, Page 704, and corrected in Volume 2451, Page 213, all in the Office of the County Clerk of Galveston County, Texas. (Spoil easement)
- ap. Easement (Surface Use Agreement) in favor of Sandefer Oil & Gas, Inc., as set forth in instrument recorded under Galveston County Clerk's File No. 9129067.
- aq. Subsurface easement for slant hole as described in instrument of record in Volume 3241, Page 881, in the Office of the County Clerk of Galveston County, Texas.
- ar. Right of way easement to Sun Oil Company as described in instrument of record in Volume 639, Page 461, in the Office of the County Clerk of Galveston County, Texas.
- as. Pipeline right of way and easement 20 feet in favor of Dow Chemical Company, as set forth in instrument recorded in Volume 1655, Page 367, in the Office of the County Clerk of Galveston County, Texas.
- at. Right of way grant to Lavaca Pipe Line Company as set forth in instrument recorded under Galveston County Clerk's File No. 2000013549. (as to Tract 5B)

CHICAGO TITLE INSURANCE COMPANY**COMMITMENT NO.: CTT15650727B****SCHEDULE B
EXCEPTIONS FROM COVERAGE**

(continued)

- au. Conservation Easement as set forth in instrument recorded under Galveston County Clerk's File No. 2000034796.
- av. A Pipeline Right-of-Way and easement granted to Dow Hydrocarbons and Resources LLC, as set forth and defined in instrument filed for record under Galveston County Clerk's File No(s). 2013064174.
- aw. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record in Volume 3003, Page 761, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- ax. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record in Volume 2717, Page 541 and Volume 2725, Page 165, both in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- ay. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record in Volume 2941, Page 202, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- az. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record under Galveston County Clerk's File No.8108481. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- ba. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record under Galveston County Clerk's File No. 9854057. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- bb. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record under Galveston County Clerk's File No. 8126751. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- bc. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record under Galveston County Clerk's File No(s). 8739254 and 8739255. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- bd. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record under Galveston County Clerk's File No. 8740130. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- be. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record in Volume 1161, Page 133, in the Office of the County Clerk of Galveston County, Texas.. Reference to which instrument is here made for particulars. No further search of title has

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

**SCHEDULE B
EXCEPTIONS FROM COVERAGE**

(continued)

been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).

- bf. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record in Volume 3141, Page 537, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- bg. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record under Galveston County Clerk's File No. 8456873. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- bh. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record under Galveston County Clerk's File No(s). 2003009158 and 2001036917. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- bi. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record under Galveston County Clerk's File No(s). 8900850, 8900851, 8900852 and 8900853. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- bj. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record under Galveston County Clerk's File No(s). 2004077033, 2005005001, 2005005002 and 2005005003. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- bk. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record under Galveston County Clerk's File No(s). 2005009436, 2005009437, 2005009438 and 2005009439. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- bl. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record under Galveston County Clerk's File No(s). 2004038982. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).

AS TO ALL TRACTS:

- bm. Rights of parties in possession.
- bn. Intentionally deleted.
- bo. Rights of tenants in possession, as tenants only, under unrecorded lease agreements.
- bp. Terms, conditions and provisions of all Leases and Contracts as evidenced by Assignment(s) of Leases, Contracts and Other Items and Bill of Sale filed for record under Galveston County Clerk's File No(s). 2012025357 and 2012025359.

CHICAGO TITLE INSURANCE COMPANY**COMMITMENT NO.: CTT15650727B****SCHEDULE B
EXCEPTIONS FROM COVERAGE**

(continued)

- bq. Intentionally deleted.
- br. Intentionally deleted.
- bs. Easement for ingress and egress as set out under Galveston County Clerk's File No(s). 9832384, 9837556, 9837557, 9837393, 9837396 and 9837397. Assignment of rights as set forth in instruments filed for record under Galveston County Clerk's File No(s). 2005054465, 2005054902 and 2005058631.
- bt. Right of way easement(s) granted to Houston Lighting & Power Company, as set forth and defined by instrument(s) recorded in Volume 1895, Page 283 in the office of the County Clerk of Galveston County, Texas.
- bu. A pipeline(s) easement granted to Houston Natural Gas Company, by instrument(s) filed for record in Volume 1905, Page 248 and Volume 2459, Page 711, both in the Office of the County Clerk of Galveston County, Texas.
- bv. An unlocated pipeline(s) easement granted to Defense Plant Corporation, by instrument(s) recorded in Volume 661, Page 657 in the office of the County Clerk of Galveston County, Texas, and assigned to Dow Chemical Company, in instrument recorded in Volume 811, Page 131 in the office of the County Clerk of Galveston County, Texas.
- bw. An unlocated pipeline(s) easement granted to Pan American Refining Corporation, by instrument(s) recorded in Volume 893, Page 335 and Volume 1990, Page 644, both in the office of the County Clerk of Galveston County, Texas.
- bx. A pipeline(s) easement granted to Seadrift Pipeline Company, by instrument(s) filed for record in Volume 1435, Page 140, as amended in Volume 1692, Page 470, both in the Office of the County Clerk of Galveston County, Texas.
- by. Right of way easement(s) granted to Houston Lighting & Power Company, by instrument(s) filed for record in Volume 1811, Page 697, as partially released in Volume 2454, page 711, both in the Office of the County Clerk of Galveston County, Texas.
- bz. An unlocated pipeline(s) easement granted to Energy Sources, Inc., by instrument filed for record under Galveston County Clerk's File No. 8125734.
- ca. Surface easement(s) and right-of-way to Phillip W. McDaniel as set forth and defined by instrument(s) filed for record under Galveston County Clerk's File No. 8209506.
- cb. A pipeline(s) easement granted to Mobil Producing Texas & New Mexico, Inc., as set forth and defined by instrument(s) filed for record under Galveston County Clerk's File No. 9102530.
- cc. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record in Volume 435, Page 392, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- cd. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record in Volume 619, Page 121, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

**SCHEDULE B
EXCEPTIONS FROM COVERAGE**

(continued)

- ce. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record in Volume 621, Page 501, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- cf. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record in Volume 1537, Page 521, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- cg. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record in Volume 1589, Page 656, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- ch. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record in Volume 669, Page 631, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- ci. Royalty Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record in Volume 411, Page 580, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- cj. Interest in and to sulfur and Royalty Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument filed for record in Volume 475, Page 302, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- ck. Terms, conditions and provisions contained in Royalty Agreements recorded in Volume 548, Page 366 and Volume 588, Page 561, both in the Office of the County Clerk of Galveston County, Texas.
- cl. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record under Galveston County Clerk's File No. 8434013. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- cm. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record in Volume 2941, Page 354 and extended in Volume 3128, Page 849, both in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- cn. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record in Volume 2941, Page 387, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

**SCHEDULE B
EXCEPTIONS FROM COVERAGE**

(continued)

interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).

- co. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record in Volume 3211, Page 519, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- cp. Lease for coal, lignite, oil, gas or other minerals, together with rights incident thereto, filed for record in Volume 728, Page 24, in the Office of the County Clerk of Galveston County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership or holder of such interest(s).
- cq. Hunting and fishing rights reserved in 50 acres, as set forth by instrument(s) recorded in Volume 721, Page 283 in the Office of the County Clerk of Galveston County, Texas.
- cr. Terms, conditions and provisions contained in that certain Assignment of Secured Deficiency Claim dated May 15, 2012, by and between P I Holdings No. 1, Inc., Compass Bank d/b/a BBVA Compass and HD Flamingo Isles Holdings, LP, filed for record under Galveston County Clerk's File No. 2012025360, including but not limited to the terms, conditions and stipulations contained in the Sellement Agreement, MUD Reimbursables, TIRZ Reimbursables and HWLP Reimbursables as evidenced therein.
- cs. If any portion of the proposed loan and/or the Owner's Title Policy coverage amount includes funds for immediately contemplated improvements, the following exceptions will appear in Schedule B of any policy issued as indicated:

Owner and Loan Policy(ies): Any and all liens arising by reason of unpaid bills or claims for work performed or materials furnished in connection with improvements placed, or to be placed, upon the subject land. However, the Company does insure the insured against loss, if any, sustained by the insured under this policy if such liens have been filed with the County Clerk of County, Texas, prior to the date hereof.

Owner Policy(ies) Only: Liability hereunder at the date hereof is limited to \$ 0.00. Liability shall increase as contemplated improvements are made, so that any loss payable hereunder shall be limited to said sum plus the amount actually expended by the insured in improvements at the time the loss occurs. Any expenditures made for improvements, subsequent to the date of this policy, will be deemed made as of the date of this policy. In no event shall the liability of the Company hereunder exceed the face amount of this policy. Nothing contained in this paragraph shall be construed as limiting any exception or any printed provision of this policy.

Loan Policy(ies) Only: Pending disbursement of the full proceeds of the loan secured by the lien instrument set forth under Schedule A hereof, this policy insures only to the extent of the amount actually disbursed, but increase as each disbursement is made in good faith and without knowledge of any defect in, or objections to, the title up to the face amount of the policy. Nothing contained in this paragraph shall be construed as limiting any exception under Schedule B, or any printed provision of this policy.

- ct. The Company shall have no liability for, nor responsibility to defend, any part of the Land against any right, title, interest or claim (valid or invalid) or any character had or asserted by the State of Texas or by any other Government or Governmental Authority or by the public generally (1) in and to portions of the Land which may be within the bed, shore or banks of a perennial stream or lake navigable in fact or in law or within the bed or shores or the beach adjacent thereto of a body of water affected by the ebb and flow of the tide; and (2) in and to portions of the Land which may be between the water's edge and the line of

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

**SCHEDULE B
EXCEPTIONS FROM COVERAGE**

(continued)

vegetation on the upland or for any claim or right for ingress thereto or egress therefrom.

Any titles or rights asserted by anyone including, but not limited to persons, the public, corporations, governments or other entities; (a) to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or (b) to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or (c) to filled-in lands, or artificial islands, or (d) to statutory water rights, including riparian rights, or (e) to the area extending from the line of mean low tide to the line of vegetation, or the rights or interests of access to that area or easement along and across that area.

- cu. Any and all interest of Ronald Ray Holley and HD Flamingo Isles Holdings, LP, in and to the estate insured in Schedule A herein, by virtue of Deed and Deed of Trust filed for record under Galveston County Clerk's File No(s). 2012044964 and 2012044965. (as to Tract 1)

CHICAGO TITLE INSURANCE COMPANY**COMMITMENT NO.: CTT15650727B****SCHEDULE C**

Commitment No.: CTT15650727B

GF No.: CTH-MM-CTT15650727BMC

Your Policy will not cover loss, costs, attorneys' fees, and expenses resulting from the following requirements that will appear as Exceptions in Schedule B of the Policy, unless you dispose of these matters to our satisfaction, before the date the Policy is issued:

1. Documents creating your title or interest must be approved by us and must be signed, notarized and filed for record.
2. Satisfactory evidence must be provided that:
 - a. no person occupying the land claims any interest in that land against the persons named in paragraph 3 of Schedule A,
 - b. all standby fees, taxes, assessments and charges against the property have been paid,
 - c. all improvements or repairs to the property are completed and accepted by the owner, and that all contractors, sub-contractors, laborers and suppliers have been fully paid, and that no mechanic's, laborer's or materialmen's liens have attached to the property,
 - d. there is legal right of access to and from the land,
 - e. (on a Mortgagee Policy only) restrictions have not been and will not be violated that affect the validity and priority of the insured mortgage.
3. You must pay the seller or borrower the agreed amount for your property or interest.
4. Any defect, lien or other matter that may affect title to the land or interest insured, that arises or is filed after the effective date of this Commitment.

