

DEPARTMENT OF THE ARMY PERMIT

Permittee: **MOBILE COUNTY COMMISSION**

Permit No.: **SAM-2019-00054-DCH**

Issuing Office: **MOBILE DISTRICT**

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (USACE) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

a. **Discharge a total of 20,000 cubic yards of sandy fill and 8,500 cubic yards of rip-rap into 4.6 acres of open waters for the construction of a new artificial pocket beach along 900 linear feet of shoreline within the waters of Mobile Bay. Specifically, the work involves the discharge of 7,900 cubic yards of clean sandy fill material below the plane of Mean High Water (MHW) within 3.1 acres of open water for the proposed beach area, and 3,600 cubic yards of rip-rap below the plane of MHW within 1.5 acres of open waters for installation of protective groin and breakwater structures. The work includes the construction of three timber walkover structures over an existing rip-rap revetment to provide pedestrian access to the new beach.**

b. **Construction of 160 linear feet of new boardwalk across tidal marsh at the south end of Bayfront Park. The proposed boardwalk across tidal marsh will be 6 feet wide, constructed at a height of 5 feet above the mud line, and will connect with additional boardwalks and observation decks to be constructed along an upland berm to the north. The boardwalk will be constructed with grated decking to minimize shading of wetland vegetation.**

ATTACHED: 1. Project Maps/Plans (8 Pages)
2. Shoreline Monitoring Plan (4 Pages)
3. Sea Turtle and Smalltooth Sawfish Construction Conditions (1 Page)
2. Alabama Department of Environmental Management 401 Water Quality Certification (3 Pages)
3. Alabama Department of Environmental Management CZM Consistency Concurrence (3 Pages)

Project Location: **Mobile Bay; Dauphin Island Parkway; within Section 18, Township 8 South, Range 1 West; at Latitude 30.356905°, Longitude -88.116174°; Alabama Port, Mobile County, Alabama.**

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **FEBRUARY 17, 2026**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 1 month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.

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.

Special Conditions:

- a. The permittee must conduct initial pre-construction baseline survey and post-construction semi-annual monitoring of project site and adjacent shorelines for a period of five (5) years in accordance with the attached "Monitoring Plan for the Bayfront Park Pocket Beach Project," dated September 9, 2020. The permittee must provide copies of the baseline survey and semi-annual monitoring reports to the USACE, Mobile District, Alabama Department of Environmental Management – Coastal Office, and the Alabama Department of Conservation and Natural Resources – State Lands Division Coastal Office within three (3) months of each monitoring event, no later than the end of February and August.
- b. The permittee shall implement the attached "Sea Turtle and Smalltooth Sawfish Construction Conditions" throughout project construction. In the event of an equipment strike, collision with and/or injury to a sea turtle or other listed species as a result of project implementation, work shall cease and the permittee shall immediately contact this office at (251) 694-3772 or (251) 690-2658, and the National Marine Fisheries Service – Protected Resources Division, (727) 824-5312.
- c. The permittee understands and agrees that if future operations by the United States require the removal, relocation, or other alteration of the structure 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 U. S. Army Corps of Engineers (USACE), 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.
- d. In order for the Coast Guard to give proper notice to the maritime community, the permitted owners, contractors, or responsible party shall contact Coast Guard Sector Mobile Waterways Management Branch (spw), 1500 15th Street, Mobile, Alabama 36615, (251) 441-5166 or (251) 441-5940, 60 days prior to performing the proposed action. The permitted owners, contractors, or responsible party must also install and maintain, at the permitted owner's, contractor's, or responsible party's expense, any safety lights, signs and signals required by the USCG, through regulations or otherwise, on the permitted owner's, contractor's, or responsible party's fixed structures. To receive a USCG Private Aids to Navigation marking determination, at no later than 30 days prior to the installation of any fixed structures in navigable waters, you are required to contact the Eighth Coast Guard District (dpw), 500 Poydras Street, Suite 1230, New Orleans, Louisiana 70130, (504) 671-2124 or via email to D8oanPATON@uscg.mil. For general information related to Private Aids to Navigation, please visit the Eight CG District website at www.atlanticarea.uscg.mil/District-8/District-Divisions/Waterways/PATON/.
- e. Should artifacts, archeological features, Native American artifacts, human remains, or other cultural resource materials be encountered during project activities, work shall cease and the U.S. Army Corps of Engineers (USACE) shall be consulted immediately by telephone at: (251) 694-3772 or (251) 690-2658 such that USACE may initiate appropriate federal, state, and tribal coordination to determine appropriate documentation and recovery efforts. If any archaeological or cultural materials are discovered during the project undertaking, neither the construction team nor the applicant will disclose this information to the public or the media in any manner. Discoveries of archaeological materials will be kept private and confidential. This stipulation shall be placed on the construction plans, and it is the permittee's responsibility to ensure that contractors are aware of this requirement.
- f. The permittee shall comply with all terms and conditions of the Alabama Department of Environmental Management 401 Water Quality Certification and Coastal Zone Consistency determination, dated February 4, 2021.
- g. The movement of heavy equipment through wetlands and/or other waters of the United States (U.S.) shall be

limited to the minimum necessary to accomplish the work authorized herein. All equipment required to traverse wetlands or other waters of the U.S., not permitted to receive fill, shall be supported on mats, or other similar measures shall be used to minimize soil disturbance and rutting. Upon completion of construction activities at the project site, all temporarily disturbed areas shall be returned to pre-construction elevations and revegetated.

h. Project construction shall be conducted in such a manner that passage of normal expected high flows of surface water and surface water runoff outside the project boundaries are not restricted or otherwise altered.

i. Best Management Practices (BMPs) shall be implemented to minimize erosion, siltation and damage to adjacent wetlands and waters of the United States in which the discharge of fill material has not been authorized. Appropriate erosion and sediment control measures must be utilized and maintained in effective operating condition during construction. All exposed soil surfaces and fill material must be permanently stabilized at the earliest practicable opportunity. All temporary erosion control features shall remain in place until permanent stabilization measures have been completed and become fully effective. The permittee shall conduct daily turbidity monitoring during construction. In the event turbidity levels exceed applicable State water quality standards of 50 Nephelometric Units (NTUs) above background levels in adjacent surface waters, work must be suspended until compliant turbidity levels are re-established. This office must be notified of resultant work stoppage as soon as possible.

j. The disposal of trees, brush and other project related debris in any wetland, stream corridor or other surface water is prohibited. Trees, brush, other debris, excess soil and other materials generated from project construction must be removed to an upland disposal area.

k. The permittee shall contact the community's designated officials responsible for FEMA floodplain regulations and enforcement to obtain necessary authorizations and to ensure that all federal, state, and local floodplain ordinances and safety precautions in effect for this area are met.

I. It is the responsibility of the permittee to ensure that all persons and contractors working on this project are aware of all general and special conditions of the permit. A copy of this permit and its general and special conditions shall remain available on site at all times during earthmoving and project construction activities.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

- (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).**
- (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).**

2. 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 project.

3. Limits of Federal Liability. In issuing this permit, the federal government does not assume any liability for the following:

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.

4. 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.

5. 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 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR Part 325.7 or enforcement procedures such as those contained in 33 CFR Parts 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to 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 CFR Part 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the USACE will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


(PERMITTEE) **MS. MERCERIA LUGGOOD**
FOR: MOBILE COUNTY COMMISSION
205 GOVERNMENT STREET
MOBILE, AL 36644-1600


(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

SEBASTIEN P. JOLY
COLONEL, U.S. ARMY
(DISTRICT COMMANDER)

BY: _____
S. BRAD CROSSON
TEAM LEADER
SOUTH ALABAMA BRANCH
REGULATORY DIVISION
(DATE)

When the structures or work authorized by this permit (**SAM-2019-00054-DCH**) 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 below.

