RFQ 2024-SL01 ADDENDUM NO. 1

Professional Services for the Wind & Water Sports Venue

DATE: 5 JUNE 2024

This Addendum supplements the original Request for Qualifications (RFQ) posting for the above project. All previous and future addenda and the terms and conditions of those documents apply to this addendum and vice versa. Acknowledgment of this addendum is required to be submitted with the Firm's statement of qualifications packet by the RFQ due date and time.

This addendum includes clarifications on questions received, one revision, and additional backup documents.

Questions and clarifications:

1. Will the construction oversight include the construction of the wind and water sports venue or only the mitigation site? **Construction oversight will include both the mitigation site and venue location.**
2. If oversight includes the wind and water sports venue, what will be the relationship or involvement of the Engineer of Record? **We can request the design engineer stay involved throughout project completion if needed.**
3. Would the City consider making modifications to the final design of the water sports venue, if determined to be necessary as a minimization or avoidance measure? **The City has modified and minimized to the maximum extent possible in previous plan iterations with the USACE.**
4. Can the City provide information on the site that was purchased for mitigation (site location, approximate size, and habitat delineations)? **The site purchased by the City has the following legal description, with mitigation being done on the western side of that property:**
   North Half of Tract 21, Abst 260, Kirksey-Grady including Lots 1-8 Blk 1, Lots 1-11 Blk 3, Lots 1-15 Blk 5 and Lots 1-14 Blk 7, South Padre Island, TX 78597

RFQ Packet Revisions:

1. There is one revision on Page 10, under Letter E of the RFQ packet's *Submission Requirements* section. The revision is highlighted and underlined below:

   E. Demonstrate the success of the Firm with obtaining USACE permits from the Galveston District within the last three years (25 points)
   The City is interested in the Firm's success and performance record of obtaining approved permits from the USACE Galveston District. Please include the number of approved permits the Firm has received from the Galveston District within the last three years, the Firm's role in the permitting process, and the average time it took to receive approval once the application was submitted.

RFQ Additional Documents:

1. The most recent version of the mitigation plan (submitted to the USACE in December 2023).
2. The most recent comments from the USACE on the mitigation plan (received in March 2024).

NOTE: This previous mitigation plan utilized a different property than what the City has purchased and intends to use.

Prepared By: Kristina Boburka

Signature: 

ACKNOWLEDGMENT OF ADDENDUM BY SUBMITTING FIRM:

Firm: _____

Name: _____

Signature: _____

Mitigation Plan

South Padre Island Wind and Water Sport Venue

SWG-2018-00232

City of South Padre Island, Cameron County, Texas

Wednesday, December 13, 2023

Contents

Figures

Tables

1.0 Objectives

The City of South Padre Island (Permittee) in Cameron County, Texas has proposed construction of a wind and water sports venue (WWSV) adjacent to Park Road 100 (Figure 1). The project area borders the Laguna Madre (Laguna) and is currently used as a launch location for recreational windsurfing and kiteboarding. The proposed venue is expected to permanently impact 1.58 acres of wetlands. The following wetland habitat types will be impacted: salt marsh (0.41 acre), brackish marsh (0.04 acre), tidal algal flat (1.13 acre).

To offset permanent impacts to 1.58 acres of wetlands at the venue location, the permittee proposes off-site, in-kind mitigation via the preservation and enhancement of brackish marsh, salt marsh, and tidal/algal flat wetlands within a 10-acre parcel on the island.

Compensatory mitigation regulations stipulate the following:

1) *Preservation may be used to provide compensatory mitigation for activities authorized by Department of the Army (DA) permits, provided the following criteria are met:*

i) *The resources to be preserved provide important physical, chemical, or biological functions for the watershed.*
The resources to be preserved include unvegetated algal flat and vegetated marsh wetland habitat. Algal flats are essential to the Laguna Madre ecosystem. Cyanobacteria found on the flats use photosynthesis to convert atmospheric carbon into organic matter at the base of the food chain and fix atmospheric nitrogen into organic forms used by vascular plants. The invertebrate community inhabiting the flats serves as a food source for several species of migratory birds, including the federally threatened red knot and piping plover.
Similarly, marsh habitats provide essential functions for the watershed. Marshes filter nutrients and pollutants from water and convert nutrients into plant matter that provide food and habitat for wildlife.

ii) *The resources to be preserved contribute significantly to the ecological sustainability of the watershed.*
The 10-acre mitigation site will preserve and enhance high-quality waters of the United States (WOTUS) within the same subbasin watershed and with sufficient ecological benefit to offset permanent unavoidable impacts at the project site.

The Laguna Madre Estuary Program Environmental Strategic Plan Final Report identified population growth and development pressure in south Texas as a threat to the ecological sustainability of the watershed. Preserving in perpetuity the 10 acres of combined algal flat and marsh wetlands will prevent the area from future development and help to counteract the trend toward future development of the island.

iii) Preservation is determined by the district engineer to be appropriate and practicable.

Written and verbal communication with the Galveston District - USACE has indicated that preservation is a viable mitigation option, provided other criteria are met and the mitigation ratio is sufficient and presented with reasonable justification.

iv) The resources are under threat of destruction or adverse modifications.

Commercial and residential development has been attributed to the decline in algal flats on the island. While no known developments are planned in the vicinity of the mitigation site, preservation will protect the area from development in perpetuity. Proposed mitigation measures will also aim to eliminate destruction and adverse modification of the flats in the form of off-road vehicles. Reckless off-road driving (i.e., "donuts," "fishtails," "trenching") has degraded wetland habitat within the proposed mitigation site. Preservation of the mitigation site will allow for the following ecological benefits:

- Protecting 10 acres of algal flat and marsh wetland from being developed,
- Enhancing continuity of algal crust, thereby improving biochemical cycling of the tidal flats,
- Decreasing vehicle-related harassment of wildlife by eliminating vehicles from the Mitigation Site,
- Decreasing vehicular damage to tidal wracks, an important foraging habitat used by shorebirds.

v) Th*e preserved site will be permanently protected through an appropriate real estate or other legal instrument.*

A deed restriction has been drafted for the mitigation site and is provided in Appendix A.

2) Where preservation is used to provide compensatory mitigation, to the extent appropriate and practicable the preservation shall be done in conjunction with aquatic resource restoration, establishment, and/or enhancement activities.

The mitigation site is currently comprised of wetlands (tidal/algal flat, salt marsh, brackish marsh) with a diminished ecosystem function. The algal crust that dominates the tidal flats has been fragmented by ruts and trenches from off-road vehicles. Enhancement of mitigation site wetlands is provided by excluding vehicles from an otherwise naturally functioning wetland. An anticipated additional benefit of the bollard system is the reduction of vehicle related harassment to federally protected species inhabiting the area. A series of wood bollards will be placed around the perimeter of the 10-acre mitigation site to exclude vehicles. Wood bollards will be 10 inches in diameter, extend above grade approximately 3 feet, and be connected by a 1-inch diameter nylon rope. "No trespassing" signage will be posted on bollards (see Appendix B – Example of No Trespassing Signage). Signage will be written in English and Spanish to reach a wider audience and posted at 60-foot intervals (every third bollard) around the perimeter of the mitigation site.