INSERT ADDITIONAL REQUIREMENTS HERE

5. A Deed of Trust, Security Agreement and Financing Statement to secure an indebtedness in the amount shown below,

Amount: [REDACTED]
 Dated: May 15, 2012
 Trustor/Grantor: HDFI Land Holdings, LP, a Texas limited partnership
 Trustee: Howard F. Cordray, Jr.
 Beneficiary: Land Funds 7 and 8, J.V., a Texas general partnership
 Recording Date: May 16, 2012
 Recording No: Galveston County Clerk's File No. 2012025346

Assignment of Rents and Leases

Assigned to: Land Funds 7 and 8, J.V., a Texas general partnership
 Assigned by: HDFI Land Holdings, LP, a Texas limited partnership
 Recording Date: May 16, 2012; re-filed June 26, 2012
 Recording No: Galveston County Clerk's File No. 2012025348; corrected and re-filed under Galveston County Clerk's File No. 2012033269

Assignment of Contracts, Reimbursement Contracts, and Reimbursements

Assigned to: Land Funds 7 and 8, J.V., a Texas general partnership

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

SCHEDULE C

(continued)

Assigned by: HDFI Land Holdings, LP, a Texas limited partnership
Recording Date: June 26, 2012
Recording No: Galveston County Clerk's File No. 2012033270

6. A UCC Financing Statement as follows:

Debtor: Flamingo Isles Marina, LP
Secured Party: Land Funds 7 and 8, J.V., a Texas general partnership
Recording Date: May 16, 2012
Recording No: Galveston County Clerk's File No. 2012025351

7. A UCC Financing Statement as follows:

Debtor: Flamingo Isles Marina, LP
Secured Party: Land Funds 7 and 8, J.V., a Texas general partnership
Recording Date: May 16, 2012
Recording No: Galveston County Clerk's File No. 2012025352

8. A UCC Financing Statement as follows:

Debtor: HD Flamingo Isles Holdings, LP
Secured Party: Land Funds 7 and 8, J.V., a Texas general partnership
Recording Date: May 16, 2012
Recording No: Galveston County Clerk's File No. 2012025353

9. A UCC Financing Statement as follows:

Debtor: HD Flamingo Isles Holdings, LP
Secured Party: Land Funds 7 and 8, J.V., a Texas general partnership
Recording Date: May 16, 2012
Recording No: Galveston County Clerk's File No. 2012025354

10. A UCC Financing Statement as follows:

Debtor: HDFI Land Holdings, LP
Secured Party: Land Funds 7 and 8, J.V., a Texas general partnership
Recording Date: May 16, 2012
Recording No: Galveston County Clerk's File No. 2012025355

11. A UCC Financing Statement as follows:

Debtor: HDFI Land Holdings, LP
Secured Party: Land Funds 7 and 8, J.V., a Texas general partnership
Recording Date: May 16, 2012
Recording No: Galveston County Clerk's File No. 2012025356

12. Moved to Schedule B.

13. The Company will require the following documents for review prior to the issuance of any title insurance predicated upon a conveyance or encumbrance from the limited partnership named below.

Name: HD Flamingo Isles Holdings, LP a Texas limited partnership

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

SCHEDULE C

(continued)

- a) A copy of the partnership agreement and all amendments thereto.
- b) Satisfactory evidence that the partnership was validly formed, is in good standing and that there have been no amendments to the partnership agreement

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

14. The name(s) of the purchaser(s)/borrower(s) shown below has been checked for judgment liens protected under the terms of the Federal Debt Collection Act of 1990, and none were found. If the name(s) of the purchaser(s)/borrower(s) as shown herein should change prior to closing, resubmit for additional examination:

Name(s) of Purchaser(s)/Borrower(s): HD Flamingo Isles Holdings, LP

15. Intentionally deleted.

16. The following note is for informational purposes only:

The following deed(s) affecting said land were recorded within twenty-four (24) months of the date of this report:

None found of record.

The last Deed found of record affecting the Land was recorded May 16, 2012 under Galveston County Clerk's File No. 2012025344, wherein the grantee acquired the subject property.

17. An acceptable survey of subject property having been received, upon compliance with Rules P-2 and R-16, Schedule B, Item 2 will be amended to read "shortages in area" in its entirety. Also approved for issuance of T-19 endorsement. Subject to receipt of a updated/amended survey which either identifies or annotates as to the following exceptions: 10ae, 10 af (Volume 2275, Page 524), 10am, 10ap, 10au and 10av (filed after date of survey).

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT NO.: CTT15650727B

SCHEDULE C

(continued)

18. Note –Important Notice

You have the right to have your funds deposited in an interest-bearing account.

If you choose to establish an interest-bearing account for your deposit, notify your escrow officer immediately. Thereafter you will be provided with a Notice of Election form which you should complete in writing by completing and returning the form, along with your taxpayer identification information, not later than five (5) days before the scheduled closing. If you choose to establish an interest-bearing account for your deposit, an additional charge of \$50.00 will be required. This charge may exceed the amount of interest to be earned on the deposit, depending on the amount, applicable interest rate, and the duration of the deposit.

As an example, the amount of interest you can earn on a deposit of \$1000.00 for a thirty-day period at an interest rate of 4% is \$3.33. Interest earned is dependent on the amount of deposit, time of deposit and the applicable interest rate.

If you do not choose to establish an interest-bearing account for your deposit, your funds will be deposited with other escrow funds in your escrow agent's general escrow account with an authorized financial institution and may be transferred to another general escrow account or accounts. By reason of the banking relationship between our Company and the financial institution, the Company may receive an array of bank services, accommodations or other benefits. The escrow funds will not be affected by such services, accommodations or other benefits.

Failure to notify your escrow officer and complete the additional required investment authorization form shall constitute waiver of any intention of establishing an interest-bearing account for your deposit(s).

CHICAGO TITLE INSURANCE COMPANY**COMMITMENT NO.: CTT15650727B****SCHEDULE D**

Commitment No.: CTT15650727B

GF No.: CTH-MM-CTT15650727BMC

Pursuant to the requirements of Rule P-21, Basic Manual of Rules, Rates and Forms for the writing of Title Insurance in the State of Texas, the following disclosures are made:

1. The issuing Title Insurance Company, **Chicago Title Insurance Company**, is a corporation whose shareholders owning or controlling, directly or indirectly, 10% of said corporation, directors and officers are listed below:

Shareholders: Fidelity National Title Group, Inc. which is owned 100% by FNTG Holdings, LLC which is owned 100% by Fidelity National Financial, Inc.

Directors: Raymond Randall Quirk, Anthony John Park, Michael J. Nolan, Theodore L. Kessner, Edson N. Burton, Jr.

Officers: Raymond Randall Quirk (President), Anthony John Park (Executive Vice President), Michael Louis Gravelle (Secretary), Daniel Kennedy Murphy (Treasurer)

2. The following disclosures are made by the Title Insurance Agent issuing this Commitment:

Chicago Title of Texas, LLC

- (a) A listing of each shareholder, owner, partner, or other person having, owning or controlling one percent (1%) or more of the Title Insurance Agent that will receive a portion of the premium.

Owners: FNTS Holdings, LLC owns 100% of Alamo Title Holding Company, which owns 100% of **Chicago Title of Texas, LLC**

- (b) A listing of each shareholder, owner, partner, or other person having, owning or controlling 10 percent (10%) or more of an entity that has, owns or controls one percent (1%) or more of the Title Insurance Agent that will receive a portion of the premium.

Owners: FNTG Holdings, LLC owns 100% of FNTS Holdings, LLC, which owns 100% of Alamo Title Holding Company, which owns 100% of **Chicago Title of Texas, LLC**

- (c) If the Agent is a corporation: (i) the name of each director of the Title Insurance Agent, and (ii) the names of the President, the Executive or Senior Vice-President, the Secretary and the Treasurer of the Title Insurance Agent.

Officers/Directors: Raymond Randall Quirk (President), Michael Louis Gravelle (Executive Vice President, General Counsel and Corporate Secretary), Joseph William Grealish (Executive Vice President), Kevin Donald Lutes (Executive Vice President and Division Manager), Anthony John Park (Executive Vice President and Chief Financial Officer), Richard Lynn Cox (Senior Vice President and Tax Officer), John "Gil" Gilbert Ernst (Senior Vice President and Regional Manager), Daniel Kennedy Murphy (Senior Vice President and Treasurer), John Tannous (President and County Manager), Brian K. Balze (President and County Manager), Carlos E. "Charlie" Valdes (President and County Manager), Gayle Brand (Vice President), Linda Littlejohn (Vice President)

- (d) The name of any person who is not a full-time employee of the Title Insurance Agent and who receives any portion of the title insurance premium for services performed on behalf of the Title Insurance Agent in connection with the issuance of a title insurance form; and, the amount of premium that any such person shall receive.

- (e) For purposes of this paragraph 2, "having, owning or controlling" includes the right to receipt of a percentage of net income, gross income, or cash flow of the Agent or entity in the percentage stated in subparagraphs (a) or (b).

3. You are entitled to receive advance disclosure of settlement charges in connection with the proposed transaction to which this commitment relates. Upon your request, such disclosure will be made to you. Additionally, the name of any person, firm or corporation receiving a portion of the premium from the settlement of this transaction will be disclosed on the closing or settlement statement.

You are further advised that the estimated title premium* is:

Loan Policy	\$	
Endorsement Charges	\$	
Total	\$	

Of this total amount: 15% will be paid to the policy issuing Title Insurance Company; 85% will be retained by the issuing Title Insurance Agent; and the remainder of the estimated premium will be paid to other parties as follows:

Percent/Amount	To Whom	For Services
----------------	---------	--------------

*The estimated premium is based upon information furnished to us as of the date of this Commitment for Title Insurance. Final determination of the amount of the premium will be made at closing in accordance with the Rules and Regulations adopted by the Commissioner of Insurance.



Chicago Title of Texas, LLC
3700 Buffalo Speedway, Suite 400
Houston, TX 77098
Phone (713)966-4012

AFFILIATED BUSINESS ARRANGEMENT DISCLOSURE STATEMENT
(Exhibit D in 24 CFR §3500)

Date: March 31, 2015
To:
Property:

This is to give you notice that Chicago Title of Texas, LLC, a subsidiary of Fidelity National Financial, Inc. has a business relationship with the settlement service providers listed below to which you have been referred. Each of the companies listed below is One-Hundred Percent (100%) owned directly or indirectly by Fidelity National Financial, Inc. Because of this relationship, this referral may provide Chicago Title of Texas, LLC with a financial or other benefit.

