

**Lee County Board Of County Commissioners
Agenda Item Summary**

**Blue Sheet No.
20070345**

1. ACTION REQUESTED/PURPOSE: Approve and execute a lease agreement between Lee County and the Royal Palm Sailing Club (d/b/a The Edison Sailing Center). The Edison Sailing Center provides a community sailing program. The Edison Sailing Center has a desire to participate in the County's Blueway Project and also a desire to construct a new floating dock and dredge for shoreline improvements at an estimated cost of \$333,224. The Edison Sailing Center has secured \$167,112 toward the floating dock project from West Coast Island Navigation District (WCIND). Lee County Parks and Recreation has already funded and secured the permits from the Department of Environmental Protection and the Army Corps of Engineers. Lee County Parks and Recreation further desires to assist with the floating dock project; which will provide continuous linkage County's Blueway Project, by providing \$135,000. The funding has been approved in the FY 06/07 Capital Improvement Program.

2. FUNDING SOURCE: Fund – Regional Park Impact Fees and Capital Project – Royal Palm Sailing Center

3. WHAT ACTION ACCOMPLISHES:

Provides a continuous link for the County's Blueway Project and provides the community with public access for recreation and alternative modes of transportation

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category:

CIA

6. Meeting Date: 03-20-07

7. Agenda:
 Consent
 Administrative
 Appeals
 Public
 Walk-On

8. Requirement/Purpose: (specify)
 Statute
 Ordinance
 Admin. Code
 Other

9. Request Initiated:
 Commissioner
 Department Parks and Recreation
 Division
 By: **John Yarbrough**

10. Background: The Royal Palm Sailing Club (d/b/a The Edison Sailing Center) entered into an agreement with the City of Fort Myers in October 2004 to lease property to provide a community sailing program. The Edison Sailing Center has expressed interest and has secured partial funding for floating docks which would be vital for linking the County's Blueway Project. Lee County Parks and Recreation is responsible for the County's BlueWay project which is designed to provide linear corridors on water to provide public access for recreation or alternative modes of transportation. The Blueway Project requires docking facilities for use by the community participating in kayaking and other recreational uses.

Funding is available in business unit 20202118700

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P. W. Director
<i>SM</i>				<i>S. Baum</i>	Analyst	Risk	Grants	Mgr.	
<i>3/16/07</i>				<i>3/7/07</i>	<i>3/8/07</i>	<i>3/8/07</i>	<i>3/8/07</i>	<i>3/8/07</i>	<i>(Signature)</i>

12. Commission Action:

Approved
 Deferred
 Denied
 Other

RECEIVED BY COUNTY ADMIN:
 3/7 11:55 AM
 COUNTY ADMIN FORWARDED TO:
 3/8 2:30 PM

Rec. by CoAtty
 Date: 3/7/07
 Time: 9:00 AM
 Forwarded To: CAD
 10:50 am

**AGREEMENT BETWEEN LEE COUNTY AND
ROYAL PALM SAILING CLUB
(d/b/a THE EDISON SAILING CENTER)**

THIS AGREEMENT is by and between LEE COUNTY, a political subdivision and Charter County of the State of Florida ("County") and Royal Palm Sailing Club (d/b/a The Edison Sailing Center) ("Center"), a not-for-profit agency, entered into this _____ day of _____, 2007.

WHEREAS, the Center leases land from the City of Fort Myers located at 2006 West First Street, Fort Myers, Florida 33901; and

WHEREAS, the Center provides floating docks for use by the public for community sailing, marine education and other ancillary activities; and

WHEREAS, the Center's lease with the City of Fort Myers permits the construction of floating docks; and

WHEREAS, Lee County is responsible for the County's Blueway Project; and

WHEREAS, the purpose of the County's Blueway Project is to provide linear corridors on water to provide public access for recreation or alternative modes of transportation; and

WHEREAS, the Blueway Project requires docking facilities for use by citizens participating in kayaking and other recreational uses; and

WHEREAS, the Center has a deep and sincere desire to participate in the facilitation of Lee County's Blueway Project; and

WHEREAS, an increased public use and expansion of the floating dock facilities at the Center have rendered the existing floating docks inadequate; and

WHEREAS, the Center desires to construct approximately one thousand seven hundred (1,700) square feet of new floating docks and dredge for shoreline improvements at an estimated cost of Three Hundred Thirty Four Thousand Two Hundred Twenty Four Dollars (\$334,224).

WHEREAS, the West Coast Island Navigation District (WCIND) has committed to fund One Hundred Sixty Seven Thousand One Hundred Twelve Dollars (\$167,112) toward the floating docks project ("The Project"); and

WHEREAS, the County wishes to also assist the Center, particularly by funding the Center's Youth Sailing Program One Hundred Thirty Five Thousand Dollars (\$135,000) which has been budgeted for FY06/07 toward the Project so that the floating docks and shoreline improvements may be used as part of the County's Blueway Project; and

WHEREAS, the Center wishes to accept the County's funds as the result of a cost affective partnership with the County; and

WHEREAS, the Lee County Board of County Commissioners finds that this Agreement and this Project shall serve a public purpose.

NOW, THEREFORE, the parties agree as follows:

1. The City of Fort Myers Lease Agreement with Center authorizes the construction of floating docks (See Exhibit "A" attached hereto an incorporated by reference).
2. The Center has requested funding assistance from Lee County.
3. The Center shall obtain all necessary permits for the project.
4. The County has already funded Twenty Five Thousand Dollars (\$25,000) to the Center's Youth Sailing Program in FY04 toward the permitting process and the Center has already obtained permits from The Department of Environmental Protection and the Army Corps of Engineers. Copies of these permits are attached as Exhibit "C" and are incorporated by reference.
5. The Center will provide all construction services and materials associated with the Project. The scope of the Project and length of the Project are set forth in Exhibit "B" as attached hereto and incorporated by reference.
6. The Center shall follow all applicable Federal, State and local laws applicable to this Agreement and the Project.
7. The County has had no involvement with the Center selection of construction services for this Project and will not be responsible for the procurement of said services.
8. The County has a budget of One Hundred Thirty Five Thousand Dollars (\$135,000) for CIP Budget 06/07 from Regional Park Impact Fees project #202021 toward this project (see Exhibit "D" attached hereto and incorporated by reference).
9. The Center shall provide insurance specified on Exhibit "E" (attached hereto and incorporated by reference).

10. Upon demand by the County, Center will make available to County for inspection all plans, specifications, contracts, receipts and any other requested documents related to the Project, including but not limited to all audit records.

11. The Center shall be liable for and shall indemnify and hold County harmless for any and all claims, suits, judgments or damages, losses, expenses including court costs and reasonable attorney's fees arising out of the errors, omissions, and or negligence relating to the Project.

12. The County reserves the right to cancel this Agreement upon thirty (30) days written notice with or without cause. In the event of such cancellation or if the Project is not completed within one (1) year from the date that this Agreement is executed, Center will reimburse County for the entire One Hundred Thirty Five Thousand Dollars (\$135,000) County contributed toward the project.

13. The parties acknowledge that, upon Center's completion of the Project (or County's cancellation of this Agreement), ownership of all elements of the Project shall be deemed property of the Center and the County shall have no ownership rights with regard thereto.

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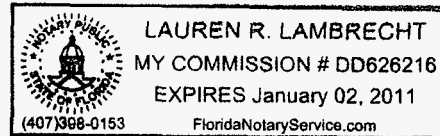
ATTEST:

STATE OF FLORIDA) ss:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 5 day of march, 2007, by Stephan Olive, an individual, who is personally known to me or has produced 02-10-52 M 6-00 as identification and did (did not) take an oath.




Notary Public



Print Name)
My commission expires:

ROYAL PALM SAILING CLUB D/B/A
EDISON SAILING CENTER

By: 

Title: VICERESIDENT

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chair

APPROVED AS TO FORM:

By: _____
County Attorney's Office

EXHIBIT "A"

LEASE AGREEMENT

This Indenture of Lease, made this ^{18th} ~~29~~ day of ^{October} ~~7~~, 2004, by and between the CITY OF FORT MYERS, a municipal corporation, having its principal office at 2200 Second Street, Fort Myers, FL 33901, hereinafter referred to as the "CITY" and ROYAL PALM SAILING CENTER, INC. d/b/a EDISON SAILING CENTER, a non-profit corporation organized and existing under the laws of the State of Florida, having its principal office at 3594 Broadway, Fort Myers, Florida, 33901, hereinafter referred to as the "LESSEE"

WITNESSETH:

WHEREAS, Fort Myers City Council is authorized pursuant to applicable law, to lease real property owned by the CITY to not for profit organizations organized for the purposes of promoting community interest and welfare, and;

WHEREAS, CITY owns the below-described real property, which has been deemed as surplus property at a special City Council meeting held in conjunction with the Downtown Redevelopment Agency on September 4, 2002 and;

WHEREAS, the LESSEE has applied to CITY for a lease to locate a gazebo, storage area for masted and power boats, drop off area, launching beach, dockage, landscaping, lighting and other associated improvements for purposes of providing a community sailing program and other water related and educational purposes on the below-described real property, and;

WHEREAS, CITY has determined that such a facility and uses serve a public purpose, and;

WHEREAS, CITY has found that the interest conveyed to Lessee is required for such use and obtaining the future funding of improvements on the site for the LESSEES programs, and

WHEREAS, CITY desires to lease such property to LESSEE; and

WHEREAS, CITY and LESSEE have entered into that certain Fort Myers Municipal Land Maintenance Agreement (the "Maintenance Agreement"), governing the use and maintenance by LESSEE of certain adjacent City-owned property, said real property consisting of a portion of the Henley Place right of way, as more particularly described in the Maintenance Agreement.

NOW THEREFORE, in consideration of the foregoing and in further consideration of the mutual covenants contained herein the parties agree as follows:

1. PREMISES:

A parcel of land owned by the City of Fort Myers and located in Fort Myers, Florida, hereinafter referred to as the "Premises", and legally described and sketched as follows:

(See Exhibit A – Sailing Center Site)

The Premises consists of approximately thirteen thousand three hundred and ninety six (13,396) square feet of uplands.

2. PERMITTED USE:

The Premises shall be used by the LESSEE only for purposes of providing a non-profit, community sailing and marine instructional program which shall remain accessible to all members of the community, and for no other use or purpose (the "Permitted Use"). Permitted Use shall include temporary use of the Premises by other community based, non-profit, organizations, upon invitation by LESSEE from time to time so long as such invitees uses fall within the definition of Permitted Uses. All such invitee shall provide to Lessor and Lessee, at least ten (10) days prior to such uses, a certificate of insurance evidencing at least the minimum liability insurance coverage set out for Lessee in Section 10 of this Lease. Lessee and Lessor shall be additional insureds under said certificates of insurance. Lessee shall insure that no invitees shall utilize or operate their activities on the Premises for more than one thousand (1,000) hours each Lease Year, unless otherwise approved by Lessor. LESSEE shall regularly operate community sailing and marine educational programs during this Lease, and shall do so in compliance with all laws, rules, codes, ordinances and regulations promulgated by governmental authorities from time to time. The Premises shall not, at any time during the term of this Lease, be used by Lessee or any invitee of Lessee for any commercial, private or for-profit purpose.

3. TERM:

CITY demises the above premises for a term of fifty (50) years, commencing upon the "Commencement Date" (as defined herein) and terminating fifty (50) years thereafter, for a rent for the term of One Dollar (\$1.00) for the term and other good and valuable consideration as set forth in this Lease Agreement.

4. RENEWAL:

LESSEE shall have the option to renew this Lease, provided LESSEE is not in default under the terms of this Lease, for two (2) additional periods of ten (10) years each (respectively, the "First Renewal Term" and the "Second Renewal Term" and collectively referred to as the "Renewal Term") upon the same terms and conditions as contained in this Lease. LESSEE shall provide written notice to CITY of its intent to renew this Lease not less than one hundred eighty (180) days prior to the expiration of the initial term of this Lease, time being of the essence. CITY may, at its sole option, renew or amend this Lease Agreement.

5. OVERFLOW PARKING:

CITY recognizes that one of the functions of LESSEE is to sponsor sailing regattas, which

draw tremendous numbers of people to the downtown area, boosting the local economy. LESSEE shall, at least ninety (90) days in advance, notify the City Recreation Division, or such other City location as CITY may designate from time to time, in writing, of any such regatta which requires use of Centennial Park for overflow parking of cars and trailers, and boat rigging and unrigging during said regattas. LESSEE's advance request for overflow parking shall specify the portions of the park required and for what periods of time. CITY and LESSEE shall use their best efforts to accommodate the needs of all such sailing regattas, however, CITY shall not be held responsible for any conflicts which may arise from prior scheduled and permitted events upon the portions of the park which LESSEE requests the use of during any sailing regatta or other special event. Alternatively, LESSEE may apply for a special events permit from CITY for the use of portions of Centennial Park for additional uses or activities not contemplated by this Section 5.

6. IMPROVEMENTS:

(a) The LESSEE intends to construct site improvements, to support the adjacent planned permanent community sailing facility, on the Premises, consisting of: (i) a storage area for masted and power boats, which shall be screened as approved by CITY; (ii) a gazebo; (iii) a drop off area; (iv) dockage; (v) a launching beach; (vi) landscaping; and (vii) flagstaff, all in accordance with the site plan attached hereto as Exhibit "B". Said improvements shall be completed within the earlier of five (5) years from the Commencement Date of this Lease; or upon the issuance of a Certificate of Occupancy on that certain commercial condominium unit to be constructed on real property located adjacent to the Premises, which LESSEE intends to occupy in conjunction with its day to day operations.

(b) City hereby authorizes LESSEE to apply for a Planned Unit Development ("PUD") through the PUD process, of the proposed improvements described in Section 6(a) above. Subsequent to LESSEE obtaining CITY's approval of the proposed improvements, any changes or improvements not contemplated by this Section must first be approved by amendment of PUD if required by ordinance, or otherwise by the City of Fort Myers City Council.

(d) Any and all improvements contemplated by this Section 6, or otherwise proposed to be constructed upon the Premises, shall be consistent with the CITY'S appropriate adopted development regulations, including the City of Fort Myers Downtown Plan, the Smart Code, the Transitional Zoning Ordinance and/or the City of Fort Myers Comprehensive Plan. Any approval of the design and location of the improvements by the CITY shall not be deemed to waive the LESSEE's responsibility to obtain the necessary governmental approvals for the proposed improvements, including, but not limited to all necessary CITY development approvals, and other applicable agency permits. LESSEE's site plan for the facility, attached hereto as Exhibit "B"; may be refined and developed by LESSEE's design process and Lessor's permitting process.

(e) All structures and fixtures to be constructed upon the Premises shall be owned by the LESSEE during the term of the Lease. Within forty five (45) days of LESSEE vacating the Premises, the CITY shall, at its sole discretion, decide to accept or reject the improvements. If the CITY accepts said improvements, then all structures and attached equipment become the property of the CITY after ten (10) days written notice by certified mail

addressed to LESSEE. If the CITY chooses not to accept the improvements, then LESSEE, at its expense, must remove them and restore the Premises to the condition in which it was prior to its being improved. Should LESSEE not remove said structures and equipment occupying and erected upon the leased premises within ninety (90) days after notification by the CITY, such structures and equipment will be deemed forfeited to the CITY, and the Fort Myers City Council may authorize removal and may sell such forfeited structures. Any costs incurred by the CITY in removal of said structures and equipment shall be paid for from the proceeds of sale of such structures and equipment. If funds derived from the sale of structures and equipment are insufficient to pay removal costs, the CITY may seek a judgment against LESSEE in a court of competent jurisdiction.

7. MAINTENANCE:

LESSEE, at its sole cost and expense shall maintain the Premises in a first class and safe condition during the term of this lease in accordance with Maintenance Standards set forth on Exhibit "C" attached hereto, and in accordance with all legal requirements. LESSEE's responsibility for maintenance shall include the routine maintenance of the grounds and parking lot areas, and to cleanup trash and debris caused by activities or special events of the LESSEE.. LESSEE agrees to be responsible for the routine maintenance of the Premises and repairs to structures or improvements authorized on the leased premises. Any necessary repair work to the structures and improvements placed on the Premises will be performed within 30 days of any notice by the CITY requiring such repair.

8. RIGHT TO INSPECT:

The CITY and its agents, with reasonable notice and reasonable efforts not to interfere with LESSEE's operations, may enter onto the Premises to make periodic inspections of the Premises to determine whether the LESSEE is operating in compliance with the terms and conditions of this lease. The LESSEE shall be required to make any and all changes required by the CITY as a result of such inspections.

9. ENCUMBRANCES; NO CONSTRUCTION LIENS:

LESSEE shall not pledge, mortgage or otherwise lien or cause to be liened the Premises without written consent from the City. Upon request of CITY, LESSEE shall execute a recordable memorandum of this Lease stating that the Property shall not be subject to mechanics' or construction liens. In the event any mechanics' or construction lien, or any other lien or other encumbrance is placed upon the Premises and is not removed within thirty (30) days of receipt of notice of such lien or encumbrance, LESSEE shall be in default under this Lease and this Lease may forthwith be terminated.

10. INSURANCE:

LESSEE, at its sole expense, shall procure and maintain in full force and effect continuously during the term of this lease the following kinds of insurance, and with coverages in amounts not less than stated below. Said insurance shall be placed with a qualified insurance company,

licensed to engage in the insurance business in the State of Florida, and acceptable to the CITY. Said policies shall include the City of Fort Myers as additional insured, and waiving subrogation rights against the CITY, and including as the insured parties thereunder the CITY and LESSEE as their interests may appear.

(a) Comprehensive General Public Liability coverage in the amount of \$1,000,000 (one million dollars) Per Occurrence, Combined Single Limit for Bodily Injury Liability.

(b) Fire legal liability coverage of not less than Fifty Thousand Dollars (\$50,000.00)

(c) Workers' Compensation Insurance covering all employees meeting Statutory Limits in compliance with the applicable State and Federal laws.

Current valid policies meeting the requirements herein identified shall be maintained during the duration of the named lease. Original certificates of insurance containing all appropriate information as hereinafter set forth shall be filed with the Fort Myers City Clerk, as agent for the CITY, by LESSEE prior to taking possession of the premises. Any delay by LESSEE in filing such certificates of insurance with the City Clerk shall not relieve LESSEE of any obligations under this Lease. The certificates of insurance shall contain and clearly set forth LESSEE name and address, the location of the property herein leased, the amounts and types of insurance coverages being provided, the effective date and duration of coverage and that the CITY is additional insured. Renewal certificates shall be sent to the City Clerk at least thirty (30) days prior to the expiration date. There shall also be a thirty (30) day notification to the City Clerk in the event of cancellation or modification of any stipulated insurance coverage. LESSEE shall be responsible for any deductible. Every five (5) years, on the anniversary date of each policy required by this Lease, LESSEE shall take the necessary steps to ensure that the amount of coverage provided under each policy required by this Lease increases in correlation with the then current rate of inflation or Consumer Price Index, and City shall have the right to periodically review said policies to ensure that Lessee is in compliance with this requirement. If LESSEE fails to procure any such insurance or keep the same in full force and effect, or otherwise violate the terms and conditions of this Section 11, LESSEE shall be deemed in default under this Lease.

11. WORK BY LESSOR'S CONTRACTORS/LESSOR'S APPROVAL:

LESSEE shall at its sole cost and expense perform all work necessary to prepare the Premises to a condition which permits thereon the conduct of the LESSEE's Permitted Use. Any such work to performed on the Premises, including the construction of improvements in accordance with Section 6 of this Lease, shall be performed by licensed professionals in the State of Florida, if required by law.

12. TAXES & ASSESSMENTS:

LESSEE will be required to pay all taxes and assessments lawfully levied against the subject property during the term of the Lease herein granted, if any. LESSEE shall annually furnish proof of their non-profit status and copies of IRS form 990 to CITY. Should LESSEE for any reason lose their non-profit status, LESSEE shall be considered in default under this Lease.

13. CONTROL:

The leased premises will be under the control of the LESSEE.

14. ASSIGNMENT:

LESSEE shall not assign or sublet this Lease. Any attempt to assign or sublet this Lease will be considered a default hereunder. Notwithstanding the above, the temporary use of the Premises by invitees as set out in Section 2 of this Lease, shall not be considered an assignment or sublet under this Section 14.

15. UTILITIES

(a) LESSEE shall be responsible for all utility expenses with regard to the Premises. Should any charges for utilities remain unpaid for a period of fifteen (15) days after the same shall have become due, the CITY may at its option, consider the said LESSEE in default. CITY shall have no liability for the non-performance of any undertakings of the public utilities.

(b) Notwithstanding subsection (a) above, CITY will provide irrigation water to the Premises at no charge to LESSEE. However, LESSEE shall first connect to the CITY irrigation system at the closest point in Centennial Park for purposes of landscaping irrigation at the sole expense of LESSEE.

16. DEFAULT:

In the event Lessee shall default in the performance of any obligation hereunder, including the obligation to perform each and every covenant, term and condition contained herein, CITY may, at any time, serve written notice of the LESSEE's default or non-compliance with any provision of this Lease Agreement, and if the LESSEE's failure is not remedied within thirty (30) days of receiving notice of any such default or non-compliance, CITY may without limiting any other remedy or rights available under law to the City, terminate this Lease. In the event the nature of the default prohibits Lessee from completing the remedy within 30 days, and Lessee has promptly commenced and is diligently pursuing completion of the remedy, Lessor shall, instead of terminating or utilizing any other remedy available to the City, assist and permit Lessee to complete such remedy, but in no case shall Lessee's right to cure exceed ninety (90) days. In the event the nature of the default prohibits Lessee from completing the remedy within 90 days, Lessee may request for additional time from Lessor, said additional time to be granted only upon approval by the City of Fort Myers City Council. Any violation of any federal, State or local law that has not been cured within the time periods set forth herein shall be considered a default. If during the term of this Lease, City shall serve more than three (3) notices of default or non-compliance on Lessee, and after the curing of said three (3) defaults, City shall, at City's option, notify Lessee that Lessee shall no longer be permitted to the cure period described herein. Thereafter, for the duration of the term of this Lease Agreement, City shall have all rights and remedies available under law.

17. NON-DISCRIMINATION:

LESSEE for itself, and its permitted successors in interest, as a part of the consideration for this Lease, does hereby covenant and agree that no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of the premises on the basis of age, sex, physical handicap, or other disability, race, color, national origin, religion or ancestry. LESSEE agrees that its facilities and programs shall comply with the Americans with Disabilities Act (ADA).

18. NOTICES:

Unless otherwise stated herein, all notices and other information required to be delivered under this Lease Agreement shall be sent by certified mail as follows:

To CITY: City of Fort Myers
Attention: City Clerk
Post Office Drawer 2217
Fort Myers, FL 33902

With Copy To: City Attorney's Office

To LESSEE: Royal Palm ^{Club 3/29/04 RW} ~~Sailing~~ Center, Inc.,
3594 Broadway
Fort Myers, FL 33901

Or other such location as may be from time to time designated in writing to the other party.

19. MODIFICATION:

This Lease contains the entire Lease Agreement between the parties and cannot be changed or terminated except by written instrument subsequently executed by the parties hereto. This Lease and the terms and conditions hereof apply to and are binding upon the heirs, legal representatives, successors and assigns of both parties.

20. EFFECTIVE DATE:

This Lease Agreement's effective date shall be the date that it is executed by the last party to execute this Lease Agreement.

