

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: **March 23, 2010**

Consent Regular
 Ordinance Public Hearing

Department: **Parks and Recreation**

Submitted By: **Parks and Recreation Department**

Submitted For: **Parks and Recreation Department**

I. EXECUTIVE BRIEF

Motion and Title: **Staff recommends motion to approve:** Sovereignty Submerged Lands Lease Renewal Modification (No. 500019776) between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (LESSOR) and Palm Beach County (LESSEE) for 10,762.5 square feet of submerged lands at DuBois Park, for the period February 7, 2010, through February 7, 2015.

Summary: The State originally granted the County a Sovereignty Submerged Lands Lease in 1975 for an existing 20 boat slip public marina facility at DuBois Park. The boat slips were removed in the mid-1980's because of damage to the concrete docks and shoaling issues. The County has maintained the lease with plans to rebuild the dock slips. The new terms of the lease allow the County to operate a 17 slip docking facility exclusively for mooring of recreational vessels in conjunction with an upland marina, without fueling facilities, with a sewage pumpout facility and without liveaboards. The lease requires a \$555 processing fee, with no annual lease fee. The processing fee is budgeted by the Parks and Recreation Department under annual operating expenses for DuBois Park. District 1 (AH)

Background and Justification: The submerged lands at DuBois Park were initially leased in 1975, for a 20 slip marina. The dock slips were removed in the mid-1980's due to damage to the docks and shoaling issues. The County has maintained the lease in hopes of replacing the dock slips. In September 2009, the County was issued an environmental permit from the South Florida Water Management District to build 17 day use dock slips and a one acre snorkeling area along the southern shore of the Jupiter Inlet. The County is ready to award the construction contract for the marina and snorkeling area, and the Sovereignty Submerged Lands Lease must be fully executed prior to the commencement of construction. The term of the Lease Agreement is five (5) years, commencing on February 7, 2010 and expiring on February 7, 2015.

Attachment: Sovereignty Submerged Lands Lease Renewal Modification No. 500019776

Recommended by: 
Department Director

2/26/10
Date

Approved by: 
Assistant County Administrator

3/16/10
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>555</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>555</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>				

Is Item Included in Current Budget? Yes X No _____
 Budget Account No.: Fund 0001 Department 580 Unit 5110
 Object 4401 Program N/A

B. Recommended Sources of Funds/Summary of Fiscal Impact:

FUND: General Fund
 UNIT: Administration

Rent 0001-580-5110-4401 \$555

C. Departmental Fiscal Review: ckopelakis

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

 OFMB *3/14/10*
 _____ *3/12/10*
 Contract Development and Control *3/12/10*
 E Jones 3/12/10

B. Legal Sufficiency:

 Assistant County Attorney *3/15/10*
 This item complies with current County policies.
 The effective date is retroactive.

C. Other Department Review:

 Department Director

REVISED 10/95
 ADM FORM 01

This summary is not to be used as a basis for payment

This Instrument Prepared By:
Taurean J. Lewis
Recurring Revenue Section
Bureau of Public Land Administration
3900 Commonwealth Boulevard
Mail Station No. 125
Tallahassee, Florida 32399

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS LEASE RENEWAL
MODIFICATION TO RECONFIGURE WITHIN LEASE AREA

BOT No. 500019776

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Lessor.

WITNESSETH: That for and in consideration of payment of the annual lease fees hereinafter provided and the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to Palm Beach County, Florida, hereinafter referred to as the Lessee, the sovereignty lands described as follows:

A parcel of sovereignty submerged land in Section 31, Township 40 South, Range 43 East, in the Loxahatchee River Palm Beach County, containing 10,763 square feet, more or less, as is more particularly described and shown on Attachment A, dated August 13, 2009

TO HAVE THE USE OF the hereinabove described premises from February 7, 2010, the effective date of this modified lease renewal, through February 7, 2015, the expiration date of this modified lease renewal. The terms and conditions on and for which this modified lease renewal is granted are as follows:

1. USE OF PROPERTY: The Lessee is hereby authorized to construct and operate a 17-slip docking facility exclusively to be used for mooring of recreational vessels in conjunction with an upland public park, without fueling facilities, with a sewage pumpout facility if it meets the regulatory requirements of the State of Florida Department of Environmental Protection or State of Florida Department of Health, whichever agency has jurisdiction, and without liveaboards as defined in paragraph 28, as shown and conditioned in Attachment A and the South Florida Water Management District, Environmental Resource Permit No. 50-09160-P, dated September 14, 2009, incorporated herein and made a part of this lease by reference. All of the foregoing subject to the remaining conditions of this Lease. The construction of the structures described in Attachment A shall be completed within the initial term hereof or within the first 5 years of the initial term if the initial term is for a period greater than 5 years. The failure to complete the construction of all authorized structures within this time period shall constitute a material breach of the lease causing the lease to automatically terminate upon the expiration of the initial term or first 5 years, whichever is sooner, without any right of renewal. All of the foregoing subject to the remaining conditions of this lease.

2. AGREEMENT TO EXTENT OF USE: This lease is given to the Lessee to use or occupy the leased premises only for those activities specified herein and as conditioned by the South Florida Water Management District, Environmental Resource Permit. The Lessee shall not change or add to the approved use of the leased premises as defined herein (e.g., from commercial to multi-family residential, from temporary mooring to rental of wet slips, from rental of wet slips to contractual agreement with third party for docking of cruise ships, from rental of recreational pleasure craft to rental or temporary mooring of charter/tour boats, from loading/offloading commercial to rental of wet slips, etc.), shall not change activities in any manner that may have an environmental impact that was not considered in the original authorization or regulatory permit, or shall not change the type of use of the riparian uplands without first obtaining a regulatory permit/modified permit, if applicable, and the Lessor's written authorization in the form of a modified lease, the payment of additional fees, if applicable. If at any time during the lease term this lease no longer satisfies the requirements of subparagraph 18-21.011(1)(b)7., Florida Administrative Code, for a fee waived lease, the Lessee shall be required to pay an annual lease fee in accordance with Rule 18-21.011, Florida Administrative Code, and if applicable, remove any structures which may no longer qualify for authorization under this lease.

[02]

3. EXAMINATION OF LESSEE'S RECORDS: For purposes of this lease renewal, the Lessor is hereby specifically authorized and empowered to examine, for the term of this lease renewal including any extensions thereto plus three (3) additional years, at all reasonable hours, the books, records, contracts, and other documents confirming and pertaining to the computation of annual lease payments as specified in paragraph two (2) above.

4. MAINTENANCE OF LESSEE'S RECORDS: The Lessee shall maintain separate accounting records for: (i) gross revenue derived directly from the use of the leased premises, (ii) the gross revenue derived indirectly from the use of the leased premises, and (iii) all other gross revenue derived from the Lessee's operations on the riparian upland property. The Lessee shall secure, maintain and keep all records for the entire term of this lease renewal plus three (3) additional years. This period shall be extended for an additional two (2) years upon request for examination of all records and accounts for lease verification purposes by the Lessor.

5. PROPERTY RIGHTS: The Lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the Lessor. The Lessee is prohibited from including, or making any claim that purports to include, said lands described or the Lessee's leasehold interest in said lands into any form of private ownership, including but not limited to any form of condominium or cooperative ownership. The Lessee is further prohibited from making any claim, including any advertisement, that said land, or the use thereof, may be purchased, sold, or re-sold.

6. INTEREST IN RIPARIAN UPLAND PROPERTY: During the term of this lease renewal, the Lessee shall maintain a leasehold or fee simple title interest in the riparian upland property and if such interest is terminated, the lease may be terminated at the option of the Lessor. Prior to sale and/or termination of the Lessee's leasehold or fee simple title interest in the upland property, Lessee shall inform any potential buyer or transferee of the Lessee's upland property interest of the existence of this lease renewal and all its terms and conditions and shall complete and execute any documents required by the Lessor to effect an assignment of this lease renewal, if consented to by the Lessor. Failure to do so will not relieve the Lessee from responsibility for full compliance with the terms and conditions of this lease renewal which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.

7. ASSIGNMENT OF LEASE RENEWAL: This lease renewal shall not be assigned or otherwise transferred without prior written consent of the Lessor or its duly authorized agent. Such assignment or other transfer shall be subject to the terms, conditions and provisions of this lease, current management standards and applicable laws, rules and regulations in effect at that time. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.

8. INDEMNIFICATION/INVESTIGATION OF ALL CLAIMS: The Lessee shall investigate all claims of every nature at its expense. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.

9. VENUE: Lessee waives venue as to any litigation arising from matters relating to this lease renewal and any such litigation between Lessor and Lessee shall be initiated and maintained only in Leon County, Florida.

10. NOTICES/COMPLIANCE/TERMINATION: The Lessee binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Lessee, its successors and assigns. In the event the Lessee fails or refuses to comply with the provisions and conditions herein set forth, or in the event the Lessee violates any of the provisions and conditions herein set forth, and the Lessee fails or refuses to comply with any of said provisions or conditions within twenty (20) days of receipt of the Lessor's notice to correct, this lease may be terminated by the Lessor upon thirty (30) days written notice to the Lessee. If canceled, all of the above-described parcel of land shall revert to the Lessor. All notices required to be given to the Lessee by this lease or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

PALM BEACH COUNTY FLORIDA
Parks and Recreation Department
2700 Sixth Avenue South
Lake Worth, Florida 33461

The Lessee shall notify the Lessor by certified mail of any change to this address at least ten (10) days before the change is effective.

11. TAXES AND ASSESSMENTS: The Lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease renewal.

12. NUISANCES OR ILLEGAL OPERATIONS: The Lessee shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified unless such proposed use and occupancy are consented to by the Lessor and the lease is modified accordingly, nor shall Lessee knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.

13. MAINTENANCE OF FACILITY /RIGHT TO INSPECT: The Lessee shall maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. The leased premises shall be subject to inspection by the Lessor or its designated agent at any reasonable time.

14. NON-DISCRIMINATION: The Lessee shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the area subject to this lease renewal or upon lands adjacent to and used as an adjunct of the leased area. During the lease term, the Lessee shall post and maintain the placard furnished to the Lessee by the Lessor in a prominent and visible location on the leased premises or adjacent business office of the Lessee. It shall be the responsibility of the Lessee to post the placard in a manner which will provide protection from the elements, and, in the event that said placard becomes illegible at any time during the term of this lease renewal (including any extensions thereof), to notify the Lessor in writing, so that a replacement may be provided.

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

16. PERMISSION GRANTED: Upon expiration or cancellation of this lease renewal all permission granted hereunder shall cease and terminate.

17. RENEWAL PROVISIONS: Renewal of this lease shall be at the sole option of the Lessor. Such renewal shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. In the event that Lessee is in full compliance with the terms of this lease renewal, the Lessee may apply in writing for a renewal. Such application for renewal must be received by Lessor no sooner than 120 days and no later than 30 days prior to the expiration date of the original or current term hereof. The term of any renewal granted by the Lessor shall commence on the last day of the previous lease term. If the Lessee fails to timely apply for a renewal, or in the event the Lessor does not grant a renewal, the Lessee shall vacate the leased premises and remove all structures and equipment occupying and erected thereon at its expense. The obligation to remove all structures authorized herein upon termination of this lease renewal shall constitute an affirmative covenant upon the riparian upland property more specifically described in Attachment B, which shall run with the title to said riparian upland property, and shall be binding upon Lessee and Lessee's successors in title or successors in interest.

18. REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES: If the Lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease renewal, such structures and equipment will be deemed forfeited to the Lessor, and the Lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Lessee at the address specified in Paragraph 10 or at such address on record as provided to the Lessor by the Lessee. However, such remedy shall be in addition to all other remedies available to the Lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

19. REMOVAL COSTS/LIEN ON RIPARIAN UPLAND PROPERTY: Any costs incurred by the Lessor in the removal of any structures and equipment constructed or maintained on state lands shall be paid by the Lessee and any unpaid costs and expenses shall constitute a lien upon the interest of the Lessee in the riparian upland property enforceable in summary proceedings as provided by law.

20. RECORDATION OF LEASE: The Lessee, at its own expense, shall record this fully executed lease renewal in its entirety in the public records of the county within which the lease site is located within fourteen (14) days after receipt, and shall provide to the Lessor within ten (10) days following the recordation a copy of the recorded lease in its entirety which contains the O.R. book and pages at which the lease is recorded.