2.0 Site Selection

Permittee-responsible mitigation was required for the proposed project, as no mitigation banks or in-lieu fee programs exist for the Laguna Madre watershed. On-site and in-kind mitigation was considered, but because the permittee leases the proposed venue property, a site protection instrument was not practicable. Therefore, off-site and in-kind mitigation was selected as the approach most likely to successfully offset wetland impacts. A total of 28 South Padre Island properties, available for purchase, were considered as mitigation sites (Figure 2, Table 1). Properties were evaluated based on the following criteria contained in 33 CFR 332.3 (d):

1) *The compensatory mitigation project site must be ecologically suitable for providing the desired aquatic resource functions.*

   The desired aquatic resource is algal flat and marsh wetland habitat. To provide the desired aquatic resource functions of algal flats and marsh wetlands, properties must currently contain wetland habitat. Seven (7) properties occurring wholly in upland habitat (as based on the National Wetlands Inventory map) were excluded based on this criterion.

   i) *Hydrological conditions, soil characteristics, and other physical and chemical characteristics.*

      All properties considered were located on the Laguna Madre side of the island, in close proximity to the Laguna. Following exclusion of properties occurring wholly in upland, remaining properties were observed to have similar geomorphic position and distance from the Laguna Madre. All properties receive wind-driven water from the Laguna and were assumed to have similar hydrologic conditions. None of the remaining properties were eliminated based on the hydrologic conditions.
      Similarly, a review of the Natural Resources Conservation Service's Web Soil Survey indicated that all remaining properties were comprised of mustang fine sand, Daggerhill fine sand, or a combination of the two. None of the remaining properties were eliminated based on the soil.

   ii) *Watershed-scale features, such as aquatic habitat diversity, habitat connectivity, and other landscape scale functions.*

      Construction of the WWSV is anticipated to result in the loss of both unvegetated algal flat and vegetated marsh habitats. To meet the aquatic habitat diversity criterion, potential mitigation sites were required to have both algal flat and marsh habitat.

Sixteen (16) properties were observed to have only one wetland habitat type, based on a review of publicly available mapping, and were excluded as potential mitigation sites.

iii) The size and location of the compensatory mitigation site relative to hydrologic sources and other ecological features.

The goal of mitigation was to preserve algal flat and marsh wetlands within a 10-acre parcel adjacent to the Laguna Madre. Of the five remaining potential mitigation sites, 3 were excluded because they did not provide the desired acreage.

iv) Other relevant factors including, but not limited to, development trends, anticipated land use changes, habitat status and trends, the relative locations of the impact and mitigation sites in the stream network, local or regional goals for the restoration or protection of particular habitat types or functions (e.g., re-establishment of habitat corridors or habitat for species of concern), water quality goals, floodplain management goals, and the relative potential for chemical contamination of the aquatic resources.

Land use was considered when evaluating two remaining potential mitigation sites. Current land use is primarily recreational, with both sites being frequently visited for offroad driving. Off road driving has negatively impacted the continuity of the algal crust and likely contributes to harassment of listed species inhabiting the areas.

Based on a review of publicly available aerial imagery, Site 28 was determined to have a higher level of offroad traffic. Preserving Site 28 and eliminating vehicles was therefore determined to provide the greatest benefit to the watershed.

Table 1. Criteria for excluding potential Mitigation Sites.

Site No.	Acreage	Habitat	Presence of wetland habitat	Hydrological suitability (similarity to venue)	Soil suitability (similarity to venue)	Habitat Diversity	Size (adequate acreage)	Likelihood of providing benefit
1	12.8	flats				X	--	--
2	4.7	flats, marsh, upland					X	--
3	4.7	upland	X	--	--	--	--	--
4	14.7	flats, marsh, upland						X
5	0.5	flats				X	--	--
6	0.3	flats				X	--	--
7	0.3	flats				X	--	--
8	0.3	flats				X	--	--
9	0.3	flats				X	--	--
10	0.3	flats				X	--	--
11	0.3	flats				X	--	--
12	0.3	flats				X	--	--
13	0.3	flats				X	--	--
14	0.3	flats				X	--	--
15	0.3	flats				X	--	--
16	0.3	flats				X	--	--
17	0.3	flats, marsh					X	--
18	0.3	flats, marsh					X	--
19	0.3	marsh				X	--	--
20	0.3	upland	X	--	--	--	--	--
21	0.3	upland	X	--	--	--	--	--
22	0.3	upland	X	--	--	--	--	--
23	0.3	marsh, upland				X	--	--
24	0.3	marsh				X	--	--
25	0.3	upland	X	--	--	--	--	--
26	0.3	upland	X	--	--	--	--	--
27	0.3	upland	X	--	--	--	--	--
28*	10.0	flats, marsh, upland						
Sites excluded based on criteria:			7	0	0	16	3	1

*Site 28 met all criteria and was selected as Mitigation Site

3.0 Site Protection Instrument

The 10-acre compensatory mitigation site will be secured with a deed restriction. The deed restriction will be enforceable by and against later owners or occupiers of the land. A copy of the deed restriction is included as Appendix A.

4.0 Baseline Information

4.1 Physical Setting

The mitigation site borders the Laguna Madre and is dominated by tidal flats, with salt marsh and brackish marsh also present. Wetland vegetation and tidal flat habitat continue to be impacted by the current access and use of the site.

Weather stations in Brownsville, Texas recorded an annual rainfall total of 21.2 inches during 2019, 6.3 inches less than the 27.5-inch average annual rainfall. Annual rainfall fluctuations can alter hydrology, but tidal water is the primary driver of hydrology.

A review of the Natural Resources Conservation Service (NRCS) Web Soil Survey database indicates soil is comprised entirely of Mustang fine sand, saline, frequently flooded (hydric rating of 100 percent).

4.2 Waters of the United States, Including Wetlands, Survey Results

Hanson biologists conducted a wetland determination on December 07, 2022, of the proposed project area using the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Regional Supplement* and the *1987 Corps Wetland Delineation Manual*.

Based on observations made during the site visit, the 10-acre mitigation site area offered 9.73 acres of wetland habitat. Habitat types observed during the delineation included: 7.57 acres algal flat (wetland), 0.73 acres of salt marsh (wetland), 1.42 acres of brackish marsh (wetland), and 0.27 acres of coastal prairie (upland). All wetland habitat types were observed to have a direct hydrologic connection to the Laguna Madre. GPS coordinates of the Mitigation Site are presented in Appendix C.

5.0 Determination of Credits

The City of South Padre Island cannot mitigate impacts to Waters of the United States through credit purchase based on the unavailability of credits. The City proposes preservation and enhancement of brackish marsh, salt marsh, and tidal/algal flat wetlands within a 10-acre parcel located approximately 1.5 miles north of the venue.

Mitigation is proposed at a slightly higher than 6 to 1 acreage ratio. To mitigate the loss of 1.58 acres of wetlands at the venue location, 9.73 acres of wetlands will be preserved and enhanced at the Mitigation Site. Preservation will be accomplished through a deed restriction and enhancement will be accomplished by installing a series of parking bollards around the Mitigation Site, thereby excluding vehicles from entering the site.