(TRANSFeree)

(DATE)

MOBILE COUNTY

BAYFRONT PARK RESTORATION AND IMPROVEMENTS

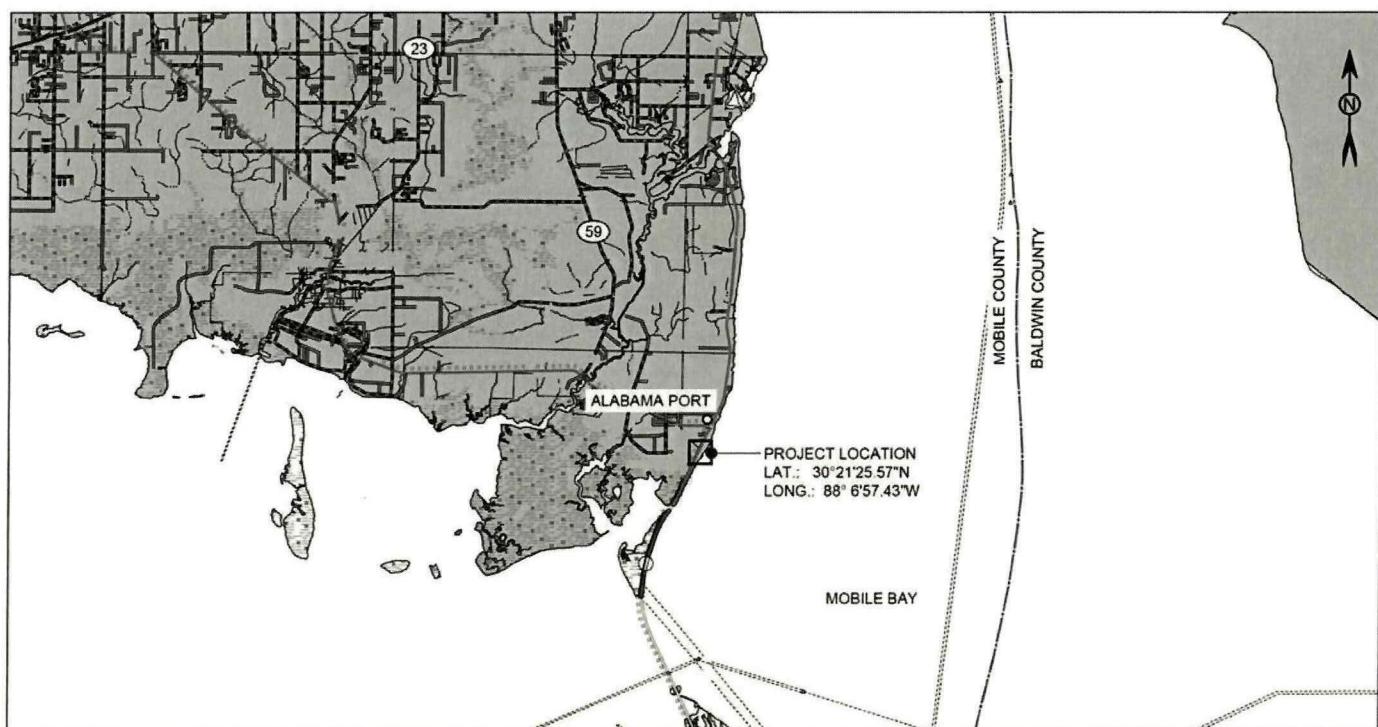


ALABAMA KEY MAP

DIRECTIONS:

THE PROJECT SITE CAN BE ACCESSED ALONG THE 193 DAUPHIN ISLAND PKWY SOUTH OF THE INTERSECTION WITH ALABAMA'S COASTAL CONNECTION

SHEET INDEX	
SHEET NO.	TITLE
1	VICINITY - LOCATION MAP
2	EXISTING SITE PLAN
3	SITE PLAN
4	SECTIONS
5	SECTIONS



PERMIT

APPLICANT: MOBILE COUNTY

M
MOTT
MACDONALD

107 Saint Francis Street
Suite 2900
Mobile AL 36602
T +1 (251) 343 4366
www.mottmac.com

THESE PLANS ARE INTENDED FOR PERMITTING AND ARE NOT TO
BE USED FOR BIDDING OR CONSTRUCTION.

SITE ADDRESS:
30°21'25.57"N
88°6'57.43"W

VERIFY SCALE

BAR IS ONE INCH ON ORIGINAL
DRAWINGS IF NOT ONE INCH ON THIS
SHEET. ADJUST SCALES ACCORDINGLY

CLIENT: MOBILE COUNTY

IN: MOBILE COUNTY

ADJACENT: MOBILE BAY

COUNTY: MOBILE

STATE: ALABAMA

VERTICAL DATUM: MHW (EPOCH

1983-2001)

HORIZ DATUM: NAD83-FT

DECEMBER 6, 2019

SHEET 1 OF 5

BAYFRONT PARK RESTORATION
AND IMPROVEMENTS

VICINITY - LOCATION MAP

Figure 1. Locator map for Bayfront Park in Mobile County, Alabama.

SAM-2019-00054-DCH

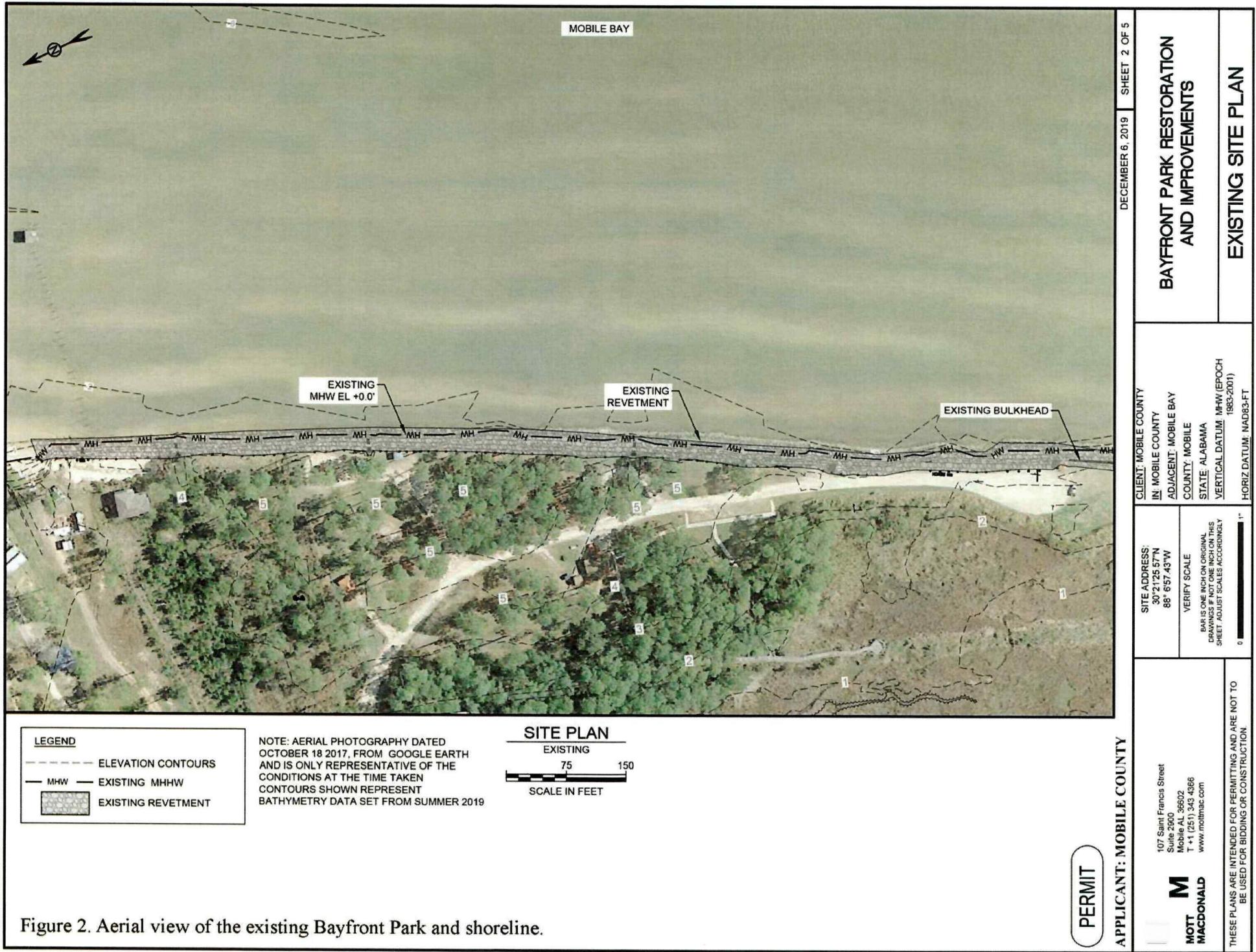


Figure 2. Aerial view of the existing Bayfront Park and shoreline.