21. TITLE, REPRESENTATIONS, ACCEPTANCE OF PROPERTY

The Lessee, in accepting this Lease, does hereby agree that no claim of title or interest to the Premises shall be made by reason of use or occupancy thereof, that all title and interest to the Premises are vested in the CITY. CITY covenants that it has good right and title to the Premises, and that LESSEE shall have the peaceable enjoyment of the same.

LESSEE hereby acknowledges that the CITY has not made any representations or promises in respect to the Premises other than those herein. LESSEE hereby accepts the Premises in the

condition existing at the beginning of this Lease.

22. INDEMNIFICATION

In consideration of good and valuable services the receipt of which is acknowledged by the undersigned, and the sufficiency of which is agreed to by both parties, LESSEE shall hold the CITY harmless from and against any and all liability, actions, claims and damages arising after the commencement of the term of this lease which may be imposed upon or incurred by or asserted against the CITY by reason of any accident, injury or death of any person or any damage to any person or property occurring on or about the leased premises or any part thereof, arising out of LESSEE, its agents, employees or invitees use of the Property. LESSEE shall have the right to contest the validity of any and all such claims and defend, settle and compromise any and all such claims of any kind or character and by whomsoever claimed, in the name of the CITY, as LESSEE may deem necessary, provided that the expense thereof shall be paid by LESSEE. Notwithstanding any of the above, LESSEE shall not in any way be liable to or hold harmless the CITY for the CITY's sole negligent acts. This clause, however, does not waive any immunities the CITY may have pursuant to the aforesaid F.S., Chapter 768.27.

23. HAZARDOUS SUBSTANCES

The LESSEE agrees to defend, indemnify and hold harmless the CITY against any and all claims resulting from or arising out of any act, activity or violation of any applicable laws on the part of the LESSEE, its invitees, heirs, agents, employees or assigns, and against any and all claims the CITY may hereafter be liable for, suffer, incur or pay resulting from or arising out of any handling, storage, treatment, transportation, disposal, release or threat of release of hazardous waste or hazardous substances, including petroleum or petroleum based products from or on the Premises. Negligent or intentional release of hazardous substances by LESSEE on the Premises shall constitute a breach of this Lease.

24. SIGNAGE:

LESSEE shall maintain in good condition and repair all signage at the Premises in compliance with all applicable laws. LESSEE shall not alter or remove any existing signage or install any new signage at the Premises without CITY'S prior written consent. Notwithstanding the above, the installation of any signage which is necessary for the health, safety and welfare of the public, and of LESSEE, its guests and invitees, shall not require the prior written consent of CITY.

25. HOLDING OVER:

If LESSEE remains in possession of the Premises after the term or sooner termination of this Lease without CITY'S consent, then the same shall constitute a default hereunder and Landlord shall be entitled to (i) upon an affidavit signed by the City Attorney that Tenant is holding over, obtain an order of removal from a court of competent jurisdiction, and (ii) liquidated damages of \$ 1,000 per month, as adjusted by the rate of inflation or Consumer Price Index for every month Tenant holds over.

26. TERMINATION OF EXISTING LEASE; COMMENCEMENT DATE:

LESSEE is currently the lessee under a lease with the CITY for the Premises and certain property adjacent thereto. Upon the Commencement Date of this Lease, said existing lease shall automatically terminate and become null and void.

CITY has entered into a Contract for Sale and Purchase, for certain property adjacent to the Premises, with one Throgmartin Riverfront Corporation (the "Contract") The commencement Date of this Lease shall be the Closing Date of the Contract, as that term is defined in the Contract. If CITY is unable to close under the Contract by May 1, 2005, for any reason whatsoever, this Lease shall be amended appropriately as agreed upon between CITY and LESSEE.

27. SUBMERGED LAND LEASE; CROSS DEFAULT

LESSEE and CITY intend to enter into a lease for certain submerged lands adjacent to the Premises, which is attached hereto as Exhibit "D" (the "Submerged Land Lease"). Any default by LESSEE under this Lease shall be considered a default under the Submerged Land Lease. Any default by LESSEE under the Submerged Land Lease shall be considered a default under this Lease.

28. ATTORNEYS FEES AND COSTS:

In any litigation arising out of the interpretation or enforcement of this Lease, the prevailing party in such litigation shall collect from the non-prevailing party its reasonable attorneys' fees and costs, including appellate fees and costs. Nothing in this paragraph shall diminish, detract from or affect the parties' agreement to arbitrate disputes as set forth in Section 32.

29. GOVERNING LAW AND VENUE:

This Agreement shall be construed in accordance with the laws of the state of Florida; and any action brought hereon shall only be brought in a venue in Lee County, Florida.

30. BANKRUPTCY OF TENANT:

Should LESSEE file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency, or should a receiver or trustee be appointed for all or substantially all of the assets of LESSEE, LESSEE shall be considered in default under this Lease.

31. ANNUAL PRESENTATION:

LESSEE shall present an annual report to the City Council each year both in writing and by personal appearance before the City Council, beginning in the year following that of the Commencement Date, which presentation will be made within ninety (90) days of LESSEE's fiscal year end. Said written and verbal presentations shall include at least the following information:

(a) during the previous fiscal year, the number of persons, by age group, who have participated in Lessee's activities on the Premises;

(b) during the previous fiscal year, the types of activities offered by Lessee and the frequency of such activities;

(c) during the previous fiscal year, the name of invitees and activities sponsored by said invitees and the number of hours each of said invitees made use of the Premises;

(d) during the previous fiscal year, the number of persons, by age group, who earned certificates of completion of all instructional courses and the percentage of persons, by age group, who earned certificates of completion for each instructional course;

(e) an outline of the activities to be presented by Lessee in the next fiscal year; and

(f) the names of possible invitees (outside not-for-profit associations) who may utilize the Premises and the nature of their activities.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the dates set forth below.

CITY OF FORT MYERS, FLORIDA
A Municipal Corporation

Attest:

By: _____

Print Name: Jim Humphrey, Mayor

Date: October 21, 2004

APPROVED AS TO FORM: _____

Grant W. Alley, City Attorney

Marie Adams
Marie Adams, CMC, City Clerk

ROYAL PALM SAILING CENTER, INC.
d/b/a Edison Sailing Center

By: _____

Ron Wild

Club 3/29/04 RW

I DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL THEREOF ON FILE IN MY OFFICE. WITNESS MY HAND AND SEAL OF SAID CITY THIS 21st DAY OF October, A.D. 2004

Marie Adams
CITY CLERK, CITY OF FORT MYERS, FLORIDA

Print Name: _____

Its: _____

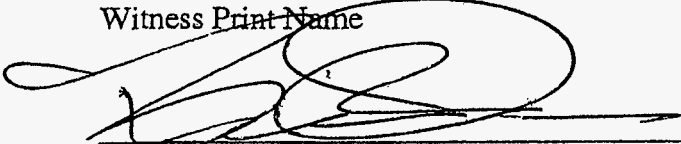
Date: _____



Witness Sign Name

Steve Olive

Witness Print Name



Witness Sign Name

Brian Olive

Witness Print Name

Banks Engineering, Inc.

EXHIBIT A

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE ♦ ANNA MARIA ISLAND

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 14, TOWNSHIP 44 SOUTH, RANGE 24 EAST
CITY OF FORT MYERS
LEE COUNTY, FLORIDA
(SAILING SCHOOL PARCEL)

A PARCEL OR TRACT OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, CITY OF FORT MYERS, LYING IN SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, AND BEING FURTHER DESCRIBED AS FOLLOWS:

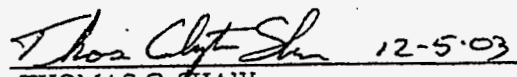
COMMENCING AT THE NORTHWEST CORNER OF THE INTERSECTION OF WEST FIRST STREET AND CARSON STREET; THENCE S.42°01'10"W. ALONG THE NORTHWESTERLY LINE OF WEST FIRST STREET FOR 259.00 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY LINE OF HENLEY PLACE; THENCE N.47°39'50"W. ALONG SAID NORTHEASTERLY LINE FOR 70.00 FEET TO THE POINT OF BEGINNING; THENCE N.42°20'10"E. FOR 69.00 FEET; THENCE N.47°39'50"W. FOR 50.60 FEET; THENCE N.42°20'10"E. FOR 40.00 FEET; THENCE N.47°39'50"W. FOR 62.0 FEET, MORE OR LESS, TO THE CALOOSAHATCHEE RIVER; THENCE ALONG SAID RIVER NORTHWESTERLY, WESTERLY, AND SOUTHWESTERLY FOR 137 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE BEARING N.47°39'50"W. FROM THE POINT OF BEGINNING, SAID LINE ALSO BEING THE NORTHEASTERLY LINE OF HENLEY PLACE; THENCE S.47°39'50"E. ALONG SAID NORTHEASTERLY LINE FOR 119.5 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL CONTAINS 13,096 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTHWESTERLY LINE OF CARSON STREET AS BEARING N.47°39'50"W.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED DECEMBER 4, 2003.

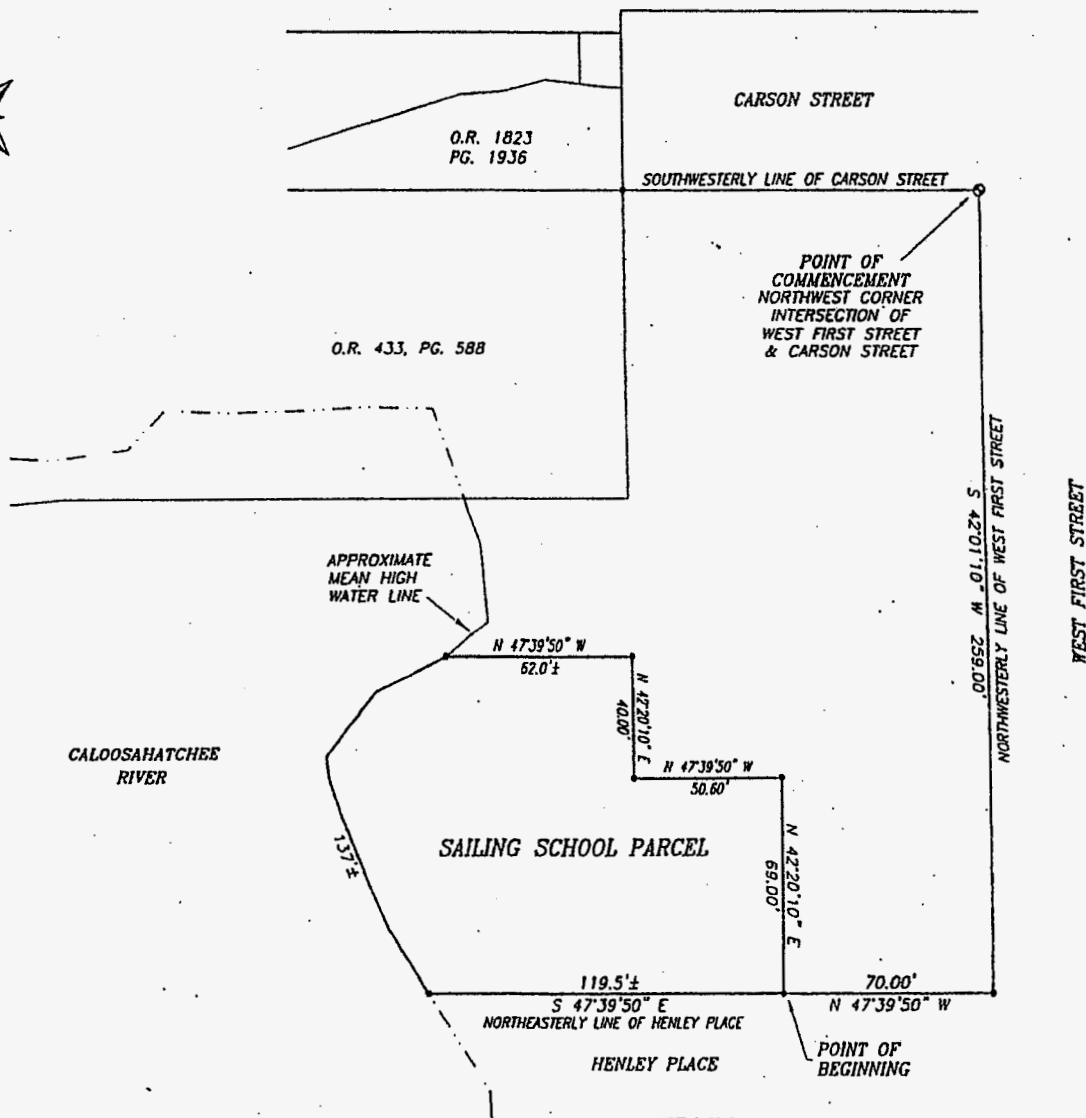

THOMAS C. SHAW
PROFESSIONAL SURVEYOR & MAPPER
FLORIDA CERTIFICATION NO. 4672

SHEET 1 OF 2

S:\Vobs\16xx\1688\SURVEY\1688_SAILING_SCHOOL_PARCEL_DESC.doc



1"=50'



SKETCH TO ACCOMPANY DESCRIPTION

OF A
 PARCEL OF LAND
 LYING IN
 SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST
 CITY OF FORT MYERS
 LEE COUNTY, FLORIDA

DESCRIPTION:

A PARCEL OR TRACT OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, CITY OF FORT MYERS, LYING IN SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, AND BEING FURTHER DESCRIBED AS FOLLOWS:

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BEARINGS ARE BASED ON THE SOUTHWESTERLY LINE OF CARSON STREET AS BEARING N.47°39'50" W.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

THIS IS NOT A SURVEY

Thomas C. Shaw 12-5-03

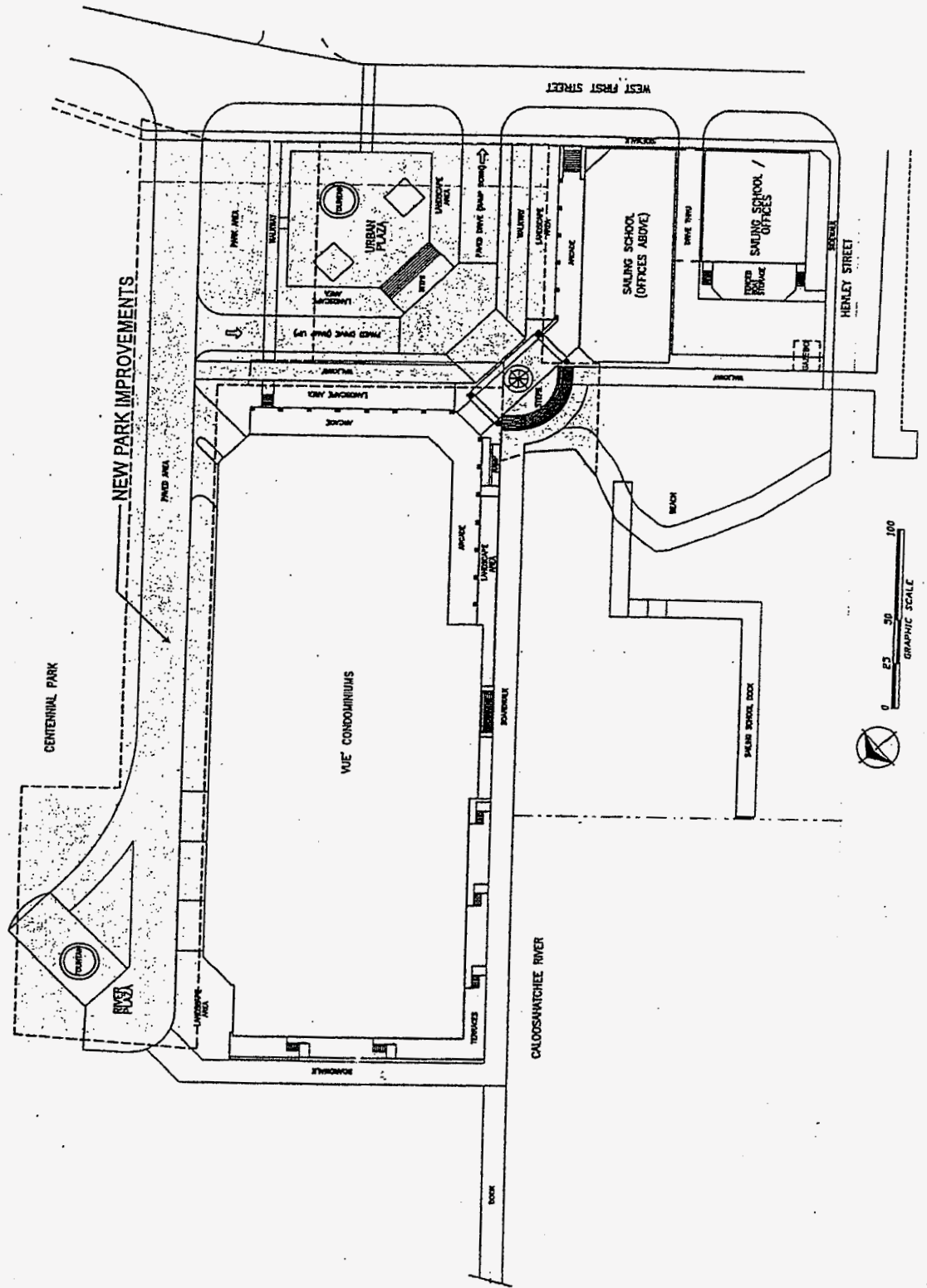
THOMAS C. SHAW
 PROFESSIONAL SURVEYOR & MAPPER
 FLORIDA CERTIFICATION NO. 4672

- THIS SKETCH IS NOT VALID UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA PROFESSIONAL SURVEYOR AND MAPPER

- PREPARED DECEMBER 4, 2003.

PREPARED BY:
Banks Engineering, Inc.

ENGINEERING, SURVEYING & LAND PLANNING
 6648 VILLOV PARK DRIVE - SUITE "B"
 NAPLES, FLORIDA 34109
 (239) 597-2001
 FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 6860



Maintenance Standards

Exhibit "C"

1. **LANDSCAPE MAINTENANCE:** The Sailing Center agrees to maintain the Leased Premises in good condition and perform landscape maintenance activities contained herein:

- (a) Sailing Center shall mow, and trim as needed, all grassy areas on the Leased Premises up to the high-tide water mark weekly from May 1 to October 15, and every other week from October 16 to April 30, total mowings to equal 38 to 40 times annually.
- (b) Sailing Center shall edge all walks, including the Riverwalk boardwalk, and curbs concurrently with each mowing, and shall edge plant beds with every other mowing.
- (c) Sailing Center shall weed all plant beds as required by plant health and aesthetics.
- (d) Sailing Center shall trim all tree canopies to maintain a 7' clear height, and trim all shrubs and hedges as needed.
- (e) Sailing Center shall sweep or air blow all walks or drives that may become littered with debris during the maintenance process.

2. **GENERAL MAINTENANCE:** Sailing Center shall ensure that the Leased Premises will be free from litter and all other types of debris that may accumulate upon said Leased Premises. Sailing Center shall keep the public walk located on the Leased Premises, known as Riverwalk, in a condition of continuous public use free of dirt, sand, mud or other foreign substances through sweeping, spraying, scrubbing or any other means to maintain the walk in the same or similar condition as that portion of Riverwalk not located on the Leased Premises. Sailing Center agrees to maintain its docks, launching area, and all improvements on the Leased Premises in a clean and first class condition. Sailing Center agrees not to allow derelict or inoperable boats or trailers on the property.

3. **SPECIAL EVENTS:** Sailing Center shall take extra care to abide by all the Maintenance Standards contained herein and otherwise set forth in the Lease in a timely manner after holding any sailing regattas or special events as to the Leased Premises and surrounding areas which the Sailing Center shall make use of during said sailing regattas or special events.

**FORT MYERS MUNICIPAL
SUBMERGED LAND LEASE**

THIS INDENTURE of lease made by and between the CITY OF FORT MYERS, a Municipal Corporation under the Laws of Florida, hereinafter referred to as the "CITY", and Royal Palm Sailing ^{Club 3/29/04 (nc)} Center, Inc. d/b/a Edison Sailing Center, located at 3594 Broadway, Fort Myers, FL 33901 hereinafter called "Edison Sailing Center".

WITNESSETH: That for and in consideration of the lease fee hereinafter provided, and the faithful and timely performance of and compliance with the other terms and conditions stated herein, receipt and sufficiency of which is acknowledged by both parties by the execution of this agreement, EDISON SAILING CENTER does hereby hire and take from the CITY that part of submerged river lands in the City of Fort Myers, County of Lee, and State of Florida, sufficient and necessary for the placement of boat slips and docks to be located in the area described in Exhibit A (Submerged Property), all of which lie below the Mean High Water Line and are contiguous to the upland property owned and/or leased or maintained (such as that portion of the Henley Place right of way to be maintained by the Edison Sailing Center pursuant to that certain Fort Myers Municipal Maintenance Agreement between the City and the Edison Sailing Center) by EDISON SAILING CENTER and described in Exhibit B (Upland Property).

Term: The terms of this Agreement and of the easements to be granted herein shall be fifty (50) years with two (2) ten (10) year renewals (as provided in Section 13 of this Lease) from the "Commencement Date" of this Agreement (as defined herein). The "Commencement Date" shall be defined as the closing date of that certain contract to be entered into between City and Throgmartin Riverfront Corporation, for the sale and purchase of certain real property whose current address is 2006 West First Street, 1500 and 1510 Carson Street (the "Contract"). If City is unable to close under the Contract by May 1, 2005, for any reason whatsoever, this Agreement shall be null and void. The terms and conditions are as follows:

1. EDISON SAILING CENTER is hereby authorized to construct and install docks, boat slips and ancillary facilities within the submerged property as may be desired by Edison Sailing

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE – Edison Sailing Center

Center from time to time for conducting a Community Sailing and Marine Education Program and ancillary activities. The Property is to be used by EDISON SAILING CENTER solely for Community Sailing and Marine Education Program and ancillary activities purposes. EDISON SAILING CENTER also agrees that said docks and slips will not be used as a dock or landing for any float planes.

2. EDISON SAILING CENTER, in accepting this lease, does hereby agree that no claim of title or interest to the lands described in Exhibit A shall be made by reason of the occupancy or use thereof; that all title and interest to said land therein described is vested in the CITY.

3. The EDISON SAILING CENTER hereby agrees to pay a lease fee, plus sales tax pursuant to Section 212.031, Florida Statutes, if applicable, of \$1.00 for the term for the use of 28,664 square feet, more or less, of submerged lands. The lease fee shall be remitted to the City Clerk as the agent for the CITY, beginning with the effective and due date of this lease,

4. Lease fees or any other charges due hereunder which are not paid within thirty (30) days of the due date shall be subject to a late charge including interest at the highest rate allowed by Florida Statutes.

5. The Lease granted to EDISON SAILING CENTER shall not be transferred nor any portion thereof be sublet.

6. This Lease is given to EDISON SAILING CENTER to use or occupy the leased premises for those purposes specified herein, and EDISON SAILING CENTER shall not permit the leased premises or any part thereof to be used or occupied for any purpose other than herein specified.

7. EDISON SAILING CENTER agrees to maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. EDISON SAILING CENTER agrees that the leased premises are subject to inspection by the CITY or its designated agent at any reasonable time. EDISON SAILING CENTER shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified, nor shall EDISON SAILING CENTER knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.

8. Within 10 days following completion of a new structure, or substantial modifications or repairs to any existing structure, EDISON SAILING CENTER shall submit to the CITY an affidavit signed by a person properly certified by the Florida Board of Professional Land Surveyors, verifying that all portions of the facility are entirely within the area covered by this lease, and that the configuration is consistent with plans on file with the City of Fort Myers Building Division.