Wetland impacts at the venue location were quantified using the iHGM tidal fringe model. While the iHGM model is calibrated for use elsewhere in the the Galveston District, it relies on accepted parameters of tidal fringe wetlands (e.g., drainage network, hydrologic modification, nekton habitat), and is the best available tool for quantifying ecosystem function at the proposed venue location. Table 2 below provides a summary of pre- and post-project functional capacity units (FCU) of the venue location, as well as FCUs provided by the Mitigation Site. iHGM Functional Capacity Worksheets are provided in Appendix D. The FCUs provided by preservation of the Mitigation Site are intended to compensate for temporal losses after the completion of the project and to ensure mitigation would contribute to overall aquatic functions within the South Laguna Madre Watershed (HUC 12110208).

Table 2. Functional Capacity Units at Venue Location and Mitigation Site.

	Venue Location			Mitigation Site
	Pre-project	Post-project	Net change[1]	
Biota	19.12	14.70	-4.42	5.70
Botanical	4.54	4.38	-0.16	1.90
Physical	15.88	12.70	-3.18	5.20
Chemical	11.11	7.58	-3.53	4.40

[1] Changes between pre- and post-project conditions are the result of a conservative estimate that hydrological modifications may occur; all other input variables remained the same between pre- and post-project.

6.0 Mitigation Work Plan

6.1. Geographic Boundaries

Geographic boundaries of the mitigation site are presented in Figure 3.

6.2 Construction Methods

Because preservation of mitigation site wetlands is centered around excluding vehicles from an otherwise naturally functioning wetland, manipulation of existing topography and vegetation will be minimal. A series of wood bollards will be placed around the perimeter of the 10-acre mitigation site to exclude vehicles. Wood bollards will be 10 inches in diameter, extend above grade approximately 3 feet, and be connected by a 1-inch diameter nylon rope. “No trespassing” signage will be posted on bollards. Signage will be written in English and Spanish to reach a wider audience and posted at 60-foot intervals (every third bollard) around the perimeter of the mitigation site.

6.3 Timing and Sequence

Following District approval of the mitigation plan, the City will survey the boundary of the proposed mitigation site to officially record the easement. The deed restriction will be executed, and the mitigation site will be donated to Friends of Laguna Atascosa, a non-profit organization that acquires land for the Laguna Atascosa National Wildlife Refuge. The mitigation site will then be donated to and managed by the Refuge.

Installation of vehicle-restricting parking bollards will occur following execution of the deed restriction. Due to the nature of preservation, installation/removal of BMPs, site preparation, and site clean-up will not be required. To minimize potential impacts to the federally protected red knot and piping plover, establishment of the mitigation site will take place between May 15th and July 15th, when migratory bird abundance along the Texas Coast is lowest. It is anticipated that installation of bollards will take 1 – 3 weeks to complete.

7.0 Maintenance Plan

As previously discussed, the 10-acre mitigation site will be donated to and managed by the Laguna Atascosa National Wildlife Refuge. The City would therefore not be responsible for the ongoing maintenance of the property.

8.0 Performance Standards

Performance standards for the mitigation site will focus on completing a conservation easement that provides appropriate protection in perpetuity and incorporating the site as part of the Laguna Atascosa National Wildlife Refuge. No additional performance standards are proposed by the City.

9.0 Monitoring Requirements

As previously discussed, the mitigation site will be donated to and managed by the Laguna Atascosa National Wildlife Refuge. The City would therefore not be responsible for the ongoing monitoring of the property.

10.0 Long-Term Management

As previously discussed, the mitigation site will be donated to and managed by the Laguna Atascosa National Wildlife Refuge. The City would therefore not be responsible for long-term management of the property.

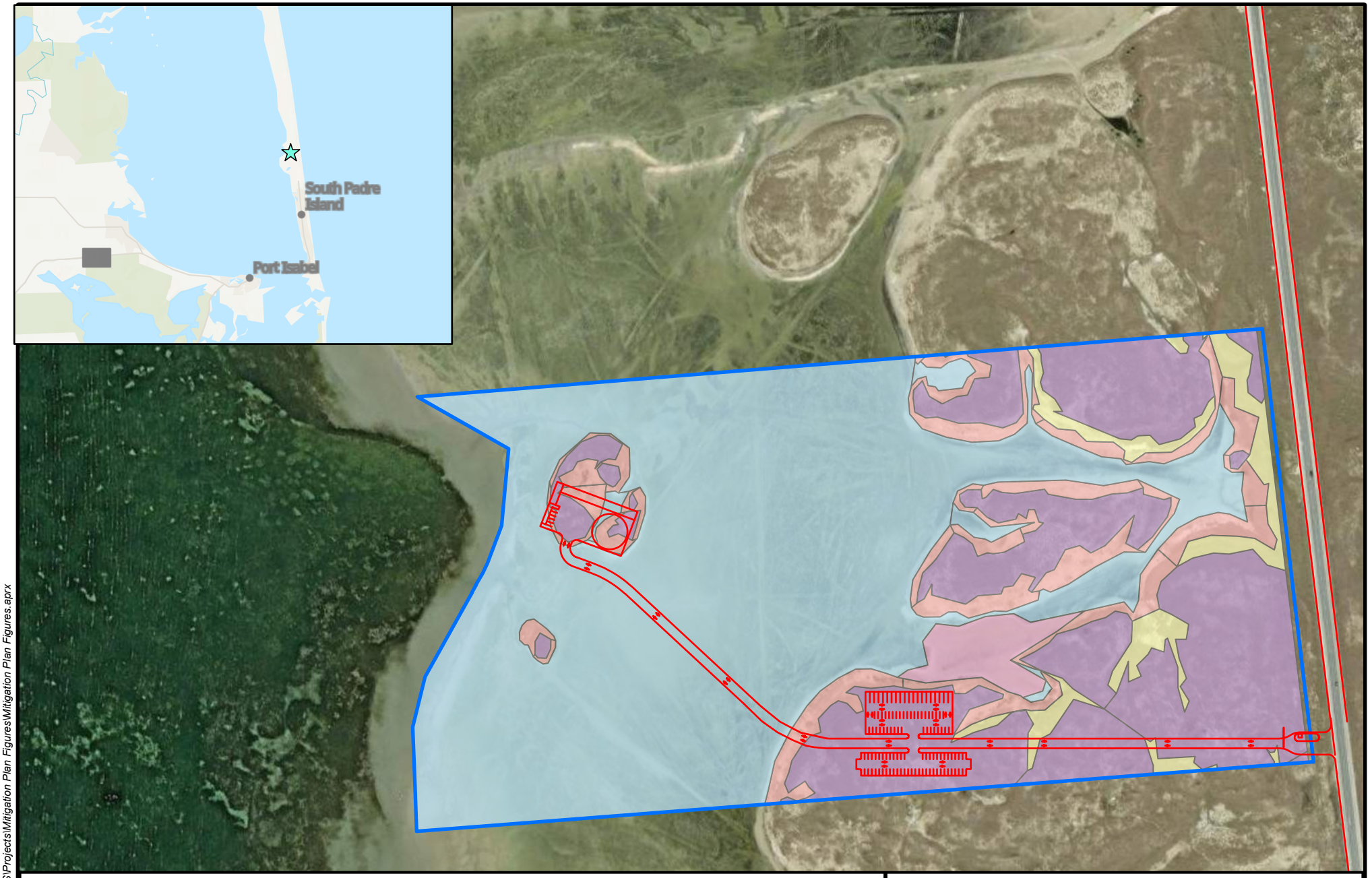
11.0 Adaptive Management

As previously discussed, the mitigation site will be donated to and managed by the Laguna Atascosa National Wildlife Refuge. The City would therefore not be responsible for adaptive management of the property.