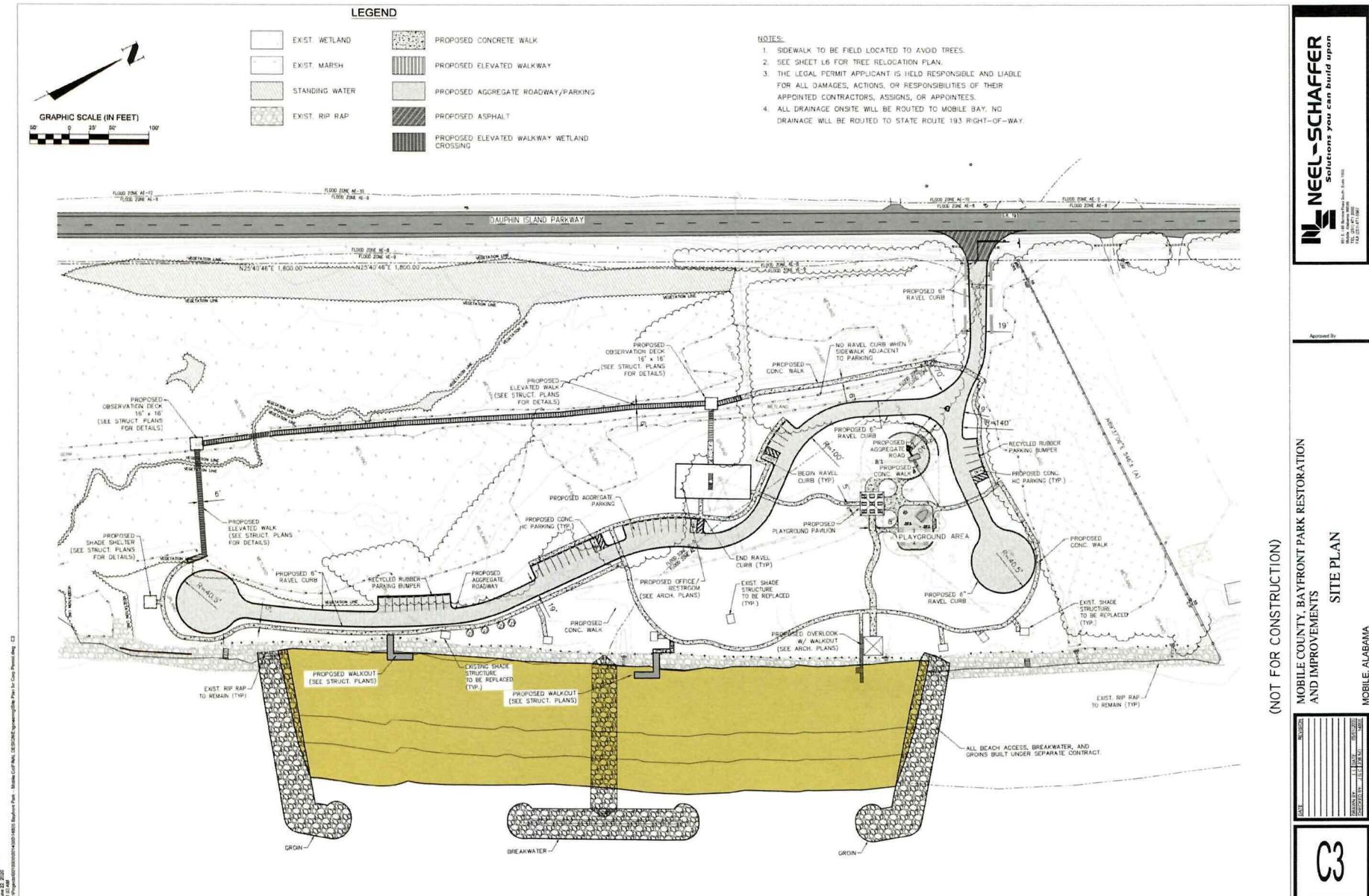


Figure 3. Proposed plan for improvements to Mobile County's Bayfront Park.

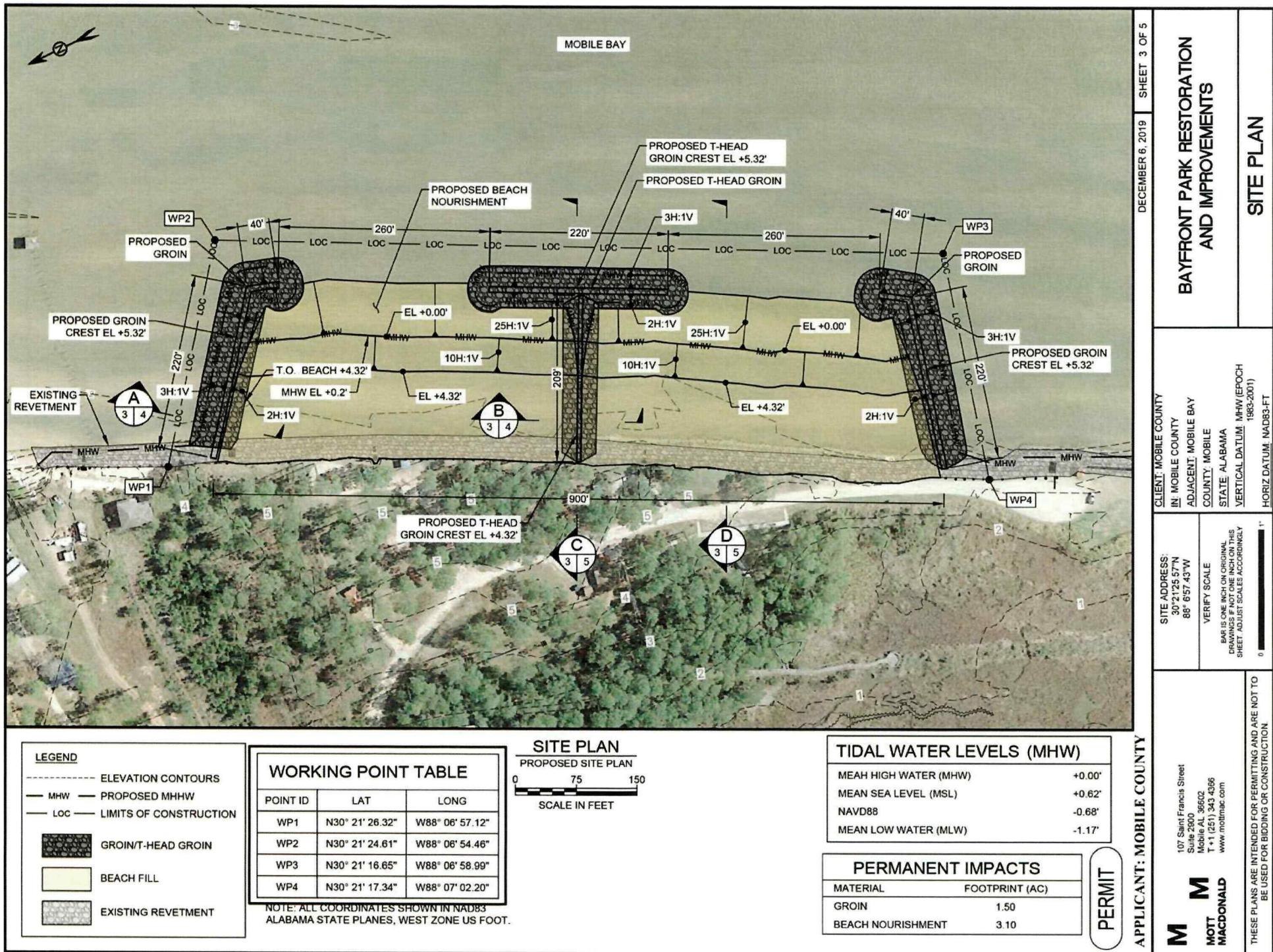
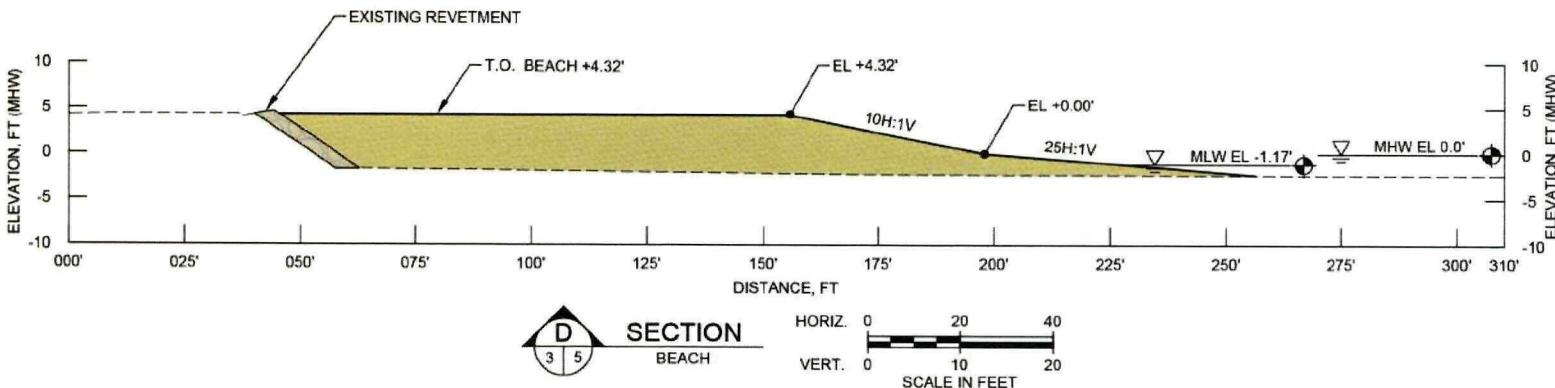
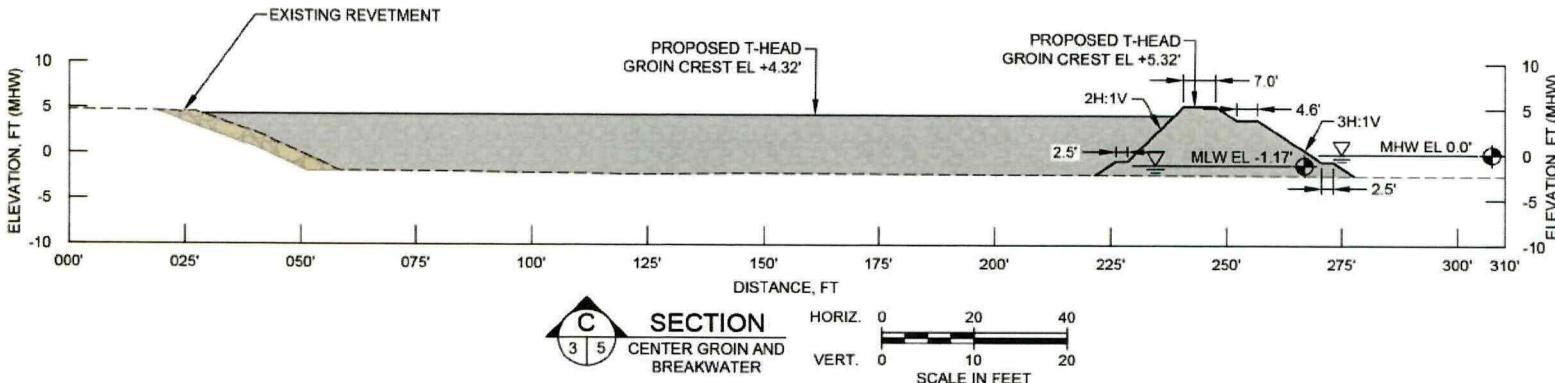