Set forth below is the estimated charge or range of charges for the settlement services listed. You are NOT required to use the listed providers as a condition for the consummation of the transaction involving the above referenced property.

Settlement Service Provider:	Type of Settlement Provided:	Range of Charges:
National TaxNet	Tax Information	\$50 to \$100 including sales tax and \$5 for each additional parcel over 3 parcels

There are frequently other settlement service providers available who offer similar services. You are free to shop around to determine that you are receiving the best services and the best rate for these services.

Acknowledgment

I/We have read this disclosure form and understand that Chicago Title of Texas, LLC is referring me/us to purchase the above described settlement services and may receive a financial or other benefit as the result of this referral.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.



TEXAS TITLE INSURANCE INFORMATION

Title insurance insures you against loss resulting from certain risks to your title.

The commitment for Title Insurance is the title insurance company's promise to issue the title insurance policy. The commitment is a legal document. You should review it carefully to completely understand it before your closing date.

El seguro de título le asegura en relación a pérdidas resultantes de ciertos riesgos que pueden afectar el título de su propiedad.

El Compromiso para Seguro de Título es la promesa de la compañía aseguradora de títulos de emitir la póliza de seguro de título. El Compromiso es un documento legal. Usted debe leerlo cuidadosamente y entenderlo completamente antes de la fecha para finalizar su transacción.

Your Commitment for Title insurance is a legal contract between you and us. The Commitment is not an opinion or report of your title. It is a contract to issue you a policy subject to the Commitment's terms and requirements.

Before issuing a Commitment for Title Insurance (the Commitment) or a Title Insurance Policy (the Policy), the Title Insurance Company (the Company) determines whether the title is insurable. This determination has already been made. Part of that determination involves the Company's decision to insure the title except for certain risks that will not be covered by the Policy. Some of these risks are listed in Schedule B of the attached Commitment as Exceptions. Other risks are stated in the Policy as Exclusions. These risks will not be covered by the Policy. The Policy is not an abstract of title nor does a Company have an obligation to determine the ownership of any mineral interest.

—MINERALS AND MINERAL RIGHTS may not be covered by the Policy. The Company may be unwilling to insure title unless there is an exclusion or an exception as to Minerals and Mineral Rights in the Policy. Optional endorsements insuring certain risks involving minerals, and the use of improvements (excluding lawns, shrubbery and trees) and permanent buildings may be available for purchase. If the title insurer issues the title policy with an exclusion or exception to the minerals and mineral rights, neither this Policy, nor the optional endorsements, insure that the purchaser has title to the mineral rights related to the surface estate.

Another part of the determination involves whether the promise to insure is conditioned upon certain requirements being met. Schedule C of the Commitment lists these requirements that must be satisfied or the Company will refuse to cover them. You may want to discuss any matters shown in Schedules B and C of the Commitment with an attorney. These matters will affect your title and your use of the land.

When your Policy is issued, the coverage will be limited by the Policy's Exceptions, Exclusions and Conditions, defined below.

—EXCEPTIONS are title risks that a Policy generally covers but does not cover in a particular instance. Exceptions are shown on Schedule B or discussed in Schedule C of the Commitment. They can also be added if you do not comply with the Conditions section of the Commitment. When the Policy is issued, all Exceptions will be on Schedule B of the Policy.

—EXCLUSIONS are title risks that a Policy generally does not cover. Exclusions are contained in the Policy but not shown or discussed in the Commitment.

—CONDITIONS are additional provisions that qualify or limit your coverage. Conditions include your responsibilities and those of the Company. They are contained in the Policy but not shown or discussed in the Commitment. The Policy Conditions are not the same as the Commitment Conditions.

Commitment Number: CTT15650727B

GF#: CTH-MM-CTT15650727BMC

TEXAS TITLE INSURANCE INFORMATION (Continued)

You can get a copy of the policy form approved by the Texas Department of Insurance by calling the Title Insurance Company at 1-800-442-7067 or by calling the title insurance agent that issued the Commitment. The Texas Department of Insurance may revise the policy form from time to time.

You can also get a brochure that explains the policy from the Texas Department of Insurance by calling 1-800-252-3439.

Before the Policy is issued, you may request changes in the policy. Some of the changes to consider are:

—Request amendment of the "area and boundary" exception (Schedule B, paragraph 2). To get this amendment, you must furnish a survey and comply with other requirements of the Company. On the Owner's Policy, you must pay an additional premium for the amendment. If the survey is acceptable to the Company and if the Company's other requirements are met, your Policy will insure you against loss because of discrepancies or conflicts in boundary lines, encroachments or protrusions, or overlapping of improvements. The Company may then decide not to insure against specific boundary or survey problems by making special exceptions in the Policy. Whether or not you request amendment of the "area and boundary" exception, you should determine whether you want to purchase and review a survey if a survey is not being provided to you.

—Allow the Company to add an exception to "rights of parties in possession." If you refuse this exception, the Company or the title insurance agent may inspect the property. The Company may except to and not insure you against the rights of specific persons, such as renters, adverse owners or easement holders who occupy the land. The Company may charge you for the inspection. If you want to make your own inspection, you must sign a Waiver of Inspection form and allow the Company to add this exception to your Policy.

The entire premium for a Policy must be paid when the Policy is issued. You will not owe any additional premiums unless you want to increase your coverage at a later date and the Company agrees to add an Increased Value Endorsement.

DELETION OF ARBITRATION PROVISION
(Not applicable to the Texas Residential Owner's Policy)

ARBITRATION is a common form of alternative dispute resolution. It can be a quicker and cheaper means to settle a dispute with your Title Insurance Company. However, if you agree to arbitrate, you give up your right to take the Title Insurance Company to court and your rights to discovery of evidence may be limited in the arbitration process. In addition, you cannot usually appeal an arbitrator's award.

Your policy contains an arbitration provision (shown below). It allows you or the Company to require arbitration if the amount of insurance is \$2,000,000 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the arbitration provision before the policy is issued. You can do this by signing this form and returning it to the Company at or before the closing of your real estate transaction or by writing to the Company.

The arbitration provision in the Policy is as follows:

"Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured, unless the Insured is an individual person (as distinguished from an Entity). All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction."

Signature

Date

APPENDIX F – COORDINATION WITH GALVESTON COUNTY

3/26/2018

Inbox [1/354] - cliff@wildwoodcredits.com

Fw: Highland Bayou Diversionary Canal Spoil Disposal Easement

From: michael@wildwoodcredits.com
To: cliff@wildwoodcredits.com

02/15/18 09:58

See mail

Michael C. Harrison
Environmental Scientist
Wildwood Environmental Credit Company, LLC
PO Box 6602
Tyler, Texas 75711
214-536-1694 (m)
903-579-9384 (o)
michael@wildwoodcredits.com

—Original Message—

From: Cessac, Philip <Philip.Cessac@co.galveston.tx.us>
To: michael@wildwoodcredits.com
Date: 02/15/18 09:25
Subject: Highland Bayou Diversionary Canal Spoil Disposal Easement

Michael,

Per our conversation, the County of Galveston does not believe that the spoil disposal easement is in effect any longer.
You are approved to work within the area you provided to us as long as you are not working in the canal.

Respectfully,

Phil Cessac
Platting and Right-of-Way Agent
Office of the County Engineer
Galveston County
722 Moody
Galveston, TX 77550
409.770.5577
409.770.5557 fax

APPENDIX G – COPY OF SWG-2007-00597 RENEWAL APPLICATION

APR 23 2018

Prospectus – SWG-2017-00718 Basford Bayou Mitigation Bank
April 20, 2018



Environmental Services, Inc.

20 February 2018

Ms. Janet Botello
Evaluation Section
USACE-Galveston
2000 Fort Point Road, Jadwin Bldg.,
Galveston, TX 77550

RE: SWG-2007-00597
Section 10/404 - Individual Permit Application Harborwalk Development
Hitchcock, Galveston County, Texas
HJN 150167 PA

Dear Ms. Botello,

Submitted herewith is an application to re-authorize development activities that were originally permitted in 2009 for the Harborwalk Development in Hitchcock. Permit 2007-00597 expired 31 December 2014.

USACE Permit No. SWG-2007-00597 was issued on August 19, 2009 amending and extending the time of the original permit # 22079 for the construction of the harbor, channels, and adjacent residential and marina development. Permit 2007-00597 also resolved a violation of the original permit. The original construction was initiated in the 1960s. Various modifications were instituted afterward. Approximately 85% to 90% of the project was completed by 2011. The project site changed ownerships a number of times following permit issuance, but during the economic downturn in 2012-2015, the project sat idle and the permit expired at the end of 2014. The current project owner, HD Flamingo Isles Holdings, LP, desires to re-permit the original plan of development to allow completion of development activities as previously authorized in 2009. The completion of development is in 4 areas of the project site as shown on Figure 2.

1. Permittee: HD Flamingo Isles Holdings, LP
2101 Lakeway Blvd., Ste. 100
Lakeway, TX 78734

POC: Haythem Dawlett

Office: 512-610-0518

2. Location of project: East end of Harborwalk Boulevard, Hitchcock, Galveston County, Texas as shown on Figure 1. The Global Positioning System (GPS) location is approximately 29.290403 ° Latitude and -94.964547° Longitude.

CORPORATE HEADQUARTERS

1507 S Interstate 35 ★ Austin, Texas 78741-2502 ★ 512.328.2430 ★ www.horizon-esi.com
An LJA Company



Janet Botello
HJN 150167 PA
20 February 2018
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- | | |
|-------------------------------|---|
| 3a. Proposed work: | The proposed work will consist of completion of construction of docks, bulkheads, fill and development within the Harborwalk Canal subdivision and marina as originally authorized by SWG-2007-00597. |
| 3a. Proposed work: | The proposed work will consist of completion of construction of docks, bulkheads, fill and development within the Harborwalk Canal subdivision and marina as originally authorized by SWG-2007-00597. |
| 3b. Project area: | The proposed project area encompasses the existing Harborwalk Canal Subdivision and Marina |
| 3c. Project purpose: | To complete the development plan originally authorized by permit SWG-2007-00597. |
| 3d. Project effects: | As previously authorized by SWG-2007-00597:
See Table Attached (Attachment B) |
| 3e. Conceptual drawings | Proposed project Conceptual Drawings attached in Attachment A. |
| 3f. Other Permits | TCEQ Tier 2 |
| 4. Jurisdictional Delineation | The previous permit was issued under an approved jurisdictional verification. Those conditions have not materially changed. |
| 5a. Listed Species | Table 1 below provides the federally protected species whose distribution includes Galveston County. This table was compiled as a result of a review of information from the US Fish and Wildlife Service (FWS) (IPAC, Attachment D). Potentially suitable habitat for the Attwater's greater prairie chicken, piping plover, and red knot does not exist on the subject site. The potential for the accidental occurrence of the manatee or any of the sea turtles in the marina basin is low, but cannot be completely discounted. The likelihood for adverse impacts related to the continued construction activity is very low. |
| 5b. Critical habitat | The proposed project will not affect the designated critical habitat of any Federal or State listed species (IPAC – Attachment D). |



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HJN 150167 PA
20 February 2018
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Table 1
Threatened and Endangered Species Potentially
Occurring in Galveston County, Texas

<u>Common Name</u>	<u>Scientific Name</u>	<u>Federal Status*</u>
Attwater's greater prairie chicken	<i>Tympanuchus cupido attwateri</i>	E
Red knot	<i>Calidris canutus rufa</i>	T
Piping plover	<i>Charadrius melodus</i>	T
West Indian manatee	<i>Trichechus manatus</i>	T
Green sea turtle	<i>Chelonia mydas</i>	T
Hawksbill sea turtle	<i>Eretmochelys imbricata</i>	E
Kemp's Ridley sea turtle	<i>Lepidochelys kempi</i>	E
Leatherback sea turtle	<i>Dermochelys coriacea</i>	E
Loggerhead sea turtle	<i>Caretta caretta</i>	T

E – Endangered T - Threatened

6. Historic properties Cultural resources surveys and clearance by the THC presumably occurred for the original permit authorizations, although we cannot find those documents. The vast majority of the project area has been previously disturbed and it is highly unlikely that intact cultural materials would remain.
7. Mitigation Mitigation for the originally permitted project was fully implemented in 2009 according to a memo attached as Attachment C.