21. RIPARIAN RIGHTS/FINAL ADJUDICATION: In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, Lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lease renewal agreement and shall be grounds for immediate termination of this lease renewal agreement at the option of the Lessor.

22. AMENDMENTS/MODIFICATIONS: This lease renewal is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this lease renewal must be in writing, must be accepted, acknowledged and executed by the Lessee and Lessor, and must comply with the rules and statutes in existence at the time of the execution of the modification or amendment. Notwithstanding the provisions of this paragraph, if mooring is authorized by this lease, the Lessee may install boatlifts within the leased premises without formal modification of the lease provided that (a) the Lessee obtains any state or local regulatory permit that may be required; and (b) the location or size of the lift does not increase the mooring capacity of the docking facility.

23. ADVERTISEMENT/SIGNS/NON-WATER DEPENDENT ACTIVITIES/ADDITIONAL ACTIVITIES/MINOR STRUCTURAL REPAIRS: No permanent or temporary signs directed to the boating public advertising the sale of alcoholic beverages shall be erected or placed within the leased premises. No restaurant or dining activities are to occur within the leased premises. The Lessee shall ensure that no permanent, temporary or floating structures, fences, docks, pilings or any structures whose use is not water-dependent shall be erected or conducted over sovereignty submerged lands without prior written consent from the Lessor. No additional structures and/or activities including dredging, relocation/realignment or major repairs or renovations to authorized structures, shall be erected or conducted on or over sovereignty, submerged lands without prior written consent from the Lessor. Unless specifically authorized in writing by the Lessor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Lessee to administrative fines under Chapter 18-14, Florida Administrative Code. This condition does not apply to minor structural repairs required to maintain the authorized structures in a good state of repair in the interests of public health, safety or welfare; provided, however, that such activities shall not exceed the activities authorized by this agreement.

24. ACOE AUTHORIZATION: Prior to commencement of construction and/or activities authorized herein, the Lessee shall obtain the U.S. Army Corps of Engineers (ACOE) permit if it is required by the ACOE. Any modifications to the construction and/or activities authorized herein that may be required by the ACOE shall require consideration by and the prior written approval of the Lessor prior to the commencement of construction and/or any activities on sovereign, submerged lands.

25. COMPLIANCE WITH FLORIDA LAWS: On or in conjunction with the use of the leased premises, the Lessee shall at all times comply with all Florida Statutes and all administrative rules promulgated thereunder. Any unlawful activity which occurs on the leased premises or in conjunction with the use of the leased premises shall be grounds for the termination of this lease by the Lessor.

26. LIVEBOARDS: The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. If liveaboards are authorized by paragraph one (1) of this lease, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.

27. GAMBLING VESSELS: During the term of this lease and any renewals, extensions, modifications or assignments thereof, Lessee shall prohibit the operation of or entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere," where the ships leave and return to the state of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.

28. SPECIAL LEASE CONDITION: Within 60 days after the Lessor's execution of this lease, Lessee shall install and display permanent manatee educational signs that provide information on the mannerisms of manatees and the potential threat to this endangered species from boat operation. Lessee shall maintain these signs during the term of this lease and all subsequent renewal periods and shall be required to replace the signs in the event they become faded, damaged or outdated. Lessee shall ensure that the view of the signs is not obstructed by vegetation or structures. The number, type, and procedure for installation of these signs shall be in accordance with the handout, "Permanent Manatee Signs," which can be obtained from the Florida Fish and Wildlife Conservation Commission, Imperiled Species Management Section, 620 S. Meridian Street - 6A, Tallahassee, Florida 32399-1600 (Phone 850/922-4330).

WITNESSES:

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE
OF FLORIDA

(SEAL)

Original Signature _____

Print/Type Name of Witness _____

Original Signature _____

Print/Type Name of Witness _____

BY:

Jeffery M. Gentry, Operations and Management Consultant
Manager, Bureau of Public Land Administration,
Division of State Lands, State of Florida Department of
Environmental Protection, as agent for and on behalf of the Board
of Trustees of the Internal Improvement Trust Fund of the State
of Florida

"LESSOR"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by
Jeffery M. Gentry, Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State
Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the
Internal Improvement Trust Fund of the State of Florida. He is personally known to me.

APPROVED AS TO FORM AND LEGALITY:

Notary Public, State of Florida

DEP Attorney _____

Printed, Typed or Stamped Name

My Commission Expires:

Commission/Serial No. _____

WITNESSES:

Palm Beach County, Florida (SEAL)
By its Board of County Commissioners

Original Signature _____

BY:

Original Signature of Executing Authority

Typed/Printed Name of Witness _____

Burt Aaronson

Typed/Printed Name of Executing Authority

Original Signature _____

Chair

Title of Executing Authority

Typed/Printed Name of Witness _____

"LESSEE"

APPROVED AS TO FORM & LEGAL SUFFICIENCY

APPROVED TO TERMS AND CONDITIONS

BY: _____
County Attorney

BY: Dennis L. Eshleman
Dennis L. Eshleman, Director, Parks & Recreation

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by
Burt Aaronson as Chair, for and on behalf of the Board of County Commissioners of Palm Beach County, Florida. He is
personally known to me or who has produced _____, as identification.

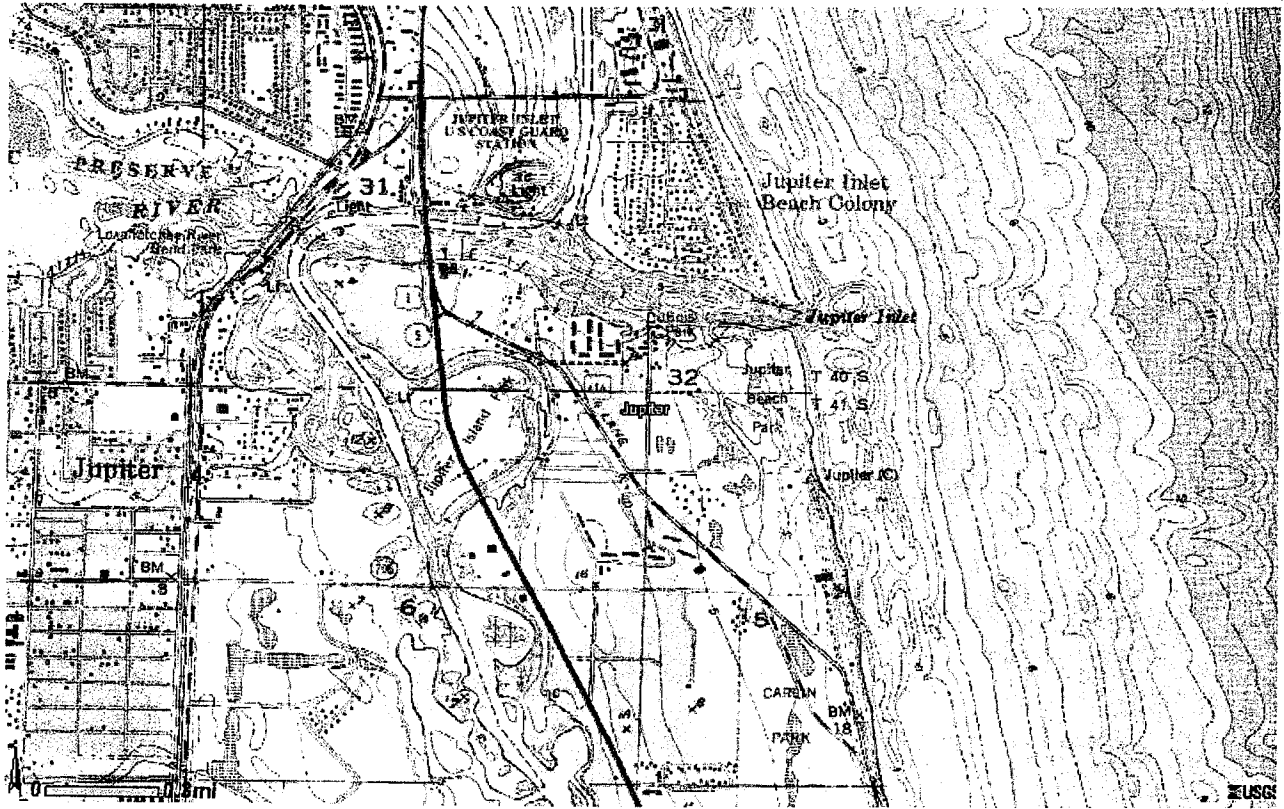
My Commission Expires:

Signature of Notary Public

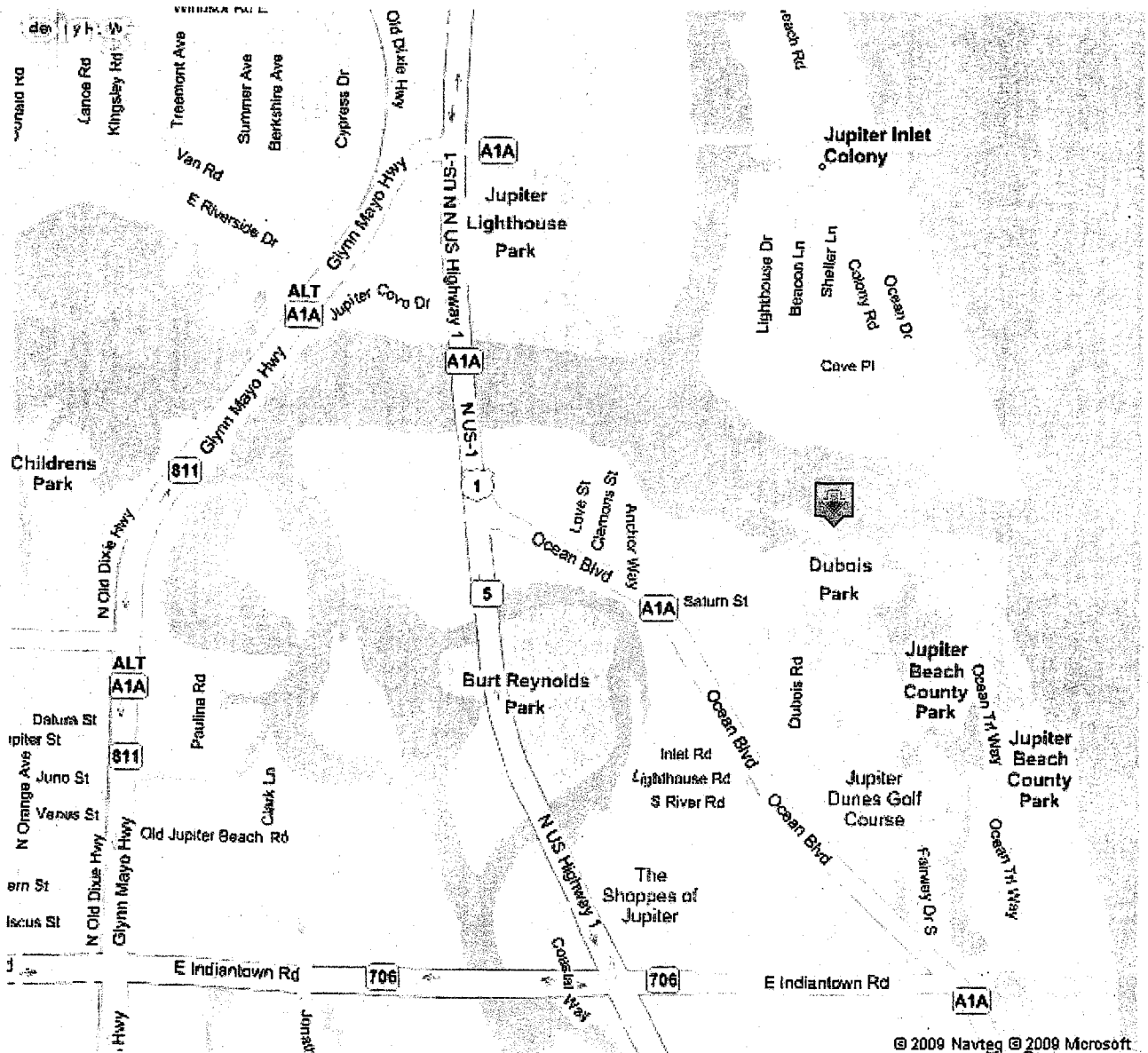
Notary Public, State of _____

Commission/Serial No. _____

Printed, Typed or Stamped Name



Facility Address: 19075 Dubois Road, Jupiter, FL 33461



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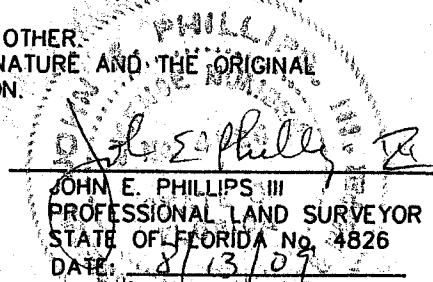
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SURVEY REPORT