9. In consideration of good and valuable services the receipt of which is acknowledged by the undersigned, and the sufficiency of which is agreed to by both parties, EDISON SAILING CENTER shall hold the CITY harmless from and against any and all liability, actions, claims and

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE – Edison Sailing Center

damages arising after the commencement of the term of this lease which may be imposed upon or incurred by or asserted against the CITY by reason of any accident, injury or death of any person or any damage to any person or property occurring on or about the leased premises or any part thereof, arising out of EDISON SAILING CENTER, its agents, employees or invitees use of the Property. EDISON SAILING CENTER shall have the right to contest the validity of any and all such claims and defend, settle and compromise any and all such claims of any kind or character and by whomsoever claimed, in the name of the CITY, as EDISON SAILING CENTER may deem necessary, provided that the expense thereof shall be paid by EDISON SAILING CENTER. Notwithstanding any of the above, EDISON SAILING CENTER shall not in any way be liable to or hold harmless the CITY for the CITY's sole negligent acts. This clause, however, does not waive any immunities the CITY may have pursuant to the aforesaid F.S., Chapter 768.27.

10. INSURANCE REQUIREMENTS - COMMERCIAL LEASES: EDISON SAILING CENTER, at its sole expense, shall procure and maintain in full force and effect continuously during the term of this lease the following kinds of insurance, and with coverages in amounts not less than stated below. Said insurance shall be placed with a qualified insurance company, licensed to engage in the insurance business in the State of Florida, and acceptable to the CITY. Said policies shall include the City of Fort Myers as additional insured, and waiving subrogation rights against the CITY, and including as the insured parties thereunder the CITY and EDISON SAILING CENTER as their interests may appear.

- (a) Comprehensive General Public Liability coverage in the amount of \$1,000,000 (one million dollars) Per Occurrence, Combined Single Limit for Bodily Injury Liability.
- (b) Fire legal liability coverage of not less than Fifty Thousand Dollars (\$50,000.00)
- (c) Workers' Compensation Insurance covering all employees meeting Statutory Limits in compliance with the applicable State and Federal laws.

Current valid policies meeting the requirements herein identified shall be maintained during the duration of the named lease. Original certificates of insurance containing all appropriate information as hereinafter set forth shall be filed with the Fort Myers City Clerk, as agent for the CITY, by EDISON SAILING CENTER prior to taking possession of the premises. Any delay by EDISON SAILING CENTER in filing such certificates of insurance with the City Clerk shall not relieve EDISON SAILING CENTER of any obligations under this Lease. The certificates of insurance shall contain and clearly set forth EDISON SAILING CENTER name and address, the location of the property herein leased, the amounts and types of insurance coverages being provided, the effective date and duration of coverage and that the CITY is additional insured. Renewal certificates shall be sent to the City Clerk at least thirty (30) days prior to the expiration date. There shall also be a thirty (30) day notification to the City Clerk in the event of cancellation or modification of any stipulated insurance coverage. EDISON SAILING CENTER shall be responsible for any deductible. If EDISON SAILING CENTER fails to procure any such insurance or keep the same in full force and effect, the CITY may elect to procure the necessary insurance and pay the premium therefore and EDISON SAILING CENTER shall repay the CITY upon

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE – Edison Sailing Center

demand the amount so paid as a premium, together with interest at the rate of 12 percent per annum. CITY may elect to treat such failure by EDISON SAILING CENTER as a default of this Lease as provided in Paragraph 4, above.

11. In the event of damage to or partial destruction of the improvements by fire or any other fortuitous events, EDISON SAILING CENTER shall promptly repair or replace the improvements so that said property will have approximately the same economic value as prior to the damage or destruction, provided that the extent of the destruction to the improvements does not, under circumstances then existing, make reconstruction and restoration economically unsound, and for that reason, inadvisable.

In the event of total destruction of the improvements, or in the event of partial destruction thereof under circumstances in which EDISON SAILING CENTER is not required to reconstruct, pursuant to the preceding provisions hereof, EDISON SAILING CENTER may, nevertheless, at his option, cause the improvements to be restored to their former condition, or as nearly thereto as practicable, provided only that written notice of such election be given to the CITY within thirty (30) days after the occurrence of the damage or destruction with respect to which such election may be exercised and provided further that, should EDISON SAILING CENTER not elect to restore the improvements to approximately the same economic value, the lease terms required hereunder shall not abate. Provided further that, if the improvements situated on the demised premises shall not be rebuilt or restored, then the insurance money received or recoverable on said insurance policies shall be disbursed as their respective interests may appear.

12. If the EDISON SAILING CENTER fails to maintain continuous coverage of insurance required hereunder for more than thirty (30) calendar days at any one time, or if the EDISON SAILING CENTER shall be declared bankrupt or insolvent according to law, lose its non-profit status, or if either party defaults in any other terms of this lease. In the event EDISON SAILING CENTER shall default in the performance of any obligation hereunder, including the obligation to perform each and every covenant, term and condition contained herein, CITY may, at any time, serve written notice of the EDISON SAILING CENTER default or non-compliance with any provision of this Lease Agreement, and if the EDISON SAILING CENTER failure is not remedied within thirty (30) days of receiving notice of any such default or non-compliance, CITY may without limiting any other remedy or rights available under law to the City, terminate this Lease. In the event the nature of the default prohibits EDISON SAILING CENTER from completing the remedy within 30 days, and EDISON SAILING CENTER has promptly commenced and is diligently pursuing completion of the remedy, CITY shall, instead of terminating or utilizing any other remedy available to the City, assist and permit EDISON SAILING CENTER to complete such remedy, but in no case shall EDISON SAILING CENTER'S right to cure exceed ninety (90) days. Any violation of any federal, State or local law that has not been cured within the time periods set forth herein shall be considered a default. If during the term of this Lease, CITY shall serve more than three (3) notices of default or non-compliance on EDISON SAILING CENTER, and after the curing of said three (3) defaults, CITY shall, at CITY'S option, notify EDISON SAILING CENTER that EDISON SAILING CENTER shall no longer be permitted to the cure period described herein. Thereafter, for the

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE – Edison Sailing Center

duration of the term of this Lease Agreement, CITY shall have all rights and remedies available under law.

13. EDISON SAILING CENTER shall have the option to renew this Lease, provided EDISON SAILING CENTER is not in default under the terms of this Lease, for two (2) additional periods of ten (10) years each (respectively, the "First Renewal Term" and the "Second Renewal Term" and collectively referred to as the "Renewal Term") upon the same terms and conditions as contained in this Lease. EDISON SAILING CENTER shall provide written notice to CITY of its intent to renew this Lease not less than one hundred eighty (180) days prior to the expiration of the initial term of this Lease, time being of the essence. CITY may, at its sole option, renew or amend this Lease Agreement. Any renewals or amendments must be specifically authorized by the Fort Myers City Council according to the City's Charter and Code of Ordinances. If the EDISON SAILING CENTER chooses not to renew or at any time vacates the premises, within ten (10) days of EDISON SAILING CENTER vacating the Premises, the CITY shall, at its sole discretion, decide to accept or reject the improvements. If the CITY accepts said improvements, then all structures and attached equipment become the property of the CITY after ten (10) days written notice by certified mail addressed to EDISON SAILING CENTER. If the CITY chooses not to accept the improvements, then EDISON SAILING CENTER must remove them at his expense. Should EDISON SAILING CENTER not remove said structures and equipment occupying and erected upon the leased premises within ninety (90) days after notification by the CITY, such structures and equipment will be deemed forfeited to the CITY, and the Fort Myers City Council may authorize removal and may sell such forfeited structures. Any costs incurred by the CITY in removal of said structures and equipment shall be paid for from the proceeds of sale of such structures and equipment. If funds derived from the sale of structures and equipment are insufficient to pay removal costs, the CITY may seek a judgment against EDISON SAILING CENTER in a court of competent jurisdiction.

14. No failure, or successive failures, on the part of the CITY to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the CITY to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

15. The CITY covenants that it has good and marketable title to the Property and that EDISON SAILING CENTER shall have the peaceable enjoyment of the same.

17. EDISON SAILING CENTER hereby expressly assumes all responsibility for petroleum or other products spilled or released from tanks, pipelines, structures, leasehold improvements, vehicles, barges or other vessels used by EDISON SAILING CENTER or its contractors or suppliers or placed on the leased premises by EDISON SAILING CENTER or present on the leased premises at EDISON SAILING CENTER request or convenience. To the extent permitted by law, EDISON SAILING CENTER shall hold the CITY harmless against all Claims resulting from the escape of such petroleum or products from such tanks, pipelines, structures, leasehold improvements, vehicles, barges, or other vessels by EDISON SAILING CENTER, its employees, contractors or agents. This clause shall not release the CITY from liability for escaped petroleum

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE – Edison Sailing Center

products caused by the CITY's negligence or by the negligence of others not within EDISON SAILING CENTER control.

18. To the extent permitted by law, EDISON SAILING CENTER agrees to defend, indemnify and hold harmless the CITY against any and all Claims which the CITY may hereafter be liable for, suffer, incur or pay arising under any applicable laws and resulting from or arising out of any handling, storage, treatment, transportation, disposal, release, or threat of release, of hazardous waste or hazardous substances from or on the leased premises due to any act, activity or violation of any applicable laws on the part of EDISON SAILING CENTER, its agents, employees, assigns, contractors or suppliers. This clause shall not release the CITY from liability for escaped petroleum products caused by the CITY's negligence.

19. For the purposes of this lease, "Claims" shall include and mean all actions, causes of action, whether common law or statutory, remedies, demands, out-of-pocket costs, liability, charges, suits, judgments, expense, damage, incidental or consequential damages, clean-up costs, civil penalties, attorney's fees, litigation expenses, abatement costs, abatement and corrective injunctive relief, injunctive relief requiring removal and/or remedial action, all costs of removal or remedial action and damages to natural resources.

20. Any default by EDISON SAILING CENTER under the Lease shall be deemed a default, or non-compliance, under this Agreement. Similarly, any default, or non-compliance under this Agreement shall be deemed a default under the Lease.

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE -- Edison Sailing Center

IN WITNESS WHEREOF, the undersigned have signed and the City has caused these presents to be signed in its corporate name by its Mayor, its corporate seal affixed and attested by the City Clerk and the EDISON SAILING CENTER has executed this Agreement on the dates indicated respectively, to be effective as of the date executed by the last party.

CITY:

OF FORT MYERS, FLORIDA
a Municipal Corporation

ATTEST: _____
Marie Adams, Clerk

BY: _____
James Humphrey, Mayor


APPROVED AS TO FORM:


City Attorney

TO BE COMPLETED BY EDISON SAILING CENTER OR DESIGNATED AGENT

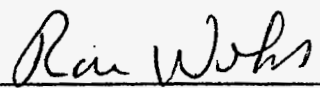
Accepted this 29 day of 3, 2007.

WITNESSES:

BY:  Steve Olive

BY:  Brian Olive

EDISON SAILING CENTER

BY:  Ron Walsh
It's Authorized Representative

APPROVED AS TO FORM:

**FORT MYERS MUNICIPAL
SUBMERGED LAND LEASE**

THIS INDENTURE of lease made by and between the CITY OF FORT MYERS, a Municipal Corporation under the Laws of Florida, hereinafter referred to as the "CITY", and Royal Palm Sailing Center, Inc. ^{Club Pro 3/29/4} d/b/a Edison Sailing Center, located at 3594 Broadway, Fort Myers, FL 33901 hereinafter called "Edison Sailing Center".

WITNESSETH: That for and in consideration of the lease fee hereinafter provided, and the faithful and timely performance of and compliance with the other terms and conditions stated herein, receipt and sufficiency of which is acknowledged by both parties by the execution of this agreement, EDISON SAILING CENTER does hereby hire and take from the CITY that part of submerged river lands in the City of Fort Myers, County of Lee, and State of Florida, sufficient and necessary for the placement of boat slips and docks to be located in the area described in Exhibit A (Submerged Property), all of which lie below the Mean High Water Line and are contiguous to the upland property owned and/or leased or maintained (such as that portion of the Henley Place right of way to be maintained by the Edison Sailing Center pursuant to that certain Fort Myers Municipal Maintenance Agreement between the City and the Edison Sailing Center) by EDISON SAILING CENTER and described in Exhibit B (Upland Property).

Term: The terms of this Agreement and of the easements to be granted herein shall be fifty (50) years with two (2) ten (10) year renewals (as provided in Section 13 of this Lease) from the "Commencement Date" of this Agreement (as defined herein). The "Commencement Date" shall be defined as the closing date of that certain contract to be entered into between City and Throgmartin Riverfront Corporation, for the sale and purchase of certain real property whose current address is 2006 West First Street, 1500 and 1510 Carson Street (the "Contract"). If City is unable to close under the Contract by May 1, 2005, for any reason whatsoever, this Agreement shall be null and void. The terms and conditions are as follows:

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FORT MYERS MUNICIPAL SUBMERGED LAND LEASE - Edison Sailing Center

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2. EDISON SAILING CENTER, in accepting this lease, does hereby agree that no claim of title or interest to the lands described in Exhibit A shall be made by reason of the occupancy or use thereof; that all title and interest to said land therein described is vested in the CITY.

3. The EDISON SAILING CENTER hereby agrees to pay a lease fee, plus sales tax pursuant to Section 212.031, Florida Statutes, if applicable, of \$1.00 for the term for the use of 28,664 square feet, more or less, of submerged lands. The lease fee shall be remitted to the City Clerk as the agent for the CITY, beginning with the effective and due date of this lease,

4. Lease fees or any other charges due hereunder which are not paid within thirty (30) days of the due date shall be subject to a late charge including interest at the highest rate allowed by Florida Statutes.

5. The Lease granted to EDISON SAILING CENTER shall not be transferred nor any portion thereof be sublet.

6. This Lease is given to EDISON SAILING CENTER to use or occupy the leased premises for those purposes specified herein, and EDISON SAILING CENTER shall not permit the leased premises or any part thereof to be used or occupied for any purpose other than herein specified.

7. EDISON SAILING CENTER agrees to maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. EDISON SAILING CENTER agrees that the leased premises are subject to inspection by the CITY or its designated agent at any reasonable time. EDISON SAILING CENTER shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified, nor shall EDISON SAILING CENTER knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.

8. Within 10 days following completion of a new structure, or substantial modifications or repairs to any existing structure, EDISON SAILING CENTER shall submit to the CITY an affidavit signed by a person properly certified by the Florida Board of Professional Land Surveyors, verifying that all portions of the facility are entirely within the area covered by this lease, and that the configuration is consistent with plans on file with the City of Fort Myers Building Division.

9. In consideration of good and valuable services the receipt of which is acknowledged by the undersigned, and the sufficiency of which is agreed to by both parties, EDISON SAILING CENTER shall hold the CITY harmless from and against any and all liability, actions, claims and

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE – Edison Sailing Center

damages arising after the commencement of the term of this lease which may be imposed upon or incurred by or asserted against the CITY by reason of any accident, injury or death of any person or any damage to any person or property occurring on or about the leased premises or any part thereof, arising out of EDISON SAILING CENTER, its agents, employees or invitees use of the Property. EDISON SAILING CENTER shall have the right to contest the validity of any and all such claims and defend, settle and compromise any and all such claims of any kind or character and by whomsoever claimed, in the name of the CITY, as EDISON SAILING CENTER may deem necessary, provided that the expense thereof shall be paid by EDISON SAILING CENTER. Notwithstanding any of the above, EDISON SAILING CENTER shall not in any way be liable to or hold harmless the CITY for the CITY's sole negligent acts. This clause, however, does not waive any immunities the CITY may have pursuant to the aforesaid F.S., Chapter 768.27.

10. INSURANCE REQUIREMENTS - COMMERCIAL LEASES: EDISON SAILING CENTER, at its sole expense, shall procure and maintain in full force and effect continuously during the term of this lease the following kinds of insurance, and with coverages in amounts not less than stated below. Said insurance shall be placed with a qualified insurance company, licensed to engage in the insurance business in the State of Florida, and acceptable to the CITY. Said policies shall include the City of Fort Myers as additional insured, and waiving subrogation rights against the CITY, and including as the insured parties thereunder the CITY and EDISON SAILING CENTER as their interests may appear.

- (a) Comprehensive General Public Liability coverage in the amount of \$1,000,000 (one million dollars) Per Occurrence, Combined Single Limit for Bodily Injury Liability.
- (b) Fire legal liability coverage of not less than Fifty Thousand Dollars (\$50,000.00)
- (c) Workers' Compensation Insurance covering all employees meeting Statutory Limits in compliance with the applicable State and Federal laws.

Current valid policies meeting the requirements herein identified shall be maintained during the duration of the named lease. Original certificates of insurance containing all appropriate information as hereinafter set forth shall be filed with the Fort Myers City Clerk, as agent for the CITY, by EDISON SAILING CENTER prior to taking possession of the premises. Any delay by EDISON SAILING CENTER in filing such certificates of insurance with the City Clerk shall not relieve EDISON SAILING CENTER of any obligations under this Lease. The certificates of insurance shall contain and clearly set forth EDISON SAILING CENTER name and address, the location of the property herein leased, the amounts and types of insurance coverages being provided, the effective date and duration of coverage and that the CITY is additional insured. Renewal certificates shall be sent to the City Clerk at least thirty (30) days prior to the expiration date. There shall also be a thirty (30) day notification to the City Clerk in the event of cancellation or modification of any stipulated insurance coverage. EDISON SAILING CENTER shall be responsible for any deductible. If EDISON SAILING CENTER fails to procure any such insurance or keep the same in full force and effect, the CITY may elect to procure the necessary insurance and pay the premium therefore and EDISON SAILING CENTER shall repay the CITY upon

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE - Edison Sailing Center

demand the amount so paid as a premium, together with interest at the rate of 12 percent per annum. CITY may elect to treat such failure by EDISON SAILING CENTER as a default of this Lease as provided in Paragraph 4, above.

11. In the event of damage to or partial destruction of the improvements by fire or any other fortuitous events, EDISON SAILING CENTER shall promptly repair or replace the improvements so that said property will have approximately the same economic value as prior to the damage or destruction, provided that the extent of the destruction to the improvements does not, under circumstances then existing, make reconstruction and restoration economically unsound, and for that reason, inadvisable.

In the event of total destruction of the improvements, or in the event of partial destruction thereof under circumstances in which EDISON SAILING CENTER is not required to reconstruct, pursuant to the preceding provisions hereof, EDISON SAILING CENTER may, nevertheless, at his option, cause the improvements to be restored to their former condition, or as nearly thereto as practicable, provided only that written notice of such election be given to the CITY within thirty (30) days after the occurrence of the damage or destruction with respect to which such election may be exercised and provided further that, should EDISON SAILING CENTER not elect to restore the improvements to approximately the same economic value, the lease terms required hereunder shall not abate. Provided further that, if the improvements situated on the demised premises shall not be rebuilt or restored, then the insurance money received or recoverable on said insurance policies shall be disbursed as their respective interests may appear.

12. If the EDISON SAILING CENTER fails to maintain continuous coverage of insurance required hereunder for more than thirty (30) calendar days at any one time, or if the EDISON SAILING CENTER shall be declared bankrupt or insolvent according to law, lose its non-profit status, or if either party defaults in any other terms of this lease. In the event EDISON SAILING CENTER shall default in the performance of any obligation hereunder, including the obligation to perform each and every covenant, term and condition contained herein, CITY may, at any time, serve written notice of the EDISON SAILING CENTER default or non-compliance with any provision of this Lease Agreement, and if the EDISON SAILING CENTER failure is not remedied within thirty (30) days of receiving notice of any such default or non-compliance, CITY may without limiting any other remedy or rights available under law to the City, terminate this Lease. In the event the nature of the default prohibits EDISON SAILING CENTER from completing the remedy within 30 days, and EDISON SAILING CENTER has promptly commenced and is diligently pursuing completion of the remedy, CITY shall, instead of terminating or utilizing any other remedy available to the City, assist and permit EDISON SAILING CENTER to complete such remedy, but in no case shall EDISON SAILING CENTER'S right to cure exceed ninety (90) days. Any violation of any federal, State or local law that has not been cured within the time periods set forth herein shall be considered a default. If during the term of this Lease, CITY shall serve more than three (3) notices of default or non-compliance on EDISON SAILING CENTER, and after the curing of said three (3) defaults, CITY shall, at CITY'S option, notify EDISON SAILING CENTER that EDISON SAILING CENTER shall no longer be permitted to the cure period described herein. Thereafter, for the

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE – Edison Sailing Center

duration of the term of this Lease Agreement, CITY shall have all rights and remedies available under law.

13. EDISON SAILING CENTER shall have the option to renew this Lease, provided EDISON SAILING CENTER is not in default under the terms of this Lease, for two (2) additional periods of ten (10) years each (respectively, the "First Renewal Term" and the "Second Renewal Term" and collectively referred to as the "Renewal Term") upon the same terms and conditions as contained in this Lease. EDISON SAILING CENTER shall provide written notice to CITY of its intent to renew this Lease not less than one hundred eighty (180) days prior to the expiration of the initial term of this Lease, time being of the essence. CITY may, at its sole option, renew or amend this Lease Agreement. If the EDISON SAILING CENTER chooses not to renew or at any time vacates the premises, within ten (10) days of EDISON SAILING CENTER vacating the Premises, the CITY shall, at its sole discretion, decide to accept or reject the improvements. If the CITY accepts said improvements, then all structures and attached equipment become the property of the CITY after ten (10) days written notice by certified mail addressed to EDISON SAILING CENTER. If the CITY chooses not to accept the improvements, then EDISON SAILING CENTER must remove them at his expense. Should EDISON SAILING CENTER not remove said structures and equipment occupying and erected upon the leased premises within ninety (90) days after notification by the CITY, such structures and equipment will be deemed forfeited to the CITY, and the Fort Myers City Council may authorize removal and may sell such forfeited structures. Any costs incurred by the CITY in removal of said structures and equipment shall be paid for from the proceeds of sale of such structures and equipment. If funds derived from the sale of structures and equipment are insufficient to pay removal costs, the CITY may seek a judgment against EDISON SAILING CENTER in a court of competent jurisdiction.

14. No failure, or successive failures, on the part of the CITY to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the CITY to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

15. The CITY covenants that it has good and marketable title to the Property and that EDISON SAILING CENTER shall have the peaceable enjoyment of the same.

17. EDISON SAILING CENTER hereby expressly assumes all responsibility for petroleum or other products spilled or released from tanks, pipelines, structures, leasehold improvements, vehicles, barges or other vessels used by EDISON SAILING CENTER or its contractors or suppliers or placed on the leased premises by EDISON SAILING CENTER or present on the leased premises at EDISON SAILING CENTER request or convenience. To the extent permitted by law, EDISON SAILING CENTER shall hold the CITY harmless against all Claims resulting from the escape of such petroleum or products from such tanks, pipelines, structures, leasehold improvements, vehicles, barges, or other vessels by EDISON SAILING CENTER, its employees, contractors or agents. This clause shall not release the CITY from liability for escaped petroleum products caused by the CITY's negligence or by the negligence of others not within EDISON SAILING CENTER control.

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE – Edison Sailing Center

18. To the extent permitted by law, EDISON SAILING CENTER agrees to defend, indemnify and hold harmless the CITY against any and all Claims which the CITY may hereafter be liable for, suffer, incur or pay arising under any applicable laws and resulting from or arising out of any handling, storage, treatment, transportation, disposal, release, or threat of release, of hazardous waste or hazardous substances from or on the leased premises due to any act, activity or violation of any applicable laws on the part of EDISON SAILING CENTER, its agents, employees, assigns, contractors or suppliers. This clause shall not release the CITY from liability for escaped petroleum products caused by the CITY's negligence.