SUMMARY

We are requesting re-issuance of the Individual Permit for the proposed project.

If you have any questions or require additional information please contact me at 512-328-2430.

Sincerely,

A handwritten signature in blue ink that reads "C. Lee Sherrod".

C. Lee Sherrod
President

C: Haythem Dawlett, HD Flamingo Isles Holdings, LP

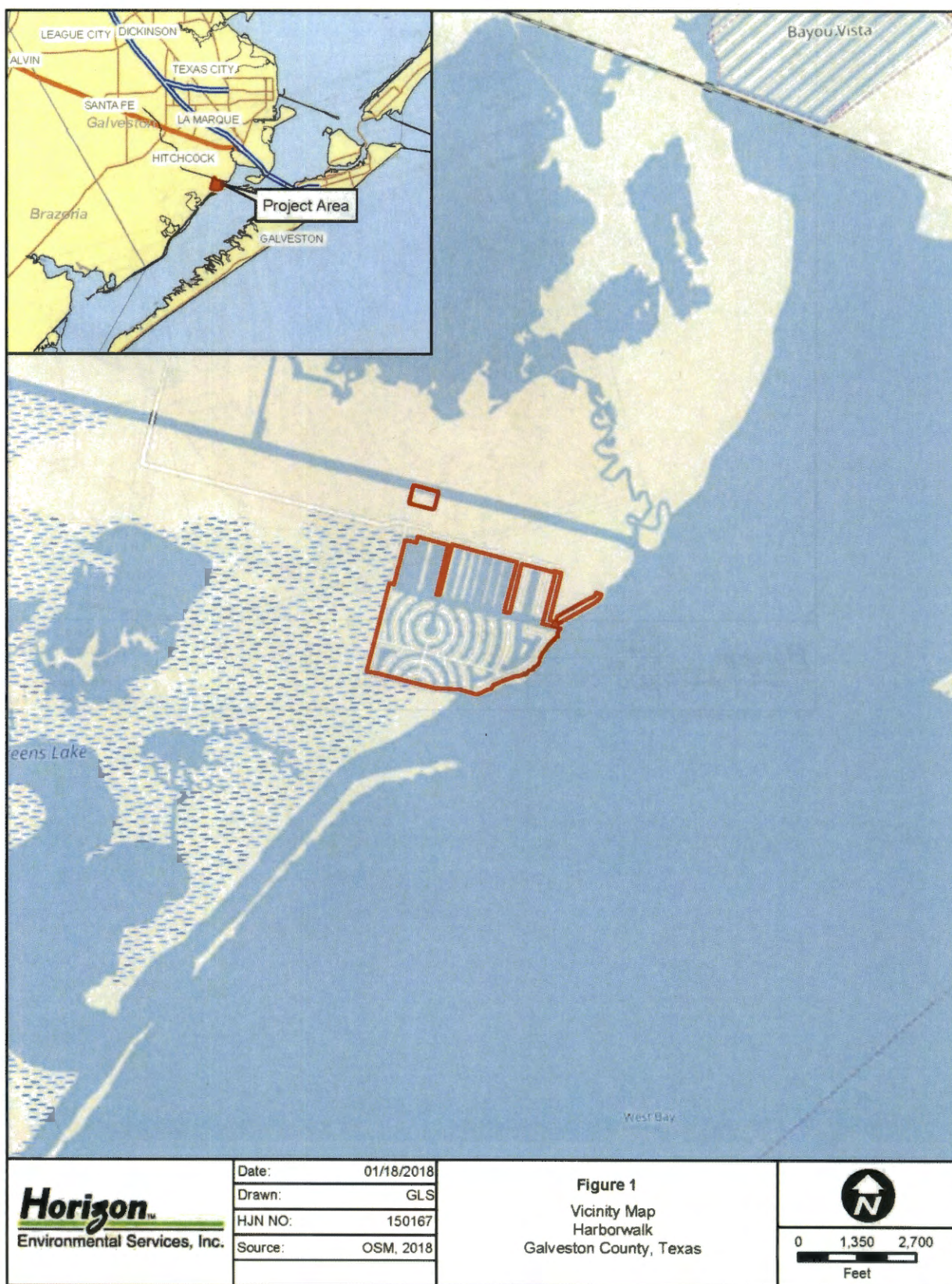


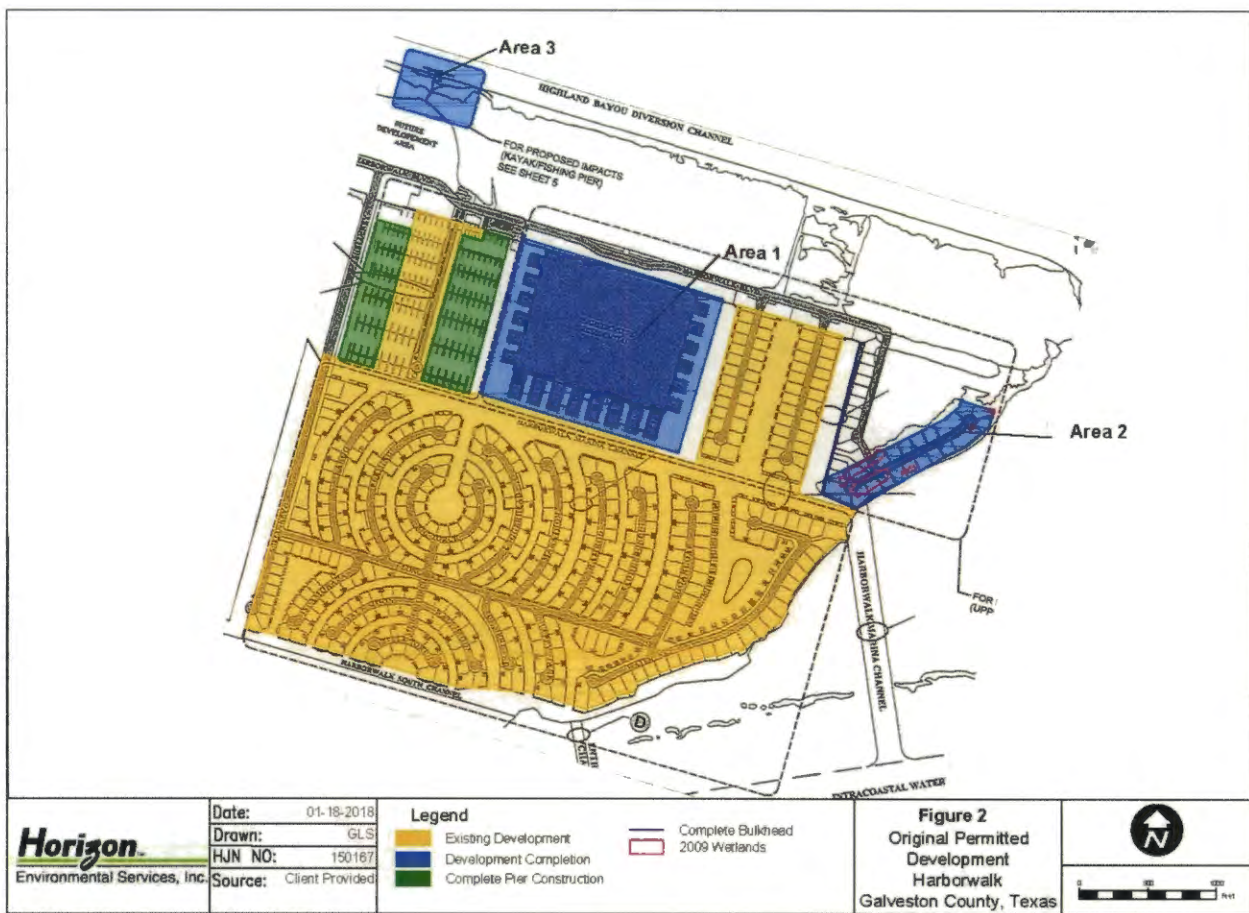
Janet Botello
HJN 150167 PA
20 February 2018
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ATTACHMENT A
PROJECT DRAWINGS