1. THIS IS A MEAN HIGH WATER LINE SURVEY AS DEFINED IN CHAPTER 61G17-6.002(10), FLORIDA ADMINISTRATIVE CODE, AND COMPLIES WITH CHAPTER 177, PART II, FLORIDA STATUTES.
LAST DATE OF FIELD SURVEY WORK: OCTOBER 27, 2008.
2. THIS SURVEY IS BASED ON PALM BEACH COUNTY PROPERTY AS DESCRIBED IN ORB 1958 PAGE 1865; SUBMERGED LANDS LEASES RECORDED IN ORB 19325 PAGE 918 & ORB 22015 PAGE 1837; A BOUNDARY SURVEY, DATED 11/18/08, AND A TOPOGRAPHIC SURVEY, DATED 11/13/08, PROJECT No.08-054, PREPARED BY BROWN & PHILLIPS, INC.
3. THE MEAN HIGH WATER LINE, LOCATED ON 10/27/08 AS SHOWN, WAS DETERMINED BY A FIELD SURVEY IN WHICH THE ELEVATION OF MEAN HIGH WATER (-0.12 NAVD 88) OBTAINED FROM TIDE GAUGE 872-2492 WAS LOCATED ALONG THE SHORELINE OF THE PROJECT AREA.
4. ELEVATIONS ARE REFERENCED TO PALM BEACH COUNTY BENCHMARK "BM 1", ELEVATION 5.14, NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).
BENCHMARK SET: MAG NAIL & "BROWN & PHILLIPS" DISK, ELEVATION 4.83, SET IN ASPHALT PARKING LOT, LOCATED 42' SOUTH AND 198' EAST, OF PALM BEACH COUNTY BRASS DISK "MC-LS4515".
5. BEARING BASIS: N00°29'53"W ALONG THE EAST LINE OF SECTION 31, TOWNSHIP 40 SOUTH, RANGE 43 EAST.
6. EASEMENTS OR RECORD INFORMATION SHOWN WERE FURNISHED TO BROWN & PHILLIPS, INC. IN A TITLE COMMITMENT BY SOUTHEAST GUARANTY & TITLE, INC., No.2810007, DATED 11/17/2008 AT 8:00 AM.
THERE MAY BE ADDITIONAL EASEMENTS AND/OR RESTRICTIONS NOT SHOWN ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF PALM BEACH COUNTY. NO SEARCH OF THE PUBLIC RECORDS HAS BEEN PERFORMED BY BROWN & PHILLIPS, INC.
7. THE CONTRACTED PURPOSE OF THIS SURVEY IS TO SATISFY THE MEAN HIGH WATER LINE SURVEY REQUIREMENT IN CONJUNCTION WITH THE PERMITTING PROCESS FOR THE PROPOSED DOCK FACILITIES. THIS SURVEY IS NOT VALID FOR ANY OTHER USE.
8. FOLLOWING ARE RESPONSES TO COMMENTS PER SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S REVIEW:
 - 1) THE LOCATION OF THE MEAN HIGH WATER LINE. - noted on the sketch
 - 2) THE LOCATION OF PALM BEACH COUNTY'S UPLAND DEED AND PROPERTY LINES. - noted on the sketch
 - 3) THE RIPARIAN LINES IN THE PERMIT AREA. - more or less perpendicular to the shoreline, there is no established primary navigation channel
 - 4) THE TOTAL LENGTH OF SHORELINE ALONG THE COUNTY'S PROPERTY - 2900 feet, more or less
LENGTH OF SHORELINE THROUGH THE SUBMERGED LEASE AREA - 307.5 feet, more or less
 - 5) SHOW EVIDENCE THAT THE PROPOSED DOCKING FACILITY DOES NOT EXTEND MORE THAN 25 ± OF THE WIDTH OF THE WATERWAY.
- The approximate width of the waterway south of the proposed dock facilities is 185'.
The length of the proposed docks and slips is 30'.
The proposed docks and slips equal 16% of the width of the waterway.
9. a) THE PROPOSED DOCK FACILITIES AS SHOWN, WERE FURNISHED BY THE PALM BEACH COUNTY ENVIRONMENTAL RESOURCES MANAGEMENT DEPARTMENT
b) THE EXISTING MANGROVE LOCATIONS AS SHOWN, WERE FURNISHED BY THE PALM BEACH COUNTY ENVIRONMENTAL RESOURCES MANAGEMENT DEPARTMENT FROM A SPECIFIC PURPOSE SURVEY PREPARED BY BETSY LINDSAY, INC., PROJECT No.05-45, DATED FEBRUARY 2, 2009.
10. ACCORDING TO THE PALM BEACH COUNTY ENVIRONMENTAL RESOURCES MANAGEMENT DEPARTMENT ON 4/27/09, "THE DISPLAYED DREDGE AREA OUTSIDE OF DOCK SLIPS IS NOT SUBJECT TO LEASE."
11. THIS SURVEY WAS PREPARED FOR TO THE PARTIES LISTED BELOW AND IS NOT ASSIGNABLE:
- PALM BEACH COUNTY ENVIRONMENTAL RESOURCES MANAGEMENT DEPARTMENT
- BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
12. THE SURVEY REPORT, NOTES, AND KEY MAP (SHEETS 1 - 3), ALONG WITH THE SKETCH (SHEETS 4 - 8) COMPRISE THE COMPLETE SURVEY.
THE SURVEY NOT VALID UNLESS ALL SHEETS, 1 THROUGH 8, ACCOMPANY EACH OTHER.
REPRODUCTIONS OF THIS DOCUMENT ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER NOTED HEREON.

ADDL/REVISED SUBMITTAL

AUG 13 2009

PHILLIPS

 JOHN E. PHILLIPS III
 PROFESSIONAL LAND SURVEYOR
 STATE OF FLORIDA No. 4826
 DATE: 8/13/09



PROFESSIONAL SURVEYING SERVICES
 CERTIFICATE OF AUTHORIZATION # LB 6473
 901 NORTHPOINT PKWY, SUITE 119, W.P.B. FLORIDA 33407
 (561) 615-3988, (561) 615-3986 FAX

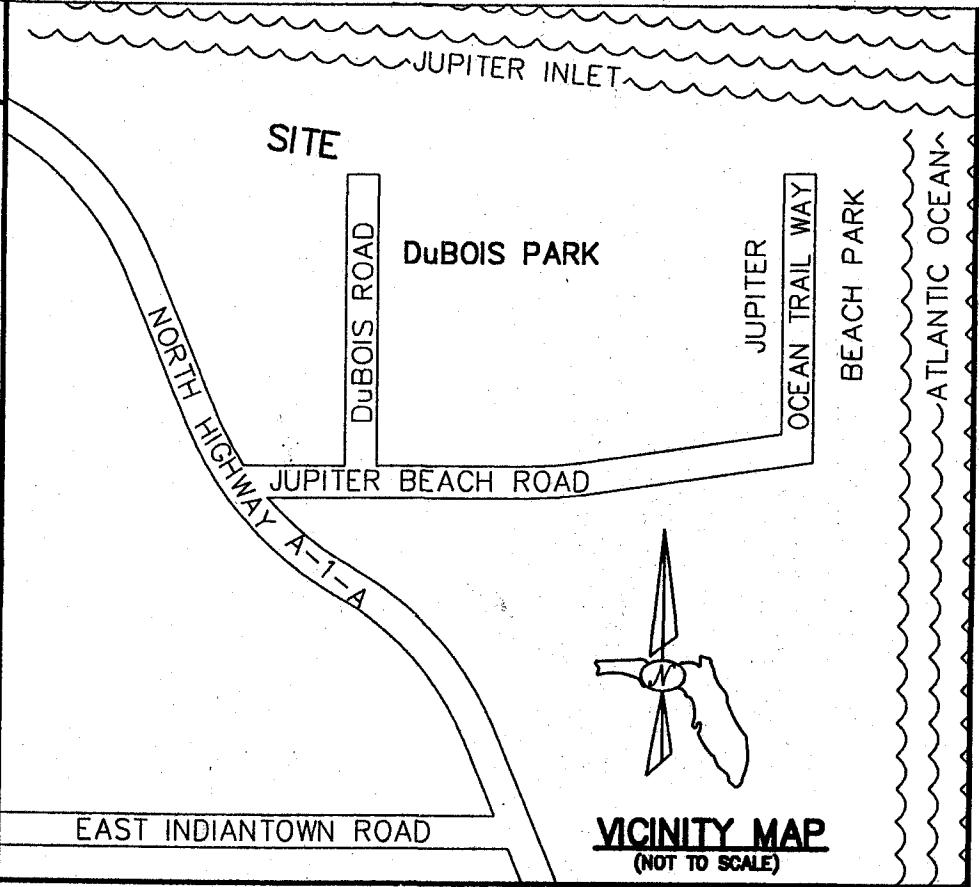
SKETCH OF MHWL SURVEY
 DUBOIS PARK IN UNINCORPORATED
 PALM BEACH COUNTY

DRAWN: MB	PROJ. No. 08-067E
CHECKED: JEP	SCALE: 1"=20'
F.B. DuBois Park	DATE: AUGUST 2009

SCANNED BY 2/2009 15:38:50

LEGEND

- ⊠ VALVE
- ⊛ WOOD POWER POLE
- ⊞ WATER METER
- ⊙ FIRE HYDRANT
- ⊡ SIGN
- ⊞ ELECTRIC BOX
- ⊛ METAL LIGHT POLE
- ← GUY ANCHOR
- ⊙ CONCRETE LIGHT POLE
- ⊞ TV BOX
- ⊙ CLEANOUT
- ⊙ BACKFLOW PREVENTER
- ⊙ METAL PIPE
- ⊞ MAIL BOX
- ⊞ GRILL



ABBREVIATIONS

- P - PROPERTY LINE (LINE OF OWNERSHIP BETWEEN PBCo AND STATE-OWNED SUBMERGED LANDS)
- P.O.B. - POINT OF BEGINNING
- P.O.C. - POINT OF COMMENCEMENT
- R/W - RIGHT-OF-WAY
- P.B. - PLAT BOOK
- ORB - OFFICIAL RECORD BOOK
- D.B. - DEED BOOK
- RPB - ROAD PLAT BOOK
- MB - MINUTES BOOK
- DWG - DRAWING
- CONC. - CONCRETE
- TYP. - TYPICAL
- IR/C - IRON ROD WITH CAP AS NOTED
- - 1/2" IRON ROD WITH BROWN & PHILLIPS, INC. CAP, UNLESS NOTED OTHERWISE
- IR - IRON ROD
- C.M. - CONCRETE MONUMENT
- X - PROPERTY CORNER NOT SET IN WATER
- sf - SQUARE FEET
- ac. - ACRES
- MHWL - MEAN HIGH WATER LINE
- MLWL - MEAN LOW WATER LINE
- PBCo - PALM BEACH COUNTY
- SFWMD - SOUTH FLORIDA WATER MANAGEMENT DISTRICT
- TIF - TRUSTEES OF THE INTERNAL IMPROVEMENT FUND
- (D) - BEARING OR DISTANCE PER LEGAL DESCRIPTION
- (C) - CALCULATED BEARING OR DISTANCE

Lease Description (Official Record Book 19325, page 918)

A parcel of submerged land lying Northerly of the Government Meander Line along the Southerly shore line of the Loxahatchee River, otherwise known as the Jupiter River, situated in Section 31, Township 40 South, Range 43 East, Palm Beach County, Florida, more particularly described as follows:

Commence at the Southeast Corner of said Section 31; thence, run North 0°-02'-00" West, along the East line of said Section 31, being also, the Westerly boundary of Dubois Park, (said park being owned by and under the jurisdiction of Palm Beach County, Florida), a distance of 858.00 feet to a Government Meander Corner;

Thence, continue North 0°-02'-00" West, along the Northerly prolongation of said East line of Section 31 and along the West boundary line of said Dubois Park, a distance of 87.20 feet;

Thence, North 46°-58'20" West, along the Southerly boundary line of said park and along the backside of a 6" wide bulkhead, a distance of 27.04 feet to the POINT OF BEGINNING;

Thence, North 65°-49'-41" West, along the Southerly boundary of said park and along the backside of a 6" wide bulkhead, a distance of 307.50 feet;

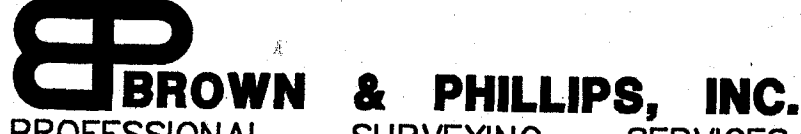
Thence, South 24°-10'-19" West, a distance of 35.00 feet;

Thence, South 65°-49'-41" East, a distance of 307.50 feet;

Thence, North 24°-10'-19" East, a distance of 35.00 feet to the POINT OF BEGINNING;

The above described parcel contains 10,762.5 Sq. ft or 0.247 Acres.