19. For the purposes of this lease, "Claims" shall include and mean all actions, causes of action, whether common law or statutory, remedies, demands, out-of-pocket costs, liability, charges, suits, judgments, expense, damage, incidental or consequential damages, clean-up costs, civil penalties, attorney's fees, litigation expenses, abatement costs, abatement and corrective injunctive relief, injunctive relief requiring removal and/or remedial action, all costs of removal or remedial action and damages to natural resources.

20. Any default by EDISON SAILING CENTER under the Lease shall be deemed a default, or non-compliance, under this Agreement. Similarly, any default, or non-compliance under this Agreement shall be deemed a default under the Lease.

FORT MYERS MUNICIPAL SUBMERGED LAND LEASE – Edison Sailing Center

IN WITNESS WHEREOF, the undersigned have signed and the City has caused these presents to be signed in its corporate name by its Mayor, its corporate seal affixed and attested by the City Clerk and the EDISON SAILING CENTER has executed this Agreement on the dates indicated respectively, to be effective as of the date executed by the last party.

CITY:

OF FORT MYERS, FLORIDA
a Municipal Corporation

ATTEST: Marie Adams
Marie Adams, Clerk

BY: James Humphrey
James Humphrey, Mayor
10-21-2004

APPROVED AS TO FORM:
[Signature]
City Attorney

TO BE COMPLETED BY EDISON SAILING CENTER OR DESIGNATED AGENT

Accepted this 29 day of 3, 2004.

WITNESSES

BY: [Signature] Steve Olive

BY: [Signature]
Brian Olive

EDISON SAILING CENTER

BY: Ron Webb / President
It's Authorized Representative

APPROVED AS TO FORM:

I DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL THEREOF ON FILE IN MY OFFICE. WITNESS MY HAND AND SEAL OF SAID CITY THIS 21st DAY OF October, A.D. 2004.

Marie Adams
CITY CLERK, CITY OF FORT MYERS, FLORIDA

Banks Engineering, Inc.

EXHIBIT A

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE ♦ ANNA MARIA ISLAND

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 14, TOWNSHIP 44 SOUTH, RANGE 24 EAST
CITY OF FORT MYERS
LEE COUNTY, FLORIDA
(SAILING SCHOOL PARCEL)

A PARCEL OR TRACT OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, CITY OF FORT MYERS, LYING IN SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, AND BEING FURTHER DESCRIBED AS FOLLOWS:


COMMENCING AT THE NORTHWEST CORNER OF THE INTERSECTION OF WEST FIRST STREET AND CARSON STREET; THENCE S.42°01'10"W. ALONG THE NORTHWESTERLY LINE OF WEST FIRST STREET FOR 259.00 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY LINE OF HENLEY PLACE; THENCE N.47°39'50"W. ALONG SAID NORTHEASTERLY LINE FOR 70.00 FEET TO THE POINT OF BEGINNING; THENCE N.42°20'10"E. FOR 69.00 FEET; THENCE N.47°39'50"W. FOR 50.60 FEET; THENCE N.42°20'10"E. FOR 40.00 FEET; THENCE N.47°39'50"W. FOR 62.0 FEET, MORE OR LESS, TO THE CALOOSAHATCHEE RIVER; THENCE ALONG SAID RIVER NORTHWESTERLY, WESTERLY, AND SOUTHWESTERLY FOR 137 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE BEARING N.47°39'50"W. FROM THE POINT OF BEGINNING, SAID LINE ALSO BEING THE NORTHEASTERLY LINE OF HENLEY PLACE; THENCE S.47°39'50"E. ALONG SAID NORTHEASTERLY LINE FOR 119.5 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL CONTAINS 13,096 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTHWESTERLY LINE OF CARSON STREET AS BEARING N.47°39'50"W.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED DECEMBER 4, 2003.

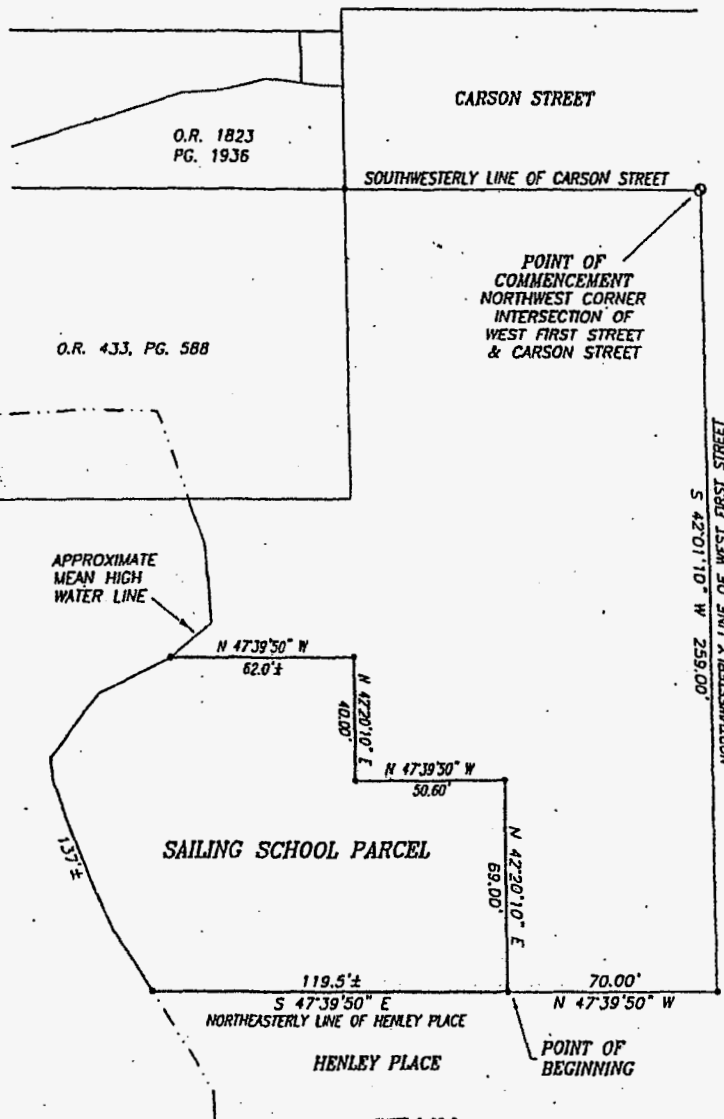
 12-5-03
THOMAS C. SHAW
PROFESSIONAL SURVEYOR & MAPPER
FLORIDA CERTIFICATION NO. 4672

SHEET 1 OF 2

S:\Jobs\16xx\1688\SURVEY\1688_SAILING_SCHOOL_PARCEL_DESC.doc



1"=50'



SKETCH TO ACCOMPANY DESCRIPTION

OF A
 PARCEL OF LAND
 LYING IN
 SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST
 CITY OF FORT MYERS
 LEE COUNTY, FLORIDA

DESCRIPTION:
 A PARCEL OR TRACT OF LAND SITUATED IN THE STATE OF FLORIDA,
 COUNTY OF LEE, CITY OF FORT MYERS, LYING IN SECTION 4,
 TOWNSHIP 44 SOUTH, RANGE 24 EAST, AND BEING FURTHER
 DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE INTERSECTION OF
 WEST FIRST STREET AND CARSON STREET; THENCE S.42°01'10\"/>

PARCEL CONTAINS 13,096 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTHWESTERLY LINE OF CARSON STREET AS BEARING N.47°39'50\"/>

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

THIS IS NOT A SURVEY

Thomas C. Shaw 12-5-03
 THOMAS C. SHAW
 PROFESSIONAL SURVEYOR & MAPPER
 FLORIDA CERTIFICATION NO. 4672

- THIS SKETCH IS NOT VALID UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA PROFESSIONAL SURVEYOR AND MAPPER

- PREPARED DECEMBER 4, 2003.

PREPARED BY:
Banks Engineering, Inc.
 ENGINEERING, SURVEYING & LAND PLANNING
 8810 WILLOW PARK DRIVE - SUITE "B"
 NAPLES, FLORIDA 34109
 (TEL) 537-2000

**SUBMERGED
LAND LEASE**



NOT TO SCALE

SKETCH TO ACCOMPANY DESCRIPTION

OF A
PARCEL OF LAND
LYING IN

SECTION 14, TOWNSHIP 44 SOUTH, RANGE 24 EAST
CITY OF FORT MYERS, LEE COUNTY, FLORIDA

CARSON STREET

POINT OF
COMMENCEMENT

WEST FIRST STREET

A TRACT OR PARCEL OF SUBMERGED LAND LYING OFFSHORE FROM AND IN SECTION 14, TOWNSHIP 44 SOUTH, RANGE 24 EAST, CITY OF FORT MYERS, LEE COUNTY, FLORIDA WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

FROM THE NORTHWEST CORNER OF THE INTERSECTION OF WEST FIRST STREET AND CARSON STREET RUN N47°39'50"W ALONG THE SOUTHWESTERLY LINE OF SAID CARSON STREET FOR 120.00 FEET TO THE SOUTHEASTERLY CORNER OF LANDS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 443 AT PAGE 586, LEE COUNTY RECORDS; THENCE RUN S42°01'10"W ALONG THE SOUTHEASTERLY LINE OF SAID LANDS AS DESCRIBED IN SAID DEED, PARALLEL WITH THE NORTHWESTERLY LINE OF SAID FIRST STREET, FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF A PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 182, AT PAGE 1934 OF SAID PUBLIC RECORDS; THENCE N47°39'50"W, PARALLEL WITH SAID SOUTHWESTERLY LINE OF CARSON STREET FOR 40.01 FEET; THENCE S42°20'10"W FOR 12.00 FEET TO THE POINT OF BEGINNING; THENCE N47°39'50"W FOR 75.00 FEET; THENCE S42°20'10"W FOR 28.00 FEET; THENCE N47°39'50"W FOR 150.00 FEET; THENCE S42°01'10"W PARALLEL WITH THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WEST FIRST STREET FOR 145.01 FEET TO THE NORTHWESTERLY PROLONGATION OF THE CENTERLINE OF HENLEY PLACE (52 FEET WIDE); THENCE S47°39'50"E ALONG SAID PROLONGATION FOR 212 FEET, MORE OR LESS, TO THE APPROXIMATE MEAN HIGH TIDE LINE OF THE SOUTHEASTERLY SHORE OF THE CALOOSAHATCHEE RIVER; THENCE NORTHEASTERLY ALONG SAID SHORE LINE FOR 175 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL CONTAINS 28664 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTHWESTERLY LINE OF CARSON STREET AS BEARING N.47°39'50"W.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

THIS IS NOT A SURVEY

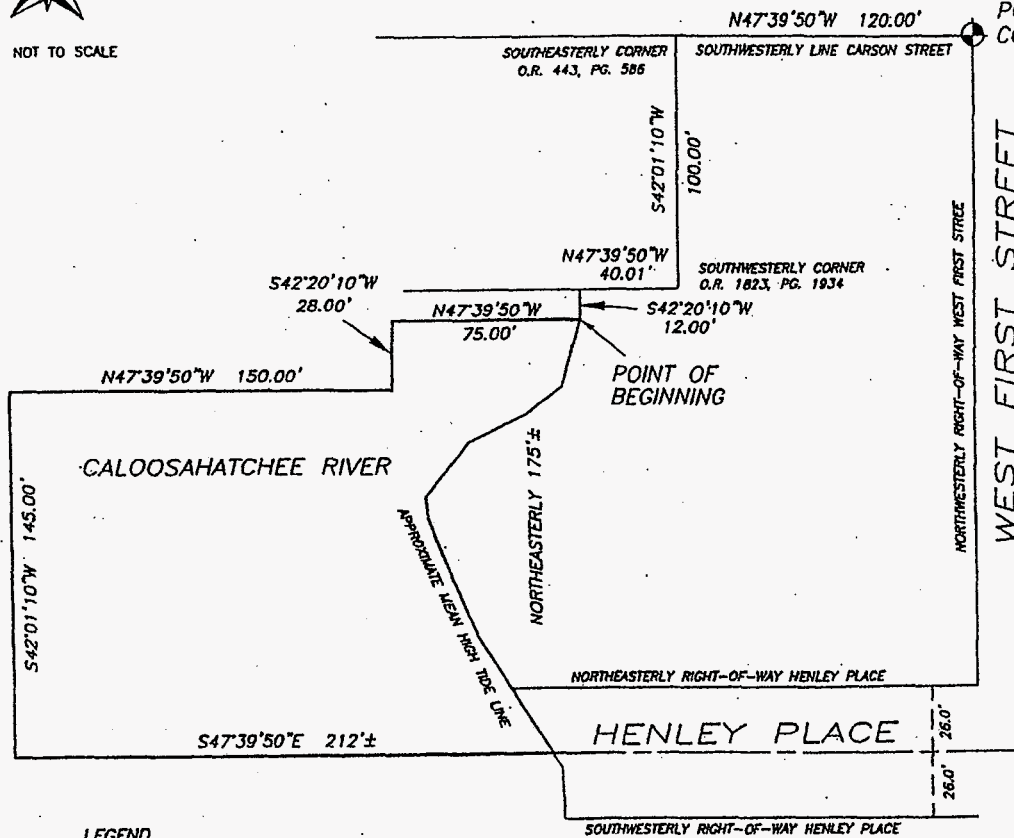
Thomas C. Shaw 2-16-04
THOMAS C. SHAW
PROFESSIONAL SURVEYOR & MAPPER
FLORIDA CERTIFICATION NO. 4672

- THIS SKETCH IS NOT VALID UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA PROFESSIONAL SURVEYOR AND MAPPER

- PREPARED FEBRUARY 16, 2004

PREPARED BY:
Banks Engineering, Inc.
ENGINEERING, SURVEYING & LAND PLANNING
8840 VILLOW PARK DRIVE - SUITE 7
MAPLES, FLORIDA 34109
(813) 997-2041
FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 1388

EXHIBIT B
SUBMERGED
LAND
LEASE



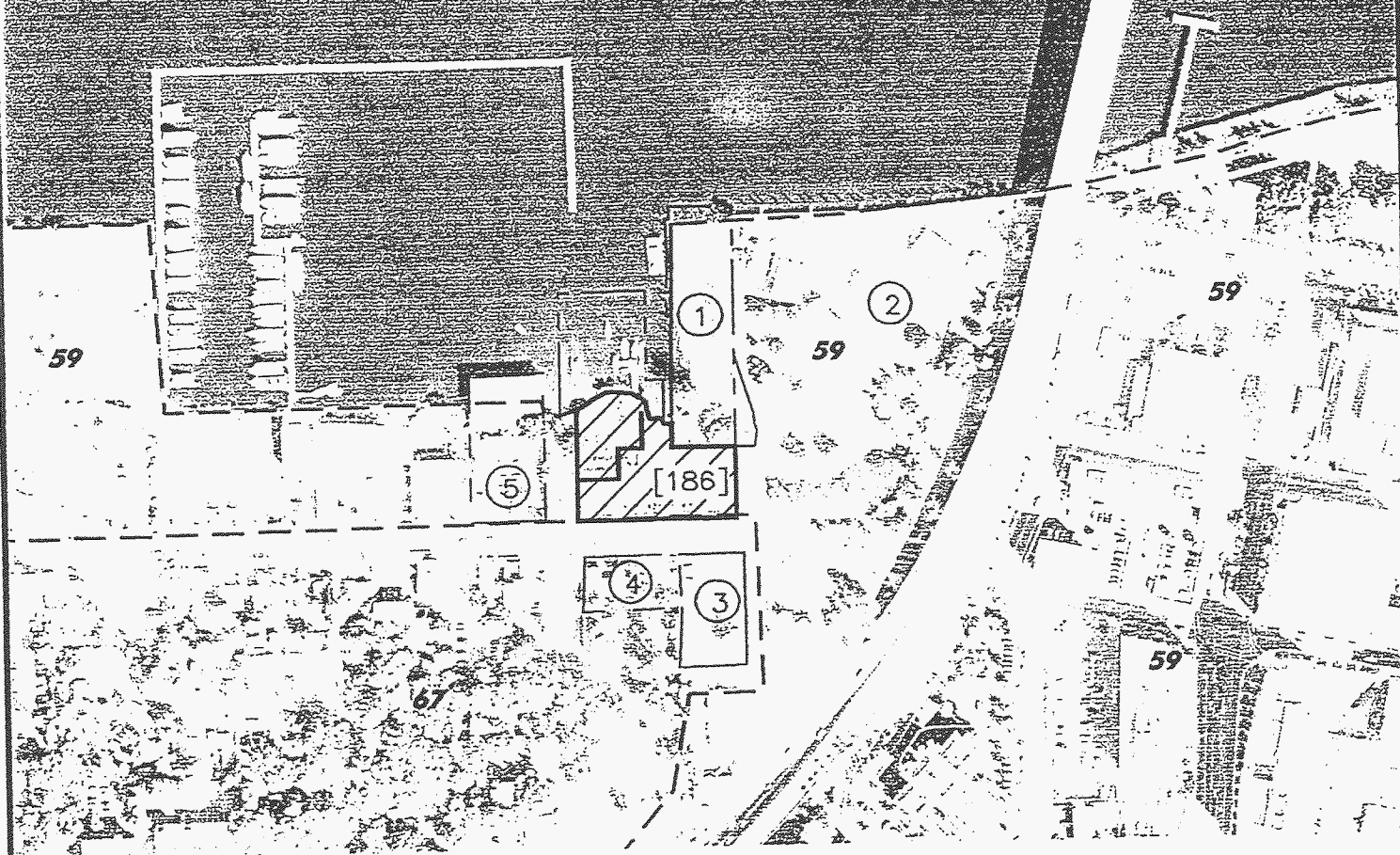
LEGEND
O.R. OFFICIAL RECORDS BOOK
PG. PAGE

SECTION: 14
 TOWNSHIP: 44 South
 RANGE: 24 East

0 150 300
 SCALE FEET

1. 14-44-24-P3-00006:0000
Throgmorton Riverfront Corp.
2. 14-44-24-P3-00004:0000
City of Fort Myers
3. 14-44-24-P3-00405:001B
City of Fort Myers
4. 14-44-24-P3-00012:0000
Velma S. Roberts
5. 14-44-24-P3-00008:0000
Navillus Group, LLC

Caloosahatchee River



FLUCFCS Code	Description
[186]	Community Recreational Facilities


Soil Code	Description
59	Urban Land
67	Smyrna-Urban Land Complex

FLUCFCS, Soils, and Adjacent Property Map

SCALE: 1" = 300'

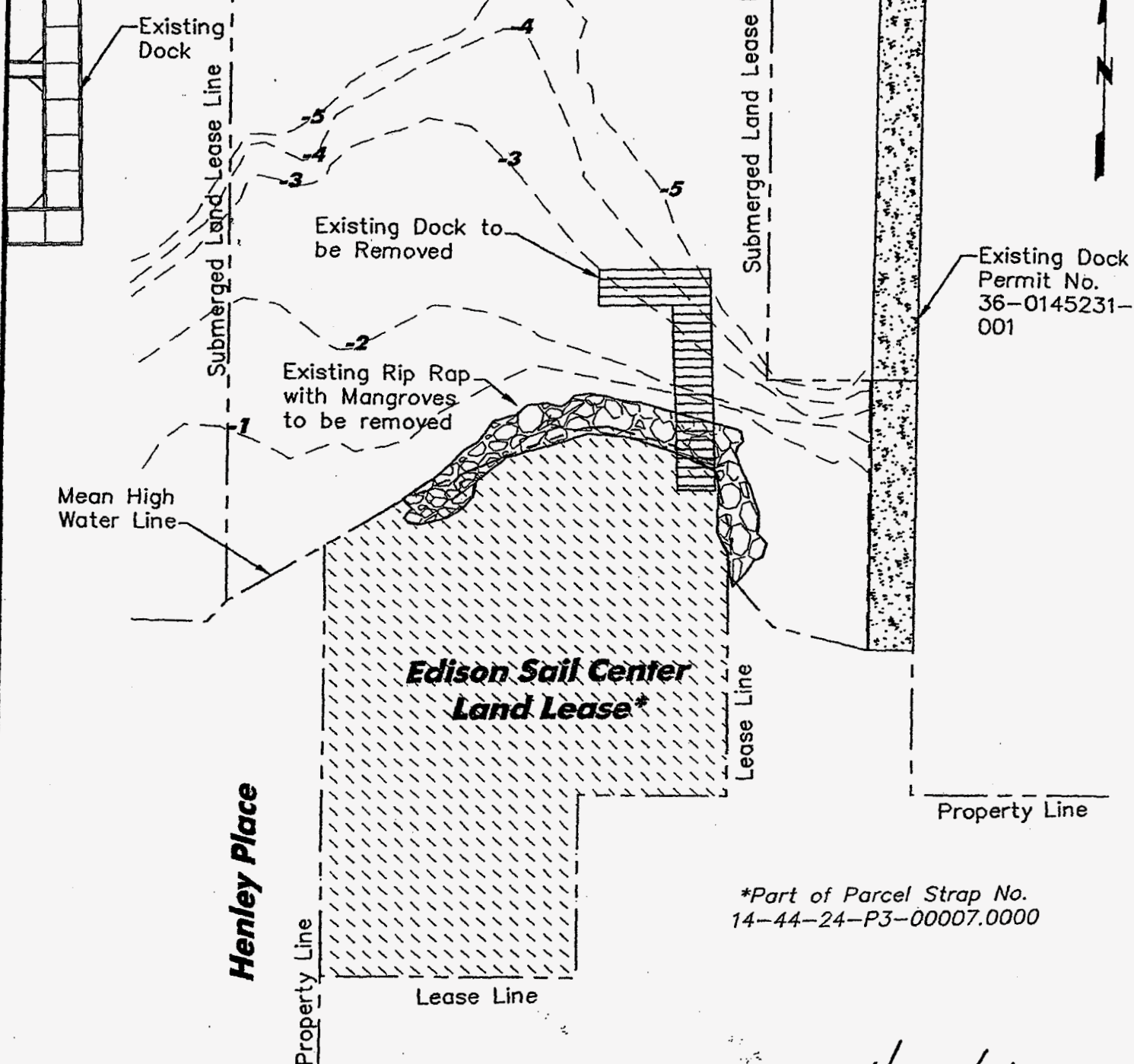
Hans Wilson
 November 11, 2004 10:37:11 a.m.
 Drawing: ESC1PLAN.DWG (CC)

PERMIT USE ONLY, NOT FOR CONSTRUCTION

 <p>HANS WILSON & ASSOC., INC. 1938 Hill Ave. Ft. Myers, Florida 33901 Tel: 239-334-6870 Fax: 239-334-7810 MARINE and ENVIRONMENTAL CONSULTANTS</p>	11/18/04	<p>Edison Sail Center</p>	SHEET 6/6
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SECTION: 14
 TOWNSHIP: 14 South
 RANGE: 24 East

Caloosahatchee River



Existing Dock
 Permit No.
 36-0145231-001

**Edison Sail Center
 Land Lease***

*Part of Parcel Strap No.
 14-44-24-P3-00007.0000


Existing Conditions Plan

SCALE: 1" = 40'

Hans Wilson

HANS J.M. WILSON
 REGISTERED PROFESSIONAL ENGINEER
 FLORIDA REGISTRATION NO. 39680
 DATE: November 11, 2004 10:37:11 a.m.
 Drawing: ESCIPLAN.DWG (cc)

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Proposed Floating Dock (10'w x 110'l)