APR 23 2018

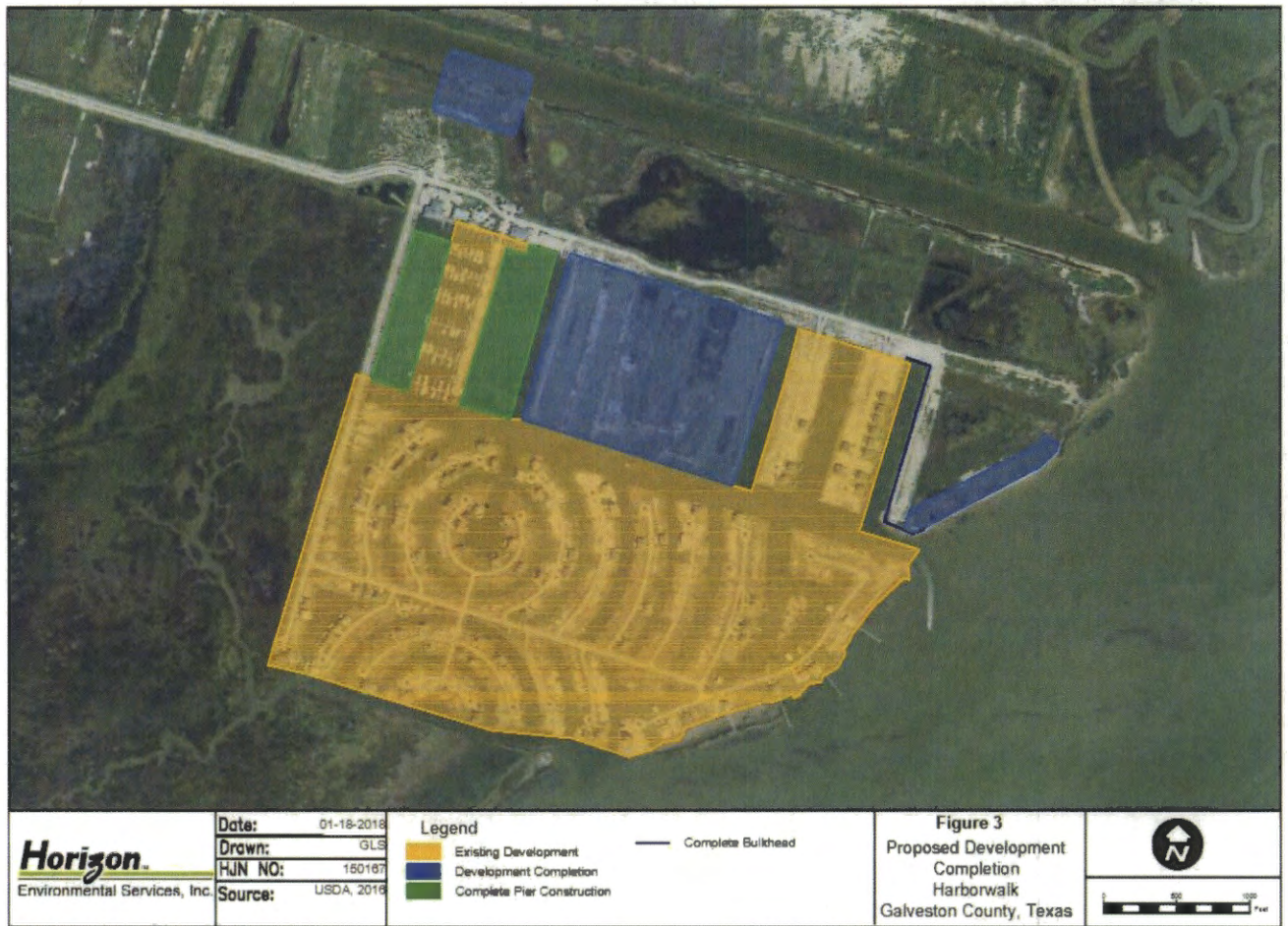
Prospectus - SWG-2017-00718 Basford Bayou Mitigation Bank
April 20, 2018

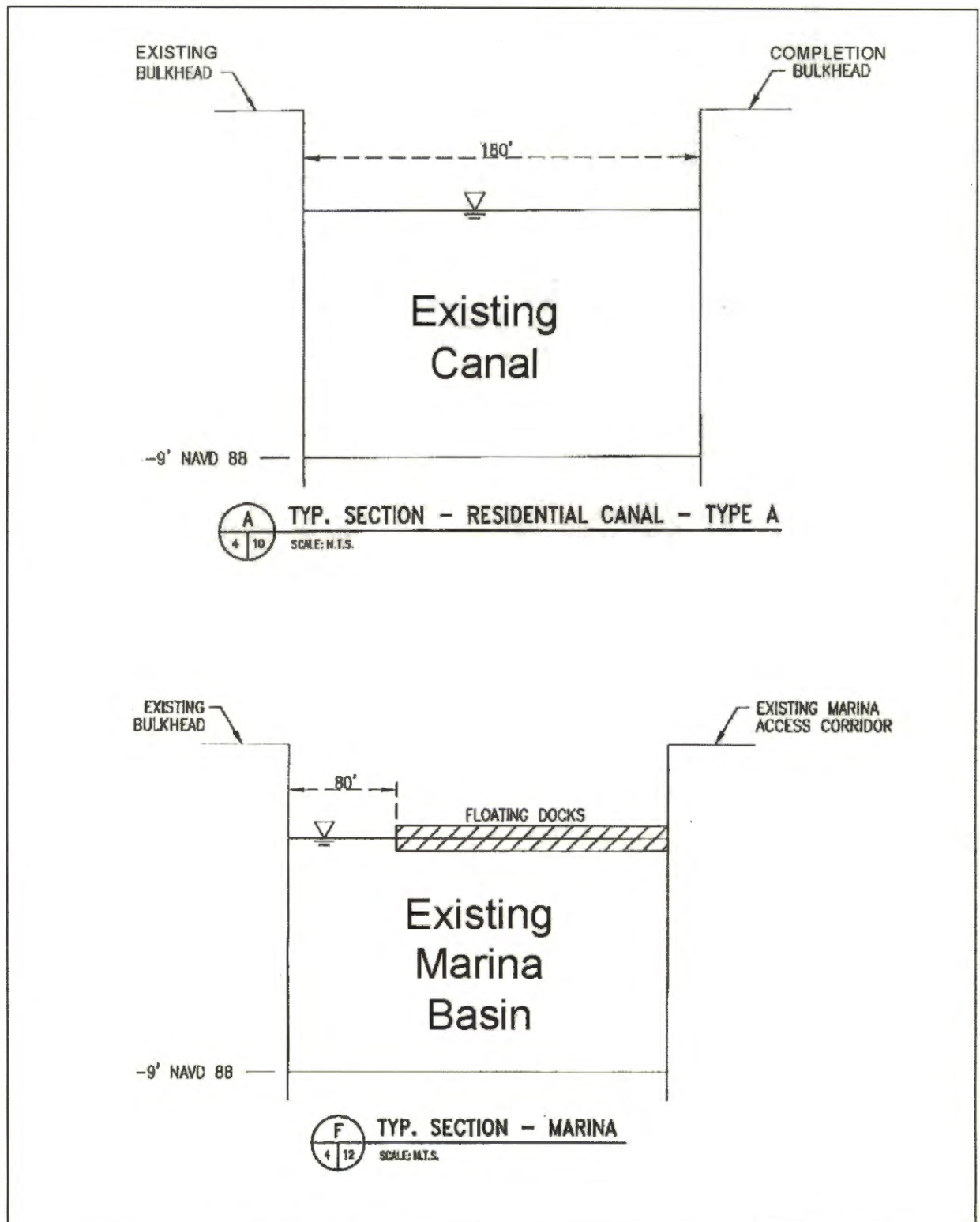




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April 20, 2018

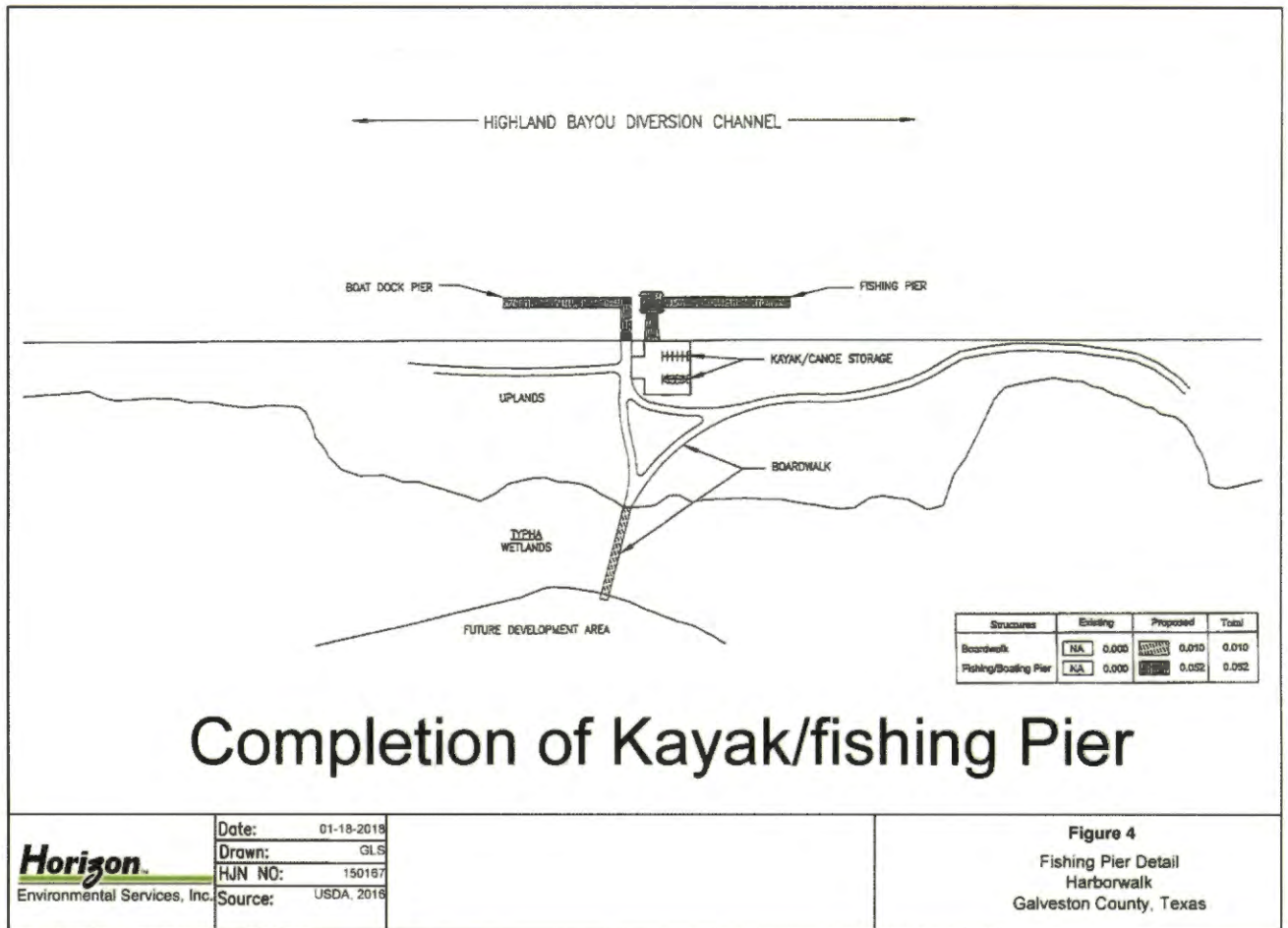




Horizon
Environmental Services, Inc.

Date: 01-18-2018
Drawn: GLS
HJN NO: 150167
Source: USDA, 2016

Figure 5
Dock Details and
Bulkhead Detail
Harborwalk
Galveston County, Texas





Janet Botello
HJN 150167 PA
20 February 2018
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ATTACHMENT B
PROJECT IMPACT TABLE

APR 23 2018

Prospectus – SWG-2017-00718 Basford Bayou Mitigation Bank
April 20, 2018

HARBORWALK PROJECT COMPLETION IMPACTS (ACRES)					
SWG-2007-00597					
AREA/ACTIVITY	OPEN WATER	INTERIOR WETLANDS	SPARTINA WETLANDS	SAND FLATS	TOTALS
Marina Basin Piers					
Fill	1.583	0	0	0	1.583
Dredging	0	0	0	0	0
Area 1 - Marina Basin Development					
Fill	18.067	0	1.457	0	19.524
Dredging	13.899	0	2.214	0	16.113
Canal Bulkhead Completion					
Fill	0	0	0	0.1	0.1
Dredging	0	0	0	0.85	0.85
Area 2 - Shoreline Development					
Fill	0	1.18	0	0	1.18
Dredging	0	0	0	0	0
Area 3 - Kayak Launch and Piers					
Fill	0.062	0.01	0	0	0.062
Dredging	0	0	0	0	0
TOTALS					
Fill	19.702	1.19	1.457	0.1	22.449
Dredging	13.899	0	2.214	0.85	16.963

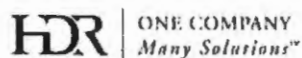


Janet Botello
HJN 150167 PA
20 February 2018
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ATTACHMENT C
MITIGATION COMPLETION MEMO

APR 23 2018

Prospectus – SWG-2017-00718 Basford Bayou Mitigation Bank
April 20, 2018



Memo

To: Mr. Casey Cutler	
From: Joe Moake	Project: Harborwalk – SWG-2007-00597
cc:	
Date: 10-6-09	Job No: 70846

RE: SWG-2007-00597 – HARBORWALK MITIGATION STATUS

Mr. Cutler:

This is to inform you that the mitigation sites associated with SWG-2007-00597 have been constructed and planted with *S. alterniflora*. Monitoring of these sites will be conducted in accordance with the "Permitted Plans", starting approximately one year from this date. Annual reporting on the success of the mitigation sites will follow the monitoring efforts.