Note: bearing rotation, description to survey=0°27'52" counter-clockwise. N0°02'00"W (description) = N00°29'52"W (survey)

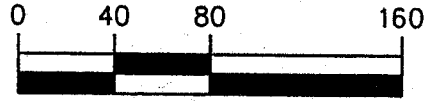


BROWN & PHILLIPS, INC.
 PROFESSIONAL SURVEYING SERVICES
 CERTIFICATE OF AUTHORIZATION # LB 6473
 901 NORTHPOINT PKWY, SUITE 119, W.P.B. FLORIDA 33407
 (561) 615-3988, (561) 615-3986 FAX

SKETCH OF MHWL SURVEY DUBOIS PARK IN UNINCORPORATED PALM BEACH COUNTY

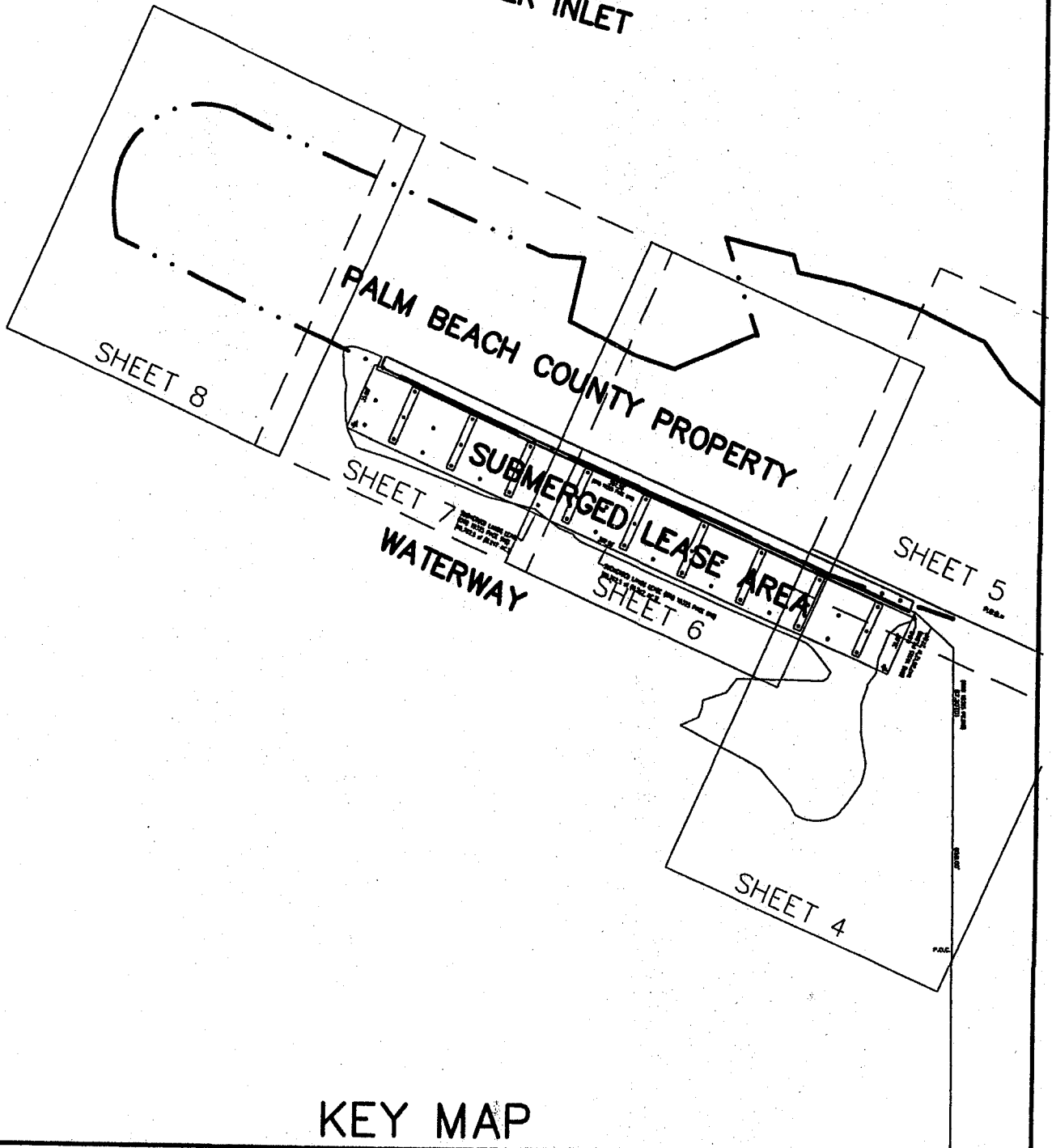
DRAWN: MB	PROJ. No. 08-067E
CHECKED: JEP	SCALE: 1"=20'
F.B. DuBois Park	DATE: AUGUST 2009
F.B. PG'S 4 - 46	SHEET 2 OF 8

SCANNED BY 2/22/2009 15:31:00



SCALE: 1" = 80'

JUPITER INLET



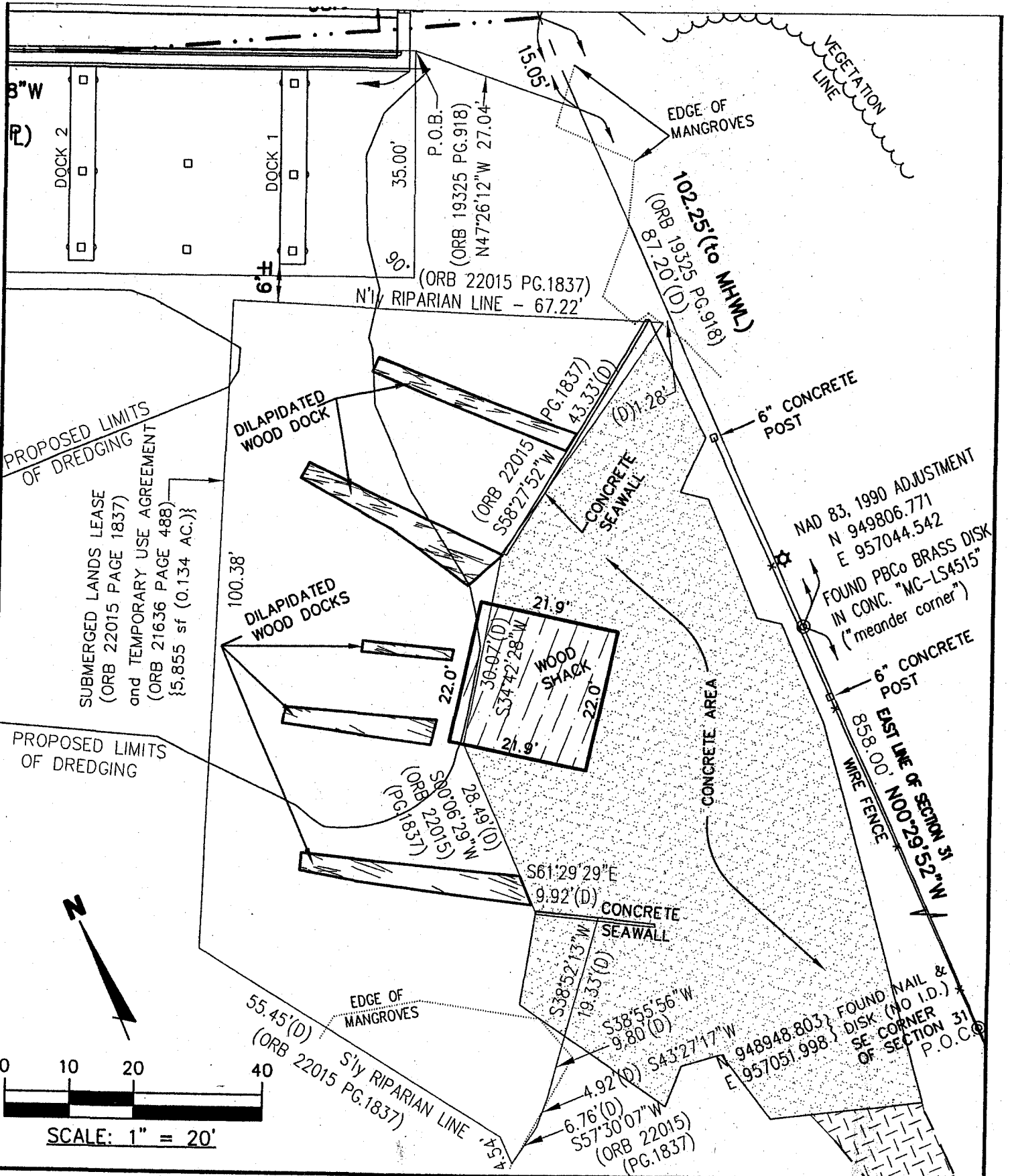
KEY MAP

B BROWN & PHILLIPS, INC.
 PROFESSIONAL SURVEYING SERVICES
 CERTIFICATE OF AUTHORIZATION # LB 6473
 901 NORTHPOINT PKWY, SUITE 119, W.P.B. FLORIDA 33407
 (561) 615-3988, (561) 615-3986 FAX