Submerged Land Lease with City of Fort Myers

SECTION: 14
TOWNSHIP: 44 South
RANGE: 24 East

0 20 40
SCALE FEET

Existing Dock Nos. 36-0149272-001 thru 004

Proposed Dredging to -5'

Proposed Floating Dock (10'w x 60'l)

Proposed Aluminum Ramp (10'w x 15'l)

Proposed Reefball

Proposed Concrete H-20 Loading Pier (12'w x 75'l)

Existing Dock Permit No. 36-0145231-001

Mean High Water Line

Material Handling Site

Upland

Property Line

Walkway

Henley St

Sailing School

Proposed Plan

SCALE: 1" = 40'

Hans Wilson

HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
DATE: November 11, 2004 10:37:11 a.m.
Drawing: ESC1PLAN.DWG (CC)

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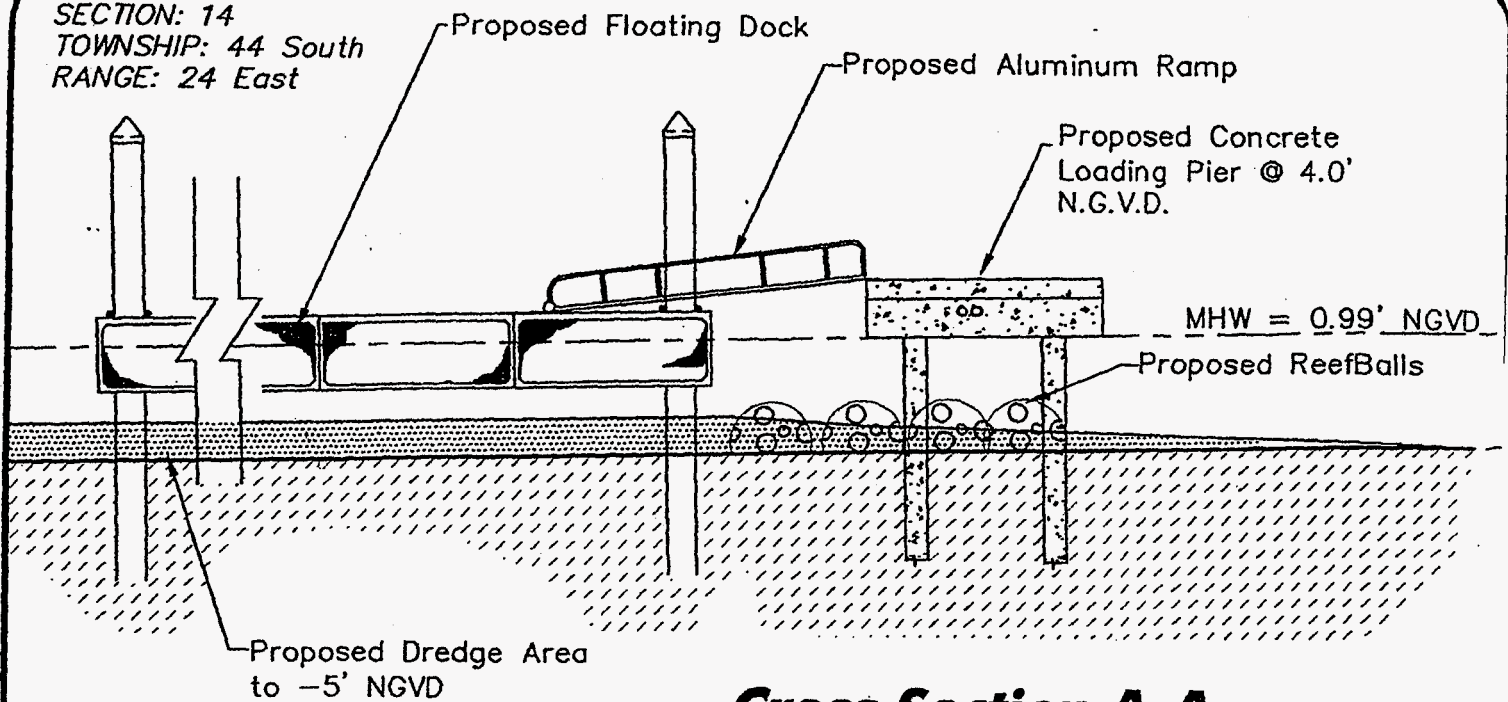
HANS WILSON & ASSOC., INC.
1938 Hill Ave. Ft. Myers, Florida 33901
Tel: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

11/18/04

Edison Sail Center

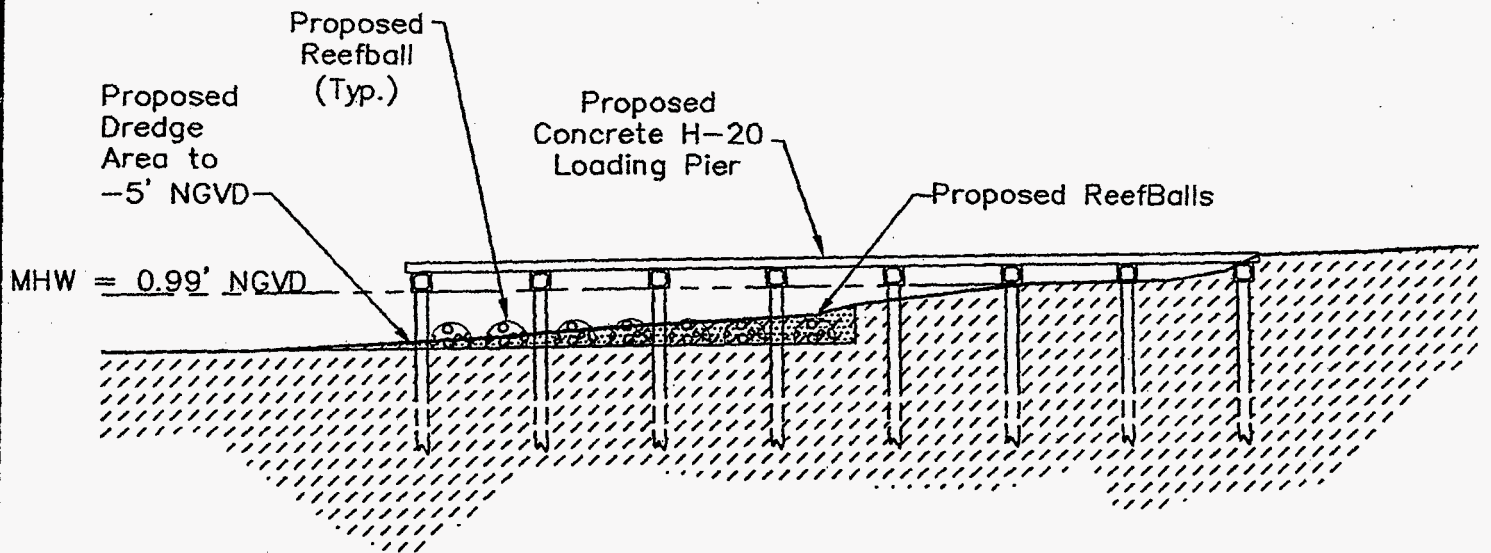
SHEET
3/6

SECTION: 14
TOWNSHIP: 44 South
RANGE: 24 East



Cross Section A-A

SCALE: 1" = 10'



Cross Section B-B

SCALE: 1" = 20'

Hans Wilson
HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
DATE: November 11, 2004 10:37:11 a.m.
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1938 Hill Ave. Ft. Myers, Florida 33901
Tel: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

11/18/04

Edison Sail Center

SHEET

4/6

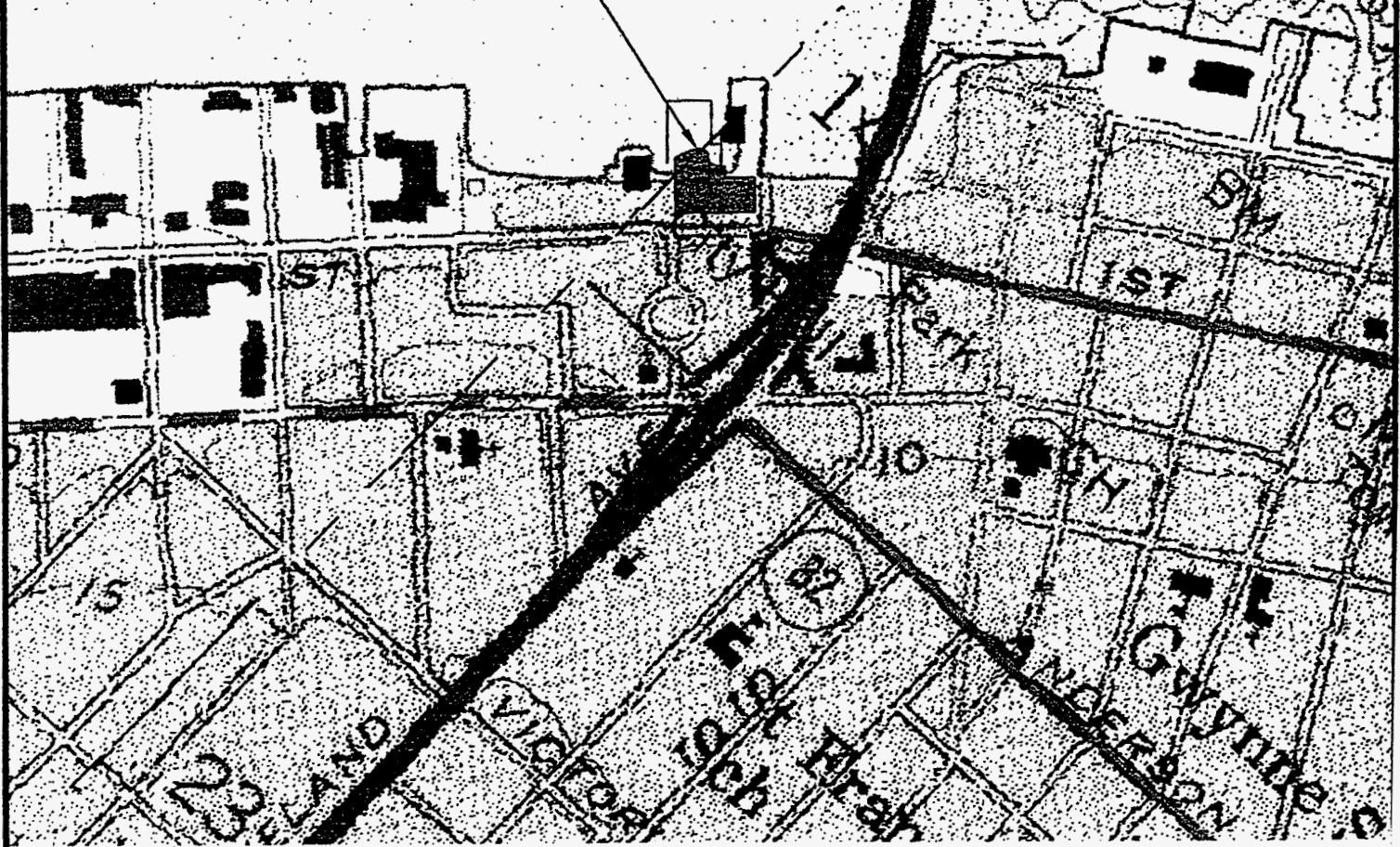
SECTION: 14
TOWNSHIP: 44 South
RANGE: 24 East

Spill Area

0 300 600
SCALE FEET

Caloosahatchee River

Project Location



Quad Map

SCALE: 1" = 600'

November 11, 2004 10:37:11 a.m.
Drawing: ESC1PLAN.DWG (CC)

PERMIT USE ONLY, NOT FOR CONSTRUCTION



HANS WILSON & ASSOC., INC.
1938 Hill Ave. Ft. Myers, Florida 33901
Tel: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

11/18/04

Edison Sail Center

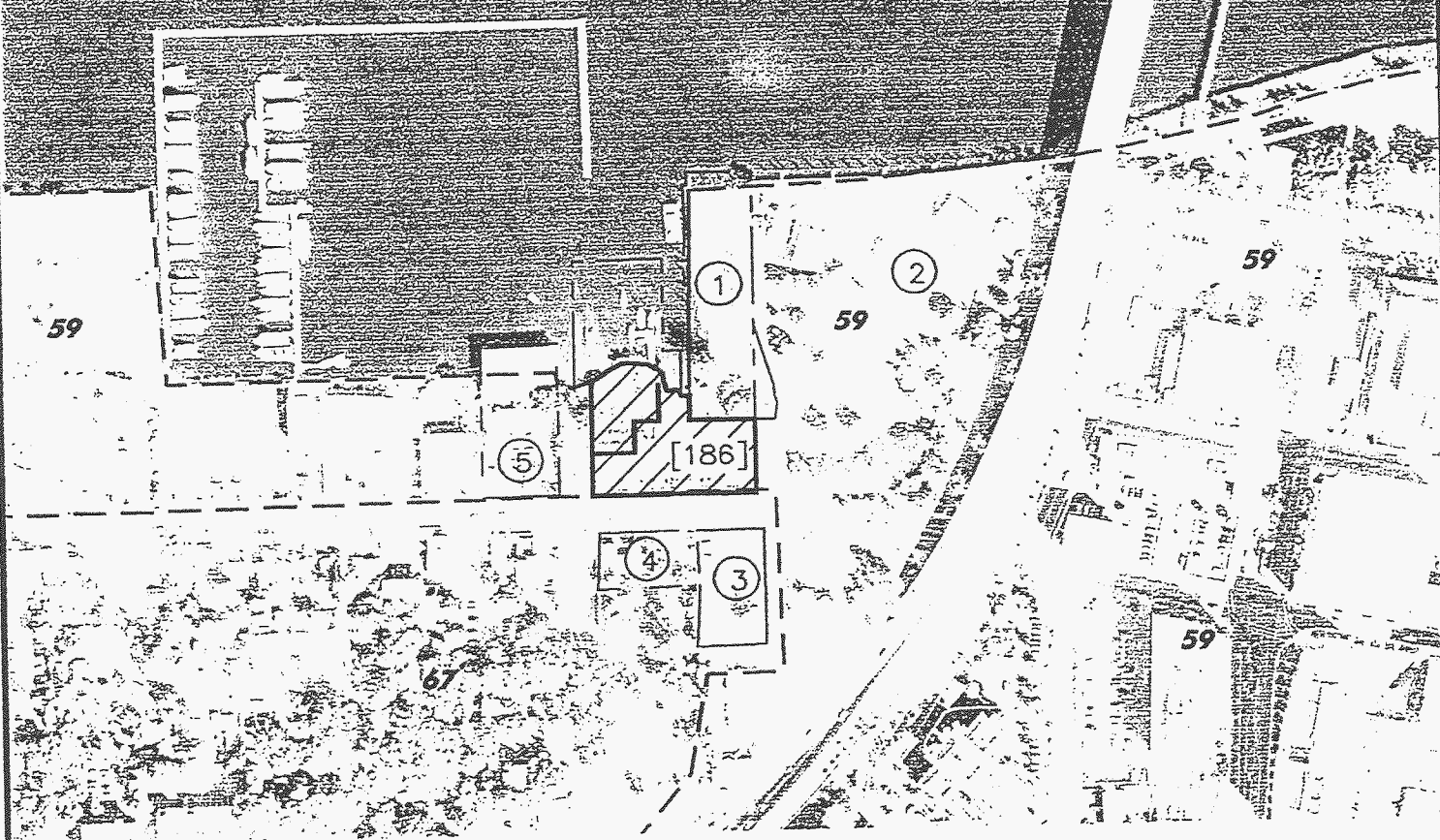
SHEET
5/6

SECTION: 14
 TOWNSHIP: 44 South
 RANGE: 24 East

0 150 300
 SCALE FEET

1. 14-44-24-P3-00006:0000
Throgmorton Riverfront Corp.
2. 14-44-24-P3-00004:0000
City of Fort Myers
3. 14-44-24-P3-00405:001B
City of Fort Myers
4. 14-44-24-P3-00012:0000
Velma S. Roberts
5. 14-44-24-P3-00008:0000
Navillus Group, LLC

Caloosahatchee River



FLUCFCS Code	Description
[186]	Community Recreational Facilities

Soil Code	Description
59	Urban Land
67	Smyrna—Urban Land Complex

FLUCFCS, Soils, and Adjacent Property Map

SCALE: 1" = 300'

Hans Wilson
 November 11, 2004 10:37:11 a.m.
 Drawing: ESC1PLAN.DWG (CC)

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 <p>HANS WILSON & ASSOC., INC. 1938 Hill Ave. Ft. Myers, Florida 33901 Tel: 239-334-6870 Fax: 239-334-7810 MARINE and ENVIRONMENTAL CONSULTANTS</p>	<p>11/18/04</p>	<p>Edison Sail Center</p>	<p>SHEET 6/6</p>
--	-----------------	----------------------------------	-----------------------------

EXHIBIT "B"

I. Scope of Project: Construction of approximately one thousand seven hundred (1,700) square feet of floating docks and dredge for shoreline improvements.

II. Length of Project: Estimated completion is within one (1) year from the execution of this Agreement.

III. Amount and Method of Payment to Center:

Center will be paid, on a not-to-exceed basis, the sum of One Hundred Thirty Five Thousand Dollars (\$135,000) upon submittal of an invoice to Lee County Parks and Recreation Department. Should the Project not be completed by the date referenced in Section II above, or should the Agreement be cancelled for any reason, any County funds not expended as of the end of the term of this Agreement or upon cancellation of the Agreement shall be returned to the County within thirty (30) days.

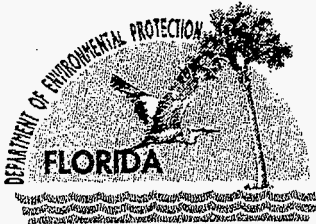
IV. Center Contact Persons:

Steve Olive, Director
Royal Palm Sailing Club, Inc.
3594 Broadway
Fort Myers, FL 33901
(239) 340-2345

Ross Webb
15880 Summerlin Road #300-175
Fort Myers, FL 33908
(239) 841-7677

County Contact Person:

Dave Harner, Manager
Lee County Parks and Recreation
P.O. Box 398
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Department of Environmental Protection

Jeb Bush
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Colleen M. Castille
Secretary

SUBMERGED LANDS AND ENVIRONMENTAL RESOURCE PROGRAM

ENVIRONMENTAL RESOURCE PERMIT

CERTIFIED MAIL NO. 7005 1160 0000 2711 2078
RETURN REQUEST RECEIPT

RECEIVED
BY *NVD* JUL 17 2006

PERMITTEE/AUTHORIZED ENTITY:

Royal Palm Sailing Club, Inc.
d/b/a Edison Sailing Center
c/o Chester Young
Hans Wilson and Associates, Inc.
1925 Hill Avenue
Fort Myers, FL 33901

Permit/Authorization Number:
36-0240912-001
Date of Issue:
July 14, 2006
Expiration Date of Construction Phase:
July 14, 2011
County: Lee
Project: reconfiguration of a sailing school
docking facility, and dredging

This permit is issued under the authority of Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.). The activity is not exempt from the requirement to obtain an Environmental Resource Permit. Pursuant to Operating Agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C., the Department is responsible for reviewing and taking final agency action on this activity.

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

Where applicable (such as activities in coastal counties), issuance of the environmental resource permit also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Management Act.

The Title and Land Records Section, Department of Environmental Protection, has reviewed the location of the proposed project as described in the above referenced application and has determined that the project, as described, does not involve the use of sovereign submerged lands. Accordingly, no further authorization will be required from the Submerged

Lands and Environmental Resources Program, designated agent to the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Chapter 253.77, F.S.

A copy of this authorization also has been sent to the U.S. Army Corps of Engineers (USACOE) for review. The USACOE may require a separate permit. Failure to obtain this authorization prior to construction could subject you to enforcement action by the USACOE. You are hereby advised that authorizations also may be required by other federal, state and local entities. This authorization does **not** relieve you from the requirements to obtain all other required permits and authorizations.

The above named permittee is hereby authorized to construct the work shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof. **This permit and authorization to use sovereign submerged lands is subject to the limits, conditions, and locations of work shown in the attached drawings, and is also subject to the attached 1 – 19 General and 1-33 Specific Conditions, which are a binding part of this permit and authorization.** You are advised to read and understand these drawings and conditions prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these drawings and conditions prior to commencing the authorized activities. Failure to comply with all drawings and conditions shall constitute grounds for revocation of the permit and appropriate enforcement action.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and with the general and specific conditions of this permit/certification/authorization, as specifically described below.

ACTIVITY DESCRIPTION:

(1) Removal of an existing 750 square-foot fixed wooden dock; (2) removal of 2,840 square feet (0.065 acres) of riprap and mangroves along the shoreline; (3) installation of: (a) approximately 2,507 square feet of concrete docks providing 6 boat slips for mooring of sailboats, consisting of one 75-foot-long by 12-foot-wide concrete loading pier, one 60-foot-long by 10-foot-wide floating dock, one 110-foot-long by 10-foot-wide concrete floating dock, one 40-foot-long by 10-foot-wide floating sailboat storage platform, and one 15-foot-long by 10-foot-wide aluminum ramp; (b) eight mooring pilings; and (c) 15 Reefballs® (or equivalent) beneath the proposed concrete loading pier; and (4) dredging of 918 cubic yards of material from a 11,738 square-foot area to a depth of -5 feet mean low water.

ACTIVITY LOCATION:

Located adjacent to 2006 West First Street (strap no. 14-44-24-P3-00007.0000), City of Fort Myers, Lee County, Section 14, Township 44 South, Range 24 East, in the Caloosahatchee River, Class III Waters.

GENERAL CONDITIONS:

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and a violation of Part Four of Chapter 373, Florida Statutes (F.S.).

2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.

3. Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violations of state water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within seven (7) days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter Six of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

4. The permittee shall notify the Department of the anticipated construction start date within thirty (30) days of the date that this permit is issued. **At least forty-eight (48) hours prior** to commencement of the activity authorized by this permit, the permittee shall submit to the Department at the Florida Department of Environmental Protection at P.O. Box 2549, Fort Myers Florida 33902-2549, an "Environmental Resource Permit Construction Commencement" notice (Form No. 62-343.900(3), Florida Administrative Code (F.A.C.)) indicating the actual start date and expected completion date.

5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the Department on an annual basis utilizing an "Annual Status Report Form" (Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year.

6. **Within thirty (30) days after completion of construction** of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law utilizing the supplied "Environmental Resource Permit As-Built Certification by a Registered Professional" (Form No. 62-343.900(5), F.A.C.). The Statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the Department that the system is ready for inspection. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations note. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.

7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition number six (6) above, has **submitted a "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (Form 62-343.900(7), F.A.C.)**; the Department determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the Department in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District--August 1995, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the Department, the permittee shall initiate transfer of permit to the approved responsible operation entity if different from the permittee. Until the permit is transferred pursuant to Section 62-343.110(1)(d), F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.

9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the Department along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District--August 1995, prior to lot or unit sales, whichever occurs first. Other documents concerning the establishment and authority of the operation entity must be filed with the Secretary of State where appropriate. For

those systems which are proposed to be maintained by the county or municipal entities, final operation and maintenance documents must be received by the Department when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.

10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.

11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C.

12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorization from the Board of Trustees prior to commencing activity on sovereignty lands or other state owned lands.

13. The permittee is advised that the rules of the South Florida Water Management District require the permittee to obtain a water use permit from the South Florida Water Management District prior to construction dewatering, unless the work qualifies for a general permit pursuant to subsection 40E-20.302(4), F.A.C., also known as the "No Notice" rule.

