

1 2/17/15 ④

DOCUMENT ROUTING FORM

NAME OF DOCUMENT:

Dune Management Agreement

Approved Comm. Mtg. on: 2/17/15 CAM #: 15-0184 ITEM #: CR-8

Routing Origin: ☒ CAO Also attached: ☒ copy of CAM ☒ Original Document

1) **City Attorney's Office:** Approved as to Form / # One Original Delivered to City Manager on February 18, 2015.

Lynn Solomon

CIP FUNDED ☐ YES ☐ NO

Capital Investment / Community Improvement Projects

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, real.

2) **City Manager:** Please sign as indicated and forward One original to Mayor.

3) **Mayor:** Please sign as indicated and forward One original to Clerk for attestation and City seal.

INSTRUCTIONS TO CLERK'S OFFICE

4) **City Clerk:** Please return original document to Laura Comer, CAO, for recording.

☒ Original Route form to Laura Comer, CAO, Extension 5036

2015 MAR -2 PM 3:40

CITY CLERK

2/17

Prepared by and return to:

CITY CLERK

2015 MAR -2 PM 3:40

INSTR # 112827877
Recorded 02/24/15 11:43:40 AM
Broward County Commission
Deputy Clerk 5015
#1, 27 Pages

Nectaria M. Chakas, Esq.
Lochrie & Chakas, P.A.
1401 E. Broward Boulevard, Suite 303
Ft. Lauderdale, FL 33301

SPACE ABOVE RESERVED FOR RECORDING PURPOSES

DUNE MANAGEMENT AGREEMENT

THIS DUNE MANAGEMENT AGREEMENT ("Agreement") is entered into this 17th day of February, 2015, by and between the CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida, having a principal address of 100 N. Andrews Avenue, Ft. Lauderdale, FL 33301 ("City") and BELMAR DEVELOPMENT ASSOCIATES, LLC, a Florida limited liability company, having a principal address of 1645 Palm Beach Lakes Boulevard, Suite 1200, West Palm Beach, Florida 33401 ("Developer").

WITNESSETH

WHEREAS, Developer is the fee simple owner of real property located on the west side of State Road A1A between Vistamar Street and Belmar Street and more particularly described on **EXHIBIT A** attached hereto and made a part hereof ("Property"); and

WHEREAS, City holds in trust for the benefit of the public the sandy beach area located on the east side of State Road A1A across the street from the Property (the "Beach"); and

WHEREAS, Developer received site plan approval to construct a multifamily development on Property known as Paramount Condominium (the "Project"); and

WHEREAS, in order to construct the Project in accordance with the development plan approved by the City, the Developer must excavate and remove sand from the Property; and

WHEREAS, Developer wishes to place the excavated sand on the Beach in the general location depicted on **EXHIBIT B** attached hereto and made a part hereof, and create a dune habitat ("Dune Habitat") thereon; and

WHEREAS, City has determined that the creation of the Dune Habitat will benefit the Beach by mitigating negative environmental effects, including without limitation, beach erosion; and

WHEREAS, Developer desires to obtain and City desires to grant Developer permission ("License") to install and maintain the Dune Habitat.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The above recitals are true, complete and correct and are hereby incorporated herein by this reference.

2. **Grant of Licenses.** City hereby grants to Developer an exclusive License for the purposes of installing, constructing and maintaining the Dune Habitat on the Beach, together with the non-exclusive right of ingress and egress to the Dune Habitat. Notwithstanding the foregoing, the Developer shall insure that the Dune Habitat shall not obstruct or interfere with the public access to the Beach.

3. **Term.** This Agreement shall be enforceable according to its terms so long as the Dune Habitat is in existence.

4. **Installation and Maintenance of the Dune Habitat.**

(a) **Installation.**

(i) The Developer shall install the dune habitat in accordance with the plans and specifications approved by the Florida Department of Environmental Protection Permit pursuant to Paramount Coastal Construction Permit No. BO-698 attached hereto as **EXHIBIT C** and made a part hereof ("FDEP CCCL Permit"), and in accordance with the maintenance plan delineated in **EXHIBIT D** attached hereto and made a part hereof ("Installation and Maintenance Plan").

(ii) The Developer shall obtain all applicable permits and approvals for the installation of the Dune Habitat and install same concurrently with the construction of the Project. Developer agrees to complete installation of the Dune Habitat on or before the issuance of a Certificate of Occupancy for the Project.

(ii) Developer shall be responsible for all costs and fees associated with the planning, permitting and installation of the Dune Habitat.

(b) **Maintenance of Dune Habitat.** So long as the Dune Habitat is in existence, the Developer shall, at its own cost and expense, cause the Dune Habitat to be maintained as permitted by the Florida Department of Environmental Protection and in accordance with the Installation and Maintenance Plan; provided however, in the event, the Dune Habitat is damaged or destroyed through acts of God or due to circumstances beyond the Developer's control, Developer shall not be obligated to repair and/or re-install the Dune Habitat unless directed by the Florida Department of Environmental Protection. The parties acknowledge that the Dune Habitat is intended to thrive in its natural state without the disturbance of maintenance and restoration typically associated with traditional landscaping improvements.

(c) **Damage to public improvements.** The Developer, and its successors or assigns, shall be obligated to repair any damage to the public improvements arising from the installation, maintenance or existence of the Dune Habitat, including the Wave Wall, immediately adjacent to the Dune Habitat.

5. **Insurance.** At all times during the term of this Agreement, the Developer, at its expense, shall keep or cause to be kept in effect the following, to the extent available:

(a) In the event Developer has employees who perform maintenance and repairs of the Dune Habitat, then Developer shall maintain Workers' Compensation Insurance in its own name.

(b) A Commercial General Liability Insurance Policy, in standard form, insuring Developer and the City as an additional insured, against any and all liability for bodily injury or property damage in the amount of not less than One Million Dollars (\$1,000,000.00) in respect to injuries or death attributable to any one occurrence and at least Two Million Dollar/s (\$2,000,000.00) in the

aggregate. This policy shall not be affected by any other insurance carried by City. The minimum limits of coverage may be reviewed by City no sooner than every five (5) years and adjusted based on what is generally required by City in other similar Agreements approved at or near the time of such review.

(c) With the exception of Workers' Compensation coverage, all insurance to be obtained by Developer pursuant to this Agreement shall name the Developer as insured and City as an additional insured as their respective interests may appear. All such policies of insurance shall also provide for the adjustment of claims under such policies by Developer.