12.0 Financial Assurances

The proposed mitigation site will be protected by a conservation easement executed pursuant to the timeframe outlined in the DA permit. The Mitigation Site will be donated to and managed by the Laguna Atascosa National Wildlife Refuge. Aside from purchase of the real property and installation of the parking bollard system, the City has not proposed short- or long-term financial assurances.

Expenses that may be required during the fiscal year are typically presented as a budget amendment to City Council at their twice-per-month public meetings to be incorporated into the City's budget. An agenda of the November 1, 2023 City Council public meeting is attached as Appendix E.

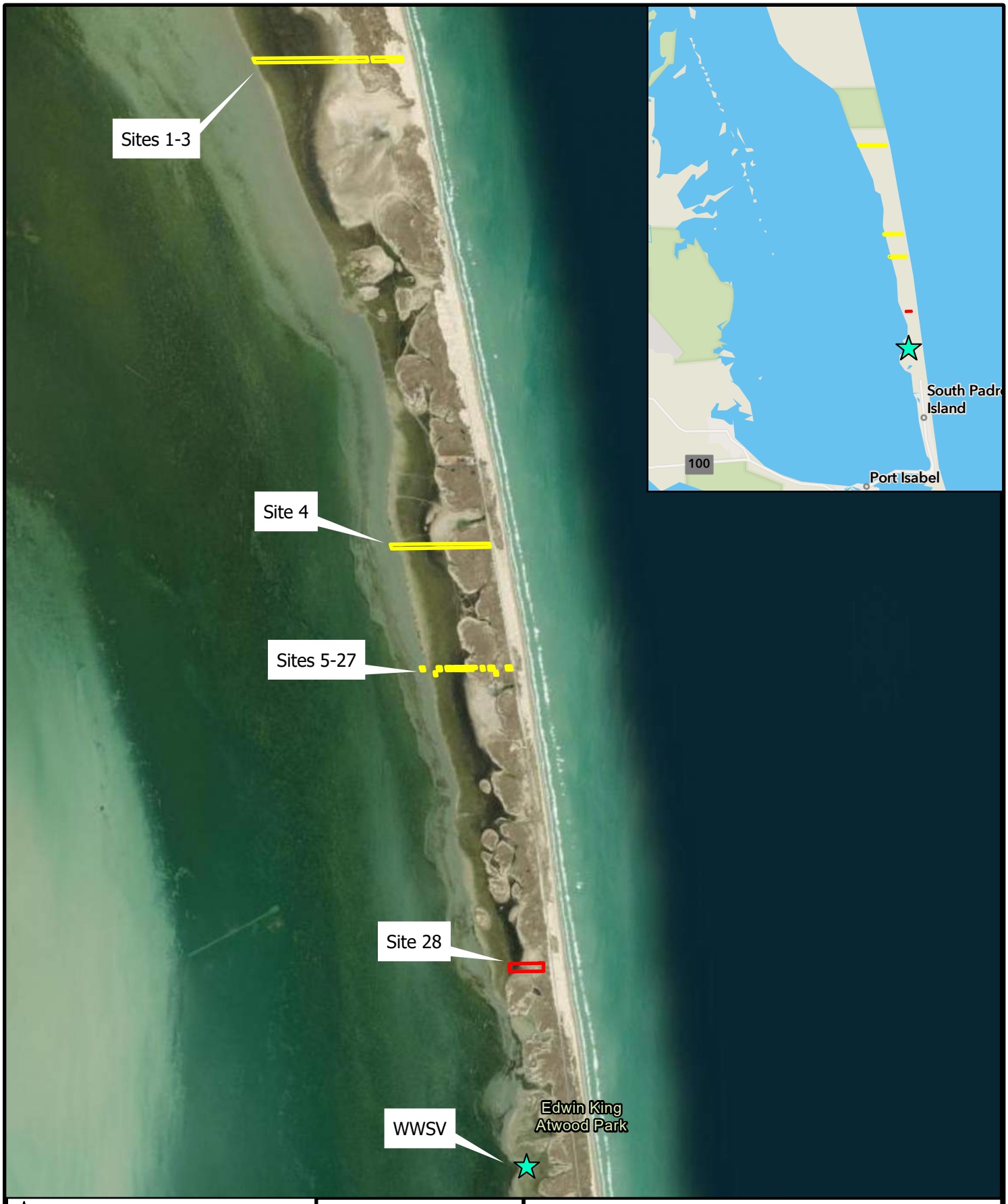


Venue Location

South Padre Island WWSV
Mitigation Plan

Project No. 19L0166T03 FIGURE 1

I:\19jobs\19L0166T03\CAD\GIS\Projects\Mitigation Plan Figures\Mitigation Plan Figures.aprx