14. The permittee shall hold and save the Department harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by this permit.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.

16. The permittee shall notify the Department in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Section 62-343.130, F.A.C. The permittee transferring the permit

shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

17. Upon reasonable notice to the permittee, Department authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.

18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate Department office.

19. The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

SPECIFIC CONDITIONS:

CONSTRUCTION

1. The sailing center docking facility is to be constructed on submerged lands owned by the City of Fort Myers and is subject to a Development Agreement entered into on November 9, 2004 by the City of Fort Myers and Throgmartin Riverfront Corporation. That agreement provides that Throgmartin Riverfront Corporation shall provide the permittee exclusive use of a first floor condominium unit to be constructed on the upland property. The agreement also provides that a condominium unit at the site is to be conveyed to the permittee after issuance of a certificate of occupancy for the condominium unit. The condominium unit is to be used as the sailing center office and is to provide facilities such as restrooms. The agreement further provides that Throgmartin Riverfront Corporation shall execute a Condominium Donation Agreement with the permittee within 10 days of recording the Declaration of Condominium for the upland commercial condominium. Therefore, **prior to commencement of dredging or dock construction activities authorized by this permit**, permittee shall provide to the Department: (1) a copy of the Certificate of Occupancy for the upland condominium unit that is to be used by the permittee for operation of the sailing center; and (2) a copy of the recorded Condominium Donation Agreement.

2. **Prior to commencement of dredging or dock construction activities authorized by this permit**, permittee shall provide documentation to the Department demonstrating that the permittee has entered into a service agreement with a licensed vendor to provide portable restroom facilities at the adjacent upland property. The portable restroom facilities shall be used by sailing center staff and patrons until such time as permanent upland restroom facilities have been constructed in the condominium unit to be provided to the permittee pursuant to the Development Agreement entered into by the City of Fort Myers and Throgmartin Riverfront Corporation on November 9, 2004, and until such time as the permanent upland restroom facilities are fully operational and available for use by sailing school staff and patrons.

3. Upon completion of construction of the condominium unit (including permanent operational restroom facilities) on the upland property for the permittee pursuant to the November 9, 2004 Development Agreement between the City of Fort Myers and Throgmartin Riverfront Corporation, the permittee shall end its service agreement with a licensed vendor to provide portable restroom facilities and shall begin using the permanent upland restroom facilities constructed in the condominium unit.

4. **Prior to the commencement of construction**, to offset impacts to 0.065 acres of mangroves, the permittee shall purchase 0.0325 saltwater forested credits from Little Pine Island Mitigation Bank, phone number (239) 481-2011, 13451 McGregor Blvd., Fort Myers, FL 33919. **Within 10 days of purchase**, the permittee shall provide the Department with documentation that 0.0325 credits have been deducted from the credit ledger of the bank (permit #362434779).

5. The permittee shall provide the notice required in General Condition 4 in this permit to the Department's South District office, P. O. Box 2549, Fort Myers, FL 33902-2549.

6. Best management practices for erosion and turbidity control, including but not limited to the use of floating turbidity curtains shall be used and maintained as necessary at all times during project construction. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order so that there are no violations of state water quality standards resulting in a degradation of the water quality.

7. Any deviation from the specific permit conditions or permit drawings shall not be undertaken without modification of this permit and submittal of the appropriate processing fee.

8. The construction of the project shall comply with applicable State Water Quality standards, namely:

62-302.500 - Surface Waters: Minimum Criteria, General Criteria; and
62-302.530 - Table: Surface Water Quality Criteria

9. All CCA-treated pilings associated with the permitted structures shall be wrapped with impermeable plastic or PVC sleeves in such a manner as to reduce the leaching of deleterious substances from the pilings. The sleeves shall be installed concurrently with the installation of the pilings, shall extend from at least 6" below the level of the substrate to at least 1 foot above the seasonal high water line and shall be maintained over the life of the permitted docking facility.

10. The permittee shall comply with the following manatee protection construction conditions:

- a. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatees.

- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees, which are protected under the Marine Mammal Protection Act of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.
- c. Siltation barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exit from essential habitat.
- d. All vessels associated with the construction project shall operate at no wake/idle speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- e. If a manatee is sighted within 100 yards of the project area, precautions shall be implemented by the permittee and the contractor to ensure protection of manatees. These precautions shall include not operating any equipment closer than 50 feet to a manatee, and immediately shutting down equipment if a manatee comes within 50 feet of the equipment. Activities will not resume until the manatees have departed the project area of their own volition.
- f. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission at 1-888-404-FWCC (1-888-404-3922). Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for North Florida or in Vero Beach (1-561-562-3909) for South Florida.
- g. Temporary signs concerning manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the permittee upon completion of the project. A sign measuring at least three feet by four feet which reads "*Caution: Manatee Area*" shall be posted in a location prominently visible to water related construction crews. A second sign shall be posted if vessels are associated with the construction and shall be placed visible to the vessel operator. The second sign shall be at least 8 1/2 inches by 11 inches and read:

Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of the operation. Any collision with and/or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC (1-888-404-3922). The U.S. Fish and Wildlife Service should also be contacted in Jacksonville (1-904-232-2580) for North Florida or in Vero Beach (1-561-562-3909) for South Florida.

Specific information on obtaining these signs may be obtained by contacting the Department or FWC at (850) 922-4330.

11. At least one person shall be designated as a manatee observer when in-water work is being performed. That person shall have experience in manatee observation, and be equipped with polarized sunglasses to aid in observation. The manatee observer must be on site during all in-water construction activities and will advise construction personnel to cease operation upon sighting a manatee within 50 feet of any in-water construction activity. Movement of a work barge, other associated vessels, or any in-water work shall not be performed after sunset, when the possibility of spotting manatees is negligible.

12. As shown on the attached permit drawings, the Permittee shall install 15 Reefballs® (or an equivalent product) beneath the 75-foot-long by 12-foot-wide concrete loading pier. The Reefballs® (or an equivalent product) shall be constructed of inert material that will avoid the leaching of deleterious substances into surface waters.

DREDGING REQUIREMENTS

13. Prior to the initiation of any works in surface waters, weighted turbidity screens extending to within 1 foot of the sediment shall be installed. The screens shall be maintained and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the construction area do not exceed ambient background levels and degrade water quality.

14. Mechanical dredging shall be used, using either a large backhoe or a clamshell and crane operated from a barge. Blasting is **not** an authorized dredging methodology.

15. All spoil material from the permitted dredging shall be placed in the spoil containment area shown on the permit drawings at a rate so that the spoil containment area is never filled to capacity.

16. Once the spoil material from the permitted dredging has dried, it shall be loaded into trucks and removed from the site and transported to an appropriate upland disposal site that will prevent return water from entering surface waters.

17. Within 30 days of completion of the permitted dredging activities, the permittee shall submit to the Department a detailed report describing the completed construction and including as-built drawings showing all structures and bathymetry of the project area. The submitted drawings shall be plan and cross-sectional view drawings, fully scaled and dimensioned, signed and sealed by a registered professional engineer, showing the entire project area. These drawings shall clearly indicate the deviations from the permit drawings attached to this permit. If the as-built drawings show a significant overdredge that, as determined by the Department, could potentially result in adverse effects to water quality, the permittee shall submit a plan acceptable to the Department to level the bottom surface by backfilling with clean fill material free of deleterious substances.

MONITORING REQUIREMENTS

18. Prior to commencement of construction of the permitted dredging and dock construction, the permittee shall designate one person who is qualified in water quality sampling to be responsible during times of dredging activities for hourly turbidity monitoring. The individual shall ensure compliance is met at all times with state water quality criteria as defined in 62-302 FAC. The permittee shall provide the Department's South District Office, SLERP Section, P.O. Box 2549, Fort Myers Florida 33902-2549, the name and all pertinent contact information for the individual.

19. During all dredging operations, the permittee shall monitor turbidity levels within 5 feet of the active work area once every four hours until project completion. The active work area shall be that area enclosed within the floating turbidity screens. Additional samples shall be taken within the densest portion of any visible turbidity plume within 5 feet outside of the turbidity curtains. Ambient samples shall be taken up current at mid-depth and at no time shall the ambient sample be taken within an apparent turbidity plume. **Prior to any dredging operations, the Permittee shall submit to the Department a map indicating the ambient sampling locations with all possible sources that may generate turbidity, i.e. storm water outfalls, etc.** All monitoring data shall be submitted daily until the dredging completion and contain the following information:

- a) permit number,
- b) dates of sampling and analysis,
- c) a statement describing the methods used in collection, handling, storage, and analysis of the samples,
- d) a map indicating the sampling locations, and
- e) a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data.

Monitoring reports shall also include the following information for each sample taken:

- a) Time of day sample was taken,
- b) Depth of water body,
- c) Depth of sample,
- d) Antecedent weather conditions, and
- e) Velocity of water flow.

If monitoring reveals turbidity levels at the compliance location that appear to violate the State Water quality standards, construction activities shall cease immediately and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. Any such occurrence shall also be immediately reported to the Department's South District office, SLERP Compliance and Enforcement Section in Fort Myers. Monitoring reports shall be submitted to the Department's South District office, SLERP Compliance and Enforcement Section, at P.O. Box 2549, Fort Myers, FL 33902-2549 or by fax machine at (239) 332-6969.

20. The following measures shall be taken by the permittee whenever turbidity levels within waters of the State surrounding the project site, exceed State water quality standards established pursuant to Rule 62-302, F.A.C.:

- a. Immediately cease all work contributing to the water quality violation.
- b. Modify the work procedure(s) that were responsible for the violation,
- c. Install more turbidity containment devices and repair any non-functioning turbidity containment devices.
- d. Notify the DEP South District Office at 239-332-6975 within 12 hours of the time the violation is first detected.

OPERATIONS

21. This permit specifically authorizes six permanent wet slips to be located at this facility as indicated by proposed mooring pilings as shown on the attached permit drawing sheet received by the Department on March 25, 2005. Additional vessels may be moored temporarily (less than 24 hours) in the water or permanently stored on the floating platform or on the adjacent upland property. Any additional permanent wet slips or mooring reconfiguration will require a modification of this permit.

22. Permittee hereby agrees that there shall be no dry storage of boats on the permittee's upland property except for the sailboats used for the sailing school activities. Construction of upland dry boat storage shall only occur if the Department issues a modification to this permit.

23. Liveaboard vessels are prohibited from mooring at or in the immediate vicinity of the permitted docking facility. A liveaboard shall be defined as a vessel docked at the facility that is inhabited by person or persons for any five consecutive days or a total of ten days within a thirty-day period.

24. If the permittee provides documentation to the Department demonstrating that infrastructure (restroom facilities, shower, kitchen facilities, etc.) is in place and operational on the adjacent upland property to service liveaboard vessel occupants, the permittee may submit an application to the Department to modify the permit to allow one liveaboard vessel to moor at or in the immediate vicinity of the permitted docking facility.

25. The discharging of marine sewage, combustible or other hazardous materials or gray water (shower, dish washing and laundry discharges) water shall be strictly prohibited at this facility. In the case of an emergency, a leaking vessel is to be surrounded by containment booms and the owner notified of the problem. All clean up will be the responsibility of the permittee.

26. Over-water fish cleaning stations or disposal of fish wastes in the water shall be prohibited for the life of the permitted docking facility.

27. No fuel storage shall be allowed on the permitted docking facility.
28. Boat maintenance or repair activities requiring removal of a vessel from the water or removal of any major portions of the vessel, including the engine for purposes of repair or maintenance on site are prohibited for the life of the facility, except where removal is necessitated by emergency conditions which have resulted in or can result in the sinking of a vessel. Specifically prohibited are any discharges or release of oils or greases associated with engine and hydraulic repairs and related metal-based bottom paints associated with hull scraping, cleaning, and painting. Minor repairs and boat maintenance that will not cause or contribute to the release of water pollutants and which are performed by owners or qualified marine mechanics are allowed.
29. The discharge of contaminated bilge water materials is prohibited. In the case of an emergency, a leaking vessel is to be surrounded by containment booms and the owner notified of the problem. All clean up will be at the expense of the boat owner.
30. In water hull maintenance, including cleaning of boat hulls, throughout the facility shall be limited to use of sponges or plastic scouring pads (Starbrite, Hol-tite, or similar). The use of metal scrapers, stiff brushes, or similar implements to remove barnacles or extensive algae growth is prohibited. Under no circumstances is turbidity associated with hull maintenance in individual slips to exceed 29 NTU's above water clarity in the center of the immediate marina freeway. If cathodic protection devices made of zinc are replaced, all zincs, or zinc particles, must be removed from the water.
31. The 15 Reefballs® (or an equivalent product) to be installed beneath the 75-foot-long by 12-foot-wide concrete loading pier shall be maintained for the life of the docking facility.
32. All future authorized replacement pilings for any of the fixed docking structures shall be non-CCA-leaching (recycled plastic, concrete, greenheart, or wrapped with impermeable plastic or PVC sleeves in such a manner as to eliminate the leaching of deleterious substances from the pilings into the water column and sediments).
33. Operation of the permitted facility shall comply with applicable State Water Quality Standards, namely:
62-302.500 - Surface Waters: Minimum Criteria, General Criteria; and
62-302.530 - Table: Surface Water Quality Criteria

RIGHTS OF AFFECTED PARTIES

This permit is hereby granted. This action is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient

petition for an administrative hearing is timely filed, this action automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because an administrative hearing may result in the reversal or substantial modification of this action, the applicant is advised not to commence construction or other activities until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time have expired.

Mediation is not available.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

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

If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205 of the Florida Administrative Code.

In accordance with Rules 28-106.111(2) and 62-110.106(3)(a)(4), petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3) of the Florida Statutes, must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. Under Sections 120.60(3) of the Florida Statutes, however any person who has asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to

request an administrative determination (hearing) under Sections 120.569 and 120.57 of the Florida Statutes.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

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

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rules 28-106.301.

Under Sections 120.569(2)(c) and (d) of the Florida Statutes, a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is timely filed.

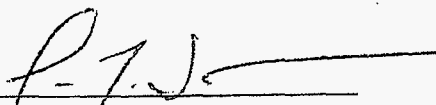
This permit constitutes an order of the Department. Subject to the provisions of paragraph 120.68(7)(a) of the Florida Statutes, which may require a remand for an administrative hearing, the applicant has the right to seek judicial review of the order under Sections 120.68 of the Florida Statutes, by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the order is filed with the Clerk of the Department. The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275 of the Florida Statutes, may also seek appellate review of the order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275 of the Florida Statutes. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the

Permittee: Royal Palm Sailing Club, Inc.
Permit No. 36-0240912-001
Page 15 of 15

Department within 20 days from the date when the order is filed with the Clerk of the Department.

Executed in Fort Myers, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart
Director of District Management

JMI/MRM/m

Attachments:
5 pages permit forms
7 pages permit drawings

cc:

U.S. Army Corps of Engineers, Fort Myers (Log # 5778)
Lee County Property Appraiser
Department of Community Affairs
Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement
Florida Fish and Wildlife Conservation Commission, Imperiled Species Mgmt.

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this permit and authorization to use sovereign submerged lands, including all copies were mailed before the close of business on July 14, 2006 to the above listed persons.

FILING AND ACKNOWLEDGMENT

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

Marie Vidrine 7-14-06
Clerk Date

ENVIRONMENTAL RESOURCE PERMIT
Construction Commencement Notice

PROJECT: _____ PHASE: _____

I hereby notify the Department of Environmental Protection that the construction of the surface water management system authorized by Environmental Resource Permit No. _____ has commenced / is expected to commence on _____ 200____, and will require a duration of approximately _____ months _____ weeks _____ days to complete. It is understood that should the construction term extend beyond one year, I am obligated to submit the Annual Status Report for Surface Water Management System Construction.

PLEASE NOTE: If the actual construction commencement date is not known, Department staff should be so notified in writing in order to satisfy permit conditions.

Permittee or Authorized Agent	Title and Company	Date
Phone	Address	

Environmental Resource Permit Annual Status Report

Florida Department of Environmental Protection

PERMIT NUMBER:

COUNTY:

PROJECT NAME:

PHASE:

The following activity has occurred at the above referenced porject during the past year, between June 1, and May 30,

<u>Permit Condition/Activity</u>	<u>% of Completion</u>	<u>Date of Anticipated Completion</u>	<u>Date of Completion</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(Use Additional Sheets As Necessary)

Benchmark Description (one per major control structure): _____

Print Name

Phone

 Permittee's or Authorized Agent's Signature

Title and Company

Date

This form shall be submitted to the above referenced Department Office during June of each year for activities whose duration of construction exceeds one year.

**ENVIRONMENTAL RESOURCE PERMIT
AS-BUILT CERTIFICATION BY A REGISTERED PROFESSIONAL**

Permit Number: _____

Project Name: _____

I hereby certify that all components of this surface water management system have been built substantially in accordance with the approved plans and specifications and are ready for inspection. Any substantial deviations (noted below) from the approved plans and specifications will not prevent the system from functioning as designed when properly maintained and operated. These determinations are based upon on-site observation of the system conducted by me or by my designee under my direct supervision and/or my review of as-built plans certified by a registered professional or other appropriate individual as authorized by law.

Name (please print)

Signature of Professional

Company Name

Florida Registration Number

Company Address

Date

City, State, Zip Code

Telephone Number

(Affix Seal)

Substantial deviations from the approved plans and specifications:

(Note: attach two copies of as-built plans when there are substantial deviations)

Within 30 days of completion of the system, submit two copies of the form to:

REQUEST FOR TRANSFER OF ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION PHASE TO OPERATION PHASE

(To be completed and submitted by the operating entity)

Florida Department of Environmental Protection

It is requested that Department Permit No. _____ authorizing the construction and operation of a surface water management system for the below mentioned project be transferred from the construction phase permittee to the operation phase operating entity.

PROJECT: _____

FROM: Name: _____
Address: _____
City: _____ State: _____
Zipcode: _____

TO: Name: _____
Address: _____
City: _____ State: _____
Zipcode: _____

The surface water management facilities are hereby accepted for operation and maintenance in accordance with the engineers certification and as outlined in the restrictive covenants and articles of incorporation for the operating entity. Enclosed is a copy of the document transferring title of the operating entity for the common areas on which the surface water management system is located. Note that if the operating entity has not been previously approved, the applicant should contact the Department staff prior to filing for a permit transfer.

The undersigned hereby agrees that all terms and conditions of the permit and subsequent modifications, if any, have been reviewed, are understood and are hereby accepted. Any proposed modifications shall be applied for and obtained prior to such modification.

Operating Entity _____

Name _____

Title _____

Telephone _____

Enclosure:

- (.) Copy of recorded transfer of title surface water management system
- () Copy of plat(s)
- () Copy of recorded restrictive covenants, articles of incorporation, and certificate of incorporation

**ENVIRONMENTAL RESOURCE PERMIT
INSPECTION CERTIFICATION**

Permit Number: _____

Project Name: _____

Inspection Date(s): _____

Inspection Results: (check one)

____ I hereby certify that I or my designee under my direct supervision have inspected the system at the above referenced project and that the system appears to be functioning in accordance with the requirements of the permit and Chapter 373 F.S. (as applicable).

____ The following necessary maintenance was conducted:

____ I hereby certify that I or my designee under my direct supervision has inspected the system at the above referenced project and that the system does not appear to be functioning in accordance with the requirements of the permit and Chapter 373 F.S. (as applicable). I have informed the operation and maintenance entity of the following: (a) that the system does not appear to be functioning properly, (b) that maintenance is required to bring the system into compliance, and (c) if maintenance measures are not adequate to bring the system into compliance, the system may have to be replaced or an alternative design constructed subsequent to Department approval.

Name (please print)

Signature of Professional Engineer

Company Name

Florida Registration Number

Company Address

Date

City, State, Zip Code

Telephone Number

(Affix Seal)

Within 30 days of completion of the inspection, submit two copies of this form to the following Department Office:

Department of Environmental Protection



Jeb Bush
Governor

Department of Environmental Protection

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

December 4, 2006

RECEIVED
BY *NV* DATE *DEC 6* 2006

Colleen M. Castille
Secretary

CERTIFIED MAIL NO. 7005 2570 0001 3276 4254
RETURN RECEIPT REQUESTED

Royal Palm Sailing Club Inc
c/o Chester Young
Hans Wilson and Associates Inc
1925 Hill Avenue
Forty Myers Fl 33901

Re: Lee County - ERP
Permit No. 36-0240912-002
Permit Modification

Gentlemen:

Your request to modify this permit has been received and reviewed by Department staff. The proposed permit modifications are to modify Specific Conditions 1 and 2 to allow for the recording of the Condominium Documents prior to construction.

After thorough review by staff, the proposed modifications are not expected to adversely affect water quality and will not be contrary to the public interest.

Specific Condition Number 1

From:

The sailing center docking facility is to be constructed on submerged lands owned by the City of Fort Myers and is subject to a Development Agreement entered into on November 9, 2004 by the City of Fort Myers and Throgmartin Riverfront Corporation. That agreement provides that Throgmartin Riverfront Corporation shall provide the permittee exclusive use of a first floor condominium unit to be constructed on the upland property. The agreement also provides that a condominium unit at the site is to be conveyed to the permittee after issuance of a certificate of occupancy for the condominium unit. The condominium unit is to be used as the sailing center office and is to provide facilities such as restrooms. The agreement further provides that Throgmartin Riverfront Corporation shall execute a Condominium Donation Agreement with the permittee within 10 days of recording the Declaration of Condominium for the upland commercial condominium. Therefore, prior to commencement of dredging or dock construction activities authorized by this permit, permittee shall provide to the Department: (1) a copy of the Certificate of Occupancy of the upland condominium unit that is to be used by the permittee for operation of the sailing center; and (2) a copy of the recorded Condominium Donation Agreement.

"More Protection, Less Process"

Printed on recycled paper.

To:

The sailing center docking facility is to be constructed on submerged lands owned by the City of Fort Myers and is subject to a Development Agreement entered into on November 9, 2004 by the City of Fort Myers and Throgmartin Riverfront Corporation. That agreement provides that Throgmartin Riverfront Corporation shall provide the permittee exclusive use of a first floor condominium unit to be constructed on the upland property. The agreement also provides that a condominium unit at the site is to be conveyed to the permittee after issuance of a certificate of occupancy for the condominium unit. The condominium unit is to be used as the sailing center office and is to provide facilities such as restrooms. The agreement further provides that Throgmartin Riverfront Corporation shall execute a Condominium Donation Agreement with the permittee within 10 days of recording the Declaration of Condominium for the upland commercial condominium. Therefore, prior to commencement of dredging or dock construction activities authorized by this permit, permittee shall provide to the Department: **(1) a copy of the recorded Condominium Donation Agreement**

Specific Condition Number 2

From:

Prior to commencement of dredging or dock construction activities authorized by this permit, permittee shall provide documentation to the Department demonstrating that the permittee has entered into a service agreement with a licensed vendor to provide portable restroom facilities at the adjacent upland property. The portable restroom facilities shall be used by sailing center staff and patrons until such time as permanent upland restroom facilities have been constructed in the condominium unit to be provided to the permittee pursuant to the Development Agreement entered into by the City of Fort Myers and Throgmartin Riverfront Corporation on November 9, 2004, and until such time as the permanent upland restroom facilities are fully operational and available for use by sailing school staff and patrons.

