

# Florida Department of Environmental Protection

160 W. Government Street, Suite 308 Pensacola, Florida 32502-5740 Rick Scott Governor

Carlos Lopez-Cantera Lt. Governor

> Noah Valenstein Secretary

# **Permittee/Authorized Entity:**

City of Panama City C/o Sandy Wade, St Andrews Marina Director 3151 W. 10<sup>th</sup> Street Panama City, Florida 32401, Bay County <u>Swade@pcgov.org</u>

# Saint Andrews Marina Dock Expansion

Authorized Agent: Dale Cronwell, Panama City Engineer 9 Harrison Avenue Panama City, Florida 32401 <u>Dcronwell@pcgov.org</u>

# **Environmental Resource Permit** State-owned Submerged Lands Authorization – Granted

U.S. Army Corps of Engineers Authorization – Granted per State Programmatic General Permit

> Bay County Permit No.: 0161132-003-EI Lease File No.: 030022651

# Permit Issuance Date: July 27, 2017 Permit Construction Phase Expiration Date: July 26, 2022

# Consolidated Environmental Resource Permit and Sovereignty Submerged Lands Authorization

# Permittee: City of Panama City, Florida Permit No: 0161132-003-EI

# **PROJECT LOCATION**

The activities authorized by this permit and sovereignty submerged lands authorization are located at parcel ID No. 30002-000-000, 1100 Block, Bayview Avenue, Panama City, Florida 32401, in Section 1, Township 4 South, Range 15 West of Bay County, at Latitude 30°10'08.90" North, Longitude 85°42'10.00" West.

# **PROJECT DESCRIPTION**

The permittee is authorized to remove an existing 60-foot by 5-foot access pier and replace it with and America Disabilities Act accessible 24-foot by 5-foot ramp, 6-foot by 6-foot landing, 30-foot by 5-foot aluminum gangway to a 40-foot by 8-foot floating dock and construct a floating dock with 34-foot by 8-foot access pier, 38-foot by 6-foot finger pier, to create two new transient wet slips. The proposed structure will be attached to an existing dock with a total preemption of 1,066 square feet of overwater surface area within an existing lease area of Saint Andrews Marina, lease No. 030022651, in Saint Andrews Bay, Class III Florida Waterbody. Authorized activities are depicted on the attached exhibits.

# AUTHORIZATIONS

# Saint Andrews Marina Dock Expansion

# Environmental Resource Permit

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

# Sovereignty Submerged Lands Authorization

The activity is located on sovereignty submerged lands owned by the State of Florida. It therefore also requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.77, F.S. As staff to the Board of Trustees under Sections 253.002, F.S., the Department has determined that the activity qualifies for and requires a lease, as long as the work performed is located within the boundaries as described and is consistent with the terms and conditions herein. As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the activity is authorized under existing Sovereign Submerged Lands Lease # 030022651.

# Federal Authorization

Your proposed activity as outlined in your application and attached drawings qualifies for Federal authorization pursuant to the State Programmatic General Permit V, and a **SEPARATE permit** or

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 2 of 25 authorization **will not be required** from the Corps. Please note that the Federal authorization expires on July 26, 2021. However, your authorization may remain in effect for up to 1 additional year, if provisions of Special Condition B.27 of the SPGP V permit instrument are met. You, as permittee, are required to adhere to all General Conditions and Special Conditions that may apply to your project." Special conditions required for your project are attached. A copy of the SPGP V with all terms and conditions and the General Conditions may be found at http://www.saj.usace.army.mil/Divisions/Regulatory/sourcebook.htm."

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

#### Coastal Zone Management

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

#### Water Quality Certification

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

#### Other Authorizations

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

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

#### PERMIT CONDITIONS

The activities described must be conducted in accordance with:

- The Specific Conditions
- The General Conditions
- The limits, conditions and locations of work shown in the attached drawings
- The term limits of this authorization

You are advised to read and understand these conditions and drawings prior to beginning the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings herein. If you are using a contractor, the contractor also should read and understand these conditions and drawings prior to beginning any activity. Failure to comply with these conditions, including any mitigation requirements, shall be grounds for the Department to revoke the permit and authorization and to take appropriate enforcement action. Operation of the

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 3 of 25 facility is not authorized except when determined to be in conformance with all applicable rules and this permit and sovereignty submerged lands authorization, as described.