Venue Location

Mitigation properties

Chosen

Not Chosen

N

0 0.7 1.4 Miles

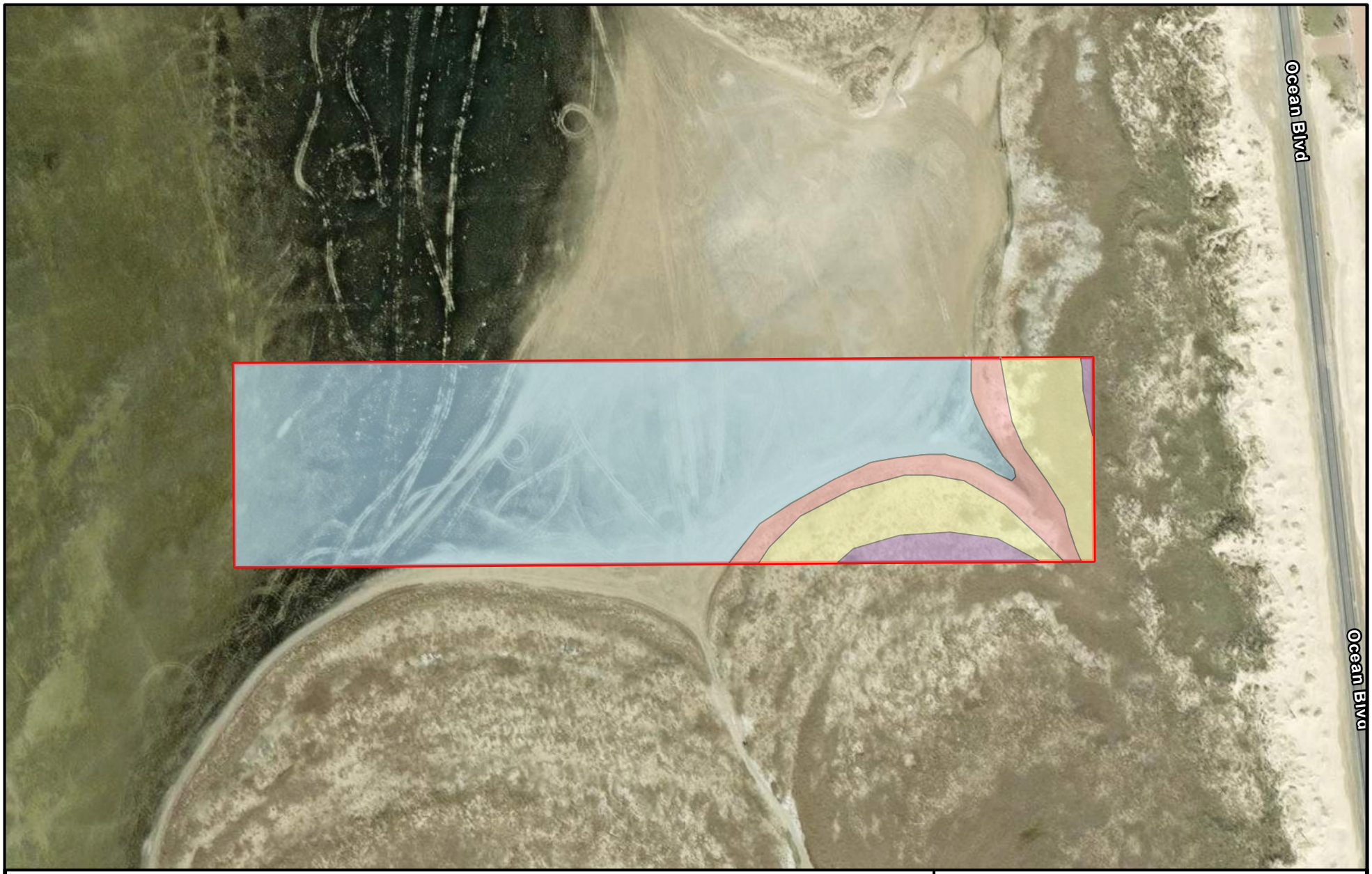
HANSON

Potential Mitigation Sites

South Padre Island WWSV
Mitigation Plan

JOB NO. 19L0166T03 FIGURE 2

I:\19jobs\19L0166T03\CAD\GIS\Projects\Mitigation Property Analysis\Mitigation Property Analysis.aprx



Wetland Delineation Map

South Padre Island WWSV Mitigation Plan

JOB NO. 19L0166T03 FIGURE 3

Appendix A: Draft Deed Restriction

DEED RESTRICTION

City of South Padre Island is the owner of the real property more particularly described and shown in Exhibit "A" (hereinafter the "Property") attached hereto and made a part hereof. The approximately _____-acre Property is also referenced in "The Mitigation Plan for **the South Padre Island Wind and Water Sports Venue**". The Property is subject to the conditions of Department of the Army Section 404/Section 10 Permit Number _____, dated _____, or a revision thereof. One of the conditions of the referenced permit requires restrictions be placed on the deed for the Property for the purpose of providing compensation for adverse impacts to waters of the United States". The intent of this document is to assure that the Property will be retained and maintained forever predominantly in the natural vegetative and hydrologic condition described in success criteria of the "The Mitigation Plan for **the South Padre Island Wind and Water Sports Venue**". Activities, which may, in the future, be conducted within the Property that will affect the vegetative and or hydrologic conditions outlined in the success criteria of the Mitigation Plan, must be coordinated with and approved by the United States Army Corps of Engineers (USACE), Galveston District, Regulatory Branch, prior to initiation.

The parties to this agreement include the Property owner(s) who by their signature accept the third-party rights of enforcement herein and agree that the deed restrictions will be subject to the following conditions:

1) Property Description

(Applicant) will provide as Attachment A-1:

a) On-site photographs taken at appropriate locations on the Protected Property including all major natural features; and
b) A copy of the deed with an accurate legal description or a current survey certified by a Texas Registered Professional Land Surveyor (RPLS) of the Protected Property.
c) A copy of a verified wetland survey map, which delineates all waters of the United States, including wetlands within the Property.

2) Term

These restrictions shall run with the land in perpetuity and be binding on all future owners, heirs, successors, administrators, assigns, lessees, or other occupiers and users. The owner must file this Deed Restriction of record with the County Clerk of **Cameron County**, Texas within 10 days of the date this document is signed and provide a copy of the recorded Deed Restriction to the USACE, Galveston District within 30 days of filing.

3) General

Except for such specific activities as authorized pursuant to DA Permit Number _____, the following activities are prohibited on the Property subject to this Deed Restriction:

(a) There shall be no filling, excavation, mining or alteration of the Property that will affect the success criteria outlined in the Mitigation Plan unless approved in writing in advance by the USACE, Galveston District.

4) Rights of Access and Entry

The USACE shall have the right to enter and go upon the Property for purposes of inspection, and to take actions including but not limited to scientific or educational observations and studies, and collection of samples.

5) Enforcement

In the event of a breach of the restrictions by the Owner, or a third party working with the permission of or under the direction of the Owner, the USACE must be notified immediately. If the USACE becomes aware of a breach of this Agreement, the USACE will notify the Owner of the breach. The Owner shall have thirty (30) days after receipt of such notice to undertake actions that are reasonably calculated to swiftly correct the conditions constituting the breach. If the Owner corrects the conditions constituting the breach in a timely and reasonable manner, no further action is warranted or authorized. If the Owner fails to initiate such corrective action within thirty (30) days or fails to complete the necessary corrective action, the USACE may undertake such actions, including legal proceedings, as are necessary to effect such corrective action. Any forbearance on the part of the USACE to exercise its rights in the event of a breach of the restrictions shall not be deemed or construed to be a waiver of their rights hereunder in the event of any subsequent failure of the Property owner to comply.

Approved by City of South Padre Island

_____ _____
Signature Date

_____
Printed Name

_____
Title

Approved by Applicant

_____ _____
Signature Date

_____
Printed Name

_____
Title

Appendix B: Example No-trespassing Signage

NO TRESPASSING
NO TRASPASAR

FEDERALLY PROTECTED

WETLAND

HUMEDAL PROTEGIDA

POR EL GOBIERNO

FEDERAL

Appendix C: GPS coordinates of Mitigation Site

Appendix C. GPS Coordinates of Mitigation Site

Location	Latitude	Longitude
NE corner	26.1827164	-97.1773047
SE corner	26.1818356	-97.1772980
SW corner	26.1818100	-97.1814483
NW corner	26.1826908	-97.1814538

Appendix D: iHGM Functional Capacity Worksheets

WWSV
Tidal Fringe Worksheet (Interim HGM) For
Tidal fringe HGM - Pre.xlsx

1 **Vedge: The amount of marsh-water meters/hectare**

Site Description	Qualitative	Quantitative	Sub index	
Marsh shows deterioration due to subsidence, large amounts of open water	Very High	>800 m/ha (>1,062 ft/acre)	0.8	
Well developed tidal drainage network present OR Simple tidal network with isolated ponds & depression in the marsh interior OR Large amount of shallow shoreline in relation to the entire area	High	350 - 800 m/ha (465 - 1,062 ft/acre)	1.0	x
Simple tidal drainage network...isolated ponds and depressions are few & lacking	Moderate	200-350 m/ha (266 - 465 ft/acre)	0.7	
Marsh lacks both tidal creeks & isolated ponds & depressions, shoreline is linear or smooth ...Marsh area is large relative to shoreline length. OR the WAA is a depression that is not affected by the daily tide (i.e. high marsh)	Low	Less than 200 m/ha (<266 ft/acre)	0.4	