Figure 4. Site plan for the selected design for the proposed pocket beach.

SAM-2019-00054-DCH



	PROPOSED RIP-RAP (CY)	PROPOSED BEACH FILL(CY)
ABOVE MHW	4,900	12,100
BELOW MHW	3,600	7,900
TOTAL	8,500	20,000

Figure 5A. Profile views of the proposed beach nourishment areas and protective structures.

DECEMBER 6, 2019	SHEET 5 OF 5						
BAYFRONT PARK RESTORATION AND IMPROVEMENTS							
SECTIONS							
<table border="1"> <tr> <td>CLIENT: MOBILE COUNTY IN: MOBILE COUNTY ADJACENT: MOBILE BAY COUNTRY: MOBILE</td> <td>STATE: ALABAMA VERTICAL DATUM: MHW (EPOCH 1985-2001)</td> </tr> <tr> <td>SITE ADDRESS 30°21'25.57"N 88°55'43.31"W</td> <td>HORIZ. DATUM: NAD83-FT VERT. DATUM: NAD83-FT</td> </tr> <tr> <td>VERIFY SCALE BAR IS ONE INCH ON ORIGINAL DRAWINGS IF NOT ONE INCH ON THIS SHEET ADJUST SCALES ACCORDINGLY</td> <td>1"</td> </tr> </table>		CLIENT: MOBILE COUNTY IN: MOBILE COUNTY ADJACENT: MOBILE BAY COUNTRY: MOBILE	STATE: ALABAMA VERTICAL DATUM: MHW (EPOCH 1985-2001)	SITE ADDRESS 30°21'25.57"N 88°55'43.31"W	HORIZ. DATUM: NAD83-FT VERT. DATUM: NAD83-FT	VERIFY SCALE BAR IS ONE INCH ON ORIGINAL DRAWINGS IF NOT ONE INCH ON THIS SHEET ADJUST SCALES ACCORDINGLY	1"
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APPLICANT: MOBILE COUNTY	<table border="1"> <tr> <td>107 Saint Francis Street Suite 2800 Mobile, AL 36602 T +1 (201) 343 4966 www.mottmac.com</td> </tr> <tr> <td>MOTT MACDONALD</td> </tr> <tr> <td>THESE PLANS ARE INTENDED FOR PERMITTING AND ARE NOT TO BE USED FOR BIDDING OR CONSTRUCTION</td> </tr> </table>	107 Saint Francis Street Suite 2800 Mobile, AL 36602 T +1 (201) 343 4966 www.mottmac.com	MOTT MACDONALD	THESE PLANS ARE INTENDED FOR PERMITTING AND ARE NOT TO BE USED FOR BIDDING OR CONSTRUCTION			
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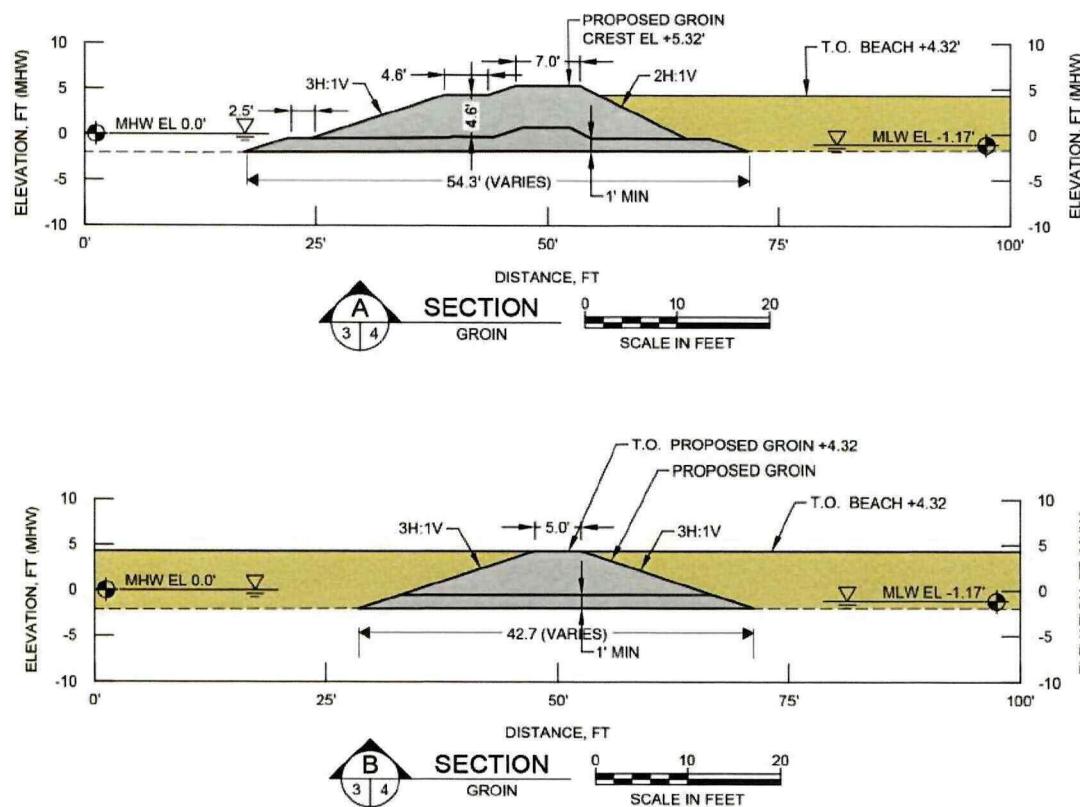


Figure 5B. Cross sections of the proposed beach nourishment areas and protective structures.