To:

Prior to commencement of dredging or dock construction activities authorized by this permit, permittee shall provide documentation to the Department demonstrating that the permittee has entered into a service agreement with a licensed vendor to provide portable restroom facilities at the adjacent upland property. **The service agreement must remain in place until such time as the permittee has provided a certificate of occupancy for the upland condominium unit. Additionally any service agreement renewals must be sent into the DEP and as continued proof of service. If the agreement for service is not kept current it constitutes non-compliance with the permit.** The portable restroom facilities shall be used by sailing center staff and patrons until such time as permanent upland restroom facilities have been constructed in the condominium unit to be provided to the permittee pursuant to the Development Agreement entered into by the City of Fort Myers and Throgmartin Riverfront Corporation on November 9, 2004, and until such time as the permanent upland restroom facilities are fully operational and available for use by sailing school staff and patrons.

Since the above amended permit conditions are not expected to result in any adverse environmental impact and water quality degradation, the permit is hereby modified as requested. By copy of this letter and the attached drawings, we are notifying all necessary parties of the modification.

This letter of approval does not alter the July 14, 2011 expiration date, Specific or General conditions (other than as described above), or monitoring requirements of the permit. This letter and accompanying drawings must be attached to the original permit.

This modification is hereby granted unless a timely petition for an administrative hearing is filed under Sections 120.569 and 120.57 of the Florida Statutes, before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

Mediation is not available.

A person whose substantial interests are affected by the Department's action may petition or an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a modification of the permit or even a denial of the application. If a sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this permit automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this permit until the deadlines noted below for filing a petition for an administrative hearing, or request for an extension of time have expired.

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

In the event that a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Any intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

In accordance with Rules 28-106.111(2) and 62-110.106(3)(a)(4), petitions for an administrative hearing by the applicant or any of the parties listed below must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3) of the Florida Statutes must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first.

Under Section 120.60(3) of the Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57 of the Florida Statutes.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

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

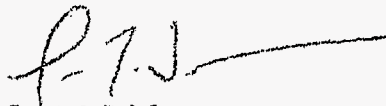
A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301. Under Sections 120.569(2)(c) and (d) of the Florida Statutes, a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

The action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

This permit constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68 of the Florida Statutes, by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department. The applicant, or any party

within the meaning of Section 373.114(1)(a) of the Florida Statutes, may also seek appellate review of this order Section 373.114(1) of the Florida Statutes. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the final order is filed with the Clerk of the Department.

Sincerely,



Jon M. Iglehart
Director of District Management

JMI/LAB/lb

cc: U.S. Army Corps of Engineers, Fort Myers

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to § Section 120.57,
Florida Statutes, with the designated agent,
Receipt of which is hereby acknowledged.

Marie Vidrine

Clerk

12-4-06

Date

SECTION: 14
TOWNSHIP: 44 South
RANGE: 24 East

0 100 200
SCALE FEET

Caloosahatchee River

Project Location

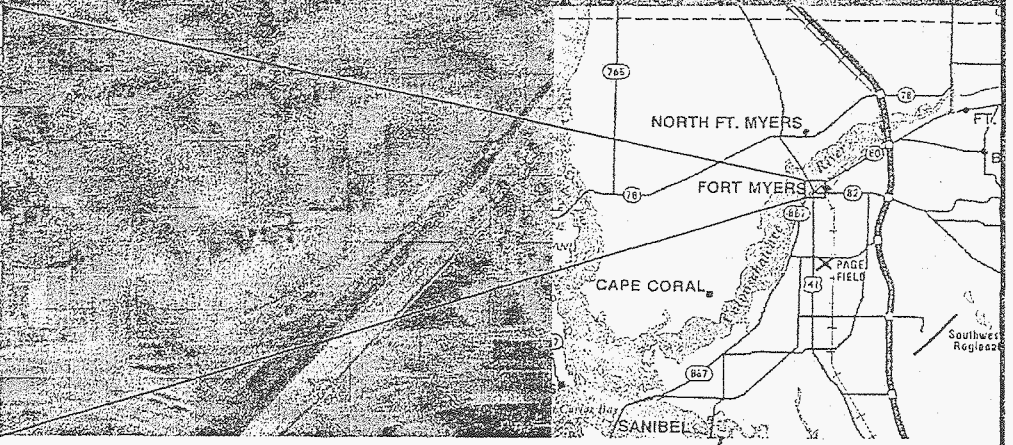
PERMIT #

36-102409-12-001

D.E.P.

Caloosahatchee Bridge (US 41)

West First Street



RECEIVED

MAR 25 2005

2002 Aerial

SCALE: 1" = 200'

Hans J.M. Wilson

HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
DATE: February 23, 2005 10:05:17 a.m.
Drawing: ESC1PLAN.DWG

D.E.P. - South District

PERMIT USE ONLY, NOT FOR CONSTRUCTION



HANS WILSON & ASSOC., INC.
1938 Hill Ave. Ft. Myers, Florida 33901
Tel: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

3/23/05

Edison Sail Center

SHEET
1/7

SECTION: 14
TOWNSHIP: 44 South
RANGE: 24 East

0 20 40
SCALE FEET

Caloosahatchee River



Existing Dock

Existing Wooden Dock to be Removed

Existing Rip Rap with Mangroves to be removed totalling 2840 square feet

Existing Dock Permit No. 36-0145231-001

Mean High Water Line

Edison Sail Center Land Lease*

PERMIT #

36-0240912-001

D.E.P.

Henley Place Right of Way

Property Line

Lease Line

*Part of Parcel Strap No. 14-44-24-P3-00007.0000

Approximate length of subject property shoreline is 145 in ft.

All depths reference NGVD.

Existing Conditions Plan

SCALE: 1" = 40'

HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
DATE: February 23, 2005 10:05:17 a.m.
Drawing: ESCIPLAN.DWG

PERMIT USE ONLY, NOT FOR CONSTRUCTION



HANS WILSON & ASSOC., INC.

1938 Hill Ave. Ft. Myers, Florida 33901
Tel: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

3/23/05

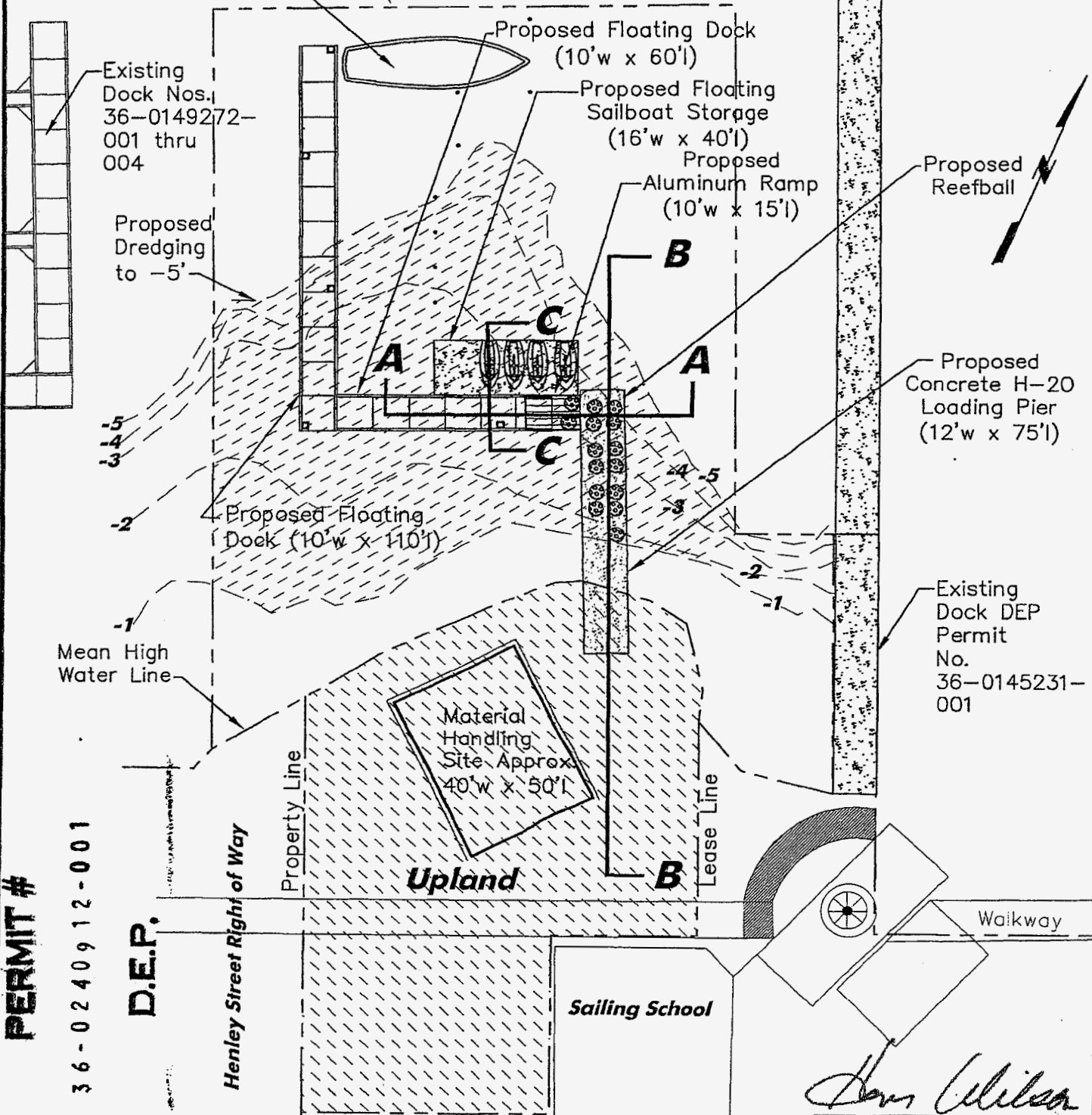
Edison Sail Center

SHEET

2/7

SECTION: 14
 TOWNSHIP: 44 South
 RANGE: 24 East

0 20 40
 SCALE FEET
 SCALE: 1" = 40'



PERMIT #
 36-0240912-001

D.E.P.

Henley Street Right of Way

Proposed Plan

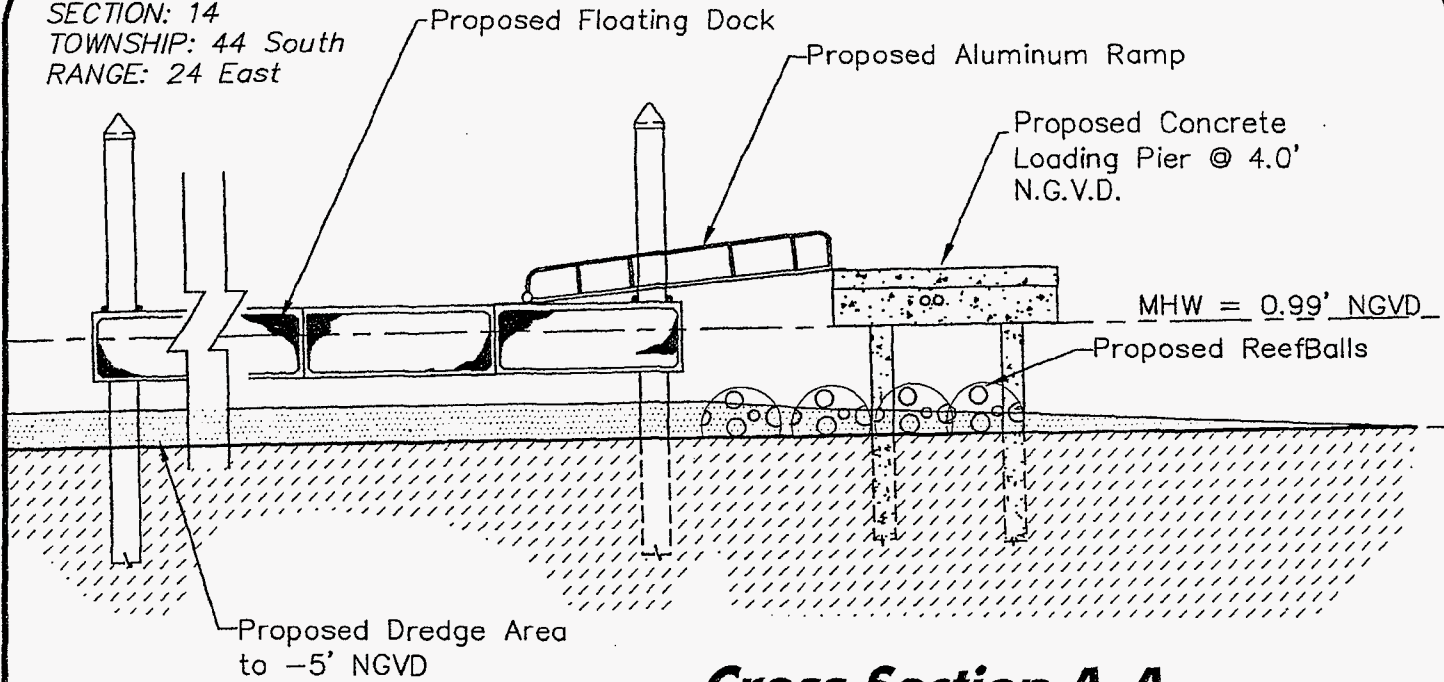
Hans Wilson
HANS J.M. WILSON
 REGISTERED PROFESSIONAL ENGINEER
 FLORIDA REGISTRATION NO. 39680
 DATE: February 23, 2005 10:05:17 a.m.
 Drawing: ESC1PLAN.DWG

All depths reference NGVD.
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HANS WILSON & ASSOC., INC.
 1938 Hill Ave. Ft. Myers, Florida 33901
 Tel: 239-334-6870 Fax: 239-334-7810
 MARINE and ENVIRONMENTAL CONSULTANTS

3/23/05 **Edison Sail Center** SHEET 3/7

SECTION: 14
 TOWNSHIP: 44 South
 RANGE: 24 East



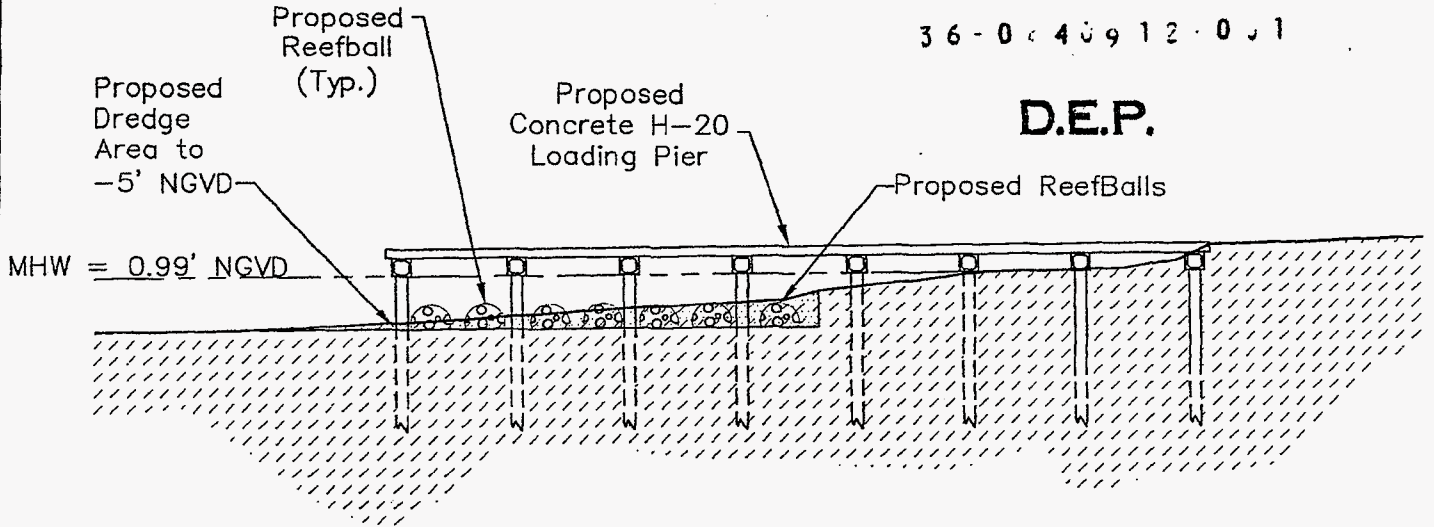
Cross Section A-A

SCALE: 1" = 10'

PERMIT #

36-0040912-0-1

D.E.P.



Cross Section B-B

SCALE: 1" = 20'

All depths reference NGVD.

Hans Wilson
HANS J.M. WILSON
 REGISTERED PROFESSIONAL ENGINEER
 FLORIDA REGISTRATION NO. 39680
 DATE: February 23, 2005 10:05:17 a.m.
 Drawing: ESCIPLAN.DWG

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HANS WILSON & ASSOC., INC.
 1938 Hill Ave. Ft. Myers, Florida 33901
 Tel: 239-334-6870 Fax: 239-334-7810
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3/23/05

Edison Sail Center

SHEET

4/7

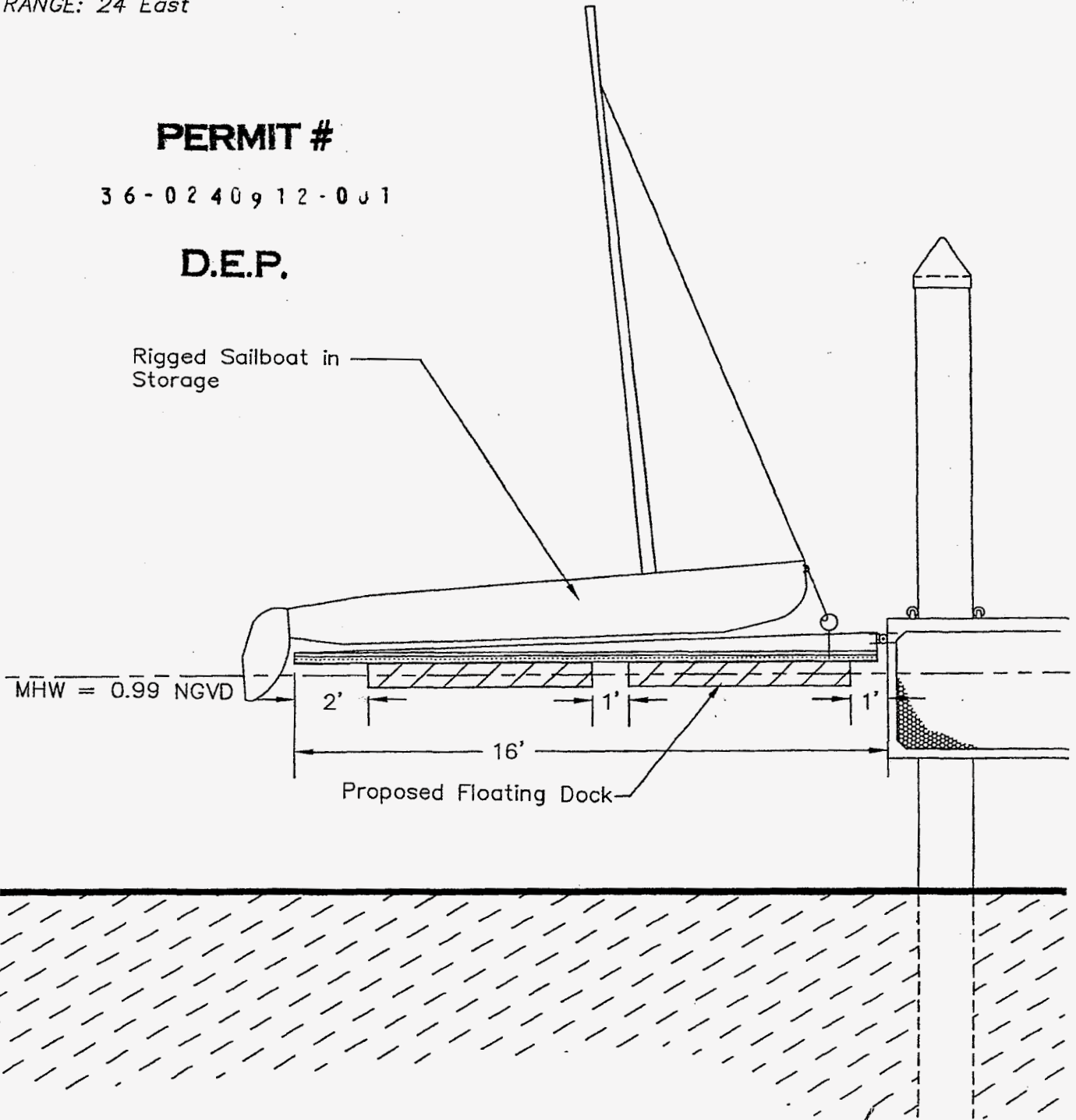
SECTION: 14
TOWNSHIP: 44 South
RANGE: 24 East

PERMIT #

36-0240912-001

D.E.P.