# SPECIFIC CONDITIONS - PRIOR TO ANY CONSTRUCTION

1. If the approved permit drawings conflict with the specific conditions, then the specific conditions shall prevail.

2. This permit does not authorize the construction of any additional structures not illustrated on the permit drawings. Examples of additional structures include but are not limited to walkways, awnings, enclosed sides and covers over slip areas, finger piers, step-down stairs, storage closets and decking.

3. Prior to the initiation of any work authorized by this permit, floating turbidity screens with weighted skirts shall be placed around the project area. 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 29 NTU's above background levels. 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 outside of the turbidity screens.

4. The following measures shall be taken by the permittee whenever turbidity levels within waters of the state exceed 29 NTUs above background:

a. Immediately cease all work contributing to the water quality violation.

b. Stabilize all exposed soils contributing to the violation, modify the work procedures that were responsible for the violation, and install more turbidity containment devices and repair any non-functioning turbidity containment devices.

c. Notify the Northwest District Office at (850) 595-8300 within 24 hours of the time the violation is first detected.

# SPECIFIC CONDITIONS - CONSTRUCTION ACTIVITIES

5. All disturbed upland areas shall be stabilized at all times during and after construction so as to prevent any erosion, sedimentation, siltation, or scouring.

6. All wetland areas or water bodies which are adjacent to the specific limits of construction authorized by this permit shall be protected from erosion, sedimentation, siltation, scouring, excess turbidity, or dewatering.

7. Best management practices for erosion control shall be implemented and maintained at all times during construction to prevent siltation and turbid discharges in excess of State water quality standards pursuant to Rule 62-302, F.A.C. Methods shall include, but are not limited to the use of staked hay bales, staked filter cloth, sodding, seeding, and mulching; staged construction; and the installation of turbidity screens around the immediate project site.

8. There shall be no stock piling of tools, materials, (i.e., lumber, pilings, riprap, and debris) within wetlands, along the shoreline within the littoral zone, or elsewhere within waters/waters of the state.

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 4 of 25 9. All watercraft associated with the construction of the permitted structure shall only operate within waters of sufficient depth so as to preclude bottom scouring, prop dredging, and/or damage to aquatic vegetation.

10. Construction equipment shall not be repaired or refueled in wetlands or elsewhere within waters of the state.

11. All excess lumber, scrap, wood, trash, garbage, and any other type of debris shall be removed from wetlands/waters of the state within 14 days of completion of the work authorized in this permit.

12. For emergencies involving a serious threat to the public health, safety, welfare, or environment, the emergency telephone contact number is 800-320-0519 (State Warning Point). The Department telephone number for reporting nonthreatening problems or system malfunctions is (850) 595-0663, day or night.

13. The construction phase expires at 11:59 p.m. on the date indicated on the cover page of this permit. If construction authorized by this ERP, individual permit has not been completed and continued use of the system formally transferred to the operating phase before the expiration date of this permit, or an authorized extension, then at least 60 days before such expiration date, the permittee shall apply for another individual permit, using the forms and accompanied by the fee.

# SPECIFIC CONDITIONS- CONSTRUCTION COMPLETION

14. Within 30 days after completion of construction of the permitted or authorized activity, and prior to transfer to operation, the permittee/lessee shall submit an As-Built Survey signed, sealed and dated by a Florida licensed Surveyor and Mapper in accordance with Chapter 61G17-7, Florida Administrative Code. The Survey shall depict the boundaries of the lease, including the entire preempted area and shall show the size and dimensions of all existing overwater structures and activities, including mooring pilings, located within the lease area. The Survey shall contain a statement that all of the depicted structures and activities occur within the lease boundary, if applicable. If the surveyor observes that structures or activities are occurring outside of the lease area, the surveyor shall document the condition in the statement and note the deviations on the Survey. Constructed deviations may require a permit or lease modification.

# SPECIFIC CONDITIONS - OPERATION AND MAINTENANCE ACTIVITIES

15. There shall be a minimum 12-inch clearance between the deepest draft of the vessel (with the motor in the down position) and the bottom of the waterbody at mean low water so as to preclude bottom scouring or prop dredging.

16. Overboard discharges of trash, human or animal waste, or fuel shall not occur at the dock.

17. The waterward corners of the dock shall be marked by a sufficient number of reflectors so as to be visible from the water at night by reflected light. The reflectors shall not be green or red in color.

# GENERAL CONDITIONS FOR INDIVIDUAL PERMITS

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

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.

2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.