(d) Subject to the requirements of Developer's lender(s), any and all net insurance proceeds received by or on account of Developer, as the case may be, shall be deposited by Developer in an interest bearing account for the benefit of Developer and City, and said funds shall be used for the purpose of reconstruction or repair, as the case may be, of any of the Dune Habitat so damaged or destroyed. Such reconstruction and repair work shall be done in strict conformity with all applicable building and zoning codes and regulations or standards promulgated by any governmental agency having jurisdiction over the Dune Habitat. Should the cost of reconstruction or repair exceed the amount of funds available from the proceeds of such insurance policy, then, and in such event, such funds shall be used as far as the same will permit in paying the cost of said reconstruction or repair, and any difference shall be paid by Developer, other than for City utilities, infrastructure, facilities and other City improvements unless damaged by Developer. Notwithstanding the foregoing, in the event the Dune Habitat is damaged or destroyed through acts of God or due to circumstances beyond the Developer's control, Developer shall not be obligated to repair, reconstruct and/or re-install the Dune Habitat unless directed to do so by the Florida Department of Environmental Protection.

(e) Developer shall deliver to City's Risk Manager and Director of Public Works duplicate copies of all insurance policies required by this Agreement and proof of full payment of the premiums therefor within thirty (30) days after the Effective Date hereof. From time to time, Developer shall procure and pay for renewals of insurance required herein before it expires. Developer shall deliver to City evidence of insurance coverage at least twenty (20) days before the existing policy expires. All of the policies of insurance provided for in this Agreement:

(i) shall be in the form and substance approved by the Insurance Department of the State of Florida ("DOI");

(ii) shall only be issued by admitted and non-admitted companies regularly writing business in the State of Florida;

(iii) shall be with a carrier having an A Best's Rating of not less than A, Class VII;

(iv) shall bear endorsements showing the receipt by the respective companies of the premiums thereon or shall be accompanied by other evidence of payment of such premiums to the insurance companies, including evidence of current annual payment, if on any installment payment basis, and

(v) shall provide (i) that they may not be canceled by the insurer for thirty (30) days after service of notice of the proposed cancellation upon City and shall not be invalidated as to the interest of City by any act, omission or neglect of Developer, and (ii) a waiver of subrogation as to Developer's claims against City.

All insurance policies shall be renewed by Developer and certificates evidencing such renewals, bearing endorsements or accompanied by other evidence of the receipt by the respective insurance companies of the premiums thereon, shall be delivered to City, at least twenty (20) days prior to their respective expiration dates.

(f) If Developer fails to obtain and maintain insurance as provided in this Agreement and such failure shall continue for a period of thirty (30) days after written notice by City to the Developer, City may, but shall not be obligated to, effect and maintain any such insurance coverage and pay premiums therefore, with the ultimate cost and expense thereof to be the responsibility of Developer.

(g) The obligation of collection upon the insurance policies furnished and provided for by Developer, or obtained by City by reason of the failure of Developer to obtain them, shall be upon Developer, but City will cooperate in such collection (but without expense to City) in such reasonable degree as may be requested by Developer.

6. **Indemnity.** The Developer, its successors and/or assigns, shall protect, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, reasonable and necessary costs, charges and other expenses, including reasonable attorneys' fees and liabilities of every kind, nature or degree resulting from or arising out of the installation of the Dune Habitat or of the failure of the Developer to maintain and repair the Dune Habitat pursuant to the terms of this Agreement and the Installation and Maintenance Plan except for any occurrence arising out of or resulting from the intentional conduct or negligence of the City, its officers, agents and employees. Without limiting the foregoing, any and all such claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction, rehabilitation or restoration of the Dune Habitat pursuant to the terms of this Agreement, or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity. The Developer further agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and agrees to bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the City, Developer shall assume and defend not only itself but also the City in connection with any claims, suits or causes of action, and any such defense shall be at no cost or expense whatsoever to City, provided that City shall retain the right to select counsel of its own choosing, subject to the Developer's approval which shall not be unreasonably withheld, conditioned or delayed. This Indemnity is not limited by the insurance coverage required herein and shall survive termination of this Agreement for events which occur during the term of this Agreement.

7. **Remedies of the City.**

(a) In the event the Developer fails to commence to maintain, make repairs, demolish or take such actions required by this Agreement and such default(s) shall continue for a period of thirty (30) days after written notice to Developer by City, and the City does not terminate this Agreement, it is declared that City has the option and right to take such action which was required to be taken by the Developer at Developer's sole cost and expense. Developer shall then be liable for payment to the City for all reasonable and necessary costs and expenses incurred by City in connection with the performance of the action or actions plus a surcharge of five percent (5%) for amounts up to One Thousand Dollars (\$1,000) and ten percent (10%) for amounts over One Thousand Dollars (\$1,000) and Developer shall reimburse City within sixty (60) days following written demand therefor. Interest shall accrue on the unpaid amount at the rate of twelve (12.0%) percent per annum, compounded monthly, but in no event shall interest exceed the highest amount allowed by Florida law. The City's demand for such payment shall include reasonable

documentation supporting the expenses incurred by City. If a dispute arises as to the need for, or amount due to the City for repairs or maintenance undertaken by the City in accordance with this Agreement, and such dispute is not resolved within forty-five (45) days after the date that the City makes the original written demand for payment, the Developer shall pay to City the undisputed amount (if any) and shall provide the City with a bond or other security reasonably acceptable to the City for the disputed amount pending a resolution of the dispute by negotiation or litigation.

(b) If Developer does not make the payments required above within the sixty (60) day period set forth therein, then the City shall have a right to record a Claim of Lien upon the Property, which Claim of Lien may be for all reasonable and necessary costs and expenses of any cure undertaken by the City in accordance with this section, the cost of any interim insurance policy as provided herein, and reasonable attorneys' fees and costs associated therewith. The Claim of Lien shall be effective upon the recording of a Claim of Lien in the Public Records of Broward County, Florida, which Claim of Lien shall state all amounts due and owing to the City. The Claim of Lien may be foreclosed by City in the same manner as provided by law for foreclosure of mortgage liens. The Claim of Lien shall continue until payment to the City of the amounts set forth in the Claim of Lien (at which time the City shall record a satisfaction of such lien). In addition to the Claim of Lien, the City shall have all other rights and remedies granted to it at law or in equity for Developer's failure to reimburse the City. Developer shall be entitled to pursue all legal and equitable remedies to contest the amount or existence of any such lien. In the event that the Property is submitted to a condominium form of ownership, then any Claim of Lien recorded against the condominium shall be subordinate to any mortgages/financing obtained for any portion of the condominium whether the mortgage/financing is obtained before or after the Claim of Lien is recorded. Each condominium unit owner may relieve his or her condominium parcel of the lien by payment of the proportionate share amount attributable to his or her condominium parcel. Upon payment, the City shall release the lien of record for that condominium parcel.

(c) In the event that the City has provided the notice, but the Developer has failed to cure or to commence and diligently pursue cure of the default(s), and the City cures such default(s), makes such repairs or undertakes such protection or maintenance or take other actions described herein, and the Developer fails to make payment in accordance with Section 7(a) the Developer shall be in default under this Agreement. Such a default shall not arise where Developer has paid the undisputed amount and secured any disputed amount, or where the Developer pays the costs of cure as set forth in Section 7(a) above prior to a judicial determination of a default. Upon judicial determination of such a default the City shall be entitled to a judgment of specific performance of this Agreement and the City shall have the right to exercise the options provided here.