Rigged Sailboat in Storage



Cross Section C-C

SCALE: 1"=4'

Hans J.M. Wilson
HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
DATE: February 23, 2005 10:05:17 a.m.
Drawing: ESC1PLAN.DWG

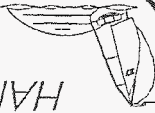
PERMIT USE ONLY, NOT FOR CONSTRUCTION

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MARINE and ENVIRONMENTAL CONSULTANTS

3/23/05

Edison Sail Center

SHEET
5/7



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 MARINE and ENVIRONMENTAL CONSULTANTS

3/23/05

Edison Sail Center

6/7

SHEET

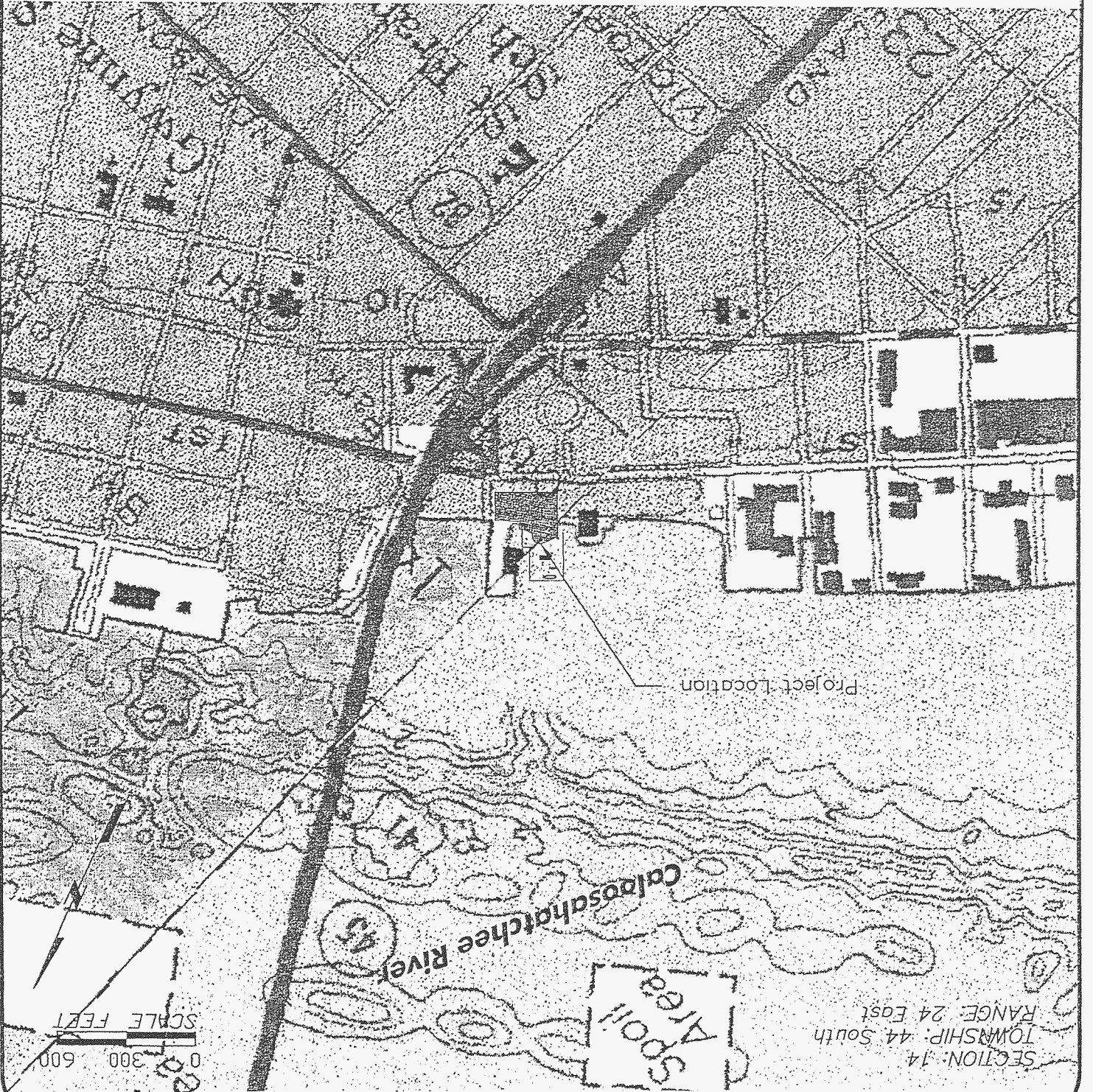
PERMIT USE ONLY. NOT FOR CONSTRUCTION

February 23, 2005 10:05:17 a.m.
 Drawing: ESCPLAN.DWG

36-044920.1

Quad Map
 SCALE: 1" = 600'

PERMIT #



SECTION: 14
 TOWNSHIP: 44 South
 RANGE: 24 East

SCALE FEET
 0 300 600

SECTION: 14
 TOWNSHIP: 44 South
 RANGE: 24 East

0 150 300
 SCALE FEET



FLUCFCS Code	Description
[186]	Community Recreational Facilities

Soil Code	Description
59	Urban Land
67	Smyrna-Urban Land Complex

FLUCFCS, Soils, and Adjacent Property Map

SCALE: 1" = 300'

PERMIT USE ONLY, NOT FOR CONSTRUCTION

February 23, 2005 10:05:17 a.m.
 Drawing: ESC1PLAN.DWG



HANS WILSON & ASSOC., INC.
 1938 Hill Ave. Ft. Myers, Florida 33901
 Tel: 239-334-6870 Fax: 239-334-7810
 MARINE and ENVIRONMENTAL CONSULTANTS

3/23/05

Edison Sail Center

SHEET

7/7



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

RECEIVED
NB DATE
MAY 22 2006

REPLY TO
ATTENTION OF

May 17, 2006

Regulatory Division
South Permits Branch
West Permits Section
SAJ-2004-12062(LP-MN)

Steve Olive, Director
Royal Palm Sailing Club, Inc.
3594 Broadway
Fort Myers, Florida 33901

Dear Mr. Olive:

This is in reference to your request for a Department of the Army (DA) permit to perform work in or affecting waters of the United States. If you determine that the permit provided is acceptable in its entirety and you have chosen to proceed with the authorized activity, then upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), you are authorized under a Letter of Permission

to reconfigure the existing facility by maintenance dredging 0.27 acres to -5' NGVD, constructing a load dock, construction two floating docks, removing 2,840 square feet of mangroves and rip-rap, and installing reef balls under the loading dock in the Caloosahatchee River,

At the Edison Sailing Center, in Section 14, Township 44 South, Range 24 East, Lee County, Florida..

The project must be completed in accordance with the attached plans and the general and special conditions which are incorporated in, and made a part of, the permit.

Special Conditions:

1. Submittals required herein shall be directed to:

Department of the Army
Jacksonville District Corps of Engineers
Regulatory Division, Enforcement Section
P.O. Box 4970
Jacksonville, Florida 32232-0019

2. Within 60 days of completion of the work authorized and any mitigation requirements, the attached "Self-Certification Statement of Compliance" shall be completed and submitted to the U.S. Army Corps of Engineers.

Permittee: Edison Sailing Center
Permit Number: SAJ-2004-12062 (LP-MN)

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

4. The permittee shall employ the attached Standard Manatee Conditions during the construction of this project.

5. The permittee shall notify the District Engineer's representative, at the Regulatory Division, Enforcement Section of:

- a. The date of commencement of work;
- b. The dates of work suspensions and resumption's if work is suspended over a week; and,
- c. The date of final completion.

If the work authorized is not completed on or before May 11, 2011, authorization, if not previously revoked or specifically extended, shall cease and be null and void.

Please be advised that you have certain options allowing you to appeal this permit decision which are outlined in the enclosed "Notification of Administrative Appeal Options and Process and Request for Appeal" form. It is very important that you read and understand the options provided. Acceptance of this authorization and commencement of the authorized activity indicates that you accept the permit in its entirety, and waive all rights to appeal the permit, or its terms and conditions. If you choose to appeal the permit modification you must follow the instructions provided for the appeal process as noted in Part B of the enclosed form. The completed form must be mailed to the following address:

Commander, South Atlantic Division
U.S. Army Corps of Engineers
ATTN: Appeals Review Officer
CESAD-CM-CO-R, Room 9M15
60 Forsyth St., SW.
Atlanta, Georgia 30303-8801

Permittee: Edison Sailing Center
Permit Number: SAJ-2004-12062 (LP-MN)

Should you have any questions regarding this letter, please contact Michael Nowicki in writing at the letterhead address, by email at: Michael.F.Nowicki@saj02.usace.army.mil, or by telephone at (904)232-2171.

The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit the following link and complete our automated Customer Service Survey: http://www.saj.usace.army.mil/permit/forms/customer_service.htm Your input is appreciated - favorable or otherwise.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Robert M. Carpenter
Colonel, U.S. Army
District Engineer

Enclosures

Copy Furnished:

✓ Chester Young, Project Manger
Hans Wilson and Associated, Inc.
1938 Hill Avenue
Fort Myers, Florida 33901

CESAJ-RD-PE (w/ enclosures)

REQUEST FOR PERMIT TRANSFER: PERMIT NUMBER:SAJ-2004-12062 (LP-MN)

When the structures or work verified by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, the present permittee and the transferee should sign and date below. This document must then be provided to the U.S. Army Corps of Engineers, Regulatory Division, Post Office Box 4970, Jacksonville, Florida 32232-0019.

(PRESENT PERMITTEE)

(DATE)

(TRANSFEREE)

(DATE)

(Name - Printed)

Lot/Block of site

(Street Address)

(City, State, and Zip Code)

Flood Plain Information:

This Department of the Army permit does not give absolute authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions. You should contact the local office in your area that issues building permits to determine if your site is located in a flood-prone or floodway area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program. If your local office cannot provide you the necessary information, you may request a flood hazard evaluation of the site by providing this office with a letter and a small scale map showing the location of the site. The request should be addressed to the Chief, Flood Control and Floodplain Management Branch, Jacksonville District, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232-0019. Phone inquiries may be made at 904-232-2515.

SAJRD
GENERAL PERMIT

GENERAL CONDITIONS
33 CFR PART 320-330
PUBLISHED FR DATED 13 NOVEMBER 1986

1. The time limit for completing the work authorized ends on the date noted in the permit letter. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow a representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

SELF-CERTIFICATION STATEMENT OF COMPLIANCE
Permit Number: SAJ-2004-12062 (LP-MFN)

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

Telephone Number: _____

Location of the Work: _____

Date Work Started: _____ Date Work Completed: _____

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

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

Describe Mitigation completed (if applicable): _____

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

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

Signature of Permittee

**SECTION II. STATEMENT OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Edison Sailing Center		File Number:SAJ-205-12062(LP-MN)	Date:
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://aisacc.army.mil/mef/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

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

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

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

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

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

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

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative

Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

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

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

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

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

POINT OF CONTACT FOR QUESTIONS OR INFORMATION

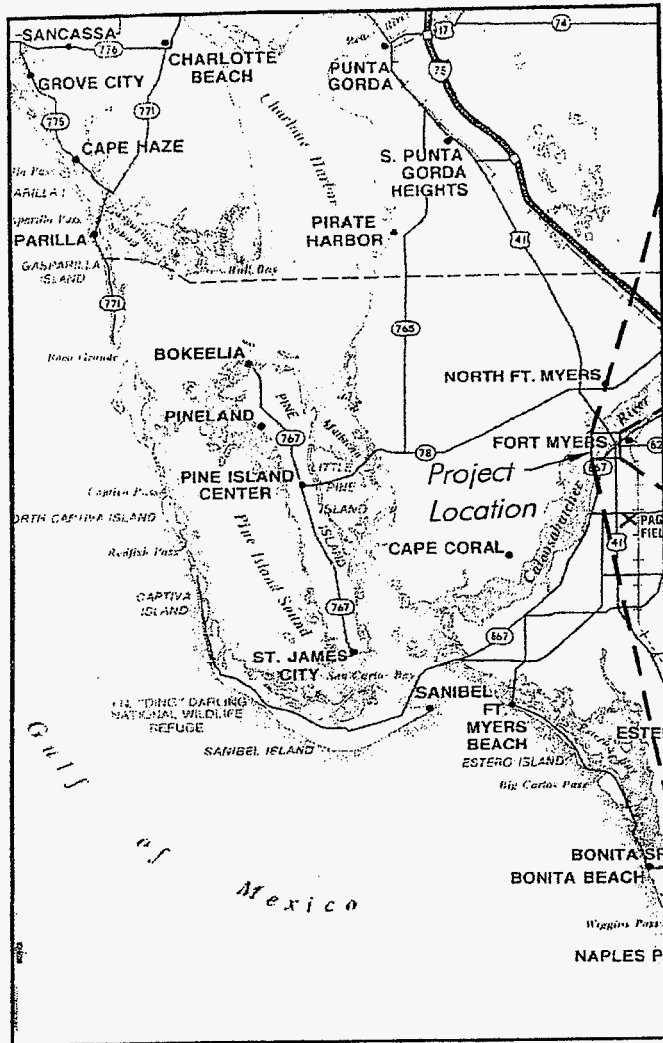
If you have questions regarding this decision and/or the appeal process you may contact:
Mike Nowicki
904-232-2171

If you only have questions regarding the appeal process you may also contact:
Michael Bell
404-562-5137

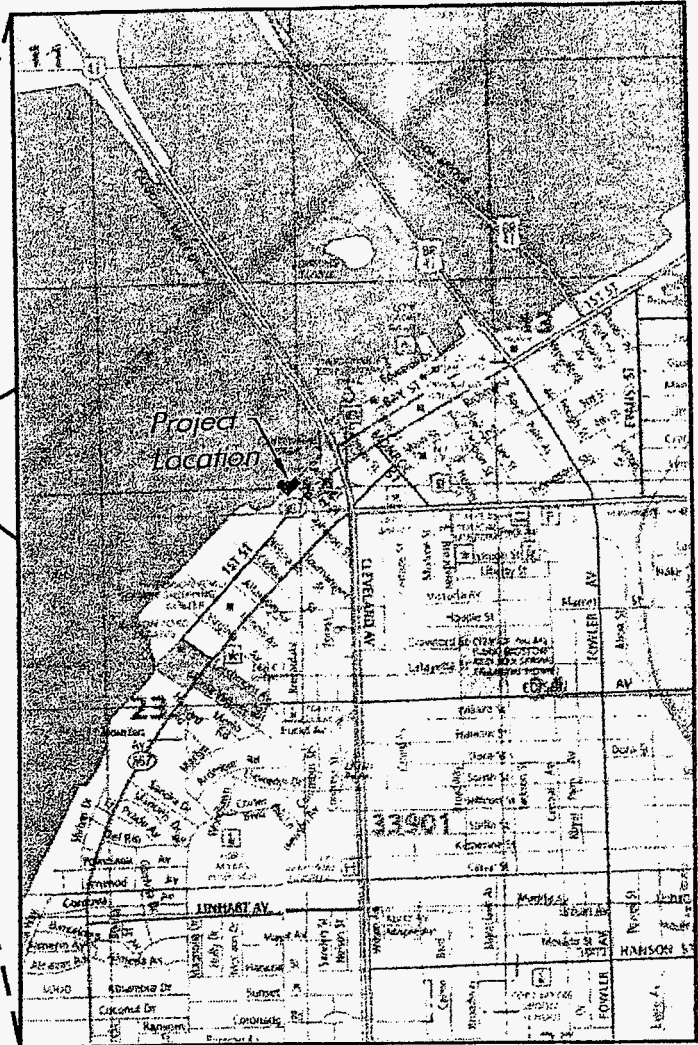
RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity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

_____	Date:	Telephone number:
Signature of appellant or agent.		

SECTION: 14
 TOWNSHIP: 44 South
 RANGE: 24 East
 LATITUDE: 81°52'28.8"W
 LONGITUDE: 26°38'31.5"N



Vicinity Map
 SCALE: 1" = 9 Miles



Location Map
 SCALE: 1" = 1/2 Mile

SAJ-2004-12062 (LOP-CDC)
 Edison Sail Center
 November 14, 2005
 Page 1 of 8

DATE: December 03, 2005 11:31:11 a.m.
 Drawing: ESC1PLAN.DWG (CY)

PERMIT USE ONLY, NOT FOR CONSTRUCTION



HANS WILSON & ASSOC., INC.
 1938 Hill Ave. Ft. Myers, Florida 33901
 Tel: 239-334-6870 Fax: 239-334-7810
 MARINE and ENVIRONMENTAL CONSULTANTS

11/14/05

Edison Sail Center SHEET 1/8



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 Edison Sail Center
 November 14, 2005
 Page 2 of 8

2005 Aerial

SCALE: 1" = 200'

HANS J.M. WILSON
 REGISTERED PROFESSIONAL ENGINEER
 FLORIDA REGISTRATION NO. 39680
 DATE: November 14, 2005 2:05:52 p.m.
 Drawing: ESC1PLAN.DWG (CC)

PERMIT USE ONLY, NOT FOR CONSTRUCTION

 **HANS WILSON & ASSOC., INC.**
 1938 Hill Ave. Ft. Myers, Florida 33901
 Tel: 239-334-6870 Fax: 239-334-7810
 MARINE and ENVIRONMENTAL CONSULTANTS

11/14/05

Edison Sail Center

SHEET
2/8

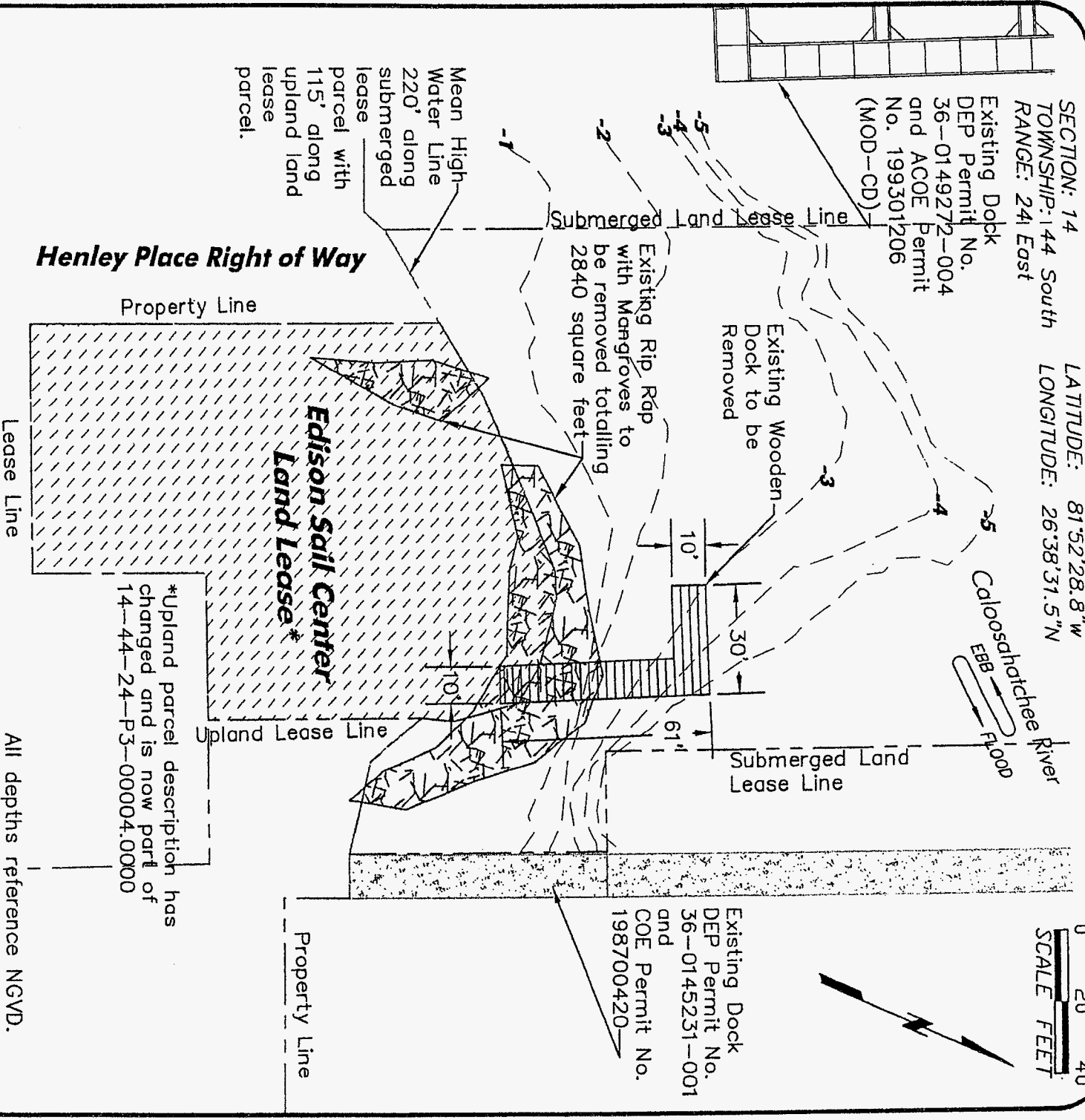
SECTION: 14
TOWNSHIP: 14 South
RANGE: 24 East

LATITUDE: 81°52'28.8"W
LONGITUDE: 26°38'31.5"N

0 20 40
SCALE FEET

Existing Dock
DEP Permit No.
36-0149272-004
and ACOE Permit
No. 199301206
(MOD-CD)

Existing Dock
DEP Permit No.
36-0145231-001
and
COE Permit No.
198700420



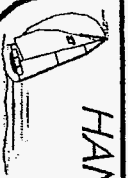
SAV 2004-12002 (LOP CD)
Edison Sail Center
November 14, 2005
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Existing Conditions Plan

SCALE: 1" = 40'

HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39690
DATE: December, 03, 2005, 11:31:13 a.m.
Drawing: ESCRPLAN.DWG (CY)

PERMIT USE ONLY, NOT FOR CONSTRUCTION



HANS WILSON & ASSOC., INC.
1938 Hill Ave. Ft. Myers, Florida 33901
Tel: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

11/14/05

Edison Sail Center

SHEET

3/8

EXHIBIT "D"

CIP FY05/06 - 09/10 CAPITAL IMPROVEMENT PROGRAM

PROJ #	PROJECT NAME	FUND SRC.	CURRENT BUDGET FY 04/05	CIP BUDGET FY 05/06	CIP BUDGET FY 06/07	CIP BUDGET FY 07/08	CIP BUDGET FY 08/09	CIP BUDGET FY 09/10	CIP BUDGET FY 05/06 - 09/10	CIP BUDGET YEARS 6-10
FUNDING SOURCE CODES: A=AD VALOREM; D=DEBT FINANCE; E=ENTERPRISE FUND; G=GRANT; GT=GAS TAX; I=IMPACT FEES; LA=LIBRARY AD VALOREM; S=SPECIAL; T=TDC; M=M										
COMP PLAN CODES: R=REQUIRED; NR=NOT REQUIRED; F=FURTHERS SPECIFIC OR GENERALIZED REQUIREMENT OF LEE PLAN; PRIORITY 1=HIGH THROUGH 6=LOW										
201715	Parks Automation	A	110,209	150,000	150,000	150,000	150,000	150,000	1,000,000	
201798	Phillips Park	I-5,25	693,529	162,000	65,000	65,000	67,000	69,000	428,000	350,000
201799	Pool Restroom Floor Lining	A	10,000	0	0	0	0	0	0	0
	Pool Slides - County Wide	A	0	0	80,000	0	0	0	80,000	0
	Pool Water Feature Playground	A	0	0	30,000	30,000	30,000	0	0	0
202010	Red Sox Improvements	T, A	1,004,842	0	0	0	0	0	0	0
202020	Regional Pooling Center	I-R	25,000	50,000	42,350	0	0	0	0	0
201834	Replacement Parking Machines, County Wide	A	51,779	50,000	50,000	50,000	50,000	50,000	250,000	250,000
202021	Rivendale Modular Building & Pump Station	A	0	0	300,000	0	0	0	300,000	0
202021	Royal Palm Sailing Center	I-R	25,000	0	135,000	0	0	0	135,000	0
202035	San Carlos / Buncie Beach Preserve	A, I-R	1,400,000	0	0	0	0	0	0	0
201638	Sanibel/Captiva Park Improvement	I-6	106,704	4,000	3,000	2,000	3,000	3,000	15,000	15,000
201758	Schandler Hall Park Improvements/Land Acquisition	A, I-1,21	1,668,801	221,000	241,000	22,000	22,000	22,000	305,000	0
202002	Schandler Hall Water Feature	A	80,000	0	0	0	0	0	0	0
201834	Six Mile Cypress Slough Interpretive Facility	I-R	1,084,283	0	0	0	0	0	0	0
201873	South Fort Myers Community Park	I-4,24,A,S	5,978,449	2,055,000	1,370,000	1,395,000	1,425,000	1,155,000	7,400,000	6,000,000
202022	Sports Complex - Dugout Restrooms	A	30,000	30,000	30,000	30,000	30,000	30,000	150,000	0
201781	Sports Complex - Grandstand Seating Replacement	A	0	0	1,000,000	0	0	0	1,000,000	0
202051	Sports Complex - Replacement Support Beams	A	0	400,000	0	0	0	0	400,000	0
202012	Sports Complex - Weight Room/Offices	A, S	785,012	0	0	0	0	0	0	0
202043	Stadiums Building Access Readers	A	0	60,000	60,000	60,000	0	0	180,000	0
202001	TerraViva Lincoln Regional Park	I-R	1,424,265	1,651,000	1,838,000	393,000	0	0	3,972,000	0
202052	TerraViva Regional Park	A	0	80,000	0	0	0	0	80,000	0
			572,965	0	0	0	0	0	0	0

EXHIBIT "E"

The Center shall provide the following insurance to the County for this Project:

A. Evidence (via a properly completed, personally signed Certificate of Insurance) of commercial general liability insurance with minimum limits of liability of One Million Dollars (\$1,000,000) combined single limit of bodily injury and property damage. Said policy shall include the Lee County Board of County Commissioners as an additional insured.

B. All Certificates of Insurance shall be properly completed and personally signed and shall show the Lee County Board of County Commissioners as certificate holder. They shall be mailed to the attention of the Risk Management Department, Post Office Box 398, Fort Myers, FL 33902-0398, and shall indicate that a minimum of thirty (30) days notice shall be given for cancellation, material change, or non-renewal.