We are thankful for the great work and assistance provided by Ms. McMillan on this project. Please do not hesitate to write or call with questions or comments.

Sincerely,

Joe Moake
361.548.6748



Janet Botello
HJN 150167 PA
20 February 2018
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ATTACHMENT D
IPAC SPECIES LIST



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058

Phone: (281) 286-8282 Fax: (281) 488-5882

<http://www.fws.gov/southwest/es/TexasCoastal/>

http://www.fws.gov/southwest/es/ES_Lists_Main2.html

In Reply Refer To:

February 20, 2018

Consultation Code: 02ETTX00-2018-SLI-0858

Event Code: 02ETTX00-2018-E-01818

Project Name: Harborwalk

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The U.S. Fish and Wildlife Service (Service) field offices in Clear Lake, Tx, and Corpus Christi, Tx, have combined administratively to form the Texas Coastal Ecological Services Field Office. A map of the Texas Coastal Ecological Services Field Office area of responsibility can be found at: <http://www.fws.gov/southwest/es/TexasCoastal/Map.html>. All project related correspondence should be sent to the field office responsible for the area in which your project occurs. For projects located in southeast Texas please write to: Field Supervisor, U.S. Fish and Wildlife Service, 17629 El Camino Real Ste. 211, Houston, Texas 77058. For projects located in southern Texas please write to: Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 81468, Corpus Christi, Texas 78468-1468. For projects located in six counties in southern Texas (Cameron, Hidalgo, Starr, Webb, Willacy, and Zapata) please write: Santa Ana NWR, ATTN: Ecological Services Sub Office, 3325 Green Jay Road, Alamo, Texas 78516.

The enclosed species list identifies federally threatened, endangered, and proposed to be listed species; designated critical habitat; and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project.

New information from updated surveys, changes in the abundance and distribution of species, changes in habitat conditions, or other factors could change the list. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation for updates to species list and information. An updated list may be

03/20/2018

Event Code: 02ETTXCC-2018-E-01818

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requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

Candidate species have no protection under the Act but are included for consideration because they could be listed prior to the completion of your project. The other species information should help you determine if suitable habitat for these listed species exists in any of the proposed project areas or if project activities may affect species on-site, off-site, and/or result in "take" of a federally listed species.

"Take" is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. In addition to the direct take of an individual animal, habitat destruction or modification can be considered take, regardless of whether it has been formally designated as critical habitat, if the activity results in the death or injury of wildlife by removing essential habitat components or significantly alters essential behavior patterns, including breeding, feeding, or sheltering.

Section 7

Section 7 of the Act requires that all Federal agencies consult with the Service to ensure that actions authorized, funded or carried out by such agencies do not jeopardize the continued existence of any listed threatened or endangered species or adversely modify or destroy critical habitat of such species. It is the responsibility of the Federal action agency to determine if the proposed project may affect threatened or endangered species. If a "may affect" determination is made, the Federal agency shall initiate the section 7 consultation process by writing to the office that has responsibility for the area in which your project occurs.

Is not likely to adversely affect - the project may affect listed species and/or critical habitat; however, the effects are expected to be discountable, insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effects. The Federal agency or the designated non-Federal representative should seek written concurrence from the Service that adverse effects have been eliminated. Be sure to include all of the information and documentation used to reach your decision with your request for concurrence. The Service must have this documentation before issuing a concurrence.

Is likely to adversely affect - adverse effects to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable, insignificant, or beneficial. If the overall effect of the proposed action is beneficial to the listed species but also is likely to cause some adverse effects to individuals of that species, then the proposed action "is likely to adversely affect" the listed species. An "is likely to adversely affect" determination requires the Federal action agency to initiate formal section 7 consultation with this office.

No effect - the proposed action will not affect federally listed species or critical habitat (i.e., suitable habitat for the species occurring in the project county is not present in or adjacent to the action area). No further coordination or contact with the Service is necessary. However, if the

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Event Code: 02ETTX00-2018-E-01818

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project changes or additional information on the distribution of listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered.

Regardless of your determination, the Service recommends that you maintain a complete record of the evaluation, including steps leading to the determination of affect, the qualified personnel conducting the evaluation, habitat conditions, site photographs, and any other related articles.

Please be advised that while a Federal agency may designate a non-Federal representative to conduct informal consultations with the Service, assess project effects, or prepare a biological assessment, the Federal agency must notify the Service in writing of such a designation. The Federal agency shall also independently review and evaluate the scope and contents of a biological assessment prepared by their designated non-Federal representative before that document is submitted to the Service.

The Service's Consultation Handbook is available online to assist you with further information on definitions, process, and fulfilling Act requirements for your projects at: http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf

Section 10

If there is no federal involvement and the proposed project is being funded or carried out by private interests and/or non-federal government agencies, and the project as proposed may affect listed species, a section 10(a)(1)(B) permit is recommended. The Habitat Conservation Planning Handbook is available at: http://www.fws.gov/endangered/esa-library/pdf/HCP_Handbook.pdf

Service Response

Please note that the Service strives to respond to requests for project review within 30 days of receipt, however, this time period is not mandated by regulation. Responses may be delayed due to workload and lack of staff. Failure to meet the 30-day timeframe does not constitute a concurrence from the Service that the proposed project will not have impacts to threatened and endangered species.

Proposed Species and/or Proposed Critical Habitat

While consultations are required when the proposed action may affect listed species, section 7(a)(4) was added to the ESA to provide a mechanism for identifying and resolving potential conflicts between a proposed action and proposed species or proposed critical habitat at an early planning stage. The action agency should seek conference from the Service to assist the action agency in determining effects and to advise the agency on ways to avoid or minimize adverse effect to proposed species or proposed critical habitat.

Candidate Species

Candidate species are species that are being considered for possible addition to the threatened and endangered species list. They currently have no legal protection under the ESA. If you find you have potential project impacts to these species the Service would like to provide technical

02/20/2018

Event Code 02ETTX00-2018-E-01818

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assistance to help avoid or minimize adverse effects. Addressing potential impacts to these species at this stage could better provide for overall ecosystem health in the local area and avert potential future listing.

Several species of freshwater mussels occur in Texas and four are candidates for listing under the ESA. The Service is also reviewing the status of six other species for potential listing under the ESA. One of the main contributors to mussel die offs is sedimentation, which smothers and suffocates mussels. To reduce sedimentation within rivers, streams, and tributaries crossed by a project, the Service recommends that you implement the best management practices found at: <http://www.fws.gov/southwest/es/TexasCoastal/FreshwaterMussels.html>.

Candidate Conservation Agreements (CCAs) or Candidate Conservation Agreements with Assurances (CCAAs) are voluntary agreements between the Service and public or private entities to implement conservation measures to address threats to candidate species. Implementing conservation efforts before species are listed increases the likelihood that simpler, flexible, and more cost-effective conservation options are available. A CCAA can provide participants with assurances that if they engage in conservation actions, they will not be required to implement additional conservation measures beyond those in the agreement. For additional information on CCAs/CCAAs please visit the Service's website at <http://www.fws.gov/endangered/what-we-do/cca.html>.

Migratory Birds

The Migratory Bird Treaty Act (MBTA) implements various treaties and conventions for the protection of migratory birds. Under the MBTA, taking, killing, or possessing migratory birds is unlawful. Many may nest in trees, brush areas or other suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals or eggs. If project activities must be conducted during this time, we recommend surveying for active nests prior to commencing work. A list of migratory birds may be viewed at <http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html>.

The bald eagle (*Haliaeetus leucocephalus*) was delisted under the Act on August 9, 2007. Both the bald eagle and the golden eagle (*Aquila chrysaetos*) are still protected under the MBTA and BGEPA. The BGEPA affords both eagles protection in addition to that provided by the MBTA, in particular, by making it unlawful to "disturb" eagles. Under the BGEPA, the Service may issue limited permits to incidentally "take" eagles (e.g., injury, interfering with normal breeding, feeding, or sheltering behavior nest abandonment). For more information on bald and golden eagle management guidelines, we recommend you review information provided at <http://www.fws.gov/midwest/eagle/pdf/NationalBaldEagleManagementGuidelines.pdf>.

The construction of overhead power lines creates threats of avian collision and electrocution. The Service recommends the installation of underground rather than overhead power lines whenever possible. For new overhead lines or retrofitting of old lines, we recommend that project

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developers implement, to the maximum extent practicable, the Avian Power Line Interaction Committee guidelines found at <http://www.aplic.org/>.

Meteorological and communication towers are estimated to kill millions of birds per year. We recommend following the guidance set forth in the Service Interim Guidelines for Recommendations on Communications Tower Siting, Constructions, Operation and Decommissioning, found online at: <http://www.fws.gov/habitatconservation/communicationtowers.html>, to minimize the threat of avian mortality at these towers. Monitoring at these towers would provide insight into the effectiveness of the minimization measures. We request the results of any wildlife mortality monitoring at towers associated with this project.

We request that you provide us with the final location and specifications of your proposed towers, as well as the recommendations implemented. A Tower Site Evaluation Form is also available via the above website; we recommend you complete this form and keep it in your files. If meteorological towers are to be constructed, please forward this completed form to our office.

More information concerning sections 7 and 10 of the Act, migratory birds, candidate species, and landowner tools can be found on our website at: <http://www.fws.gov/southwest/es/TexasCoastal/ProjectReviews.html>.