PERMIT		APPLICANT: MOBILE COUNTY		SITE ADDRESS		CLIENT: MOBILE COUNTY	
				302125 57N 88-55743W		IN: MOBILE COUNTY ADJACENT: MOBILE BAY	
		VERIFY SCALE		COUNTY: MOBILE		STATE: ALABAMA	
		BAR IS ONE INCH ON ORIGINAL (DRAWINGS IF NOT ONE INCH ON THIS SHEET ADJUST SCALES ACCORDINGLY)		VERTICAL DATUM: MHW (EPOCH 1985-2001)		HORIZ. DATUM: NAD83, FT	
		MOTT MACDONALD		107 Saint Francis Street Suite 2900 Mobile, AL 36602 T+1 (201) 343-4966 www.mottmac.com		THESE PLANS ARE INTENDED FOR PERMITTING AND ARE NOT TO BE USED FOR BIDDING OR CONSTRUCTION	

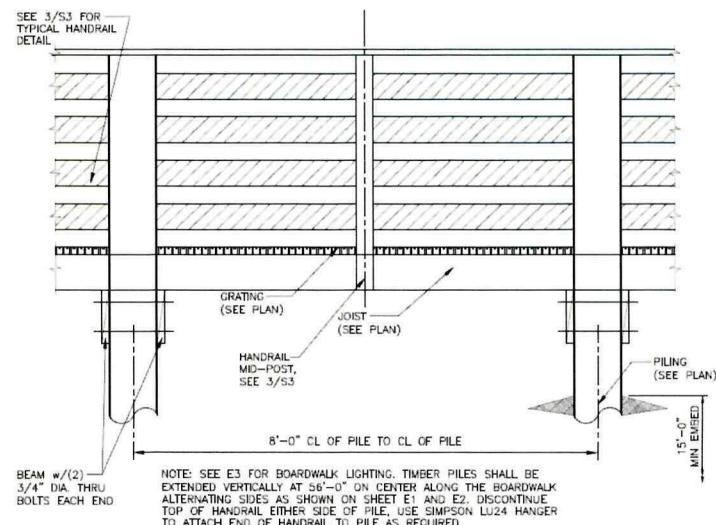
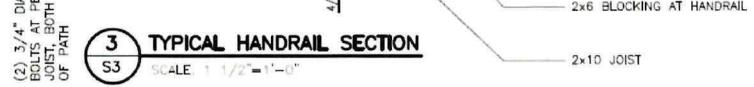
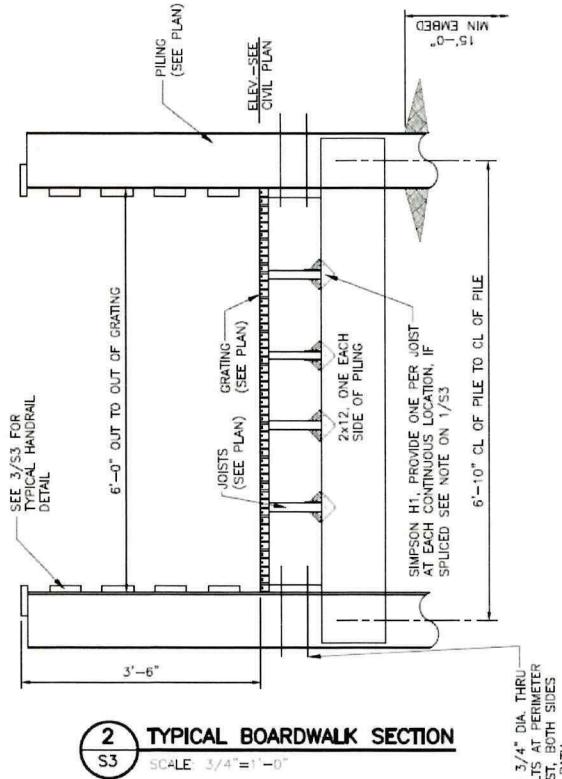
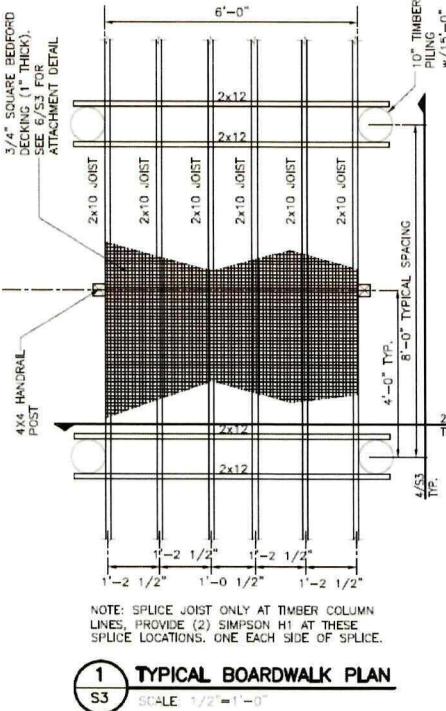