3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.

4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," [October 1, 2013], which is incorporated by reference in paragraph 62-330.350(1)(d), F.A.C., indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.

5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.

6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:

- a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or
- b. For all other activities "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].

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- c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
- 7. If the final operation and maintenance entity is a third party:
  - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
  - b. Within 30 days of submittal of the as- built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity" [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

9. This permit does not:

- a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
- b. Convey to the permittee or create in the permittee any interest in real property;
- c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
- d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.

10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.

12. The permittee shall notify the Agency in writing:

- a. Immediately if any previously submitted information is discovered to be inaccurate; and
- b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 7 of 25 units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.

14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.

16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.

17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.

18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

# **NOTICE OF RIGHTS**

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

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

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, any email address, any facsimile number, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

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

# Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

# Extension of Time

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

# Mediation

Mediation is not available in this proceeding.

# FLAWAC Review

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

# Judicial Review

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

Thank you for applying to the Submerged Lands and Environmental Resource Permit Program. If you have any questions regarding this matter, please contact Douglas Sprague at the letterhead address, at 850-595-0579, or at <u>douglas.sprague@dep.state.fl.us</u>.

Executed Orlando, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

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For Andrew Joslyn Permitting Program Administrator

AJ:ds

#### **Attachments:**

Exhibit 1, Project Drawings and Design Specs., 3 pages.
Exhibit 2, SPGP-Special Conditions Related to All Review and Authorizations, 7 pages
Exhibit 3, SPGP General Conditions, 3 pages
Exhibit 4, Department of the Army Permit Transfer for SPGP V, 1 page.
Exhibit 5, Construction Guidelines in Florida for Minor Piling-Supported Structures, 2 pages.

#### **Copies furnished to:**

Franceella Martin, U.S. Army Corps of Engineers, <u>Franceella.h.b.martin@usace.army.mil</u> Honorable G. Brudnicki, Mayor, Panama City, <u>Gbrudnicki@pcgov.org</u> Panama City, <u>jbrown@pcgov.org</u>, <u>nfravel@pcgov.org</u>, <u>pcasto@pcbgov.com</u>, <u>jjones@pcgov.org</u> Bay County, <u>lbrunson@baycountyfl.gov</u>, <u>agolden@baycountyfl.gov</u> Cypress Environmental, <u>bethany@cypressenvironmental.com</u> Andrea Zern, FDEP, <u>Andrea.l.zern@dep.state.fl.us</u> File

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that this permit and authorization to use sovereignty submerged lands, including all copies, were mailed before the close of business on July 27, 2017, to the above listed persons.

#### FILING AND ACKNOWLEDGMENT

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

July 27, 2017 Date Clerk

# **Special Conditions Related to All Review and Authorizations**

In addition to the conditions specified above, the following Special Conditions apply to all projects reviewed and/or authorized under the SPGP V.

1. The District Engineer reserves the right to require that any request for authorization under this SPGP V be evaluated as an Individual Permit. Conformance with the terms and conditions of the SPGP V does not automatically guarantee Federal authorization.

2. On a case-by-case basis the Corps may impose additional Special Conditions which are deemed necessary to minimize adverse environmental impacts.

3. Failure to comply with all conditions of the Federal authorizations under the SPGP V would constitute a violation of the Federal authorization.

4. No structure or work shall adversely affect or disturb properties listed in the National Register of Historic Places or those eligible for inclusion in the National Register. Prior to the start of work, the Applicant/Permittee or other party on the Applicant's/Permittee's behalf, shall conduct a search of known historical properties by contracting a professional archaeologist, and contacting the Florida Master Site File at 850-245-6440 or SiteFile@dos.state.fl.us. The Applicant/Permittee can also research sites in the National Register Information System (NRIS). Information can be found at http://www.cr.nps.gov/nr/research.

a. If, during the initial ground disturbing activities and construction work, there are archaeological/cultural materials unearthed (which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work in the vicinity and notify the Compliance and Review staff of the State Historic Preservation Office at 850-245-6333 and the Corps Regulatory Project Manager to assess the significance of the discovery and devise appropriate actions, including salvage operations. Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7.

b. In the unlikely event that human remains are identified, they will be treated in accordance with Section 872.05, Florida Statutes; all work in the vicinity shall immediately cease and the local law authority, the State Archaeologist (850-245-6444), and the Corps Regulatory Project Manager shall immediately be notified. Such activity shall not resume unless specifically authorized by the State Archaeologist and the Corps.