8. **Assignment.** Developer may sell, transfer or assign this Agreement without the prior written consent of City to a duly constituted and organized condominium Association in accordance with Florida condominium laws, which such transfer or assignment shall be given in a recordable form and shall be recorded by Developer provided the association signs a consent agreement agreeing to be bound by the terms of this Agreement. The condominium association shall assume all obligations arising under this Agreement, and, thereafter, Developer shall be fully released and relieved from all liability and obligation hereunder. Other than as described in this paragraph, Developer may not sell, transfer or assign this Agreement without the prior written consent of City.

9. **Amendment.** This Agreement may not be modified or amended except by a written instrument executed by City and Developer, or its assignee.

10. **Time is of the Essence.** Time is of the essence in the performance of this Agreement. Subject to

the consent of the City Manager and the approval of the City Attorney, the City agrees to cooperate with Developer and to provide reasonable documents requested by Developer, in order to secure the necessary governmental permits and approvals for the installation of the Dune Habitat. Nothing herein shall be construed as a waiver of the City's discretionary police power or of the Developer's obligation to comply with all laws, rules, ordinances and regulations related to installation of the Dune Habitat or construction of the project.

11. Choice of Laws; Venue; Attorneys' Fees. This Agreement shall be governed by the laws of the State of Florida. In the event of litigation between the parties, venue for any such litigation shall be in Broward County, Florida. In any proceeding to enforce this Agreement or any part of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs at both the trial and appellate levels.

12. Compliance with Governing Laws. The parties shall comply with all applicable laws, ordinances, and codes of the United States of America, the State of Florida and all local governments having jurisdiction, in carrying out the rights and responsibilities provided in this Agreement.

13. Notices. Whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, or either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to any matter set forth in this Agreement, each such notice, demand, request or other communication shall be in writing and any law or statute to the contrary notwithstanding shall not be effective for any purpose unless the same shall be given by mailing the same by Federal Express or similar delivery method, registered or certified mail, postage prepaid, return receipt requested, addressed to the party at the address set forth below, or at such other address or addresses and to such other person or firm as City may from time to time designate by notice as herein provided. Such written notice shall be addressed as follows, unless either party provides written notice to the other to direct notices other than as set forth herein:

If to City: City Manager
 City of Fort Lauderdale
 100 N. Andrews Avenue, 7th Floor
 Ft. Lauderdale, FL 33301

With a copy to: City Attorney
 City of Fort Lauderdale
 100 North Andrews Avenue
 Fort Lauderdale, FL 33301

Developer: Belmar Development Associates, LLC
 1645 Palm Beach Lakes Boulevard, Suite 1200
 West Palm Beach, FL 33401

14. Successors. This Agreement shall be binding on and inure to the benefit of the parties, their successors and assigns.

15. Recording. This Agreement shall be recorded in the Public Records of Broward County, Florida at Developer's expense and shall constitute a covenant running with the land.

16. City Commission action. The City Commission through its action of February 17, 2015 has delegated the execution of this Agreement to the City Manager.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Signed, Sealed and Delivered in the Presence of:

CITY OF FORT LAUDERDALE, a Florida municipal corporation

By: Wendy S. Gonyea
Name: WENDY S. GONYEA

By: Robert B. Soucek
Name: ROBERT B. SOUCEK

By: Lee R. Feldman
Lee R. Feldman, City Manager

ATTEST:

Jonda K. Joseph
Jonda Joseph, City Clerk

APPROVED AS TO FORM:

Robert B. Soucek
Asst. City Attorney: ROBERT B. SOUCEK

STATE OF FLORIDA)
)SS:
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 17th day of February, 2015, by LEE R. FELDMAN, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida, who is personally known to me or [] has produced _____ as identification.

SEAL

Wendy S. Gonyea
Notary Public
WENDY S. GONYEA

Typed, printed or stamped name of Notary Public
My Commission Expires:



WENDY S. GONYEA
MY COMMISSION # FF 093420
EXPIRES: March 29, 2018
Bonded Thru Budget Notary Services

WITNESSES:

By: Robert Richico
Name: ROBERT RICHICO

By: Peggy Pacheco
Name: PEGGY PACHECO

DEVELOPER:

BELMAR DEVELOPMENT ASSOCIATES, LLC,
a Florida limited liability company

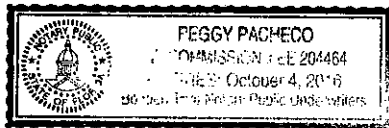
By: Encore Housing Opportunity Fund II General
Partner, LLC, a Delaware limited liability company,
its managing member

By: Daniel Kodsi
Print Name: Daniel Kodsi
Title: Authorized Signer

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 13 day of February, 2015, by Daniel Kodsi, as Authorized Signer of Encore Housing Opportunity Fund II General Partner, LLC, a Delaware limited liability company, as manager of Belmar Development Associates, LLC, a Florida limited liability company. He/She is personally known to me or has produced as identification.



Peggy Pacheco
Notary Public

Peggy Pacheco
Typed, printed or stamped name of Notary Public
My Commission Expires:

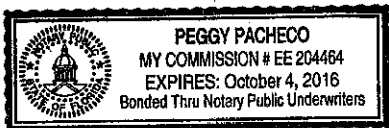


EXHIBIT A - Property

EXHIBIT B - Dune Habitat

EXHIBIT C - FDEP CCCL Permit

EXHIBIT D - Installation and Maintenance Plan

EXHIBIT A
Property

(See attached Sketch and Legal Description)

EXHIBIT "A"

LEGAL DESCRIPTION:

All of Block G, BIRCH OCEAN FRONT SUBDIVISION NO. 2, according to the plat thereof, as recorded in Plat Book 21 at Page 22 of the Public Records of Broward County, Florida.

SURVEYOR'S NOTES:

- This site lies in Section 6, Township 50 South, Range 43 East, City of Fort Lauderdale, Broward County, Florida.
- Bearings hereon are referred to an assumed value of S 88°57'35" W for the South right of way line of Vistamar Street.
- Lands shown hereon were not abstracted for easements and/or rights-of-way of records.
- Lands shown hereon containing 85,860 square feet, or 1.971 acres, more or less.
- This is not a "Boundary Survey" but only a graphic depiction of the description shown hereon.
- Dimensions shown hereon are based on Fortin, Leavy, Skiles, sketch #2003-196-2.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on February 3, 2015, and meets the applicable codes as set forth in the Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper

FORTIN, LEAVY, SKILES, INC., LB3653

By: _____
Daniel C. Fortin, For The Firm
Surveyor and Mapper, LS2853
State of Florida.