Figure 6. Design details for proposed boardwalks

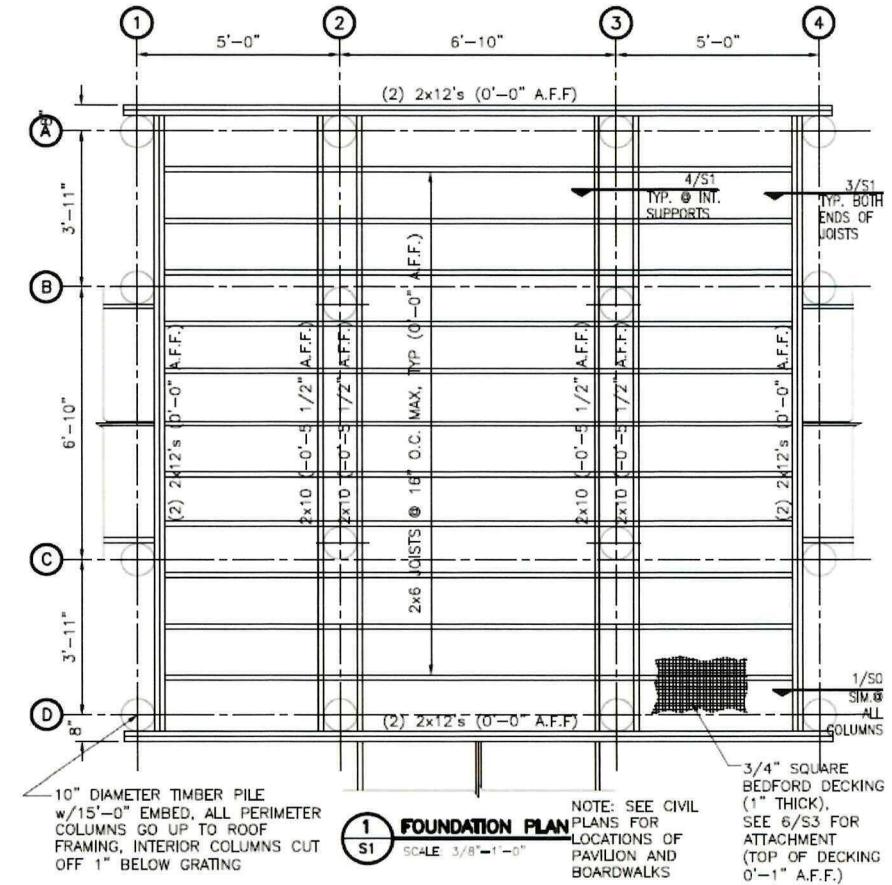
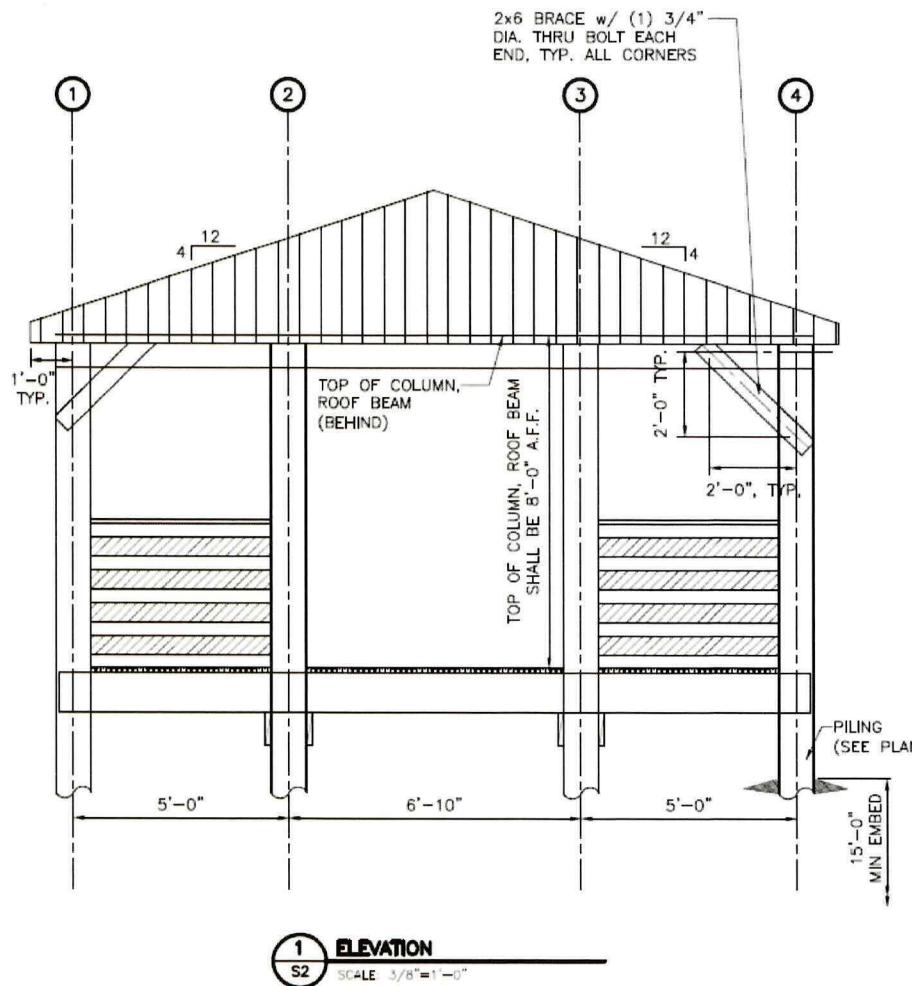


Figure 7. Design details for proposed observation decks

**MONITORING PLAN
FOR THE
BAYFRONT PARK POCKET BEACH PROJECT
(SAM-2019-00054-DCH)**

Prepared for:

MOBILE COUNTY COMMISSION
MOBILE GOVERNMENT PLAZA
205 GOVERNMENT STREET
MOBILE, ALABAMA 36644-1600

Prepared by:

BARRY A. VITTOR & ASSOCIATES, INC.
8060 COTTAGE HILL ROAD
MOBILE, ALABAMA 36695

September 9, 2020

INTRODUCTION

The goal of Mobile County's Bayfront Park pocket beach project is to provide visitors to the Park with the opportunity to enjoy convenient access to Mobile Bay waters in a safe and managed setting. Hydrodynamic modeling, GIS, and examination of regional tidal datums were used extensively in the pocket beach planning process to determine the appropriate spatial arrangement, elevation, and composition of wave protection structures, and elevation, slope, composition, and spatial arrangement of beach fill. The wave protection structures are intended to reduce significantly the erosional wave energy (and potential sediment transport) at the new shoreline. The Bayfront Park pocket beach project will be monitored for at least five years after completion of construction, as described below. Once it has been documented that the project has resulted in no unintended adverse impacts on adjacent properties, a letter will be submitted to the U.S. Army Corps of Engineers, Mobile District requesting termination of monitoring requirements.

PROJECT DESCRIPTION

The Bayfront Park pocket beach project has been designed to provide approximately 800 feet of sand beach that has a width of approximately 85 feet. The north and south ends of the beach will be protected by groins approximately 260 feet in length, and the center of the beach area will be protected by a breakwater approximately 200 feet long, arranged parallel to the shoreline. The new pocket beach will be established by placement of up to 25,000 CY of sand obtained from a commercial source. Although the specifications for this sand stipulate that it must contain no more than 1% fines, silt curtain may be installed to preclude release of fine sediments that exist within the placement area.

OVERVIEW OF MONITORING VARIABLES

The indirect effects of pocket beach protection measures and sand placement in the pocket beach on adjacent properties will be determined through monitoring and documentation of the following variables:

- Shoreline locations and topography compared to pre-project conditions; and
- Water depths compared to pre-project conditions.

SHORELINE PROTECTION SUCCESS MONITORING

The proposed pocket beach protection measures are intended to reduce wave energy and erosion potential at the new beach shoreline in Bayfront Park. At the same time, these structures have been designed to minimize the potential for indirect effects on adjacent shorelines, including privately owned property north of the Park. The success of the project design in avoiding or minimizing erosion of adjacent shorelines and excessive deposition of sediments offshore of those shorelines will be determined through the monitoring approach described below.

SHORELINE LOCATION AND TOPOGRAPHY

The location and topography of shorelines adjacent to Bayfront Park footprint will be determined no more than six months prior to construction and semi-annually after construction, for at least a 5-year monitoring period, using ground-level survey techniques. Locations and topography of the adjacent shoreline within at least 250 feet of the north boundary of the Park will be determined along transects perpendicular to the shoreline and spaced at 50-foot intervals (resulting in at least 6 transects). Baseline conditions will be established through installation of physical benchmarks at each of these transects, no less than 25 feet landward from the mean high water line (MHWL). Elevations along the shoreline transects will be determined using horizontal and vertical surveying with at least second-order accuracy. Elevations along the profile will be obtained to account for grade breaks and at intervals that ensure that the elevation difference between any two consecutive points is no greater than 0.5 feet. Along the Park shoreline and within the footprint of the pocket beach (a distance of approximately 1300 feet), transects will be arranged at 150-foot intervals, resulting in at least 9 transects. This wider spacing takes into account the existing armoring of the entire length of the Park shoreline, and the low probability of retreat of the existing shoreline due to the project. Baseline benchmarks will be installed at the landward end of each of the Park transects; elevation data will be obtained as described above for the adjacent shoreline north of the Park and will include elevations within the pocket beach itself.

BATHYMETRY

Sediment transport and deposition from the pocket beach will also be determined no more than six months prior to construction and will be monitored semi-annually for five years, through bathymetric surveys that extend along each of the shoreline transects from the MHWL to at least 1000 feet into the Bay; transects within the pocket beach area will extend at least 1000 feet beyond the newly established MHWL. This will result in monitoring of at least 15 bathymetric transects along the shoreline. Bathymetric data will be collected using at least second-order accuracy survey techniques.

DATASET DESCRIPTIONS

Described below are monitoring program datasets for which information can be characterized in this Plan.

SHORELINES

Dataset Name: Shoreline Locations and Topography

Data provided as maps in ArcGIS

Unit of horizontal and vertical measurement will be feet, with second-order accuracy for horizontal and vertical planes

Data will be collected under contract and will be held by Mobile County
Access to data will be made available by Mobile County, in annual uploading

BATHYMETRY

Dataset Name: Pocket Beach Area and Adjacent Properties Bathymetry

Pre-construction and post-construction bathymetry data collection

Data provided as bathymetric charts in CADD

Unit of measure will be depth in feet, with second-order accuracy

Data will be collected under contract and will be held by Mobile County

Access to data will be made available by Mobile County, in annual uploading

PROJECT MONITORING REPORTS

Semi-annual reports will be prepared to present data on the status of the pocket beach protection and construction project for at least five years following completion of construction. Surveys will be conducted during October-November and April-May of each year. Each report will describe the results of shoreline surveys and subtidal bathymetry. The reports will build on each prior year's data and report. Shoreline changes may be presented graphically and with aerial imagery, while bathymetric survey data will be mapped to show areas of possible deposition or scouring. Monitoring reports will be submitted to the Corps of Engineers, Alabama Department of Environmental Management, and Alabama Department of Conservation and Natural Resources/State Lands Division within three months of each monitoring event (ie., no later than the ends of February and August of each year).