2 **Vhydro: Site hydroperiod or degree of hydrological modifications**

Site Description	Sub index	
Site is open, no hydrologic restrictions	1.0	
Moderate hydrologic restriction (i.e. low-level berms overtopped frequently by waves, or has multi-breeches or large numerous culverts)	0.6	x
Severe hydrologic restriction (high elevation berm with infrequent over-top, small culverts, single opening or breech)	0.3	
Site receives water only during extreme storm events	0.1	
Site is cut off from tidal exchange	0.0	

3 **Vnhc: Number of nekton habitat types present**

Habitat types within 150 ft of the edge of the WAA

Low Marsh	High Marsh	Subtidal creeks	Intertidal creeks
ponds or depressions	SAVs	Oyster Reef	Unvegetative flats
Algal flats	Mangroves	Coarse woody debris	

Number of habitat types	Variable Subindex	
1	0.2	
2	0.3	
3	0.5	
4	0.7	
5	0.8	x
6	1.0	

4 **Vtypical: Proportion of the site that is covered by vegetation typical of the regional subclsss**

Invasive species: tallow, alligator weeds, spiny aster, common reed, rattlebox, cattail, flat sedge

(*Sapium sabiferum, Alternathera philoxeroides, Aster spinosus, Phragmites drummondii, Sesbania drumondii, Typha sp, Cyperus entranianus*)

Total % Cover by typical species	Variable Sub index	
10%	0.1	
20%	0.1	x
30%	0.2	
40%	0.4	
50%	0.5	
60%	0.6	
70%	0.7	
80%	0.9	
90%	1.0	
100%	1.0	

5 **Vslope: Distance to water greater than or equal to 6 feet deep**

Distance to Navigation Channel or water greater than or equal to 6 ft deep	Variable Sub index	
Less than 150 ft	0.10	

Variable	Subindex
V_{edge}	1.00
V_{hydro}	0.60
V_{nhc}	0.80
$V_{typical}$	0.10
V_{slope}	0.50
V_{width}	0.25
V_{rough}	0.20
V_{soil}	0.20

FCU
(*45.79 acres)

Biota:	
$FCI = [\{(V_{edge} + 2\,V_{hydro} + 0.5V_{nhc})/3.5\} + V_{typical}]/2$	19.12
FCI = 0.42	

Botanical	
$FCI = V_{typical}$	4.54
FCI = 0.10	

Physical	
$FCI = [\{V_{slope} + V_{width} + V_{rough} + V_{soil} + V_{hydro}\}/5$	15.88
FCI = 0.35	

Chemical	
$FCI = [V_{typical} \times V_{hydro}]^{1/2}$	11.11
FCI = 0.24	

151-450 ft	0.50	x
Greater than 450 ft	1.00	

6 **Vwidth: Average marsh width**

Mean Width WAA Distance (ft)	Variable Sub index	
0 - 30 ft	0.1	
31 - 75 ft	0.25	x
76 - 150 ft	0.5	
151 - 225 ft	0.6	
226 - 300 ft	0.8	
301 - 375 ft	0.85	
376 - 450 ft	0.9	
451 - 525 ft	0.95	
526 - 600 ft	1.0	
Greater than 600 ft	1.0	

7 **Vrough: Manning's roughness coefficient**

ηbase + ηtopo + ηveg = manning's end

(ηbase) = **0.025**

Sediment surface	0.025	Base value for bare marsh soil	X
	0.030	More than 25% of the sediment surface covered with gravel or broken shell	

(ηtopo) = **0.001**

Topographic relief	0.001	WAA is flat no microtopographic or macrotopographic relief	x
	0.005	WAA has 5-25% topographic relief	
	0.010	WAA has 26-50% topographic relief	
	0.20	WAA has greater than 50% topographic relief	

(ηveg) = **0.025**

Vegetation	Less 50% cover	50-75% cover	76-100% cover	Description of Conditions	
	0.025	0.030	0.035	Predominantly short flexible stem grass (i.e. Spartina alterniflora, S. patens, Distichlis spicata)	x
	0.035	0.040	0.05	Predominantly short stiff trailing stems (i.e. Batis & Salicornia)	
	0.050	0.060	0.07	Predominantly tall flexible grass (i.e. tall Spartina alterniflora, S. cynosuroides, Scirpus sp).	
	0.070	0.100	0.16	Predominantly tall with stiff leaves or mixed with woody shrubs (i.e. Juncus roemerianus, Mangroves, etc.)	
	x				

Roughness (rounded down) = **0.05**

Lookup
2
0.2

FCI variable sub index =

Roughness	Variable Sub Index	**"X" Automatically picked**
0.04	0.1	
0.05	0.2	x
0.06	0.4	
0.07	0.6	
0.08	0.8	
0.09	1.0	
0.10	1.0	

8 **Vsoil**

Soil Texture	Variable Sub index	
Sandy	0.2	x
Sandy loam	0.40	
Loam	0.6	
Clay loam	0.8	
Clay	1.0	

WWSV
Tidal Fringe Worksheet (Interim HGM) For
Tidal fringe HGM - Post.xlsx

1 **Vedge: The amount of marsh-water meters/hectare**

Site Description	Qualitative	Quantitative	Sub index	
Marsh shows deterioration due to subsidence, large amounts of open water	Very High	>800 m/ha (>1,062 ft/acre)	0.8	
Well developed tidal drainage network present OR Simple tidal network with isolated ponds & depression in the marsh interior OR Large amount of shallow shoreline in relation to the entire area	High	350 - 800 m/ha (465 - 1,062 ft/acre)	1.0	x
Simple tidal drainage network...isolated ponds and depressions are few & lacking	Moderate	200-350 m/ha (266 - 465 ft/acre)	0.7	
Marsh lacks both tidal creeks & isolated ponds & depressions, shoreline is linear or smooth ...Marsh area is large relative to shoreline length. OR the WAA is a depression that is not affected by the daily tide (i.e. high marsh)	Low	Less than 200 m/ha (<266 ft/acre)	0.4	

2 **Vhydro: Site hydroperiod or degree of hydrological modifications**

Site Description	Sub index	
Site is open, no hydrologic restrictions	1.0	
Moderate hydrologic restriction (i.e. low-level berms overtopped frequently by waves, or has multi-breeches or large numerous culverts)	0.6	
Severe hydrologic restriction (high elevation berm with infrequent over-top, small culverts, single opening or breech)	0.3	x
Site receives water only during extreme storm events	0.1	
Site is cut off from tidal exchange	0.0	

3 **Vnhc: Number of nekton habitat types present**

Habitat types within 150 ft of the edge of the WAA

Low Marsh	High Marsh	Subtidal creeks	Intertidal creeks
ponds or depressions	SAVs	Oyster Reef	Unvegetative flats
Algal flats	Mangroves	Coarse woody debris	

Number of habitat types	Variable Subindex	
1	0.2	
2	0.3	
3	0.5	
4	0.7	
5	0.8	x
6	1.0	

4 **Vtypical: Proportion of the site that is covered by vegetation typical of the regional subclsss**

Invasive species: tallow, alligator weeds, spiny aster, common reed, rattlebox, cattail, flat sedge

(*Sapium sabiferum, Alternathera philoxeroides, Aster spinosus, Phragmites drummondii, Sesbania drumondii, Typha sp, Cyperus entranianus*)