Drawn By MAP	LEGAL DESCRIPTION, NOTES & CERTIFICATION	Date 2/3/15
Cad. No. 150110	FORTIN, LEAVY, SKILES, INC. CONSULTING ENGINEERS, SURVEYORS & MAPPERS FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653 180 Northeast 168th Street / North Miami Beach, Florida, 33162 Phone: 305-653-4493 / Fax 305-651-7152 / Email fs@fslsurvey.com	Scale NOT TO SCALE
Ref. Dwg. 2003-196-2		Job. No. 150110
		Dwg. No. 1015-009
Plotted: 2/3/15 1:33p		Sheet 1 of 3

EXHIBIT "A"

BLOCK 10

VISTAMAR STREET
(PUBLIC RIGHT OF WAY)

BLOCK G
BIRCH OCEAN FRONT SUBDIVISION NO. 2
PLAT BOOK 21 PAGE 22

BELMAR STREET
(PUBLIC RIGHT OF WAY)

BLOCK F

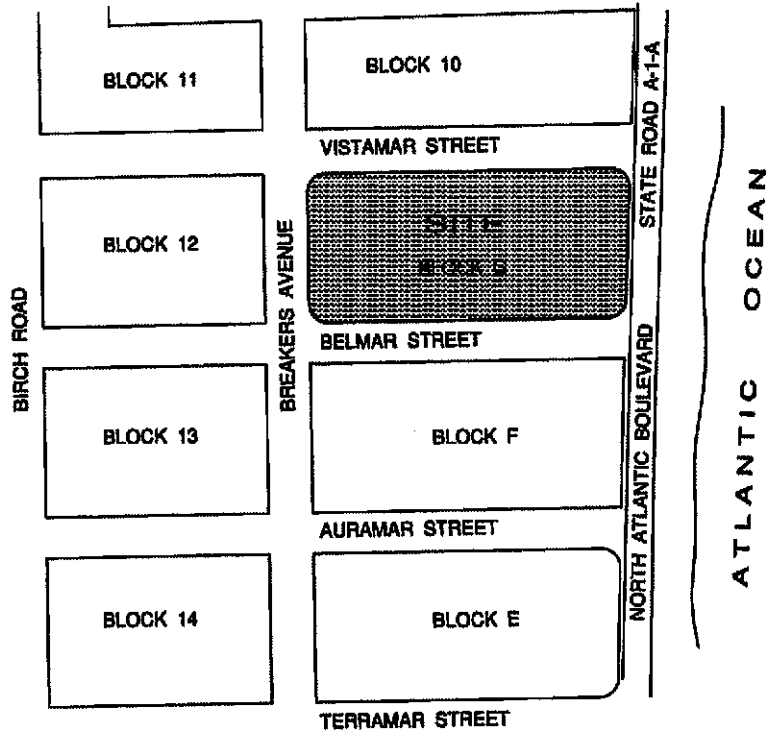
FORTIN, LEAVY, SKILES, INC.
DRAWING #2003-196-2

GRAPHIC SCALE

0 40 80 160
(IN FEET)
1 inch = 80 ft.

NORTH

EXHIBIT "A"



Drawn By	MAP
Cad. No.	150110
Ref. Dwg.	2003-196-2
Plotted:	2/3/15 1:33p

LOCATION SKETCH

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003633
180 Northeast 168th Street / North Miami Beach, Florida. 33162
Phone: 305-653-4493 / Fax 305-651-7152 / Email fls@fls survey.com

Date	2/3/15
Scale	NOT TO SCALE
Job. No.	150110
Dwg. No.	1015-009
Sheet	3 of 3

EXHIBIT B
Dune Habitat
 (graphic depiction of boundaries)

EXHIBIT B

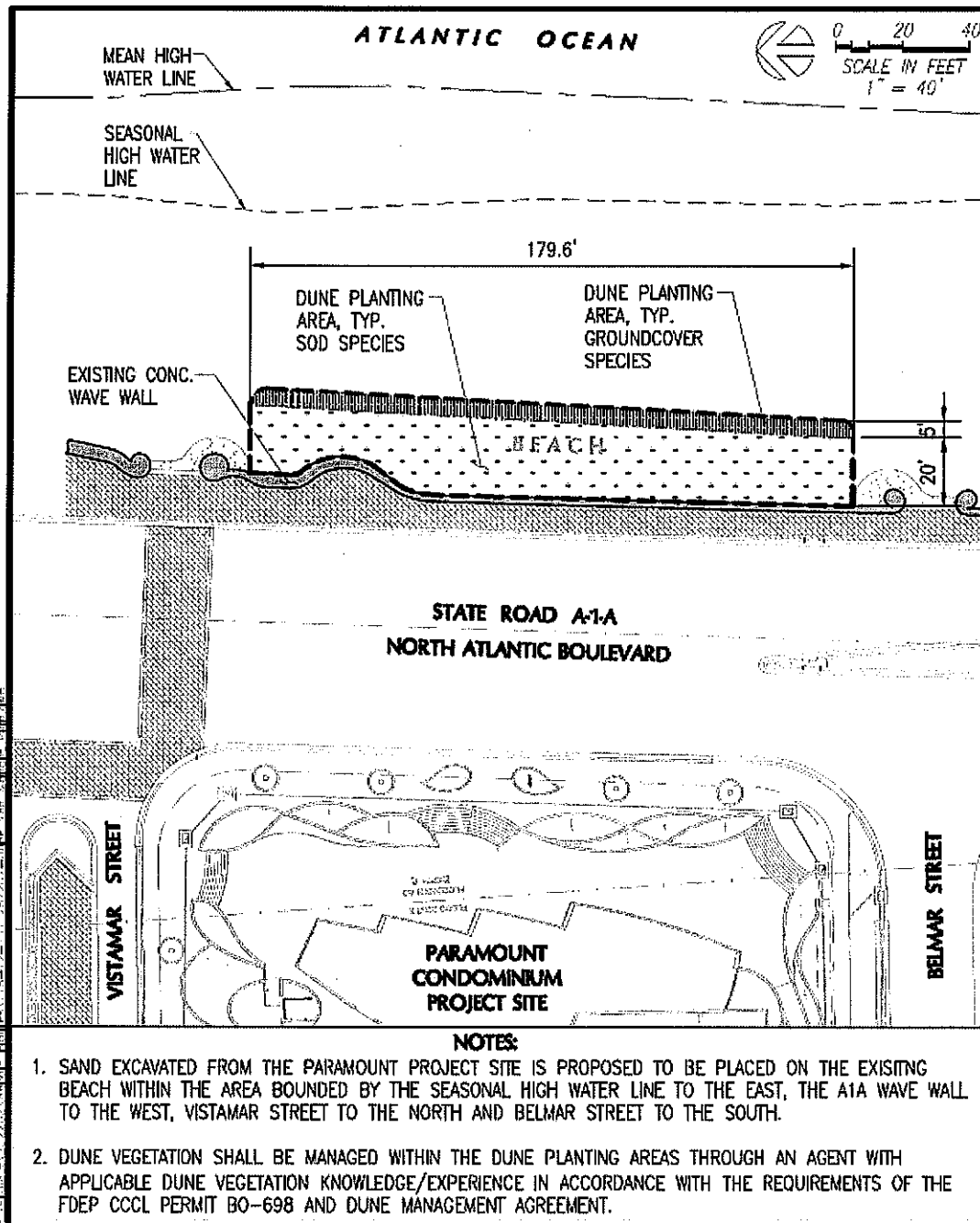


EXHIBIT C
FDEP CCCL Permit No. BO-698



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**
BOB MARTINEZ CENTER
2800 BLAIRSTONE ROAD, Mail Station 3522
TALLAHASSEE, FLORIDA 32309-2400