5. No work shall be authorized under the SPGP V which proposes the use of prefabricated modules for habitat creation, restoration, or enhancement except as allowed in Special Condition 15 for *Living Shorelines* of the *Shoreline Stabilization category*.

6. The Design and construction of a Project must comply with the following.

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 13 of 25 a. Where aquatic vegetation is present, adverse impacts to aquatic vegetation from construction of piling-supported structures may be avoided/minimized by adherence to, or employing alternative construction techniques that provide a higher level of protection than, the protective criteria in the joint U.S. Army Corps of Engineers'/National Marine Fisheries Service's *"Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat"* U.S. Army Corps of Engineers/National Marine Fisheries Service August 2001 (updated June 2008). Unless otherwise specifically approved by the National Marine Fisheries Service, where aquatic vegetation is present, piling-supported structures authorized under the SPGP V must comply with, or provide a higher level of protection than, the criteria contained in the referenced construction guidelines. Mangrove impacts are limited to the removal of mangroves along 4 linear feet of shoreline to accommodate a 4-ft-wide access walkway associated with a dock that meets the above guidelines.

b. Additionally, because of concerns about adverse impacts to the endangered Johnson's seagrass (*Halophila johnsonii*) in the lagoon and canal systems on Florida's east coast from Sebastian Inlet (Brevard County) south to and including central Biscayne Bay (Miami-Dade County), the following requirements must be met:

(1) Piling-supported structures must comply with, or provide a higher level of protection than, the criteria contained in the construction guidelines titled "*Key for Construction Conditions for Docks or Other Minor Structures Constructed in or Over Johnson's seagrass (Halophila johnsonii)*" National Marine Fisheries Service/U.S. Army Corps of Engineers - February 2002 (updated October 2002)."

(2) Removal of derelict vessels must comply with the practices of Special Condition 18.

(3) All other activities will have no effect on Johnson's seagrass, i.e., no seagrass is present.

c. The presence of seagrass will be determined utilizing the attached "Submerged Aquatic Vegetation Survey Guidelines".

7. For projects in waters accessible to sea turtles, Smalltooth sawfish, Gulf sturgeon, or Shortnose sturgeon, the Permittee will utilize the "*Sea Turtle and Smalltooth Sawfish Construction Conditions*" and the following additions:

a. Any collision(s) with and/or injuries to any whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (727-824-5312).

b. Reports to NMFS's Protected Resources Division (PRD) may be made by email to <u>takereport.nmfsser@noaa.gov</u>.

c. Sea turtle and marine mammal stranding/rescue organizations' contact information is available by region at <u>http://www.nmfs.noaa.gov/pr/health/networks.htm</u>.

# d. Smalltooth sawfish encounters shall be reported to <u>http://www.flmnh.ufl.edu/fish/sharks/sawfish/sawfishencounters.html</u>.

e. All work must occur during daylight hours.

8. The Permittee is responsible for obtaining any "take" permits required under the U.S. Fish and Wildlife Service's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The Permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such "take" permits are required for a particular activity.

9. The Permitee is responsible for compliance with 50 CFR 224.103(c) prohibiting approach within 500 yards of a right whale, with limited exceptions.

10. Turbidity control measures shall be used throughout construction to control erosion and siltation to ensure there are no violations of state or federal water quality standards. Turbidity control measures shall be: (1) for the smallest practicable area; (2) monitored daily to ensure listed species are not entangled or trapped in the project area; (3) shall be removed promptly upon project completion and the return of water quality conditions; (4) and shall not block entry to or exit from designated critical habitat. Siltation barriers shall be made of material in which listed species cannot become entangled (i.e., reinforced impermeable polycarbonate vinyl fabric [PVC]).

a. Turbidity curtains are not required where not practical in dynamic systems such as surf zones and could actually do more harm than good if the curtains become detached (e.g., they could entrap pelagic organisms and become entangled around benthic organisms, such as coral).

b. Turbidity barriers are not required if installation of single piling in deep water since is unlikely to adversely affect water quality.

11. In-water rope or chain must meet the following requirements: Industrial grade metal

chains or heavy cables that do not readily loop and tangle; All in-water lines (rope and cable) must be thick and taut and cannot have excess line in the water; Lines can be enclosed in a plastic or rubber sleeve/tube to add rigidity.