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

The permittee shall comply with the following protected species construction conditions:

- a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.
- c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.
- d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.
- e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.
- f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.
- g. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

Revised: March 23, 2006

O:\forms\Sea Turtle and Smalltooth Sawfish Construction Conditions.doc



Alabama Department of Environmental Management
adem.alabama.gov

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February 4, 2021

Mobile County Commission
Attn: Mr. Eddie Kerr
C/O Barry A. Vittor, Ph.D.
Barry A. Vittor & Associates, Inc.
8060 Cottage Hill Road
Mobile, Alabama 36695

RE: State of Alabama Water Quality Certification (WQC) Pursuant to Clean Water Act (CWA) §401(a)
Bayfront Park, Mobile Bay, Dauphin Island Parkway, Mobile County, Alabama
Parcel ID No. R024903074000007.000
U.S. Army Corps of Engineers (USACE) File No. SAM-2019-00054-DCH
Alabama Department of Environmental Management (ADEM) Tracking Code: ADEM-2019-119-WQC-COE-SP

Dear Mr. Kerr:

The ADEM has completed its review of all submitted materials related to Mobile County Commission's application to discharge a total of 18,000 cubic yards of sandy fill and 8,500 cubic yards of rip-rap into 4.6 acres of open waters for the construction of a new artificial pocket beach along 900 linear feet of shoreline within the waters of Mobile Bay. Specifically, the work would involve the discharge of 7,900 cubic yards of clean sand below the plane of Mean High Water (MHW) within 3.1 acres of open water for the proposed beach area, and 3,600 cubic yards of rip-rap below the plane of MHW within 1.5 acres of open waters for installation of protective groin and breakwater structures. The work would include the construction of timber walkover structures that would span over an existing rip-rap revetment to provide pedestrian access to the new beach. In addition to the new beach, 160 linear feet of new boardwalk across tidal marsh at the south end of Bayfront Park will be constructed. The proposed boardwalk across tidal marsh would be 6 feet wide, constructed at a height of 5 feet above the mud line, and would connect with additional boardwalks and observations decks to be constructed along an upland berm to the north. In addition to the above-referenced activities regulated by the USACE, Mobile District, the applicant plans additional improvements to upland areas within Bayfront Park, including the construction new roadways, parking.

The basic project purpose of this endeavor is to improve and expand amenities at an existing waterfront park. The overall project purpose is to create a recreational beach, expand nature boardwalks, and improve associated parking areas, road.

Action pertinent to WQC is required by CWA §401(a)(1), 33 U.S.C. §1251, et. seq. If conducted in accordance with the conditions prescribed herein, there is reasonable assurance that the discharge resulting from the proposed activities will not violate applicable water quality standards established under §303 of the CWA and §22-22-9(g), Code of Alabama (1975). By this letter all are hereby notified that CWA §401 WQC is granted. This WQC is limited to the approved activities covered under SAM-2019-00054-DCH and terminates concurrently with the expiration of same, but in no case shall this WQC exceed a maximum of five years from the date the USACE issues the permit unless specifically authorized in response to a written request. Any significant deviation from the approved project design **must not** be implemented without prior written notice and approval from the ADEM. Upon such notice, the Director may require the submission of additional information and/or a new permit application, and additional fees may be required.

This certification does not authorize placement of fill material on any area of State waterbottoms containing submersed grassbeds - defined at ADEM Admin. Code r. 335-8-1-.02(iii). If grasses are encountered during construction activities, work must immediately cease and the resource agencies must be notified of the matter in a timely manner.



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In recognition that projects are site specific in nature and conditions can change during project implementation, the ADEM reserves the right to require the submission of additional information or require additional management measures to be implemented, as necessary on a case-by-case basis, in order to ensure the protection of water.

ADEM certifies that there are no applicable effluent limitations under §301 and §302 nor applicable standards under §306 and §307 of the CWA in regard to the activities specified. However, regulations promulgated by the EPA requiring discharge permits for storm water runoff (i.e. NPDES permits) from individual and commercial facilities may be applicable. This WQC does not address the requirements of those regulations.

By accepting this WQC from the State of Alabama, any duly authorized employee of the ADEM or its contractors, or Attorney General or District Attorney must be allowed to enter upon the premises on which this project is occurring for the purposes of ascertaining compliance with ADEM's Administrative Code.

Liability and responsibility for compliance with this concurrence are not delegable by contract or otherwise. Any agent, contractor, subcontractor, or other person employed to work on the project must understand the approved project design and associated activities. Any violations of the ADEM's Administrative Code may be considered violations of this WQC and may result in an enforcement action.

This WQC only addresses potential discharges to state waters resulting from approved activities and does not authorize any activity or result therefrom not specified herein, nor does this WQC convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations and in no way purports to vest in any person title to lands now owned by the State of Alabama nor shall it be construed as acquiescence by the State of Alabama of lands owned by the State that may be in anyone's possession. This WQC does not obviate the responsibility to acquire all other needed permits nor does this WQC, in any way, imply that the proposed activities comply with the requirements of any other jurisdictional entity nor does it imply that the project can or should be approved by any other jurisdictional entity.

This WQC is not transferable without prior written notice and approval of the ADEM.

Adherence to the following conditions is required in order to ensure protection of water quality.

1. Pursuant to the requirements of ADEM Admin. Code r. 335-6-10-.04(3), effective Best Management Practices (BMPs) must be implemented for prevention and control of nonpoint sources of pollutants, including sediment loss, originating on site during and after site development activities to prevent fill material from entering wetland areas and/or State waters in which disposal of fill has not been authorized by the ADEM. Effective erosion control measures, sediment control measures, and other site pollution management practices are required to be designed, implemented, and continually maintained consistent with the Alabama Handbook for Erosion Control, Sediment Control, and Stormwater Management on Construction Sites and Urban Areas. This condition is necessary to assure that any discharges resulting from land disturbance activities during project implementation will not result in excessive turbidity in the receiving water so as to cause the receiving water to fail to meet its water use criterion.
2. Pursuant to the requirements of ADEM Admin. Code r. 335-6-10-.06(a), appropriate BMPs to minimize turbidity impacts to the maximum extent practicable shall be implemented. This condition is necessary to assure that State waters will be free from substances attributable to sewage, industrial wastes or other wastes that could settle to form bottom deposits which are unsightly, putrescent or interfere directly or indirectly with any classified water use.
3. Pursuant to the requirements of ADEM Admin. Code r. 335-6-10-.09, turbidity generated by the activity must not cause substantial visible contrast nor result in an increase of more than fifty (50) Nephelometric turbidity units above background in state waters. If turbidity generated from project exceeds acceptable levels, operations must cease until turbidity is restored to acceptable levels. This condition is necessary to assure that any discharges resulting from construction activities during project implementation will not

result in excessive turbidity in the receiving water so as to cause the receiving water to fail to meet its water use criterion.

4. Pursuant to the requirements of ADEM Admin. Code r. 335-6-12-.35(11), upon the loss or failure of any treatment facility, BMP, or other management control measure as identified by responsible on-site staff during day-to-day construction operations or as identified by ADEM technical staff during facility inspections, work/activity and all discharges shall, where necessary to maintain compliance with this WQC, be suspended, halted, reduced, or otherwise controlled until effective treatment is restored. This condition is necessary to assure that any discharges resulting from land disturbance activities during project implementation will not result in excessive turbidity in the receiving water so as to cause the receiving water to fail to meet its water use criterion.
5. Pursuant to the requirements of ADEM Admin. Code r. 335-6-10-.06(b), effective solid waste management practices shall be implemented at the site. All construction debris (e.g. excess construction materials, packaging material, trash, garbage, etc.) must be contained while on-site and regularly removed and disposed of in an approved manner. There shall be regular monitoring and removal of any construction debris or wastes from wetland areas, State waters, or adjacent offsite areas. This condition is necessary to assure that any discharges resulting from land disturbance activities during project implementation will not result in excessive turbidity in the receiving water so as to cause the receiving water to fail to meet its water use criterion. This condition is necessary to assure that State waters will be free from substances attributable to sewage, industrial wastes or other wastes that could settle to form bottom deposits which are unsightly, putrescent or interfere directly or indirectly with any classified water use.
6. Pursuant to the requirements of ADEM Admin. Code r. 335-8-2-.02(5), all materials used as fill shall be non-toxic, non-leaching, non-acid forming, and free of solid waste or other debris. This condition is necessary to assure that State waters will be free from substances which could cause a contravention of any water use criteria.