RICK SCOTT
GOVERNOR

CARLOS LOPEZ-CANTERA
LT. GOVERNOR

CLIFFORD D. WILSON III
INTERIM SECRETARY

December 22, 2014

Belmar Development Associates, LLC
c/o Nicholas J. Zwemer, E.I.T.
Environmental/Permitting Project Manager
Coastal Systems International, Inc.
464 South Dixie Highway
Coral Gables, Florida 33146

Dear Mr. Zwemer:

Notice to Proceed Issued
Permit Number: BO-698
Permittee Name: Belmar Development Associates, LLC

Your request for a permit pursuant to Section 161.053, Florida Statutes, for construction or other activities seaward of the coastal construction control line, has been approved by the Department of Environmental Protection, enclosed is the permit. However, construction may not commence until after the permittee complies with any preconstruction requirements described in Special Permit Condition 1.

Please read the permit and permit conditions including both the General Permit Conditions and any Special Permit Conditions closely before starting construction. General Permit Conditions 1(q), 1(r), and 1(s) pertain to written reports which must be submitted to the Department of Environmental Protection at specified times. The forms for the reports: 1(q) Periodic Progress Report (DEP Form 73-111), 1(r) Foundation Location Certification (DEP Form 73-114B), and 1(s) Final Certification (DEP Form 73-115B) are available by clicking on the following link <http://www.dep.state.fl.us/beaches/forms.htm#CCCL>. Each form may be submitted electronically. The periodic reports are due in the office on a monthly basis. No progress reports are required until such time as construction activities have started.

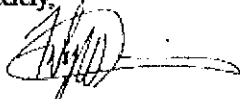
The permit will expire on December 19, 2019. Upon receipt of a written request signed by the permittee or authorized agent, the Department will consider extending the permit for up to but no more than three years. You must apply for a new permit for completion of any work not accomplished under the original permit. Although you may apply for a new permit, there is no assurance that such new permit for the same construction or activities would be approved.

www.dep.state.fl.us

Nicholas J. Zwemer, E.I.T.
December 22, 2014
Page Two

The authorized work is strictly limited to that described on the enclosed permit. If you have any questions pertaining to this permit, please contact me by mail at the letterhead address (add Mail Station 3522), by telephone at (850) 245-7672, or by email at john.wettstein@dep.state.fl.us.

Sincerely,



Fritz Wettstein, Environmental Consulting
Coastal Construction Control Line Program
Division of Water Resource Management

FW/dw
Enclosures

cc: Permit Information Center
Christian Lambright, Field Inspector
Broward County, Building Official
Belmar Development Associates, LLC, Property Owner

www.dep.state.fl.us



STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Water Resource Management
2600 Blair Stone Road - Mail Station 3522
Tallahassee, Florida 32399-2400
(850) 245-7636

PERMIT NUMBER: BO-698

PERMITTEE

Belmar Development Associates, LLC
c/o Nicholas J. Zwemer, E.I.T.
Environmental/Permitting Project Manager
Coastal Systems International, Inc.
464 South Dixie Highway
Coral Gables, Florida 33146

**NOTICE TO PROCEED AND PERMIT FOR CONSTRUCTION OR OTHER ACTIVITIES
PURSUANT TO SECTION 161.053, FLORIDA STATUTES**

FINDINGS OF FACT: An application for authorization to conduct the activities seaward of the coastal construction control line that are indicated in the project description, was filed by the applicant/permittee named herein on April 1, 2014, and was determined to be complete pursuant to rule on December 2, 2014. The proposed project is to be located landward of the 30-year erosion projection and the existing line of construction established by major structures in the immediate area.

CONCLUSIONS OF LAW: After considering the merits of the proposal and any written objections from affected persons, the Department finds that upon compliance with the permit conditions, the activities indicated in the project description of this permit are of such a nature that they will result in no significant adverse impacts to the beach/dune areas or to adjacent properties; that the work is not expected to adversely impact nesting sea turtles, their hatchlings, or their habitat; and that the work is expendable in nature and/or is appropriately designed in accordance with Section 62B-33.005, Florida Administrative Code. Based on the foregoing considerations, the Department approves the application; authorizes construction and/or activities at the location indicated below in strict accordance with the project description, the approved plans and the General Permit Conditions which are attached and are by this reference incorporated herein, and any additional conditions shown below, pursuant to Section 161.053(4), Florida Statutes.

EXPIRATION DATE: December 19, 2019

LOCATION: Between approximately 230 feet and 430 feet south of the Department of Environmental Protection's reference monument R-71, in Broward County. Project address: 700 North Atlantic Boulevard, Fort Lauderdale.

PROJECT DESCRIPTION:

Multifamily Dwelling with Understructure Parking and Seaward Restaurant

1. Location relative to control line: A maximum of 74.8 feet seaward.
2. Exterior dimensions: Approximately 375 feet in the shore-normal direction by 180 feet in the shore-parallel direction.

PERMITTEE: Belmar Development Associates, LLC
PERMIT NUMBER: BO-698
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3. Type of foundation: Pile.
4. Elevation of understructure parking slab: +0.4 feet (NAVD).

Swimming Pool

1. Location relative to control line: A maximum of 70 feet seaward.
2. Exterior dimensions: 87.1 feet in the shore-normal direction by 44.7 feet in the shore-parallel direction.
3. Type of foundation: Pile.
4. Deck elevation of swimming pool: +39.5 feet (NAVD).
5. Bottom elevation of swimming pool: Approximately +33.5 feet (NAVD).

Excavation/Fill

1. Total volume of excavation: Approximately 1,560 cubic yards, including approximately 173 cubic yards of material contaminated with silt and construction debris. Volume of net excavation: None; excavated material to be placed as fill on the project site; contaminated material to be disposed of landward of the control line; and the balance of material to be used for dune enhancement.
2. Location of excavation: From 0 feet to approximately 78 feet seaward of the control line.
3. Maximum depth of excavation: To elevation +0.1 feet (NAVD); a maximum of 8-feet below existing grade.
4. Volume of fill to be placed: Approximately 1,560 cubic yards, including 865 cubic yards to be placed for dune enhancement.
5. Location of fill to be placed: From 0 feet to 278 feet seaward of the control line.