SKETCH OF MHWL SURVEY
 DUBOIS PARK IN UNINCORPORATED
 PALM BEACH COUNTY

DRAWN: MB	PROJ. No. 08-067E
CHECKED: JEP	SCALE: 1"=80'
F.B. DuBois Park	DATE: AUGUST 2009
F.B. PG'S 4 - 46	SHEET 3 OF 8

SCANNED 09/22/2009 15:51:00 DR

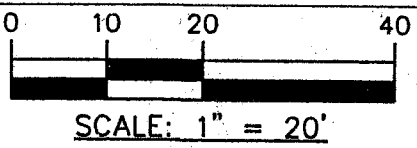
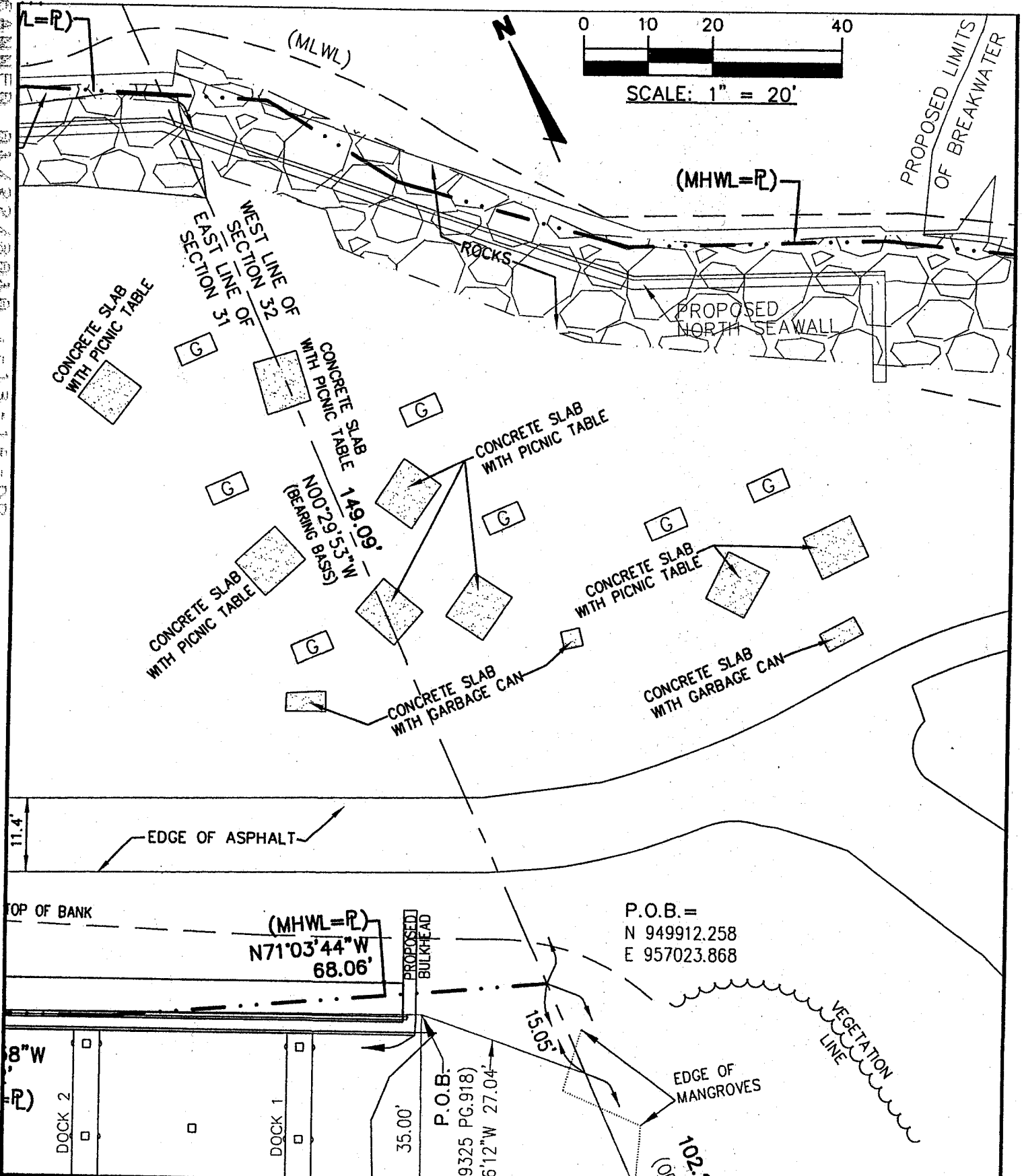


B BROWN & PHILLIPS, INC.
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 901 NORTHPOINT PKWY, SUITE 119, W.P.B. FLORIDA 33407
 (561) 615-3988, (561) 615-3986 FAX

**SKETCH OF MHWL SURVEY
 DUBOIS PARK IN UNINCORPORATED
 PALM BEACH COUNTY**

DRAWN: MB	PROJ. No. 08-067E
CHECKED: JEP	SCALE: 1"=20'
F.B. DuBois Park	DATE: AUGUST 2009
F.B. PG'S 4 - 46	SHEET 4 OF 8

SCANNED BY 222001 151316DR



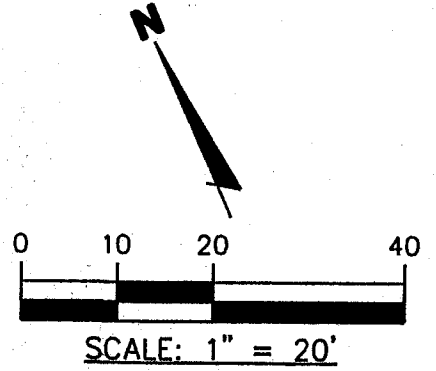
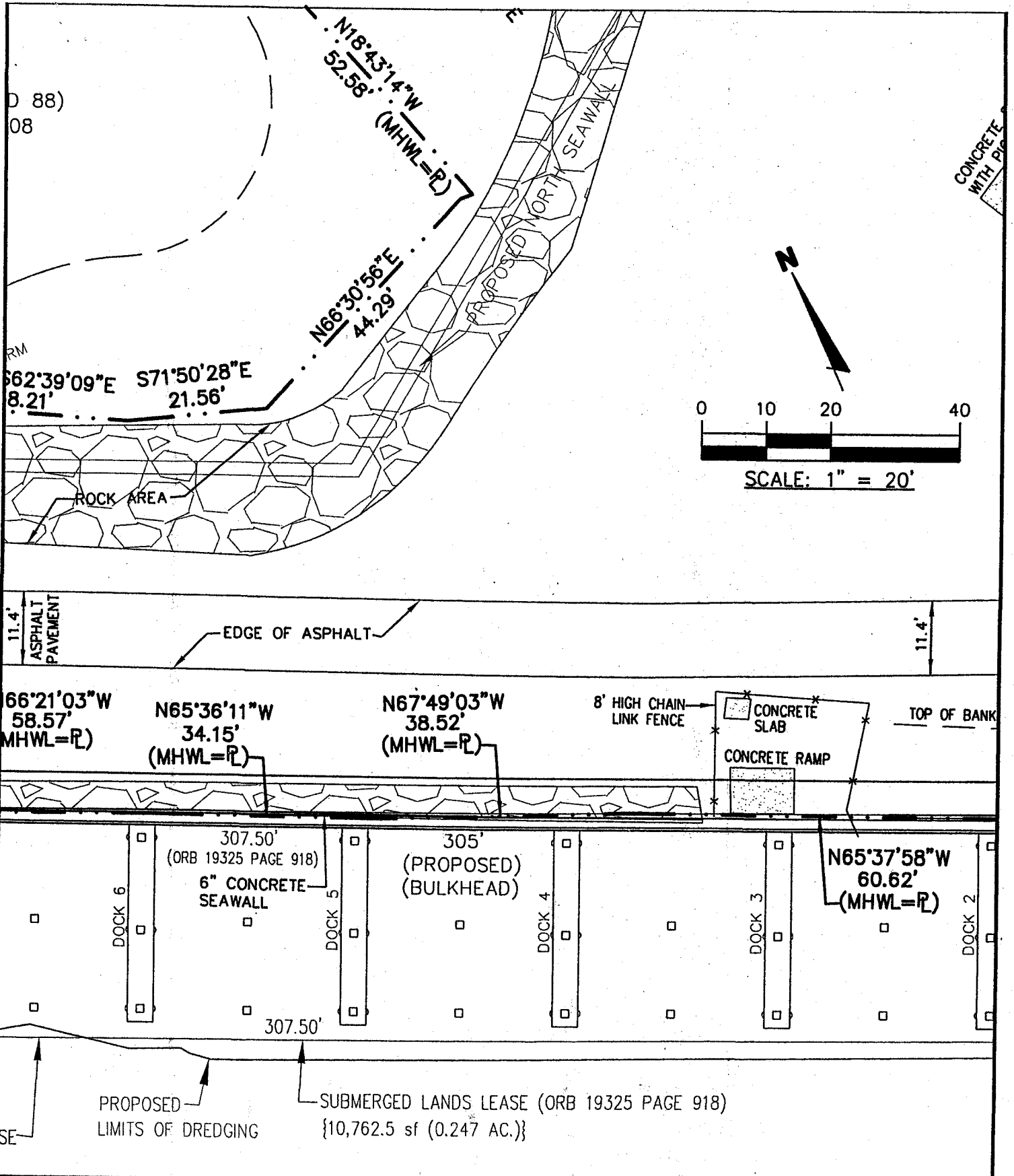
BROWN & PHILLIPS, INC.

PROFESSIONAL SURVEYING SERVICES
 CERTIFICATE OF AUTHORIZATION # LB 6473
 901 NORTHPOINT PKWY, SUITE 119, W.P.B. FLORIDA 33407
 (561) 615-3988, (561) 615-3986 FAX

SKETCH OF MHWL SURVEY DUBOIS PARK IN UNINCORPORATED PALM BEACH COUNTY

DRAWN: MB	PROJ. No. 08-067E
CHECKED: JEP	SCALE: 1"=20'
F.B. DuBois Park	DATE: AUGUST 2009
F.B. PG'S 4 - 46	SHEET 5 OF 8

SCANNED 03/22/2009 15:19:00

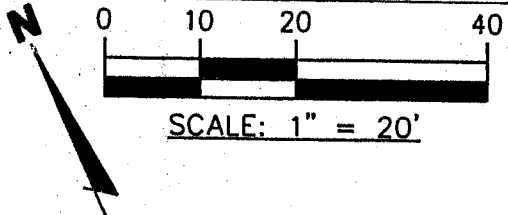


BROWN & PHILLIPS, INC.
 PROFESSIONAL SURVEYING SERVICES
 CERTIFICATE OF AUTHORIZATION # LB 6473
 901 NORTHPOINT PKWY, SUITE 119, W.P.B. FLORIDA 33407
 (561) 615-3988, (561) 615-3986 FAX