And finally, upon receipt of the USACE permit, make careful note of the expiration date. Expired permits cannot simply be reactivated or extended. If the project will not be completed prior to the expiration of the permit, the USACE and the ADEM must be notified - preferably 60 days before the permit expiration date. If the permit expires before regulated activities authorized therein are completed, a new permit application will have to be submitted to the resource agencies for a full review which will include but not be limited to: public noticing, resolution of public comments, and remittance of new project review fees. In this circumstance, work may have to cease until a new permit has been issued.

Contact the Mobile-Coastal office anytime with questions. Always include the ADEM tracking code above when corresponding on this matter. Mark Rainey is the Mobile-Coastal office contact for this project; he may be reached by phone at 251.304.1176 or by e-mail at mark.rainey@adem.alabama.gov.

Sincerely,



Anthony Scott Hughes, Chief
Field Operations Division

cc: DCNR.Coastal@dcnr.alabama.gov
USACE | Mobile District, Dylan C. Hendrix - (dylan.c.hendrix@usace.army.mil)

ASH/jsb

File: 401WQ/8565

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February 4, 2021

Mobile County Commission
Attn: Mr. Eddie Kerr
C/O Barry A. Vittor, Ph.D.
Barry A. Vittor & Associates, Inc.
8060 Cottage Hill Road
Mobile, Alabama 36695

RE: State of Alabama Coastal Consistency Concurrence
Bayfront Park, Mobile Bay, Dauphin Island Parkway, Mobile County, Alabama
Parcel ID No. R024903074000007.000
U.S. Army Corps of Engineers (USACE) File No. SAM-2019-00054-DCH
Alabama Department of Environmental Management (ADEM) Tracking Code: ACAMP-2019-119-FC-FLP-COE-SP

Dear Mr. Kerr:

The ADEM has completed its review of all submitted materials related to Mobile County Commission's application to discharge a total of 18,000 cubic yards of sandy fill and 8,500 cubic yards of rip-rap into 4.6 acres of open waters for the construction of a new artificial pocket beach along 900 linear feet of shoreline within the waters of Mobile Bay. Specifically, the work would involve the discharge of 7,900 cubic yards of clean sand below the plane of Mean High Water (MHW) within 3.1 acres of open water for the proposed beach area, and 3,600 cubic yards of rip-rap below the plane of MHW within 1.5 acres of open waters for installation of protective groin and breakwater structures. The work would include the construction of timber walkover structures that would span over an existing rip-rap revetment to provide pedestrian access to the new beach. In addition to the new beach, 160 linear feet of new boardwalk across tidal marsh at the south end of Bayfront Park will be constructed. The proposed boardwalk across tidal marsh would be 6 feet wide, constructed at a height of 5 feet above the mud line, and would connect with additional boardwalks and observations decks to be constructed along an upland berm to the north. In addition to the above-referenced activities regulated by the USACE, Mobile District, the applicant plans additional improvements to upland areas within Bayfront Park, including the construction new roadways, parking.

The basic project purpose of this endeavor is to improve and expand amenities at an existing waterfront park. The overall project purpose is to create a recreational beach, expand nature boardwalks, and improve associated parking areas, road. Public noticing requirements of Title 15 C.F.R. §930.61 have been completed.

As required by Title 15 C.F.R. §930.62, by this letter all are hereby notified that the ADEM concurs with the submitted certification, conditional upon continued compliance with the ACAMP. This concurrence is limited to the final approved activities covered under SAM-2019-00054-DCH. Any significant deviation from the approved project design must not be implemented without prior written notice and approval from the ADEM as a supplemental coastal consistency certification may be required – pursuant



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to Title 15 C.F.R. §930.66. In such a case, the Director may require the submission of additional information and/or a new permit application, and additional fees may be required.

Authorization from the Alabama Department of Conservation and Natural Resources – State Lands Division (ADCNR-SLD) must be obtained prior to initiating any work on state owned submerged lands. Failure to obtain proper ADCNR-SLD authorization may jeopardize coastal consistency status under ADEM Admin. Code r. 335-8-2-01 (2)(c) and result in revocation of ADEM's concurrence pursuant to ADEM Admin. Code r. 335-8-1-.07(3). A copy of this letter is being provided to ADCNR-SLD.

In recognition that projects are site specific in nature and conditions can change during project implementation, the ADEM reserves the right to require the submission of additional information or require additional management measures to be implemented, as necessary on a case-by-case basis, in order to ensure the protection of water quality and coastal resources.

Pursuant to Title 15 C.F.R. §930.65, the ADEM and the USACE cooperate in the effort to monitor authorized activities to verify that those activities continue to conform to both federal and state requirements. By accepting this concurrence, any duly authorized employee of the ADEM or its contractors, or Attorney General or District Attorney must be allowed to enter upon the premises on which this project is occurring for the purposes of ascertaining compliance with ADEM's Administrative Code. Any violations of the ADEM's Administrative Code may be considered violations of this concurrence and may result in an enforcement action.

Liability and responsibility for compliance with this concurrence are not delegable by contract or otherwise. Any agent, contractor, subcontractor, or other person employed to work on the project must understand the approved project design and associated activities.

This coastal consistency concurrence only addresses the approved activities which are also regulated under the enforceable policies of the ACAMP as codified in ADEM Admin. Code R. 335-8. This concurrence does not authorize any activity or result therefrom not specified herein, nor does this concurrence convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations and in no way purports to vest in any person title to lands now owned by the State of Alabama nor shall it be construed as acquiescence by the State of Alabama of lands owned by the State that may be in anyone's possession. This concurrence does not obviate the responsibility to acquire all other needed permits nor does this concurrence, in any way, imply that the proposed activities comply with the requirements of any other jurisdictional entity nor does it imply that the project can or should be approved by any other jurisdictional entity.

This concurrence is not transferable without prior written notice and approval of the ADEM.

Adherence to the following conditions is required in order to ensure continued compliance with the ACAMP.

1. Pursuant to ADEM Admin. Code r 335-8-2-.02(1[c]) this certification does not authorize placement of fill material on any area of State waterbottoms containing submersed grassbeds - defined at ADEM Admin. Code r. 335-8-1-.02(iii). If grasses are encountered during construction activities, work must immediately cease and the resource agencies must be notified of the matter in a timely manner.

2. Pursuant to the requirements of ADEM Admin. Code r. 335-8-2-.02(5), all materials used as fill shall be non-toxic, non-leaching, non-acid forming, and free of solid waste or other debris.
3. Pursuant to the requirements of ADEM Admin. Code r. 335-8-2-.01, should cultural resources be encountered during the course of conducting the activities authorized herein, construction activities must cease and the ADEM and the Alabama Historical Commission must be immediately notified of any historical, cultural, or archaeological resources that are discovered. This condition should be placed on the site construction plans to ensure contractors are aware of it.

And finally, upon receipt of the USACE permit, make careful note of the expiration date. Expired permits cannot simply be reactivated or extended. If the project will not be completed prior to the expiration of the permit, the USACE and the ADEM must be notified - preferably 60 days before the permit expiration date. If the permit expires before regulated activities authorized therein are completed, a new permit application will have to be submitted to the resource agencies for a full review which will include but not be limited to: public noticing, resolution of public comments, and remittance of new project review fees. In this circumstance, work may have to cease until a new permit has been issued.

Contact the Mobile-Coastal office anytime with questions. Always include the ADEM tracking code above when corresponding on this matter. Mark Rainey is the Mobile-Coastal office contact for this project; he may be reached by phone at 251.304.1176 or by e-mail at mark.rainey@adem.alabama.gov.

Sincerely,



Anthony Scott Hughes, Chief
Field Operations Division

cc: DCNR.Coastal@dcnr.alabama.gov
USACE | Mobile District, Dylan C. Hendrix - (dylan.c.hendrix@usace.army.mil)

ASH/jsb

File: CZCERT/8565