Wetlands and Wildlife Habitat

Wetlands and riparian zones provide valuable fish and wildlife habitat as well as contribute to flood control, water quality enhancement, and groundwater recharge. Wetland and riparian vegetation provides food and cover for wildlife, stabilizes banks and decreases soil erosion. These areas are inherently dynamic and very sensitive to changes caused by such activities as overgrazing, logging, major construction, or earth disturbance. Executive Order 11990 asserts that each agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial value of wetlands in carrying out the agency's responsibilities. Construction activities near riparian zones should be carefully designed to minimize impacts. If vegetation clearing is needed in these riparian areas, they should be re-vegetated with native wetland and riparian vegetation to prevent erosion or loss of habitat. We recommend minimizing the area of soil scarification and initiating incremental re-establishment of herbaceous vegetation at the proposed work sites. Denuded and/or disturbed areas should be re-vegetated with a mixture of native legumes and grasses. Species commonly used for soil stabilization are listed in the Texas Department of Agriculture's (TDA) Native Tree and Plant Directory, available from TDA at P.O. Box 12847, Austin, Texas 78711. The Service also urges taking precautions to ensure sediment loading does not occur to any receiving streams in the proposed project area. To prevent and/or minimize soil erosion and compaction associated with construction activities, avoid any unnecessary clearing of vegetation, and follow established rights-of-way whenever possible. All machinery and petroleum products should be stored outside the floodplain and/or wetland area during construction to prevent possible contamination of water and soils.

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Wetlands and riparian areas are high priority fish and wildlife habitat, serving as important sources of food, cover, and shelter for numerous species of resident and migratory wildlife. Waterfowl and other migratory birds use wetlands and riparian corridors as stopover, feeding, and nesting areas. We strongly recommend that the selected project site not impact wetlands and riparian areas, and be located as far as practical from these areas. Migratory birds tend to concentrate in or near wetlands and riparian areas and use these areas as migratory flyways or corridors. After every effort has been made to avoid impacting wetlands, you anticipate unavoidable wetland impacts will occur; you should contact the appropriate U.S. Army Corps of Engineers office to determine if a permit is necessary prior to commencement of construction activities.

If your project will involve filling, dredging, or trenching of a wetland or riparian area it may require a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers (COE). For permitting requirements please contact the U.S. Corps of Engineers, District Engineer, P.O. Box 1229, Galveston, Texas 77553-1229, (409) 766-3002.

Beneficial Landscaping

In accordance with Executive Order 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping (42 C.F.R. 26961), where possible, any landscaping associated with project plans should be limited to seeding and replanting with native species. A mixture of grasses and forbs appropriate to address potential erosion problems and long-term cover should be planted when seed is reasonably available. Although Bermuda grass is listed in seed mixtures, this species and other introduced species should be avoided as much as possible. The Service also recommends the use of native trees, shrubs, and herbaceous species that are adaptable, drought tolerant and conserve water.

State Listed Species

The State of Texas protects certain species. Please contact the Texas Parks and Wildlife Department (Endangered Resources Branch), 4200 Smith School Road, Austin, Texas 78744 (telephone 512/389-8021) for information concerning fish, wildlife, and plants of State concern or visit their website at: http://www.tpwd.state.tx.us/huntwild/wild/wildlife_diversity/texas_rare_species/listed_species/.

If we can be of further assistance, or if you have any questions about these comments, please contact 281/286-8282 if your project is in southeast Texas, or 361/994-9005, ext. 246, if your project is in southern Texas. Please refer to the Service consultation number listed above in any future correspondence regarding this project.

Attachment(s):

- Official Species List

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Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058
(281) 286-8282

02/20/2018

Event Code 02ETTX00-2018-E-01818

2

Project Summary

Consultation Code: 02ETTX00-2018-SLI-0858

Event Code: 02ETTX00-2018-E-01818

Project Name: Harborwalk

Project Type: DEVELOPMENT

Project Description: Canal Residential and Marina Development

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/29.290366090505962N94.96462975443856W>



Counties: Galveston, TX

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Endangered Species Act Species

There is a total of 9 threatened, endangered, or candidate species on this species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

Mammals

NAME	STATUS
West Indian Manatee <i>Trichechus manatus</i> There is final critical habitat for this species. Your location is outside the critical habitat. <i>This species is also protected by the Marine Mammal Protection Act, and may have additional consultation requirements.</i> Species profile: https://ecos.fws.gov/ecp/species/4469	Threatened

Birds

NAME	STATUS
Attwater's Greater Prairie-chicken <i>Tympanuchus cupido attwateri</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7259	Endangered
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND INFORMATION AVAILABLE		
Applicant: Harborwalk, L.P.		File #: SWG-2007-00597
Date: 8/19/09		
Attached is:		See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	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/inet/functions/cw/cccw/rsp/ 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 jurisdictional determination (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.		

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Harborwalk, L.P.
Mitigation Plan

Permit # SWG-2007-00597
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MITIGATION PLAN

I. INTRODUCTION

Harborwalk, L.P. is applying for an after-the-fact permit for unauthorized and additional (planned) impacts to waters of the US in association with construction of a canal development in Hitchcock, Galveston County, TX. This project was originally authorized under DA Permit 22079; however, Harborwalk, L.P. initiated construction on a variation of the permitted alternative under the incorrect assumption that the variation would result in no additional net impacts. Further, Permit 22079 expired and was not renewed during dredging, construction, and fill material placement in waters of the US.

Harborwalk, L.P. is seeking US Army Corps of Engineers (USACE) after-the-fact authorization (file # SWG-2007-00597) for work done in violation of DA Permit 22079 as well as for additional (planned) impacts associated with the completion of the project.

II. PROPOSED MITIGATION

Harborwalk L.P. proposes to mitigate for unauthorized and additional (planned) impacts to waters of the US by creating an additional 7 acres of salt marsh by lowering four separate sections of upland along the western bank of the Highland Bayou Diversion Channel to the elevation of existing *Spartina alterniflora* salt marsh (See Mitigation Sheet 2); all excavated material will be side cast into adjacent uplands. This additional 7 acres of created salt marsh reflects a mitigation ratio of 3:1 for the unauthorized/additional 1.54 acres of tidal wetland impacts and a 0.5:1 ratio for the unauthorized/additional 5.27 acres of impacts to open water.

Mechanical equipment used during the excavation will remain within the footprint of the proposed marsh creation where practicable or will work from adjacent uplands; no additional wetlands will be impacted during the proposed mitigation work.

As part of the mitigation, Harborwalk, L.P. proposes to install circulation channels within Mitigation Areas B and C; each channel will have an approximate 6' top width, an approximate 2' bottom width, and approximate 1:1 side slopes. Each channel will be excavated to approximately -1.0 MLT (See Mitigation Sheet 6). Excavated material will be side cast into adjacent uplands.

III. IMPLEMENTATION, MONITORING, AND LONG-TERM MANAGEMENT

In order to assure timely construction of the mitigation area, the applicant will commence construction of the mitigation area prior to commencing general project construction. Harborwalk, L.P. will be responsible for monitoring of the site for a total of 5 years. The success of the proposed mitigation activities will be gauged by the following criteria:

1. The amount of aerial coverage of the target vegetation, in percent, will be monitored within the mitigation area and subsequent reports, including photo

Harborwalk, L.P.
Mitigation Plan

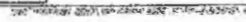
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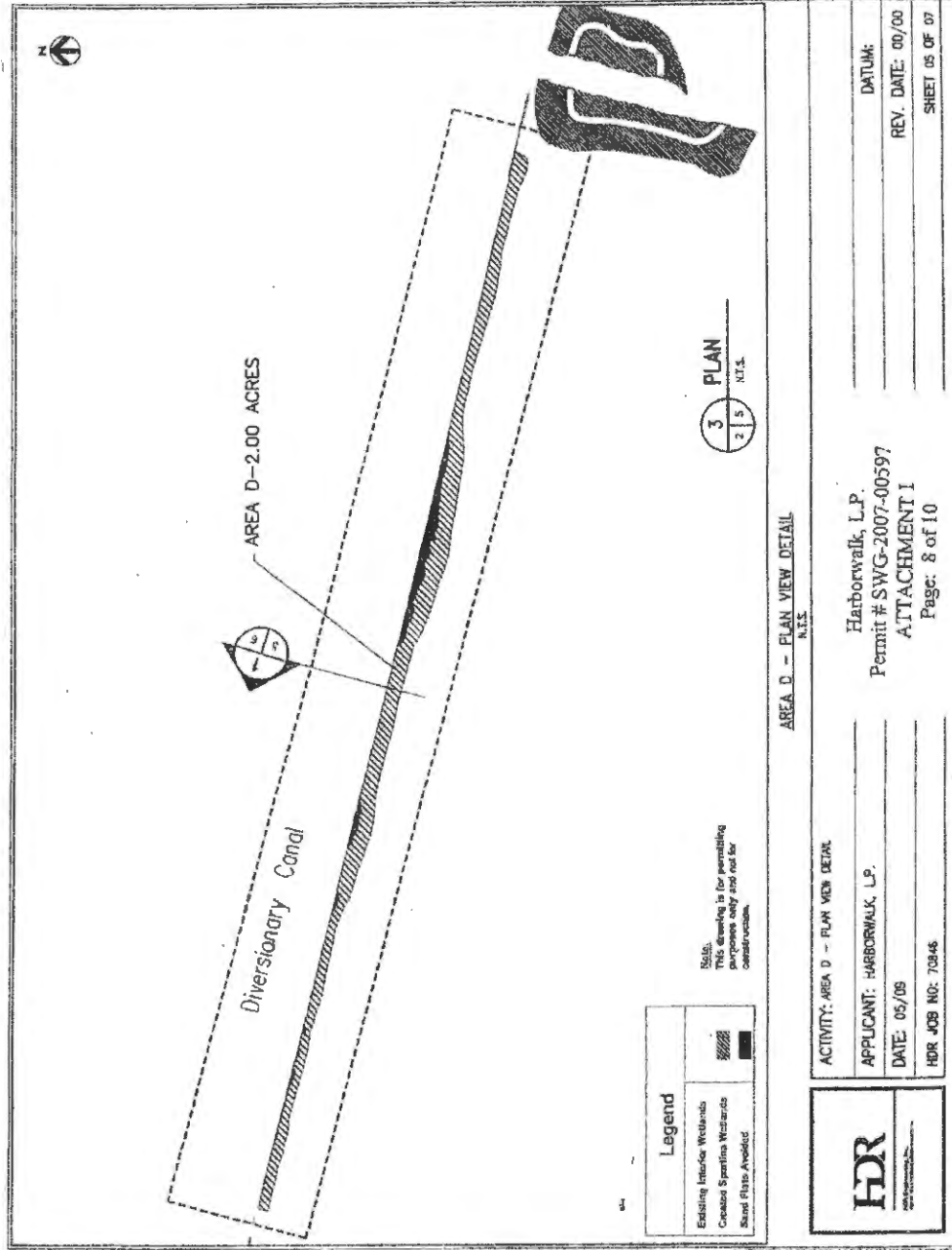
documentation, will be submitted to the USACE at 1-year, 2-years, 3-years, 4-years, and 5-years following the initial creation of the above habitat.

2. If 25% aerial coverage of the target habitat is not achieved after 1-year, a meeting will be conducted with Harborwalk, L.P., HDR/Shiner Moseley, and USACE to determine if changes need to be made to the mitigation plan.
3. If 50% aerial coverage of the target habitat is not achieved after 2-years, a meeting will be conducted with Harborwalk, L.P., HDR/Shiner Moseley, and USACE to determine if planting is needed or if changes need to be made to the mitigation plan.
4. If 70% aerial coverage of the target habitat is not achieved by the end of the third year, a meeting will be conducted with Harborwalk, L.P., HDR/Shiner Moseley, and USACE to determine if planting is needed or if changes need to be made to the mitigation plan. If the mitigation is deemed successful (based on aerial coverage of the target habitat) by the end of the third year, the USACE may waive the monitoring and reporting requirement for years 4 and 5.