SKETCH OF MHWL SURVEY
 DUBOIS PARK IN UNINCORPORATED
 PALM BEACH COUNTY

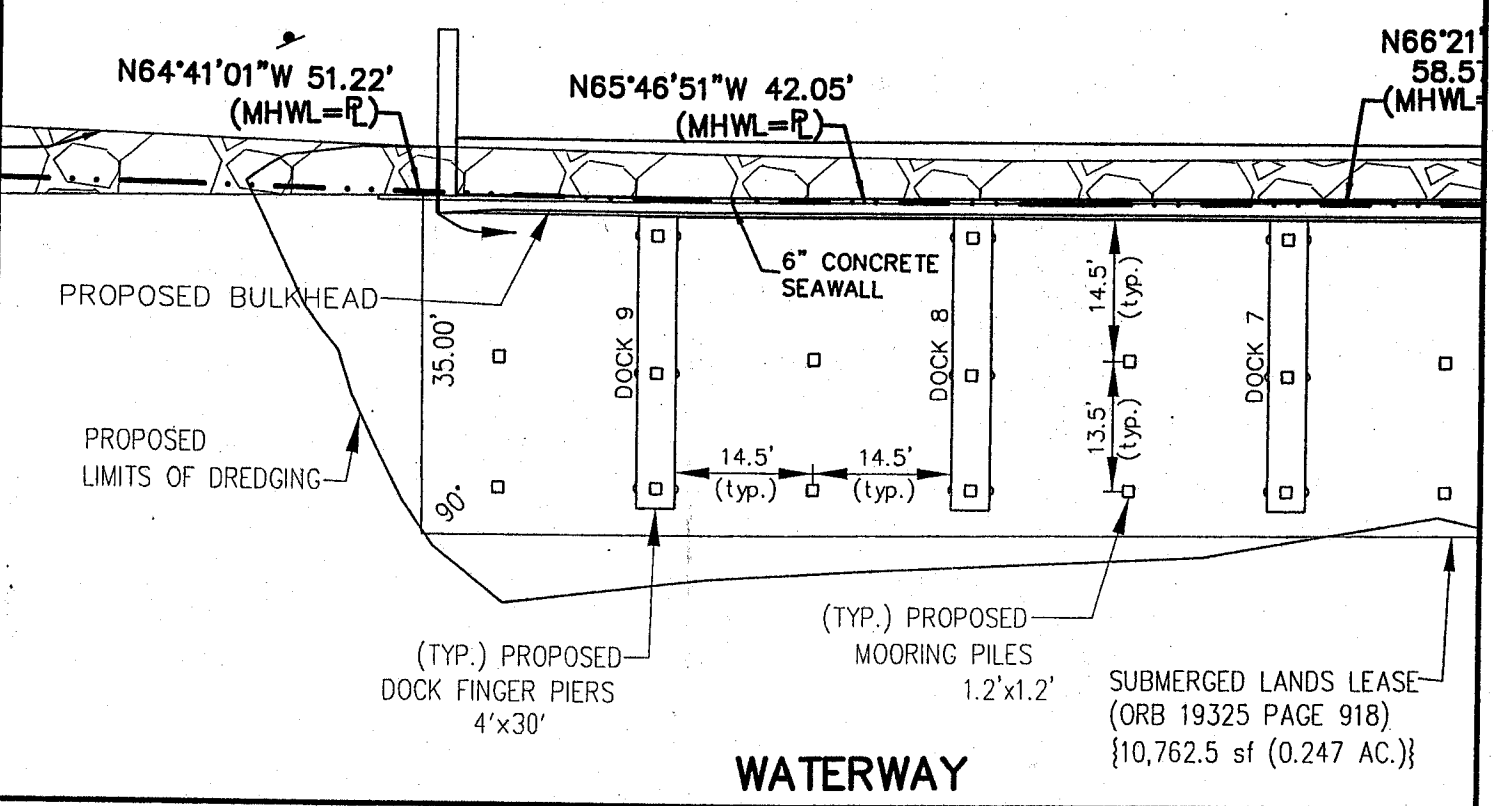
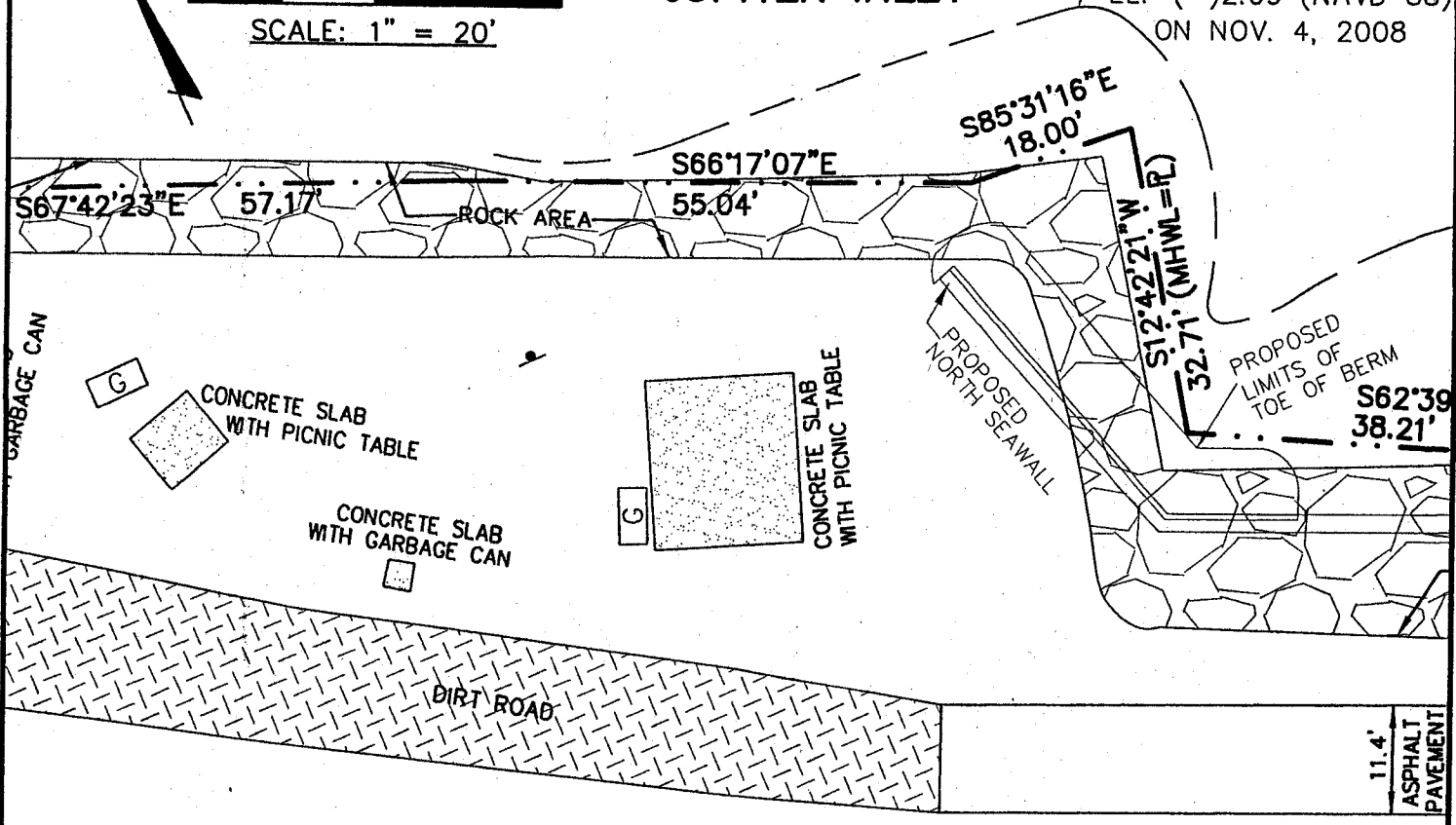
DRAWN: MB	PROJ. No. 08-067E
CHECKED: JEP	SCALE: 1"=20'
F.B. DuBois Park	DATE: AUGUST 2009
F.B. PG'S 4 - 46	SHEET 6 OF 8

SCANNED 04/22/2010 15:11:07 DR



JUPITER INLET

(MLWL)
EL. = (-)2.09 (NAVD 88)
ON NOV. 4, 2008

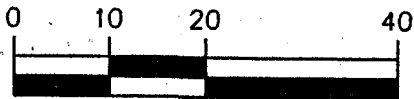


BROWN & PHILLIPS, INC.
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SKETCH OF MHWL SURVEY
 DUBOIS PARK IN UNINCORPORATED
 PALM BEACH COUNTY

DRAWN: MB	PROJ. No. 08-067E
CHECKED: JEP	SCALE: 1"=20'
F.B. DuBois Park	DATE: AUGUST 2009
F.B. PG'S 4 - 46	SHEET 7 OF 8

SCANNED 01/22/2009 15:13:15 CDR

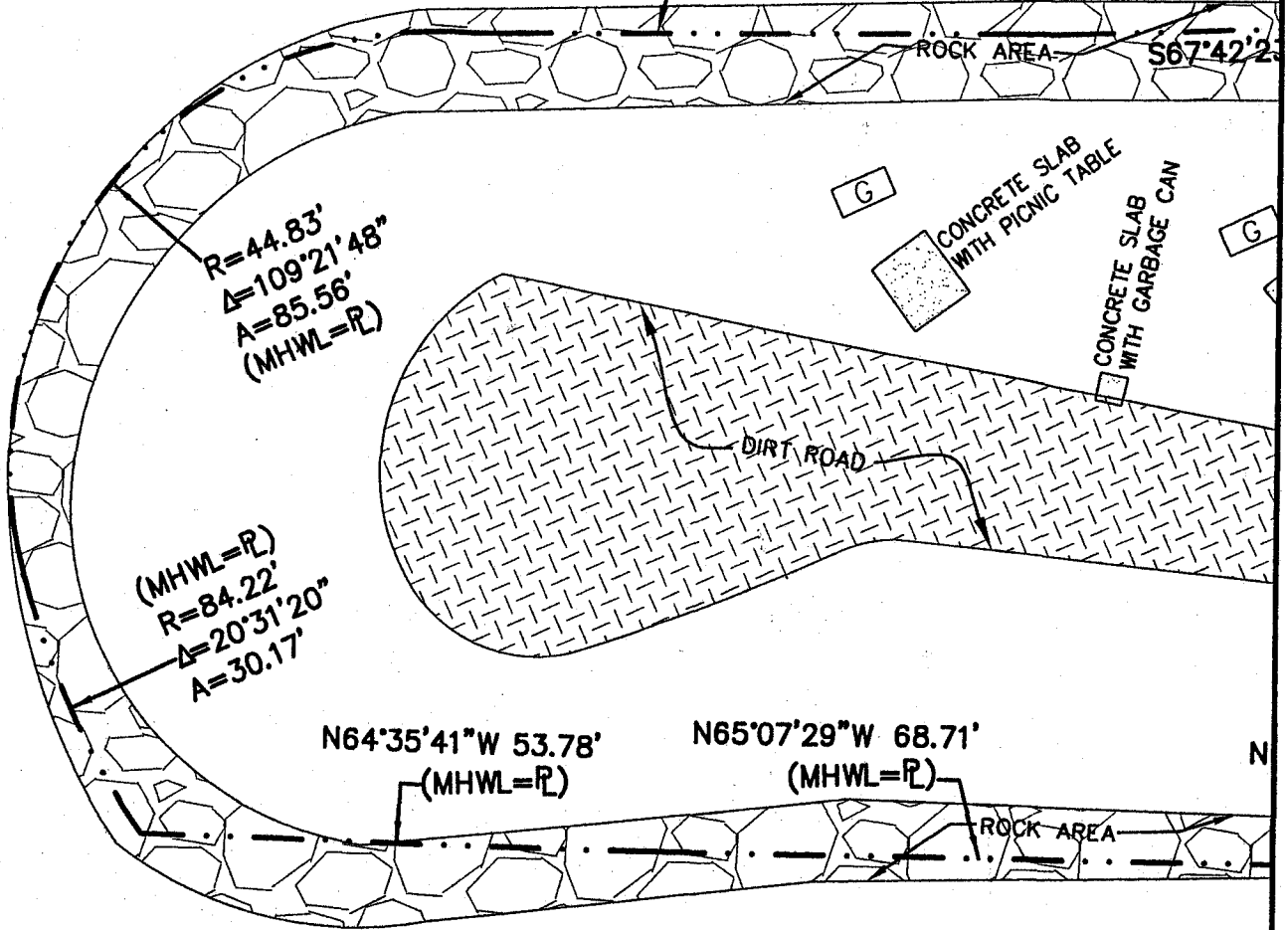


SCALE: 1" = 20'



JUPITER INLET

(MHWL=PROPERTY LINE)
 MEAN HIGH WATER LINE
 EL. = (-)0.12 (NAVD 88)
 ON OCTOBER 27, 2008
 S66°05'41"E 61.05'



PROP

PRO
LIMIT

WATERWAY

BP BROWN & PHILLIPS, INC.
 PROFESSIONAL SURVEYING SERVICES
 CERTIFICATE OF AUTHORIZATION # LB 6473
 901 NORTHPOINT PKWY, SUITE 119, W.P.B. FLORIDA 33407
 (561) 615-3988, (561) 615-3986 FAX

SKETCH OF MHWL SURVEY
 DUBOIS PARK IN UNINCORPORATED
 PALM BEACH COUNTY

DRAWN: MB	PROJ. No. 08-067E
CHECKED: JEP	SCALE: 1"=20'
F.B. DuBois Park	DATE: AUGUST 2009
F.B. PG'S 4 - 46	SHEET 8 OF 8



CFN 20080239539
 OR BK 22720 PG 0802
 RECORDED 06/25/2008 09:52:07
 Palm Beach County, Florida
 AMT 3,600,000.00
 Doc Stamp 25,200.00
 Sharon R. Bock, CLERK & COMPTROLLER
 Pgs 0802 - 818; (17pgs)

PREPARED BY:
 David Kuzmenko, Real Estate Specialist
 Palm Beach County
 Property & Real Estate Management Division
 2633 Vista Parkway
 West Palm Beach, Florida 33411-5605

RECORD AND RETURN TO:
 Danielle Adamski, Transaction Coordinator
 My Closing Space LLC
 1350 Liberty Avenue
 Hillside, New Jersey 07205-1805

Property Control Numbers:
 00-43-40-31-00-007-0060
 00-43-40-31-00-007-0070

Closing Date: June 9, 2008
 Purchase Price: \$ 3,600,000.00

STATUTORY WARRANTY DEED
 (Section 689.02, Florida Statutes)

THIS INDENTURE, made this 9th day of June, A.D. 2008, between NANCY KINDT HERNANDEZ AS TRUSTEE OF THE SUSAN D. KINDT TRUST CREATED UNDER AGREEMENT DATED SEPTEMBER 26, 2003, whose post office address is 2639 West Edgewater Drive, Palm Beach Gardens, Florida 33410-2437, party of the first part, and PALM BEACH COUNTY, a political subdivision of the State of Florida, whose post office address is 301 North Olive Avenue, West Palm Beach, Florida 33401-4791, party of the second part.