Other Structures/Activities

1. An open, concrete restaurant terrace, including three sets of stairs, three ramps, planters and water features is to be located a maximum of 98.2 feet seaward of the control line.
2. Paver walks are to be located a maximum of approximately 115 feet seaward of the control line, including in the rights-of-way.
3. Landscape plantings are to be located a maximum of 106.3 feet seaward of the control line.

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4. Dune enhancement including the placement of up to 865 cubic yards of beach quality sand and planting of dune vegetation. The dune enhancement area is to be located on the public beach immediately seaward of the project site, and landward of the elevation contour of the seasonal high water line.

SPECIAL PERMIT CONDITIONS:

1. Prior to commencement of construction activity authorized by this permit, a preconstruction conference shall be held at the site among the contractor, the owner or authorized agent, and a staff representative of the Department to establish an understanding among the parties as to the items specified in the special and general conditions of the permit. The proposed locations of the structures shall be staked out for the conference. Contact Christian Lambright at (561) 313-9007 or email christian.lambright@dep.state.fl.us to schedule a conference.
2. All rubble and debris existing on the property or resulting from new construction shall be removed and properly disposed of in a location landward of the coastal construction control line.
3. To specify project related requirements associated with General Condition 1(m) of 62B-33.0155 F.A.C., no operation, transportation, storage of equipment or materials or temporary lighting of the construction area is authorized during March 1 through October 31 on any part of the sandy beach.
4. Excavation and fill material will be handled in accordance with the following:
 - 4.1. All material excavated seaward of the coastal construction control line as part of construction authorized under this permit shall remain in and be placed in areas seaward of the coastal construction control line. Non-beach compatible silt or contaminated material excavated from the project site may be disposed of landward of the control line provided it is replaced with an equivalent amount of beach compatible material seaward of the control line.
 - 4.2. All fill material placed seaward of the control line shall consist of sand that is of beach compatible quartz, carbonate or other sediment similar in composition to the native beach sand, with a particle size distribution ranging between 0.062mm (4.0phi) and 4.76mm (-2.25phi) (classified as sand by either the Unified Soils or the Wentworth classification).
 - 4.3. Fill material placed for dune enhancement shall be similar in color and grain size distribution (sand grain frequency, mean and median grain size and sorting coefficient) to the sand present on the beach berm seaward of the project site. Dune enhancement sand shall not contain:
 - 4.3.1. Greater than five percent by weight of silt, clay or colloids passing the #230-sieve (4.0phi);
 - 4.3.2. Greater than five percent by weight of fine gravel retained on the #4-sieve (-2.25phi);
 - 4.3.3. Coarse gravel, cobbles or material retained on the three-quarter inch sieve in a percentage or size greater than found on the native beach;

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- 4.3.4. Carbonate material in excess of the percentage found on the native beach or in sizes and quantities that would result in cementation of the beach;
 - 4.3.5. Material darker than Munsell color value of 6 (moist); or,
 - 4.3.6. Construction debris, metal, vegetation, organic soil, rocks, clay, toxic material or other foreign matter.
- 4.4. Three benchmark samples, each approximately 1/4 pound of beach compatible sand meeting the above specifications for dune placement, shall be available for inspection at the preconstruction conference and retained for permit compliance: one by the Department's field representative, one by the permittee and one retained on site by the contractor.
- 4.5. Fill placement will follow the approved beach sand quality assurance and quality control plan (QA/QC Plan). The amount of fill material that is to be excavated from the project site for placement on the beach shall either be blended with in situ native beach sand material to minimize the noticeable difference in color and texture, or replaced with imported beach compatible sand in order to meet the specifications for dune enhancement sand. The permittee will mechanically blend the sands until they are fully mixed or homogeneous.

Any single or cumulative placement on the beach of greater than 15 yards of material determined not to meet the benchmark beach compatible sand sample quality shall be remediated. Upon discovery of such an occurrence, all fill placement shall cease and the incompatible material removed and disposed of in an upland site. The permittee shall report all quantities of incompatible material removed off the project site and replace any unsuitable material with beach compatible sand.

5. All grade-level concrete slabs, stairs, planters and water features shall be structurally independent of the building foundation. Slab and footers for these structures must be jointed at the columns and shear walls, and shall be jointed, saw-cut (1-inch minimum), or weakened in some fashion so as to breakaway into segments measuring a maximum of 25 square feet.
6. Prior to completion of construction activities authorized by this permit, the permittee shall plant a mix of a minimum of three native salt-tolerant species to restore the frontal dune and any disturbed natural area seaward of the authorized structures. Dune restoration plantings shall consist of salt-tolerant species indigenous to the native plant communities existing on or near the site or with other native species approved by the Department. Plantings in other areas of the project site shall not include invasive nuisance plant species such as listed in the Florida Exotic Pest Plant Council's List of Category I and II Invasive Species.
7. No temporary or permanent exterior, landscape, pool or construction lighting, including the running of electrical service is authorized. All project lighting must be approved by the Department prior to installation.

8. A preconstruction conference shall be held prior to the electrical rough-in for installation of exterior lights, and include the electrician or electrical contractor, the owner or authorized agent and staff representatives of the Department and the Florida Fish and Conservation Commission (FWC). The permit holder shall contact FWC at marineturtle@myfwc.com for scheduling the conference, providing at least five (5) business days advance notice prior to the conference. A copy of the permitted exterior lighting plan shall be made available on site for the meeting and shall remain on site for consultation during the electrical installation. Requests to modify the permitted exterior lighting plan will not be approved on site during or after the preconstruction meeting except as specified in the special conditions of this permit. If FWC staff are unable to attend in person, provisions shall be made for FWC staff to attend by phone. If the electrician or electrical contractor responsible for the installation of exterior lights is not available for the initial preconstruction conference, a construction conference shall be held at the site among the parties identified above prior to commencement of construction for any exterior lighting authorized by this permit.
9. All permanent exterior lighting shall be installed and maintained as depicted on the approved lighting drawings, tables and cut sheets stamped by the Florida Fish and Wildlife Conservation Commission (FWC). No substitutions or alterations to the approved lighting plan are allowed. Additional exterior lighting (permanent or temporary, including but not limited to construction, special event lighting, etc.) is prohibited on any structure or in the landscape in the project area unless otherwise authorized in an approved lighting plan. If during construction, an approved fixture or lamp needs to be changed to a different type, manufacturer or catalog number for any reason, or if the location of any approved fixture needs to be changed, it shall be submitted for review and approval by the Department and FWC prior to installation. There may be a decrease in the wattage of an approved lamp and/or a decrease in the total number of each approved fixture without submitting a modified lighting plan for review and approval.
10. The permit holder shall arrange for a site inspection by the Florida Fish and Wildlife Conservation Commission (FWC) representatives within 30 days of the completion of all construction activities, including the installation of all exterior lights, by sending notification to marineturtle@myfwc.com. The permit holder agrees to allow access to the site for FWC representatives to conduct day or night time exterior light site inspections upon 48 hour notice of the intent to inspect. If any of the lights become visible from the beach at any time during the duration of this permit, they may be required to be modified.
11. Within thirty (30) business days after the Florida Fish and Wildlife Conservation Commission (FWC) has verified to the Department and the permit holder that lighting is installed as indicated on approved plans and is not visible from the beach, the permit holder shall install marine turtle lighting educational sign(s) at each permitted major coastal structure with an approved lighting plan for exterior lights. A copy of the Department and FWC approved sign can be obtained at http://myfwc.com/media/1332836/SeaTurtle_LightingSign.JPG. The sign(s) must be a minimum size of 11 inches by 14 inches and made of durable weatherproof material. The sign(s) must be located near or on each permitted major structure, in centralized areas of high foot traffic visible to most occupants or guests, and should be replaced if they become faded, damaged or outdated.