Total % Cover by typical species	Variable Sub index	
10%	0.1	
20%	0.1	x
30%	0.2	
40%	0.4	
50%	0.5	
60%	0.6	
70%	0.7	
80%	0.9	
90%	1.0	
100%	1.0	

5 **Vslope: Distance to water greater than or equal to 6 feet deep**

Distance to Navigation Channel or water greater than or equal to 6 ft deep	Variable Sub index	
Less than 150 ft	0.10	

Variable	Subindex
V_{edge}	1.00
V_{hydro}	0.30
V_{nhc}	0.80
$V_{typical}$	0.10
V_{slope}	0.50
V_{width}	0.25
V_{rough}	0.20
V_{soil}	0.20

FCU
(*45.37 acres)

Biota:	
$FCI = [\{(V_{edge} + 2\,V_{hydro} + 0.5V_{nhc})/3.5\} + V_{typical}]/2$	14.70
FCI = 0.34	

Botanical	
$FCI = V_{typical}$	4.38
FCI = 0.10	

Physical	
$FCI = [\{V_{slope} + V_{width} + V_{rough} + V_{soil} + V_{hydro}\}/5$	12.70
FCI = 0.29	

Chemical	
$FCI = [V_{typical} \times V_{hydro}]^{1/2}$	7.58
FCI = 0.17	

151-450 ft	0.50	x
Greater than 450 ft	1.00	

6 **Vwidth: Average marsh width**

Mean Width WAA Distance (ft)	Variable Sub index	
0 - 30 ft	0.1	
31 - 75 ft	0.25	x
76 - 150 ft	0.5	
151 - 225 ft	0.6	
226 - 300 ft	0.8	
301 - 375 ft	0.85	
376 - 450 ft	0.9	
451 - 525 ft	0.95	
526 - 600 ft	1.0	
Greater than 600 ft	1.0	

7 **Vrough: Manning's roughness coefficient**

Ɲbase + Ɲtopo + Ɲveg = manning's end

(Ɲbase) = **0.025**

Sediment surface	0.025	Base value for bare marsh soil	X
	0.030	More than 25% of the sediment surface covered with gravel or broken shell	

(Ɲtopo) = **0.001**

Topographic relief	0.001	WAA is flat no microtopographic or macrotopographic relief	x
	0.005	WAA has 5-25% topographic relief	
	0.010	WAA has 26-50% topographic relief	
	0.20	WAA has greater than 50% topographic relief	

(Ɲveg) = **0.025**

Vegetation	Less 50% cover	50-75% cover	76-100% cover	Description of Conditions	
	0.025	0.030	0.035	Predominantly short flexible stem grass (i.e. Spartina alterniflora, S. patens, Distichlis spicata)	x
	0.035	0.040	0.05	Predominantly short stiff trailing stems (i.e. Batis & Salicornia)	
	0.050	0.060	0.07	Predominantly tall flexible grass (i.e. tall Spartina alterniflora, S. cynosuroides, Scirpus sp).	
	0.070	0.100	0.16	Predominantly tall with stiff leaves or mixed with woody shrubs (i.e. Juncus roemerianus, Mangroves, etc.)	
	x				

Roughness (rounded down) = **0.05**

Lookup
2
0.2

FCI variable sub index =

Roughness	Variable Sub Index	**"X" Automatically picked**
0.04	0.1	
0.05	0.2	x
0.06	0.4	
0.07	0.6	
0.08	0.8	
0.09	1.0	
0.10	1.0	

8 **Vsoil**

Soil Texture	Variable Sub index	
Sandy	0.2	x
Sandy loam	0.40	
Loam	0.6	
Clay loam	0.8	
Clay	1.0	

WWSV
Tidal Fringe Worksheet (Interim HGM) For
Tidal fringe HGM - Mitigation Site.xlsx

1 **Vedge: The amount of marsh-water meters/hectare**

Site Description	Qualitative	Quantitative	Sub index	
Marsh shows deterioration due to subsidence, large amounts of open water	Very High	>800 m/ha (>1,062 ft/acre)	0.8	
Well developed tidal drainage network present OR Simple tidal network with isolated ponds & depression in the marsh interior OR Large amount of shallow shoreline in relation to the entire area	High	350 - 800 m/ha (465 - 1,062 ft/acre)	1.0	x
Simple tidal drainage network...isolated ponds and depressions are few & lacking	Moderate	200-350 m/ha (266 - 465 ft/acre)	0.7	
Marsh lacks both tidal creeks & isolated ponds & depressions, shoreline is linear or smooth ...Marsh area is large relative to shoreline length. OR the WAA is a depression that is not affected by the daily tide (i.e. high marsh)	Low	Less than 200 m/ha (<266 ft/acre)	0.4	

2 **Vhydro: Site hydroperiod or degree of hydrological modifications**

Site Description	Sub index	
Site is open, no hydrologic restrictions	1.0	x
Moderate hydrologic restriction (i.e. low-level berms overtopped frequently by waves, or has multi-breeches or large numerous culverts)	0.6	
Severe hydrologic restriction (high elevation berm with infrequent over-top, small culverts, single opening or breech)	0.3	
Site receives water only during extreme storm events	0.1	
Site is cut off from tidal exchange	0.0	

3 **Vnhc: Number of nekton habitat types present**

Habitat types within 150 ft of the edge of the WAA

Low Marsh	High Marsh	Subtidal creeks	Intertidal creeks
ponds or depressions	SAVs	Oyster Reef	Unvegetative flats
Algal flats	Mangroves	Coarse woody debris	

Number of habitat types	Variable Subindex	
1	0.2	
2	0.3	
3	0.5	
4	0.7	
5	0.8	x
6	1.0	

4 **Vtypical: Proportion of the site that is covered by vegetation typical of the regional subclsss**

Invasive species: tallow, alligator weeds, spiny aster, common reed, rattlebox, cattail, flat sedge

(*Sapium sabiferum, Alternathera philoxeroides, Aster spinosus, Phragmites drummondii, Sesbania drumondii, Typha sp, Cyperus entranianus*)

Total % Cover by typical species	Variable Sub index	
10%	0.1	
20%	0.1	
30%	0.2	x
40%	0.4	
50%	0.5	
60%	0.6	
70%	0.7	
80%	0.9	
90%	1.0	
100%	1.0	

5 **Vslope: Distance to water greater than or equal to 6 feet deep**

Distance to Navigation Channel or water greater than or equal to 6 ft deep	Variable Sub index	
Less than 150 ft	0.10	

Variable	Subindex
V_{edge}	1.00
V_{hydro}	1.00
V_{nhc}	0.80
$V_{typical}$	0.20
V_{slope}	1.00
V_{width}	0.25
V_{rough}	0.20
V_{soil}	0.20

FCU
(*9.73 acres)

Biota:

$FCI = [\{(V_{edge} + 2\,V_{hydro} + 0.5V_{nhc})/3.5\} + V_{typical}]/2$

FCI = 0.59 14.70

Botanical

$FCI = V_{typical}$

FCI = 0.20 4.38

Physical

$FCI = [\{V_{slope} + V_{width} + V_{rough} + V_{soil} + V_{hydro}\}/5$

FCI = 0.53 12.70

Chemical

$FCI = [V_{typical} \times V_{hydro}]^{1/2}$

FCI = 0.45 7.58

151-450 ft	0.50	
Greater than 450 ft	1.00	x

6 **Vwidth: Average marsh width**

Mean Width WAA Distance (ft)	Variable Sub index	
0 - 30 ft	0.1	
31 - 75 ft	0.25	x
76 - 150 ft	0.5	
151 - 225 ft	0.6	
226 - 300 ft	0.8	
301 - 375 ft	0.85	
376 - 450 ft	0.9	
451 - 525 ft	0.95	
526 - 600 ft	1.0	
Greater than 600 ft	1.0	