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Ten Dollars, to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said party of the second part, its successors and assigns forever, the following described land, lying and being in Palm Beach County, Florida, to wit:

See Exhibit "A" (the "Property") attached hereto and by this reference made a part hereof.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, to have and to hold, the same in fee simple forever and the said party of the first part does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

By acceptance of this statutory warranty deed, the party of the second part hereby agrees that the use of the Property described herein shall be subject to the covenants and restrictions as set forth in the Declaration of Restrictive Covenants recorded as **Exhibit "B"** to the deed in the Public Records of Palm Beach County, Florida. These covenants and restrictions shall run with the Property herein described. If any term or condition of the Declaration of Restrictive Covenants is violated by the party of the second part or by some third party with the knowledge of the party of the second part and the party of the second part does not correct the violation pursuant to the Declaration of Restrictive Covenants, fee simple title to all interest in the Project Site shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida in accordance with Chapter 380, Part III, Florida Statutes.

This property is not the homestead property of the party of the first part, nor contiguous to homestead property, as such homestead is defined under Florida law.

Remainder of page intentionally left blank.

APPROVED BY THE PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
ON 11/20/07 2007-2083
County Attorney or Designee

Page 2 of 3

Book22720/Page803

Page 2 of 17

In Witness Whereof, the party of the first part has hereunto set her hand the day and year first above written.

Signed, sealed and delivered in our presence:

Dated this 9th day of June, 2008

Party of the first part:

Judith D. Monteiro
Witness Signature

Nancy Kindt Hernandez, Trustee
Nancy Kindt Hernandez, as Trustee of the
Susan D. Kindt Trust Created Under
Agreement Dated September 26, 2003

Judith D. Monteiro
(Print/Type Witness Name)

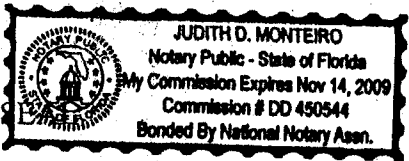
[Signature]
Witness Signature

ROGASKILL
(Print/Type Witness Name)

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 9th day of June 2008, by Nancy Kindt Hernandez, as Trustee of the Susan D. Kindt Trust Created Under Agreement Dated September 26, 2003 on behalf of the trust. She is personally known to me or has produced _____ as identification.

(NOTARY PUBLIC)



Judith D. Monteiro
(SIGNATURE OF NOTARY PUBLIC)

(PRINT/TYPE/STAMP NAME OF NOTARY PUBLIC)

Commission No.: _____

My Commission Expires: 11/14/09

G:\Dave KIPARKS & RECREATION\DuBois Park\warranty deed.docx

Exhibit "A"
the "Property"

LEGAL DESCRIPTION

The East 75 feet of the East 150 feet of Government Lot 7, Section 31, Township 40 South, Range 43 East, less the South 390 feet thereof.

AND

Take a point which is the Southeast corner of Government Lot 7, Section 31, Township 40 South, Range 43 East, thence run North along the East line of said Lot 7, a distance of 290 feet to a point of beginning; thence run North along the East line of said Lot 7, a distance of 100 feet; thence run West parallel with the South line of said Lot 7 a distance of 150 feet more or less to the East line of the land conveyed to A. J. Hodgson by Deed recorded in Deed Book 102, Page 449, Palm Beach County Records; thence run South along said Hodgson's East line a distance of 100 feet; thence run East parallel with the South line of said Lot 7 a distance of 150 feet more or less to the point of beginning.

G:\Dave K\PARKS & RECREATION\DuBois Park\Exhibit A - the Property.docx

This document prepared by:
Kristen L. Coons, Esq.
Florida Communities Trust
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399

EXHIBIT "B"

FLORIDA COMMUNITIES TRUST
FF6 AWARD #06-041-FF6
FCT Contract # 07-CT-1E-06-F6-J1-041
SUSAN DUBOIS KINDT ESTATE

R 2008 0374

MAR 11 2008

DECLARATION OF RESTRICTIVE COVENANTS

THIS AGREEMENT is entered into by and between the FLORIDA COMMUNITIES TRUST ("FCT"), a nonregulatory agency within the State of Florida Department of Community Affairs, and PALM BEACH COUNTY, a political subdivision of the State of Florida ("Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

WHEREAS, the intent of this Agreement is to impose terms and conditions on the use of the proceeds of certain bonds, hereinafter described, and the lands acquired with such proceeds, as described in Exhibit "A" attached hereto and made a part hereof ("Project Site"), that are necessary to ensure compliance with applicable Florida law and federal income tax law and to otherwise implement the provisions of Sections 259.105, 259.1051 and Chapter 380, Part III, Florida Statutes;

WHEREAS, Chapter 380, Part III, Fla. Stat., the Florida Communities Trust Act, creates a non-regulatory agency within the Department of Community Affairs ("Department") that will assist local governments in bringing into compliance and implementing the conservation, recreation and open space, and coastal elements of their comprehensive plans or in conserving natural resources and resolving land use conflicts by providing financial assistance to local governments and nonprofit environmental organizations to carry out projects and activities authorized by the Florida Communities Trust Act;

WHEREAS, FCT is funded through either Section 259.105(3)(c), Fla. Stat. of the Florida Forever Act, which provides for the distribution of twenty-two percent (22%), less certain reductions, of the net Florida Forever Revenue Bond proceeds to the Department, or any other revenue source designated by the Florida Legislature, to provide land acquisition grants to local governments and nonprofit environmental organizations for the acquisition of community-based projects, urban open spaces, parks and greenways to implement local comprehensive plans;

WHEREAS, the Florida Forever Revenue Bonds are issued as tax-exempt bonds, meaning the interest on the Bonds is excluded from the gross income of bondholders for federal income tax purposes;

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2/14/2008 1

WHEREAS, Rule 9K-7.009(1), Florida Administrative Code ("F.A.C."), authorizes FCT to impose conditions for funding on those FCT applicants whose projects have been selected for funding;

WHEREAS, FCT has approved the terms under which the Project Site was acquired and the deed whereby the Recipient acquired title to the Project Site. The deed shall contain such covenants and restrictions as are sufficient to ensure that the use of the Project Site at all times complies with Section 375.051, Florida Statutes and Section 9, Article XII of the State Constitution and it shall contain clauses providing for the conveyance of title to the Project Site to the Board of Trustees of the Internal Improvement Trust Fund ("Trustees") upon the failure of the Recipient to use the Project Site acquired thereby for such purposes; and

WHEREAS, the purpose of this Agreement is to set forth the covenants and restrictions that are imposed on the Project Site subsequent to disbursing FCT Florida Forever funds to the Recipient for Project Costs.

NOW THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, FCT and the Recipient do hereby contract and agree as follows:

I. PERIOD OF AGREEMENT

1. This Agreement shall begin upon execution by both parties. The covenants and restrictions contained herein shall run with the Project Site and shall bind, and the benefit shall inure to, FCT and the Recipient and their respective successors and assigns.

II. MODIFICATION OF AGREEMENT

1. Either party may request modification of the provisions of this Agreement at any time. Changes which are mutually agreed upon shall be valid only when reduced to writing and duly signed by each of the parties hereto. Such amendments shall be incorporated into this Agreement.

III. RECORDING AND APPROVAL OF DECLARATION OF RESTRICTIVE COVENANTS

1. Upon execution by the parties hereto, the Recipient shall cause this Agreement to be recorded and filed in the official public records of **Palm Beach County, Florida**, and in such manner and in such other places as FCT may reasonably request. The Recipient shall pay all fees and charges incurred in connection therewith.

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2/14/2008 2

2. The Recipient and FCT agree that the State of Florida Department of Environmental Protection shall forward this Agreement to the Department of Environmental Protection Bond Counsel for review. In the event Bond Counsel opines that an amendment is required to this Agreement so that the tax-exempt status of the Florida Forever Bonds is not jeopardized, FCT and the Recipient shall amend the Agreement accordingly.

IV. NOTICE AND CONTACT

1. All notices provided under or pursuant to this Agreement shall be in writing and delivered either by hand delivery or first class, certified mail, return receipt requested, to the addresses specified below. Any such notice shall be deemed received on the date of delivery if by personal delivery or upon actual receipt if sent by registered mail.

FCT: Florida Communities Trust
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
ATTN: Program Manager

Recipient: Property and Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, FL 33411-5605

2. In the event that a different representative or address is designated for paragraph 1. above after execution of this Agreement, notice of the change shall be rendered to FCT as provided in paragraph 1. above.

V. PROJECT SITE TITLE REQUIREMENTS IMPOSED BY CHAPTER 259, CHAPTER 375 AND CHAPTER 380, PART III, FLA. STAT.

1. Any transfer of the Project Site shall be subject to the approval of FCT and FCT shall enter into a new agreement with the transferee containing such covenants, clauses or other restrictions as are sufficient to protect the interest of the State of Florida.

2. The interest acquired by the Recipient in the Project Site shall not serve as security for any debt of the Recipient.

3. If the existence of the Recipient terminates for any reason, title to the Project Site shall be conveyed to the Trustees unless FCT negotiates an agreement with another local government, nonprofit environmental organization, the Florida Division of Forestry, the Florida Fish

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2/14/2008 3

and Wildlife Conservation Commission, the Department of Environmental Protection or a Water Management District who agrees to accept title and manage the Project Site.

4. In the event that the Project Site is damaged or destroyed or title to the Project Site, or any part thereof, is taken by any governmental body through the exercise or the threat of the exercise of the power of eminent domain, the Recipient shall deposit with FCT any insurance proceeds or any condemnation award and shall promptly commence to rebuild, replace, repair or restore the Project Site in such manner as is consistent with the Agreement. FCT shall make any such insurance proceeds or condemnation award moneys available to provide funds for such restoration work. In the event that the Recipient fails to commence or to complete the rebuilding, repair, replacement or restoration of the Project Site after notice from FCT, FCT shall have the right, in addition to any other remedies at law or in equity, to repair, restore, rebuild or replace the Project Site so as to prevent the occurrence of a default hereunder.

Notwithstanding any of the foregoing, FCT shall have the right to seek specific performance of any of the covenants and restrictions of this Agreement concerning the construction and operation of the Project Site.

VI. MANAGEMENT OF PROJECT SITE

1. The Project Site shall be managed only for the conservation, protection and enhancement of natural and historical resources and for compatible passive, natural resource-based public outdoor recreation, along with other related uses necessary for the accomplishment of this purpose. The proposed uses for the Project Site are specifically designated in the Management Plan approved by FCT.

2. The Recipient shall ensure that the future land use designation assigned to the Project Site is for a category dedicated to open space, conservation or outdoor recreation uses, as appropriate. If an amendment to the applicable comprehensive plan is required, the amendment shall be proposed at the next comprehensive plan amendment cycle available to the Recipient.

3. The Recipient shall ensure, and provide evidence thereof to FCT, that all activities under this Agreement comply with all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the adopted and approved comprehensive plan for the jurisdiction, as applicable. Evidence shall be provided to FCT that all required licenses and permits have been obtained prior to the commencement of any construction.

4. The Recipient shall, through its agents and employees, prevent the unauthorized use of the Project Site or any use thereof not in conformity with the Management Plan approved by FCT.

5. FCT staff or its duly authorized representatives shall have the right at any time to inspect the Project Site and the operations of the Recipient at the Project Site.

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2/14/2008 4

6. All buildings, structures, improvements and signs shall require the prior written approval of FCT as to purpose. Further, tree removal, other than non-native species, and major land alterations shall require the written approval of FCT. The approvals required from FCT shall not be unreasonably withheld by FCT upon sufficient demonstration that the proposed structures, buildings, improvements, signs, vegetation removal or land alterations will not adversely impact the natural resources of the Project Site. FCT's approval of the Recipient's Management Plan addressing the items mentioned herein shall be considered written approval from FCT.

7. If archaeological and historic sites are located on the Project Site, the Recipient shall comply with Chapter 267, Fla. Stat. The collection of artifacts from the Project Site or the disturbance of archaeological and historic sites on the Project Site shall be prohibited unless prior written authorization has been obtained from the Department of State, Division of Historical Resources.

8. As required by Rule 9K-7.013, F.A.C., each year after FCT reimbursement of Project Costs the Recipient shall prepare and submit to FCT an annual stewardship report that documents the progress made on implementing the Management Plan.