HDR Engineering, Inc.
Job # 70846



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Harborwalk, L.P.

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WATER QUALITY MONITORING PLAN

- 1) Bi-monthly monitoring of dissolved oxygen (DO), temperature, and conductivity will be conducted from May through October beginning the year following the construction of any section of the canal system or beginning the year that the permit is issued in the case of the after-the-fact permitting of already constructed sections; if the permit is issued during this 6-month monitoring period, monitoring will commence within 6 weeks of the date of issuance of the permit.
- 2) Monitoring will be conducted by qualified personnel and equipment will be calibrated and maintained according to the manufacturer's specifications and Texas Commission on Environmental Quality (TCEQ) monitoring procedures.
- 3) Monitoring will be conducted at sample points toward the distal end of selected canals (see Sheet 1) and at two control sites; selected monitoring sites will be submitted to TCEQ for approval. Monitoring sessions will be initiated within 1 hour of sunrise on the scheduled dates. Any change in monitoring sites, sampling parameters, or protocol will be coordinated with TCEQ.
- 4) Monitoring data will be compared to data from the monitoring station in Segment 2424 of West Bay. If dissolved oxygen in the canal system falls below 3.0 mg/L without a corresponding drop in dissolved oxygen in West Bay, the deficiency will be immediately reported to TCEQ with a proposed action plan for alleviating the low DO and for preventing future deficiencies. Aeration/circulation equipment may be proposed for installation to help restore/maintaining acceptable DO levels.
- 5) Monthly reports of findings, including a data table with the following information, will be sent to TCEQ at the end of each month during the monitoring period (see Figure 1):
 - a. Monitoring sites
 - b. Sample dates and times
 - c. DO, temperature, and conductivity data recorded
 - d. Calibration data
- 6) Monitoring will be sustained until 90% of the permitted landside structures and infrastructure (canals, bulkheads, and roadways) have been constructed or until the TCEQ and the USACE determine that sufficient data have been collected.
- 7) Best Management Practices (BMPs) will be utilized during and after construction to minimize negative impacts from stormwater runoff. BMPs to be used during construction include turbidity curtains and/or silt fences. Where practicable, lots will be graded to slope away from the receiving waters to minimize run-off. Limited application of pesticides and fertilizers—with application only by licensed professionals—will be strongly encouraged.
- 8) TCEQ and Texas Parks and Wildlife will be immediately contacted in the event of a fish kill.
- 9) After completion of the monitoring obligation, the applicant may request written verification from TCEQ that the project meets water quality standards.

Harborwalk, L.P.

Harborwalk, L.P.
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Figure 1 - SAMPLE FIELD DATA SHEET

[illegible]

Note: Measurements taken approximately one ft. below water surface.

HDR Engineering, Inc.
Job # 70846

APPENDIX H – GALVESTON BAY FOUNDATION LETTER OF INTENT



Letter of Intent to hold Conservation Easement

Cliff J. Sunda
Wildwood Environmental Credit Company, LLC
P.O. Box 6602
Tyler, Texas 75711
(936) 371-1305
cliff@wildwoodcredits.com

Re: *Basford Bayou Mitigation Bank*

Mr. Cliff J. Sunda:

Galveston Bay Foundation, Inc ("GBF"), a 501(c)(3) non-profit corporation organized under the laws of the State of Texas located at 1100 Hercules, Suite 200, Houston, TX 77058, intends to serve as a partner with Wildwood Environmental Credit Company, LLC, an entity with a principal address located at 12559 CR 192, Tyler, Texas 75711, in the establishment of the Basford Bayou Mitigation Bank. GBF's sole role would be to establish, hold, and steward a perpetual conservation easement on the subject property and provide third-party protections against land uses that are incompatible with the Mitigation Banking Instrument and conservation values listed in the Conservation Easement.

Galveston Bay Foundation, an Accredited Land Trust established in 1987, has perpetually conserved more than 8,000 acres in the Galveston Bay watershed. The Basford Bayou Mitigation Bank will restore estuarine wetlands on a parcel of land located in Galveston County, near the town of Hitchcock, TX. Habitat restoration associated with this project will provide ecosystem services for the West Galveston Bay estuarine system and perpetual conservation of this land parcel will help promote GBF's mission to preserve and enhance Galveston Bay and its watershed.

Due diligence for this project will include:

- **Baseline Inventory:** Wildwood Environmental will draft a report of current conditions of the subject property or provide funding for GBF to do so. This report will describe conservation values found within, significant ecological features, wildlife habitats, plant communities, and any other information relevant to long-term protection of this property.
- **Boundary Survey:** Wildwood Environmental will provide an acceptable property boundary survey at its cost, which will be used to determine the total acreage, provide a legal description, and identify any existing features such as existing structures, fences, roads, and easements.

1100 Hercules Avenue, Suite 200, Houston, TX 77058 • Phone 281-332-3381 • Fax 832-284-4982

- **Title Policy:** Wildwood Environmental will provide a title commitment prior to closing and fund the title policy premium at closing with GBF as the named insured party.
- **Legal Review & Property Inspection:** Prior to closing, sufficient time will be allowed for legal review and inspection of the subject property.
- **Approval:** The completion of the Conservation Easement is subject to approval of GBF's Board of Directors.
- **Contribution:** Wildwood Environmental will make a contribution to GBF's long-term stewardship and legal defense fund at closing. The amount will be agreed upon by both parties.

We are aware that this letter serves as an expression of intent and not a contractual obligation and either party may discontinue project involvement at any stage of the process.

Sincerely,



Bob Stokes, President
Galveston Bay Foundation



- Sound Finances
- Ethical Conduct
- Responsible Governance
- Lasting Stewardship

1100 Hercules Avenue, Suite 200, Houston, TX 77058 • Phone 281-332-3381 • Fax 832-284-4982

APPENDIX I – QUALIFICATION SUMMARY



Cliff J. Sunda, PWS, CF
Vice President/Senior Project Manager

Education

M.S. Forest Economics / Spatial Science, Stephen F. Austin, 2013
B.S. Forest Management, Stephen F. Austin State University, 2007

Areas of Relevant Expertise

Forestry
Economics
Spatial Science
Wetlands / Streams
Compensatory Mitigation
Natural Resource Management

Certifications – Qualifications – Training

Certified Professional Wetland Scientist (PWS) No. 2765
Certified Forester (CF) No. 3866
Rosgen Natural Channel Design Levels 1-IV
Certified GIS Professional (GISP) No. 91743
Association of Consulting Foresters (ACF)
Soil and Water Assessment Tool (SWAT) Training
Agricultural Policy/Environmental eXtender Model Training
Forest Vegetation Simulator Training
Upland Hardwood Silviculture
NWCG Adv'd Firefighter / Squad Boss (FFT1)
NWCG Incident Commander Type V (ICT5)
NWCG Engine Operator (ENOP)

**Relevant Experience
Summary**

- Mitigation Banking
- Silviculture
- Nat. Resource Economics
- USACE HGM Analysis
- USACE TXRAM Analysis
- Reforestation
- Habitat Restoration
- Expert Testimony
- Prescribed Burning
- Wildland Firefighting
- Statistical Analysis
- Timber Management
- Vegetation Growth & Yield Modeling
- Carbon Accounting
- Water Quality Modeling
- Remote Sensing
- Stereoscopic Analysis
- GIS Database Development

Years of Experience

With This Firm: 3
With Other Firms: 10

Peer-Reviewed Publications

Camarillo, S. A., J. P. Stovall, and C. J. Sunda. 2015. *The impact of Chinese tallow (Triadica sebifera) on stand dynamics in bottomland hardwood forests*. *Forest Ecology and Management*. 344: 10-19.

Experience Summary

Mr. Sunda is a managing member of Wildwood Environmental Credit Company, LLC. His responsibilities include overseeing the permitting, management, and monitoring of Wildwood's compensatory mitigation sites. Prior to Wildwood, Mr. Sunda was the resident forester at Working Lands Investment Partners, LLC where he worked throughout the U.S. on active and potential compensatory mitigation sites. Prior to Working Lands Mr. Sunda was an independent forestry consultant responsible for managing over ten thousand acres of private commercial timberland in East Texas.



C. Lee Sherrod, PWS
Vice President/Senior Project Manager

Education

M.A., Botany/Wetland Ecology, University of Texas at Austin, 1980
B.S., Forestry/Wildlife Science, Stephen F. Austin University, 1975

Areas of Relevant Expertise

Wetlands

Threatened/Endangered Species

Terrestrial Ecology

Habitat Restoration/Creation

Regulatory Compliance: Section 404; Endangered Species Act,
NEPA

Certifications – Qualifications – Training

Certified Training in Habitat Evaluation Procedure (HEP)

Certified Professional Wetland Scientist (PWS) No. 000155

US Army Corps of Engineers Qualified Wetland Delineation Training

Years of Experience

With This Firm: 27

With Other Firms: 11

Relevant Experience Summary

- Habitat Restoration
- Jurisdictional Wetland Delineation
- Section 404/10 Permitting
- Threatened/Endangered Species
- Section 7/10(a) Permitting (ESA)
- Terrestrial Ecology
- Mitigation
- Land Use
- NEPA EA/EIS
- Expert Testimony
- USFWS HEP Procedure
- USACE HGM Analysis

Experience Summary

Mr. Sherrod is a co-founder of Horizon™ and specializes in terrestrial and wetland ecology, endangered species, regulatory permitting, and NEPA compliance. He has over 37 years of experience in the technical applications of these fields and the regulatory aspects of project-compliance procedures. He is a recognized expert in wetlands issues and is certified as a "Professional Wetland Scientist" (No. 000155) by the Society of Wetland Scientists Certification Program, Inc. He has directed hundreds of wetland assessment and permitting projects throughout the southern US that have included jurisdictional wetland delineation; aerial photographic interpretation and mapping; habitat creation, enhancement, and reclamation; shoreline stabilization; and mitigation planning. Mr. Sherrod has been qualified as an expert witness in federal court regarding wetlands and endangered species issues and has been regularly invited to give presentations and lectures on these issues at conferences and universities. He has successfully represented public and private applicants in numerous Section 10(a)(1)(B) permits (Endangered Species Act incidental take of endangered species) issued in the Albuquerque Region of the US Fish and Wildlife Service as well as Section 7 consultations. He has certified training in HEP (US Fish and Wildlife Service Habitat Evaluation Procedure) and has participated in numerous HEP analyses, performing the computer analysis for many of these studies. He has also conducted numerous Hydrogeomorphic Model (HGM) analyses for wetland impacts and mitigation. He brings an enormous amount of practical experience and expertise to any project to facilitate regulatory permitting, particularly as related to wetlands and endangered species. His capabilities are based upon many baseline and impact assessments requiring statistically supportable quantitative data collected for vegetation and wildlife over large acreage project sites.

END OF PROSPECTUS