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12. In addition to General Condition 1(n) of 62B-33.0155 F.A.C., which requires the use of tinted glass or window film with a maximum transmittance value of 45% or less for all glass windows and doors visible from the beach, glass walls on the seaward and lateral sides of the structure must be treated similarly. It should be noted that darker tints that restrict light transmittance up to 15% are preferred to reduce adverse impacts to marine turtles.
13. The final certification report (DEP Form No. 73-115B) shall include a statement from the project engineer, architect, or lighting designer that all permanent exterior lighting has been installed as depicted on stamped, approved lighting schematic and cut sheets. A copy of the report on this form shall also be submitted to FWC by email to marineturtle@myfwc.com.
14. No trespass is authorized. Construction activities must avoid interference with public beach access.

Approved plans are incorporated into this permit by reference.

Done and ordered this 19th day of December 2014, in Tallahassee, Florida.

Attachment: General Permit Conditions

FILING AND ACKNOWLEDGEMENT
FILED, on this date, pursuant to S120.52
Florida Statutes, with the designated
Department Clerk, receipt of which is hereby
acknowledged.

State of Florida
Department of Environmental Protection



Weaver, D

Designated as Permit Clerk
by the Florida Department of
Environmental Protection
on December 1, 2014.
Signature: [Signature]
Date: 12/1/14
Title: Permit Clerk


Deputy Clerk

12/19/2014
Date

Fritz Wettstein, Environmental Consultant
Coastal Construction Control Line Program
Division of Water Resource Management

NOTICE OF RIGHTS

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

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57, Florida Statutes. Pursuant to rule 28-106.201, Florida Administrative Code, a petition for an administrative hearing must contain the following information:

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- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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 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 the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

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

Time Period for Filing a Petition

In accordance with rule 62-110.106(3), Florida Administrative Code, 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), 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), 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 failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57, Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205, Florida Administrative Code.

Extension of Time

Under rule 62-110.106(4), 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 for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

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Mediation

Mediation is not available in this proceeding.

Judicial Review

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

Newspaper Publication

The Agency will not publish or require the person requesting a permit to publish in a newspaper a notice of receipt of the permit application or notice of Agency action granting or denying the permit.

Persons receiving a permit are advised that interested parties who become aware of Agency action approving or denying the permit, or who observe work on the project within certain time frames without any prior notice, may have rights to petition for an administrative hearing under Chapter 120, F.S. For this reason, it may be in the best interest of the person proposing the activity to publish, at its expense, a one-time "Notice of Permit Issuance" in a newspaper of general circulation in the county where the activity is located meeting the requirements of Chapter 50, F.S. Agency staff can provide persons with the information for such a notice upon request. Persons who are substantially affected by the proposed action may petition for an administrative hearing within the time frames specified in the notice and Chapter 120, F.S.



General Permit Conditions

Rule 62B-33.0155, Florida Administrative Code

1. The following general permit conditions shall apply, unless waived by the Department or modified by the permit:

(a) The permittee shall carry out the construction or activity for which the permit was granted in accordance with the plans and specifications that were approved by the Department as part of the permit. Deviations therefrom, without written approval from the Department, shall be grounds for suspension of the work and revocation of the permit pursuant to Section 120.60(7), F.S., and shall result in assessment of civil fines or issuance of an order to alter or remove the unauthorized work, or both. No other construction or activities shall be conducted. No modifications to project size, location, or structural design are authorized without prior written approval from the Department. A copy of the notice to proceed shall be conspicuously displayed at the project site. Approved plans shall be made available for inspection by a Department representative.

(b) The permittee shall conduct the construction or activity authorized under the permit using extreme care to prevent any adverse impacts to the beach and dune system, marine turtles, their nests and habitat, or adjacent property and structures.

(c) The permittee shall allow any duly identified and authorized member of the Department to enter upon the premises associated with the project authorized by the permit for the purpose of ascertaining compliance with the terms of the permit and with the rules of the Department until all construction or activities authorized or required in the permit have been completed and all project performance reports, certifications, or other documents are received by the Department and determined to be consistent with the permit and approved plans.

(d) The permittee shall hold and save the State of Florida, the Department, and its officers and employees harmless from any damage, no matter how occasioned and no matter what the amount, to persons or property that might result from the construction or activity authorized under the permit and from any and all claims and judgments resulting from such damage.

(e) The permittee shall allow the Department to use all records, notes, monitoring data, and other information relating to construction or any activity under the permit, which are submitted, for any purpose necessary except where such use is otherwise specifically forbidden by law.

(f) Construction traffic shall not occur and building materials shall not be stored on vegetated areas seaward of the control line unless specifically authorized by the permit. If the Department determines that this requirement is not being met, positive control measures, such as temporary fencing, designated access roads, adjustment of construction sequence, or other requirements, shall be provided by the permittee at the direction of the Department. Temporary construction fencing shall not be sited within marine turtle nesting habitats.

(g) The permittee shall not disturb existing beach and dune topography and vegetation except as expressly authorized in the permit. Before the project is considered complete, any disturbed topography or vegetation shall be restored as prescribed in the permit with suitable fill material or revegetated with appropriate beach and dune vegetation.

(h) All fill material placed seaward of the control line shall be sand which is similar to that already existing on the site in both coloration and grain size. All such fill material shall be free of construction debris, rocks, clay, or other foreign matter; shall be obtained from a source landward of the coastal construction control line; and shall be free of coarse gravel or cobbles.

(i) If surplus sand fill results from any approved excavation seaward of the control line, such material shall be distributed seaward of the control line on the site, as directed by the Department, unless otherwise specifically authorized by the permit.

(j) Any native salt-tolerant vegetation destroyed during construction shall be replaced with plants of the same species or, by authorization of the Department, with other native salt-tolerant vegetation suitable for beach and dune stabilization. Unless otherwise specifically authorized by the Department, all plants installed in beach and coastal areas – whether to replace vegetation displaced, damaged, or destroyed during construction or otherwise – shall be of species indigenous to Florida beaches and dunes, such as sea oats, sea grape, saw palmetto, panic grass, saltmeadow hay cordgrass, seashore saltgrass, and railroad vine, and grown from stock indigenous to the region in which the project is located.