VII. SPECIAL MANAGEMENT CONDITIONS

The Management Plan for the project site is mentioned throughout this Agreement, and is particularly described in Section IV, above. In addition to the various conditions already described in this Agreement, which apply to all sites acquired with FCT funds, the Management Plan shall address the following conditions that are particular to the project site and result from either representations made in the application that received scoring points or observations made by the FCT staff during the site visit described in Rule 9K-7.009(1), F.A.C.:

1. Two or more resource-based outdoor recreational facilities, including a boat launch and picnic shelter, shall be provided. The facilities shall be developed in a manner that allows the general public reasonable access for observation and appreciation of the natural resources on the project site without causing harm to those resources.

2. A permanent recognition sign, a minimum size of 3' x 4', shall be maintained in the entrance area of the project site. The sign shall acknowledge that the project site was purchased with funds from the Florida Communities Trust Program and the Recipient.

3. Interpretive signage shall be provided to educate visitors about the natural environment or the history of the site.

4. At least 12 regularly scheduled and ongoing educational classes or programs that promote the protection of environmental and/or historic resources shall be provided at the project site.

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2/14/2008 5

5. The natural communities that occur on the project site shall be preserved and appropriately managed to ensure the long-term viability of these communities.
6. The project site shall be managed in a manner that will protect and enhance the listed and non-listed native wildlife species and their habitat. Periodic surveys shall be conducted of listed species using the project site.
7. The location and design of any parking facility shall be designed to have minimal impacts on natural resources. The parking area shall incorporate pervious materials wherever feasible.
8. A comprehensive landscaping plan will be developed for the project site. The landscaping plan will make significant use of native plants.
9. An ongoing monitoring and control program for invasive vegetation including exotic (non-native) and nuisance native plant species shall be implemented at the project site. The objective of the control program shall be the elimination of invasive exotic plant species and the maintenance of a diverse association of native vegetation. The management plan shall reference the Exotic Pest Plant Council's List of Florida's Most Invasive Species to assist in identifying invasive exotics on the project site.
10. A feral animal removal program shall be developed and implemented for the project site.
11. A protection plan shall be developed and implemented, in conjunction with the Division of Historic Resources, for the protection of known historical and archaeological resources located on the project site. This plan shall include measures to stabilize disturbed sites. Information on significant historical and archaeological sites shall be provided to the Division of Historic Resources for the purpose of updating the Florida Master Site File.
12. Sidewalk access to the project site shall be provided that links the project site with adjacent residential neighborhoods.
13. Bike parking stands shall be installed at the project site to provide an alternative to automobile transportation to the project site.
14. The development and management of the project site shall be coordinated with the agencies developing and managing the Town of Jupiter's Bicycle Master Plan and Riverwalk trail, to ensure the project site is managed as part of a linked trail system.

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VIII. OBLIGATIONS OF THE RECIPIENT RELATING TO THE USE OF BOND PROCEEDS

1. FCT is authorized by Section 380.510, Fla. Stat. to impose conditions for funding on the Recipient in order to ensure that the project complies with the requirements for the use of Florida Forever Bond proceeds including, without limitation, the provisions of the Internal Revenue Code and the regulations promulgated thereunder as the same pertain to tax exempt bonds.

2. The Recipient agrees and acknowledges that the below listed transactions, events, and circumstances, collectively referred to as the "disallowable activities," may be disallowed on the Project Site as they may have negative legal and tax consequences under Florida law and federal income tax law. The Recipient further agrees and acknowledges that these disallowable activities may be allowed up to a certain extent based on guidelines or tests outlined in the Federal Private Activity regulations of the Internal Revenue Service:

- a. any sale or lease of any interest in the Project Site to a non-governmental person or organization;
- b. the operation of any concession on the Project Site by a non-governmental person or organization;
- c. any sales contract or option to buy or sell things attached to the Project Site to be severed from the Project Site with a non-governmental person or organization;
- d. any use of the Project Site by a non-governmental person other than in such person's capacity as a member of the general public;
- e. any change in the character or use of the Project Site from that use expected at the date of the issuance of any series of Bonds from which the disbursement is to be made;
- f. a management contract for the Project Site with a non-governmental person or organization; or
- g. such other activity or interest as may be specified from time to time in writing by FCT to the Recipient.

3. If the Project Site, after its acquisition by the Recipient and/or the Trustees, is to remain subject to any of the disallowable activities, the Recipient shall provide notice to FCT, as provided for in paragraph III.1. above, at least sixty (60) calendar days in advance of any such transactions, events or circumstances, and shall provide FCT such information as FCT reasonably requests in order to evaluate for approval the legal and tax consequences of such disallowable

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activities.

4. In the event that FCT determines at any time that the Recipient is engaging, or allowing others to engage, in disallowable activities on the Project Site, the Recipient shall immediately cease or cause the cessation of the disallowable activities upon receipt of written notice from FCT. In addition to all other rights and remedies at law or in equity, FCT shall have the right to seek temporary and permanent injunctions against the Recipient for any disallowable activities on the Project Site.

DELEGATIONS AND CONTRACTUAL ARRANGEMENTS BETWEEN THE RECIPIENT AND OTHER GOVERNMENTAL BODIES, NONPROFIT ENTITIES OR NON GOVERNMENTAL PERSONS FOR USE OR MANAGEMENT OF THE PROJECT SITE WILL IN NO WAY RELIEVE THE RECIPIENT OF THE RESPONSIBILITY TO ENSURE THAT THE CONDITIONS IMPOSED HEREIN ON THE PROJECT SITE AS A RESULT OF UTILIZING BOND PROCEEDS TO ACQUIRE THE PROJECT SITE ARE FULLY COMPLIED WITH BY THE CONTRACTING PARTY.

IX. RECORDKEEPING; AUDIT REQUIREMENTS

1. The Recipient shall maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement. These records shall be available at all reasonable times for inspection, review or audit by state personnel, FCT and other personnel duly authorized by FCT. "Reasonable" shall be construed according to the circumstances, but ordinarily shall mean the normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

2. If the Recipient expends a total amount of State financial assistance equal to or in excess of \$500,000 in any fiscal year of such Recipient, the Recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Fla. Stat., the applicable rules of the Executive Office of the Governor and the Comptroller and Chapter 10.550 (local government entities) or Chapter 10.650 (nonprofit organizations), Rules of the Auditor General. In determining the State financial assistance expended in its fiscal year, the Recipient shall consider all sources of State financial assistance, including State funds received from FCT, other state agencies and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements. The funding for this Agreement was received by FCT as a grant appropriation.

In connection with the audit requirements addressed herein, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Fla. Stat. This includes submission of a reporting package as defined by Section 215.97(2)(d), Fla. Stat. and Chapter 10.550 (local government entities) or 10.650 (nonprofit organizations), Rules of the Auditor General.

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3. If the Recipient expends less than \$500,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Fla. Stat. is not required. If the Recipient elects to have an audit conducted in accordance with the provisions of Section 215.97, Fla. Stat., the cost of the audit must be paid from non-State funds (i.e., the cost of such an audit must be paid from Recipient funds not obtained from a State entity).

The annual financial audit report shall include all management letters, the Recipient's response to all findings, including corrective actions to be taken, and a schedule of financial assistance specifically identifying all Agreement and other revenue by sponsoring agency and agreement number. Copies of financial reporting packages required under this Article shall be submitted by or on behalf of the Recipient directly to each of the following:

Department of Community Affairs (at each of the following addresses):

Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

Florida Communities Trust
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

State of Florida Auditor General at the following address:

Auditor General's Office
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32302-1450

5. If the audit shows that any portion of the funds disbursed hereunder were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to FCT of all funds not spent in accordance with the applicable regulations and Agreement provisions within thirty (30) days after FCT has notified the Recipient of such non-compliance.

6. The Recipient shall retain all financial records, supporting documents, statistical records and any other documents pertinent to this Agreement for a period of five years after the date of submission of the final expenditures report. However, if litigation or an audit has been initiated prior to the expiration of the five-year period, the records shall be retained until the litigation or audit findings have been resolved.

7. The Recipient shall have all audits completed in accordance with Section 215.97,

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Fla. Stat. performed by an independent certified public accountant ("IPA") who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Fla. Stat. The IPA shall state that the audit complied with the applicable provisions noted above.

X. DEFAULT; REMEDIES; TERMINATION

If any essential term or condition of the Declaration of Restrictive Covenants is violated by the Recipient or by some third party with the knowledge of the Recipient, the Recipient shall be notified of the violation by written notice given by personal delivery, registered mail or registered expedited service. The recipient shall diligently commence to cure the violation or complete curing activities within thirty (30) days after receipt of notice of the violation. If the curing activities can not be reasonably completed within the specified thirty (30) day time frame, the Recipient shall submit a timely written request to the FCT Program Manager that includes the status of the current activity, the reasons for the delay and a time frame for the completion of the curing activities. FCT shall submit a written response within thirty (30) days of receipt of the request and approval shall not be unreasonably withheld. It is FCT's position that all curing activities shall be completed within one hundred twenty (120) days of the Recipient's notification of the violation. However, if the Recipient can demonstrate extenuating circumstances exist to justify a greater extension of time to complete the activities, FCT shall give the request due consideration. If the Recipient fails to correct the violation within either (a) the initial thirty (30) day time frame or (b) the time frame approved by FCT pursuant to the Recipient's request, fee simple title to all interest in the Project Site shall be conveyed to the Trustees unless FCT negotiates an agreement with another local government, nonprofit environmental organization, the Florida Division of Forestry, the Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection or a Water Management District, who agrees to accept title and manage the Project Site. FCT shall treat such property in accordance with Section 380.508(4)(e), Fla. Stat.

XI. STANDARD CONDITIONS

1. This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict and shall be severable, but shall not invalidate any other provision of this Agreement.

2. No waiver by FCT of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of FCT hereunder, or affect the subsequent exercise of the same right or remedy by FCT for any further or subsequent default by the Recipient.

3. The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 *et seq.*), if applicable, which prohibits discrimination by

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public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, State and local government services, and in telecommunications.

4. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit lease bids or leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of 36 months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

5. No funds or other resources received from FCT in connection with this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

This Agreement including Exhibit "A" embodies the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

R 2008 0374

COUNTY: MAR 11 2008

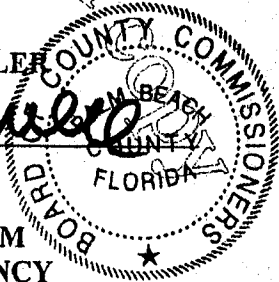
ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: Mary Powell
Deputy Clerk

By: Addie L. Greene
Addie L. Greene, Chairperson



APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: [Signature]
Assistant County Attorney

By: [Signature]
Department Director

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Witness:

Gayle H. Brett
Print Name: GAYLE H. BRETT

John T. Sney
Print Name: John T. Sney

FLORIDA COMMUNITIES TRUST

By: Janice Browning
Janice Browning, Director, Division of
Housing and Community Development

Date: 4/14/08

Approved as to Form and Legality:
By: Kristen L. Coons
Kristen L. Coons, Trust Counsel

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 14th day of April,
2008, by Janice Browning, Director, Division of Housing and Community Development. She is
personally known to me.

Gayle H. Brett
Notary Public
Print Name:
Commission No.
My Commission expires

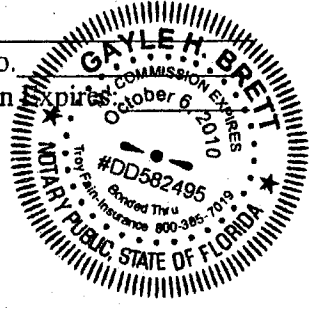


Exhibit "A"
the "Property"

LEGAL DESCRIPTION

The East 75 feet of the East 150 feet of Government Lot 7, Section 31, Township 40 South, Range 43 East, less the South 390 feet thereof.

AND

Take a point which is the Southeast corner of Government Lot 7, Section 31, Township 40 South, Range 43 East, thence run North along the East line of said Lot 7, a distance of 290 feet to a point of beginning; thence run North along the East line of said Lot 7, a distance of 100 feet; thence run West parallel with the South line of said Lot 7 a distance of 150 feet more or less to the East line of the land conveyed to A. J. Hodgson by Deed recorded in Deed Book 102, Page 449, Palm Beach County Records; thence run South along said Hodgson's East line a distance of 100 feet; thence run East parallel with the South line of said Lot 7 a distance of 150 feet more or less to the point of beginning.

This is not a legal copy

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