12. No work shall occur where hard bottom or any hard or coral including ESA-listed coral species are present within the footprint of the project.

13. No work shall occur that results in removal of mangroves (including prop roots), except:

a. as provided by Special Condition 6.a.; or,

b. for removal of mangroves growing at the foot or from an existing seawall whose removal needed to repair the seawall.

14. No work shall occur that results in impacts to seagrass except as provided by Special Condition 6.

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 15 of 25 15. (For Docks, Piers, Associated Facilities, and Other Minor Piling-Supported Structures and Boat Ramps and Boat Launch Areas and Structures Associated with Such Ramps or Launch Areas.)

a. Aids to Navigation and Private Aids to Navigation (e.g. attached to the structures authorized by the SPGP) must be approved by and installed in accordance with U.S. Coast Guard requirements.

b. Temporary structures associated with marine events will be removed and the site restored upon completion of the event.

c. (For multi-family residential docks (e.g., condos, trailer parks, apartment complexes) designated for fishing or vessel storage, for temporary marine event pile-supported structures involving high speed vessel traffic or fishing, and for commercial or public boat ramps.) Install educational signs as follows in a visible location to alert boaters of listed species in the area susceptible to vessel strikes or hook-and-line captures. NMFS website (http://sero.nmfs.noaa.gov/protected\_resources/section\_7/protected\_species\_educational\_signs/inde x.html) provides sign installation guidance and most current version of the signs.

(1) All commercial and public boat ramps shall install the Save Sea Turtle, Sawfish, and Dolphin sign.

(2) If the Project occurs within the range of Gulf, Atlantic, or Shortnose sturgeon, the Permittee will install and maintain the *Report Sturgeon* sign.

(3) If the Project occurs within 14 miles of North Atlantic Right Whale critical habitat, the Permittee will install and maintain the *Help Protect North Atlantic Right Whales* sign.

d. Project construction will take place from uplands or from floating equipment (e.g., barge); prop or wheel-washing is prohibited.

16. (For Transient activities.)

a. Temporary structures shall not block access of species to an area such as preventing movement in or out of a river or channel.

b. (*For scientific sampling, measurement, and monitoring devices.*) No later than 24 months from initial installation, or upon completion of data acquisition, whichever comes first, the measuring device and any other structure or fills associated with that device (e.g., anchors, buoys, lines) must be removed and the site must be restored to pre-construction elevations.

17. (For Living Shorelines of the Shoreline Stabilization category.)

a. Only native plant species will be planted.

b. Not more than 500 linear feet in length, not more than 35 ft waterward of the hightide line.(note that FAC 62-330 limits to 10 feet of the mean high water line) or result in more than 0.5 ac area between the natural shoreline and the structure.

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 16 of 25 c. No discharge of earthen fill material, other than earthen material associated with vegetative planting, is not authorized.

d. Construction, maintenance and removal of approved permanent, shore-parallel wave attenuation structures are authorized. Approved permanent wave attenuation materials include oyster breakwaters (described above), clean limestone boulders, and prefabricated structures made of concrete and rebar that are designed in a manner that cannot trap sea turtles, Smalltooth sawfish, or sturgeon. Reef balls that are not open on the bottom, triangle structures with a top opening of at least 3 feet between structures, and reef discs stacked on a pile may be used.

e. (For oyster breakwaters).

(1) Reef materials shall be placed in a manner to ensure that materials (e.g., bagged oyster shell, oyster mats, loose cultch surrounded and contained by a stabilizing feature, reef balls, and reef cradles) will remain stable and prevent movement of materials to surrounding areas.

(2) Materials must be placed in designated locations (i.e., shall not be indiscriminately/randomly dumped) and shall not be placed outside of the total project limits.

# 18. (For Subaqueous Utility Lines of the Transient Activities category.)

a. A Frac-out Contingency Plan similar to the attached plan will be developed, submitted with the application and then followed.

b. All subaqueous transmission lines crossing over, under, or in flood control channels/canals in Federal projects (either federally or locally maintained) which are installed with horizontal direction drilling (HDD) shall ensure the top of the HDD boring is a minimum of 10 feet beneath the bottom of the channel plus a minimum 25 feet outside the channel edges and the estimated total drilling fluid pressure is less than 10 psi. Projects not in compliance with these criteria shall not be eligible for authorization under SPGP V.

c. The Permittee shall, upon completion of work, provide an as-built survey showing the horizontal and vertical location (X-Y-Z coordinates in NAD 83 and NAVD 88) of the object below the channel as it enters and exits the design edges of the authorized width of the channel, plus a minimum of 25 feet outside the channel edges.