(k) All topographic restoration and revegetation work is subject to approval by the Department, and the status of restoration shall be reported as part of the final certification of the actual work performed.

(l) If not specifically authorized elsewhere in the permit, no operation, transportation, or storage of equipment or materials is authorized seaward of the dune crest or rigid coastal structure during the marine turtle nesting season. The marine turtle nesting season is May 1 through October 31 in all counties except Brevard, Indian River, St. Lucie, Martin, Palm Beach, and Broward counties where leatherback turtle nesting occurs during the period of March 1 through October 31.

(m) If not specifically authorized elsewhere in the permit, no temporary lighting of the construction area is authorized at any time during the marine turtle nesting season and no additional permanent exterior lighting is authorized.

(n) All windows and glass doors visible from any point on the beach must be tinted to a transmittance value (light transmission from inside to outside) of 45% or less through the use of tinted glass or window film.

(o) The permit has been issued to a specified property owner and is not valid for any other person unless formally transferred. An applicant requesting transfer of the permit shall sign two copies of the permit transfer agreement form, agreeing to comply with all terms and conditions of the permit, and return both copies to the Bureau. The transfer request shall be provided on the form entitled "Permit Transfer Agreement" - DEP Form 73-103 (Revised 1/04), which is hereby adopted and incorporated by reference. No work shall proceed under the permit until the new owner has received a copy of the transfer agreement approved by the Department. A copy of the transfer agreement shall be displayed on the construction site along with the permit. An expired permit shall not be transferred.

(p) The permittee shall immediately inform the Bureau of any change of mailing address of the permittee and any authorized agent until all requirements of the permit are met.

(q) For permits involving major structures or activities, the permittee shall submit to the Bureau periodic progress reports on a monthly basis beginning at the start of construction and continuing until all work has been completed. If a permit involves either new armoring or major reconstruction of existing armoring, the reports shall be certified by an engineer licensed in the State of Florida. The permittee or engineer, as appropriate, shall certify that as of the date of each report all construction has been performed in compliance with the plans and project description approved as a part of the permit and with all conditions of the permit, or shall specify any deviation from the plans, project description, or conditions of the permit. The report shall also state the percent of completion of the project and each major individual component. The reports shall be provided to the Bureau using the form entitled "Periodic Progress Report" - DEP Form 73-111 (Revised 6/04), which is hereby adopted and incorporated by reference. Permits for minor structures or activities do not require submittal of periodic reports unless required by special permit condition.

(r) For permits involving habitable major structures, all construction on the permitted structure shall stop when the foundation pilings have been installed. At that time the foundation location form shall be submitted to and accepted by the Bureau prior to proceeding with further vertical construction above the foundation. The form shall be signed by a professional surveyor, licensed pursuant to Chapter 472, F.S., and shall be based upon such surveys performed in accordance with Chapter 472, F.S., as are necessary to determine the actual configuration and dimensioned relationship of the installed pilings to the control line. The information shall be provided to the Bureau using the form entitled "Foundation Location Certification" - DEP Form 73-114B (Revised 9/05), which is hereby adopted and incorporated by reference. Phasing of foundation certifications is acceptable. The Department shall notify the permittee of approval or rejection of the form within seven (7) working days after staff receipt of the form. All survey information upon which the form is based shall be made available to the Bureau upon request. Permits for repairs or additions to existing structures with nonconforming foundations are exempt from this condition.

(s) For permits involving major structures, the permittee shall provide the Bureau with a report by an engineer or architect licensed in the State of Florida within thirty (30) days following completion of the work. The report shall state that all locations specified by the permit have been verified and that other construction and activities authorized by the permit have been performed in compliance with the plans and project description approved as a part of the permit and all conditions of the permit; or shall describe any deviations from the approved plans, project description, or permit conditions, and any work not performed. Such report shall not relieve the permittee of the provisions of paragraph 62B-33.0155(1)(a), F.A.C. If none of the permitted work is performed, the permittee shall inform the Bureau in writing no later than 30 days following expiration of the permit. The report shall be provided on the form entitled "Final Certification" DEP Form 73-115B (Revised 9/05), which is hereby adopted and incorporated by reference.

(t) Authorization for construction of armoring or other rigid coastal structures is based on an engineering review and assessment of the design and anticipated performance and impact of the structure as a complete unit. Construction of any less than the complete structure as approved by the Department is not authorized and shall result in the assessment of an administrative fine and the issuance of an order to remove the partially constructed structure. Modifications to the project size, location, or structural design shall be authorized by the Department in accordance with Rule 62B-33.013, F.A.C.

2. The permittee shall not commence any excavation, construction, or other physical activity on or encroaching on the sovereignty land of Florida seaward of the mean high water line or, if established, the erosion control line until the permittee has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.
3. The permittee shall obtain any applicable licenses or permits required by Federal, state, county, or municipal law.
4. This permit does not authorize trespass onto other property.
5. In the event of a conflict between a general permit condition and a special permit condition, the special permit condition shall prevail.
6. Copies of any forms referenced above can be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000, or by telephoning (850)488-7708.

EXHIBIT D
Installation and Maintenance Plan

- 1) In accordance with FDEP CCCL Permit BO-698, sand placed on the beach shall comply with the following requirements during construction:
 - a) Dune enhancement sand shall be similar in composition, color and grain size distribution to sand present on the native beach, and shall not contain coarse gravel, cobbles or material retained on the three-quarter inch sieve in a percentage or size greater than found on the native beach; carbonate material in excess of the percentage found on the native beach; material darker than Munsell color value of 6 (moist); or construction debris, metal, vegetation, organic soil, rocks, clay, toxic material or other foreign matter.
 - b) Three ¼ pound benchmark sand samples from on-site excavation shall be available for inspection to ensure beach compatibility.
 - c) Fill placement will follow the approved beach sand quality assurance and quality control plan (QA/QC Plan attached hereto). Beach compatible fill material that is to be excavated from the Property (project site) for placement on the beach shall be mechanically blended with in situ native beach sand until fully mixed or homogeneous to minimize any noticeable differences in color and texture.
- 2) The Developer will be responsible for dune maintenance activities as required by the FDEP CCCL Permit BO-698 until such time as the Dune Management Agreement assigned to the Association established for the Property. Thereafter, the maintenance obligations will transfer to the Association.
- 3) Dune vegetation shall be managed by the Developer/Association, through an agent with applicable dune vegetation knowledge/experience, to prevent encroachment into the beach entry portals at Vistamar and Belmar Streets to the extents permissible by the FDEP.
- 4) Invasive vegetation that becomes established within the vegetated dune area, as proposed and approved by the FDEP CCCL Permit BO-698, shall be removed.
- 5) The vegetation and sand dune elevations shall be maintained to levels as near as possible to the original constructed elevations, contingent upon obtaining dune management permits / authorization from the FDEP.