# 19. (For Removal of Derelict Vessels of the Transient Activities category.)

a. Removal of marine debris shall require visual confirmation (e.g., divers, swimmers, camera) that the item can be removed without causing further damage to aquatic resources.

b. If an item cannot be removed without causing harm to surrounding coral, the item will be disassembled as much as practicable so that it no longer can accidently harm or trap species.

c. Monofilament debris will be carefully cut loose from coral so as not to cause further harm. Under no circumstance will line be pulled through coral since this could cause breakage of coral.

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 17 of 25 d. Marine debris shall be lifted straight up and not be dragged through seagrass beds, coral, or hard bottom habitats. Debris shall be properly disposed of in appropriate facilities in accordance with applicable federal and state requirements.

20. For concrete piles installed by impact hammer:

a. The piles will be less than or equal to than 24 inches in diameter; and

b. Not more than 10 piles will be installed per day if in open water; or,

c. Not more than 5 piles will be installed per day in a *confined space*. A *confined space* is defined as any area that has a solid object (e.g., shoreline, seawall, jetty) or structure within 150 feet of the pile installation site that would effectively serve as a barrier or otherwise prevent animals from moving past it to exit the area. This does not include objects such as docks or other pile-supported structures that would not stop animal movement or significantly reflect noise.

21. Metal piles will NOT be installed by impact hammer.

22. Projects within the boundary of the NOAA Florida Keys National Marine Sanctuary require prior approval from the Sanctuary.

23. The Permittee shall use only clean fill material. The fill material shall be upland sources and be free of items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

24. No blasting is authorized.

25. For Projects authorized under this SPGP V in navigable waters of the U.S., 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.

26. The SPGP V will be valid for five (5) years from the date of issuance unless suspended or revoked by issuance of a public notice by the District Engineer. The Corps, in conjunction with the Federal resource agencies, will conduct periodic reviews to ensure that continuation of the permit during the five-year authorization period is not contrary to the public interest. If revocation occurs, all future applications for activities covered by the SPGP V will be evaluated by the Corps.

27. If the SPGP V expires or is revoked prior to completion of the authorized work, authorization of activities which have commenced or are under contract to commence in reliance upon the SPGP V will remain in effect provided the activity is completed within twelve (12) months of the date the SPGP V expired or was revoked.

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 18 of 25 28. The General Conditions attached hereto are made a part of this SPGP V and must be attached to all authorizations processed under this SPGP V.

# **General Conditions for Federal Authorization for SPGP V**

1. The time limit for completing the work authorized ends on July 26, 2021.

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 on the enclosed form 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.

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

# **Further Information:**

1. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal projects.

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

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 20 of 25

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or Construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

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

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

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

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

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

7. 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

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 21 of 25 cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the U.S. Army 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, relocation or alteration.

# Department of the Army Permit Transfer for SPGP V

PERMIT NUMBER:		DATE:	
ADDRESS/LOCATION OF PROJECT:			
(Subdivision)	(Lot)	(Block)	

property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. <u>Although the construction period for works authorized by</u> Department of the Army permits is finite, the permit itself, with its limitations, does not expire.

To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Branch, Post Office Box 4970, Jacksonville, FL 32232-0019.

(Transferee Signature)	(Date)
(Name Printed)	
(Street address)	
(Mailing address)	

(City, State, Zip Code)

#### Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat U.S. Army Corps of Engineers/National Marine Fisheries Service August 2001

#### Submerged Aquatic Vegetation:

1. Avoidance. The piling-supported structure shall be aligned so as to minimize the size of the footprint over SAV beds.

2. The height of piling-supported structure shall be a minimum of 5 feet above MHW/OHW as measured from the top surface of the decking.

3. The width of the piling-supported structure is limited to a maximum of 4 feet. A turnaround area is allowed for pilingsupported structures greater than 200 feet in length. The turnaround is limited to a section of the piling-supported structure no more than 10 feet in length and no more than 6 feet in width. The turnaround shall be located at the midpoint of the piling-supported structure.

Over-SAV bed portions of the piling-supported structure shall be oriented in a north-south orientation to the maximum extent that is practicable.

5. a. If possible, terminal platforms shall be placed in deep water, waterward of SAV beds or in an area devoid of SAV beds.

b. If a terminal platform is placed over SAV areas and constructed of grated decking, the total size of the platform shall be limited to 160 square feet. The grated deck material shall conform to the specifications stipulated below. The configuration of the platform shall be a maximum of 8 feet by 20 feet. A minimum of 5 feet by 20 feet shall conform to the 5-foot height requirement; a 3 feet by 20 feet section may be placed 3 feet above MHW to facilitate boat access. The long axis of the platform should be aligned in a north-south direction to the maximum extent that is practicable.

c. If the terminal platform is placed over SAV areas and constructed of planks, the total size of the platform shall be limited to 120 square feet. The configuration of the platform shall be a maximum of 6 feet by 20 feet of which a minimum 4-foot wide by 20-foot long section shall conform to the 5-foot height requirement. A section may be placed 3 feet above MHW to facilitate boat access. The 3 feet above MHW section shall be cantilevered. The long axis of the platform should be aligned in a north-south direction to the maximum extent that is practicable. If the 3feet above MHW section is constructed with grating material, it may be 3 feet wide.

6. One uncovered boat lift area is allowed. A narrow catwalk (2 feet wide if planks are used, 3 feet wide if grating is used) may be added to facilitate boat maintenance along the outboard side of the boat lift and a 4-foot wide walkway may be added along the stern end of the boat lift, provided all such walkways are elevated 5 feet above MHW. The catwalk shall be cantilevered from the outboard mooring pilings (spaced no closer than 10 feet apart).

7. Pilings shall be installed in a manner which will not result in the formation of sedimentary deposits("donuts" or "halos") around the newly installed pilings. Pile driving is the preferred method of installation, but jetting with a low pressure pump may be used.

8. The spacing of pilings through SAV beds shall be a minimum of 10 feet on center.

9. The gaps between deckboards shall be a minimum of 1/2 inch.

#### Marsh:

Grid Specifications and Suppliers Section modified in October 2002 to add an additional vendor of materials. February 2003 – Manufacturer name changed from ChemGrate to FiberGrate May 2003 - The terms dock and pier were removed and replaced by the term piling-supported structure, to clarify our intent. March 2008 – Added requirement for 43% open space in grids; added additional manufacturer of grating. -

Permittee: City of Panama City – Saint Andrews Marina Dock Expansion Permit No: 0161132-003-EI Page 24 of 25 1. The piling-supported structure shall be aligned so as to have the smallest over-marsh footprint as practicable.

2. The over-marsh portion of the piling-supported shall be elevated to at least 4 feet above the marsh floor.

3. The width of the piling-supported is limited to a maximum of 4 feet. Any exceptions to the width must be accompanied by an equal increase in height requirement.

#### Mangroves.

1. The width of the piling-supported structure is limited to a maximum of 4 feet.

2. Mangrove clearing is restricted to the width of the piling-supported structure.

3. The location and alignment of the piling-supported structure should be through the narrowest area of the mangrove fringe.

#### Grid Specifications and Suppliers

The following information does not constitute a U.S. Army Corps of Engineers endorsement or advertisement for any particular provider and is provided only as an example for those interested in obtaining these materials for piling-supported structure construction. Light-transmitting materials are made of various materials shaped in the form of grids, grates, lattices, etc., to allow the passage of light through the open spaces. All light-transmitting materials used in construction for minor piling-supported structures shall have a minimum of forty-three (43) percent open space.

A type of fiberglass grate panel is manufactured by SeaSafe (Lafayette, LA; phone: 1-800-326-8842) and FiberGrate (1-800-527-4043). A type of plastic grating is manufactured by ThruFlow Interlocking Panels (1-888-478-3569). Plastic grate panels are also distributed by Southern Pine Lumber Company (Stuart, FL; 772-692-2300). Panels are available in a variety of sizes and thicknesses. For safety, the grate should contain an anti-slip texture which is integrally molded into the top surface. The manufacturer or local distributor should be consulted to ensure that the load-bearing capacity of the selected product is sufficient to support the intended purpose. Contact the manufacturer(s) for product specifications and a list of regional distributors.

Grid Specifications and Suppliers Section modified in October 2002 to add an additional vendor of materials. February 2003 – Manufacturer name changed from ChemGrate to FiberGrate May 2003 - The terms dock and pier were removed and replaced by the term piling-supported structure, to clarify our intent. March 2008 – Added requirement for 43% open space in grids; added additional manufacturer of grating. -

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