7 **Vrough: Manning's roughness coefficient**

Ⲛbase + Ⲛtopo + Ⲛveg = manning's end

(Ⲛbase) = **0.025**

Sediment surface	0.025	Base value for bare marsh soil	X
	0.030	More than 25% of the sediment surface covered with gravel or broken shell	

(Ⲛtopo) = **0.001**

Topographic relief	0.001	WAA is flat no microtopographic or macrotopographic relief	x
	0.005	WAA has 5-25% topographic relief	
	0.010	WAA has 26-50% topographic relief	
	0.20	WAA has greater than 50% topographic relief	

(Ⲛveg) = **0.025**

Vegetation	Less 50% cover	50-75% cover	76-100% cover	Description of Conditions	
	0.025	0.030	0.035	Predominantly short flexible stem grass (i.e. Spartina alterniflora, S. patens, Distichlis spicata)	x
	0.035	0.040	0.05	Predominantly short stiff trailing stems (i.e. Batis & Salicornia)	
	0.050	0.060	0.07	Predominantly tall flexible grass (i.e. tall Spartina alterniflora, S. cynosuroides, Scirpus sp).	
	0.070	0.100	0.16	Predominantly tall with stiff leaves or mixed with woody shrubs (i.e. Juncus roemerianus, Mangroves, etc.)	
	x				

Roughness (rounded down) = **0.05**

Lookup
2
0.2

FCI variable sub index =

Roughness	Variable Sub Index	**"X" Automatically picked**
0.04	0.1	
0.05	0.2	x
0.06	0.4	
0.07	0.6	
0.08	0.8	
0.09	1.0	
0.10	1.0	

8 **Vsoil**

Soil Texture	Variable Sub index	
Sandy	0.2	x
Sandy loam	0.40	
Loam	0.6	
Clay loam	0.8	
Clay	1.0	

Appendix E: City Council Agenda

NOTICE OF CITY COUNCIL REGULAR MEETING
CITY OF SOUTH PADRE ISLAND

WEDNESDAY, NOVEMBER 1, 2023
5:30 PM AT THE MUNICIPAL BUILDING,
CITY COUNCIL CHAMBERS, 2ND FLOOR
4601 PADRE BOULEVARD, SOUTH PADRE ISLAND, TEXAS

1.Call to order

2.Pledge of Allegiance and Texas Pledge

3.Public Comments and Announcements:

This is an opportunity for citizens to speak to Council relating to agenda or non-agenda items. Speakers are required to address Council at the podium and give their name before addressing their concerns. [Note: State law will not permit the City Council to discuss, debate or consider items that are not on the agenda. Citizen comments may be referred to City Staff or may be placed on the agenda of a future City Council meeting]

4.Approve Consent Agenda:

4.1. Adopt Ordinance No. 23-12 amending the City's fiscal year 2022-23 operating budget to incorporate prior budget amendments from the months of October 2022 through September 2023. (Gimenez)

4.2. Approve a budget amendment to rollover funding in FY 2023-24 for outstanding balances of current projects and contracts with an original allocation approved during last fiscal year. (Gimenez)

4.3. Approval of an excused absence for Council Member Kerry Schwartz from the September 6, 2023 Regular City Council Meeting. (Schwartz)

4.4. Approve amendments to the City of South Padre Island Drug and Alcohol policy for transportation employees as per DOT Rule 49 CFR, Part 40. (Saldana)

4.5. Approve invoices for payment. (Gimenez)

4.6. Approve an excused absence for Council Member Eva Jean Dalton from the Special City Council Meeting on October 2, 2023 and Regular City Council Meeting on October 18, 2023. (Dalton)

4.7. Approval of the October 18, 2023 Regular City Council meeting minutes. (Soto)

4.8. Approve budget amendment in the amount of $4,854 for additional cost related to Cameron County Appraisal District fees. (Gimenez)

5.Regular Agenda

5.1. Discussion and possible action on the appeal by Yehuda Azoulay of the decision by the Development Standards Review Task Force denying a request for a variance from Chapter 15 Signs, Section 15-2, Definitions, and 15-2.1 Rules and procedures governing Art in Public Spaces for an oversized Art at the property located at 6000 Padre Blvd. (Lot 1A Block 202, Fiesta Isles Subdivision (Padre Beach, Section XII)) (Sanchez)

5.2. Discussion and possible action to approve Resolution No. 2023-24 consenting to the addition of 87.29 acres in the City of South Padre Island, Cameron County, Texas, by the Laguna Madre Water District to the District's boundaries, said 87.29 acres being as described in an application for annexation from The Shores Islands Development. (Laguna Madre Water District)

5.3. Discussion and possible action to approve and accept the CDM LIFESTYLES, LLC as a tenant in the Robert N. Pinkerton, Jr. Building, also known as Island Metro Multimodal Facility, and authorize the City Manager to approve the lease agreement. (Arriaga)

5.4. Discussion and action to approve a budget amendment in the amount of $256,469 for the lighted bollards selected by the City Council at the October 18th City Council meeting. (Sanchez)

5.5. Discussion and action to select the style of removable bollards on Laguna Blvd. (Sanchez)

5.6. Discussion and possible action to approve the marketing plan for media placement and creative content for the fiscal year 23/24. (Henry)

5.7. Discussion and possible action to direct the Planning & Zoning Commission and the Development Standards Review Task Force to possibly designate the an area Arts And Entertainment District, being Blocks 36, 39, 43 Lots 1-6 31-32, Blk 42, Lots 1 & 3, Block 40, Lots 1&2, Block 35 Padre Beach Section IV, and Blocks 28 & 31, Lots 1&2, Block 32, and lot 1, 4&5, Block 27 Padre Beach Section III. (Ricco/Langston)

5.8. Discussion and possible action to approve a contract to purchase real property located at North Half of Tract 21, Abst 260, Kirksey-Grady including Lots 1-8 Blk 1 , Lots 1-11 Blk 3, Lots 1-15 Blk 5 and Lots 1-14Blk 7, South Padre Island, TX, 78597, with contingencies. (City Council)

5.9. Discussion and possible action to cancel the January 3, 2024 Regular City Council Meeting. (Soto)

6.Adjourn.

WE RESERVE THE RIGHT TO GO INTO EXECUTIVE SESSION REGARDING ANY OF THE ITEMS POSTED ON THIS AGENDA, PURSUANT TO SECTIONS 551.071, CONSULTATION WITH ATTORNEY; 551.072, DELIBERATIONS ABOUT REAL PROPERTY; 551.073, DELIBERATIONS ABOUT GIFTS & DONATIONS; 551.074, PERSONNEL MATTERS; 551.076, DELIBERATIONS ABOUT SECURITY DEVICES; AND/OR 551.087, DISCUSS (1) COMMERCIAL OR FINANCIAL INFORMATION RECEIVED FROM A BUSINESS PROSPECT WITH WHICH THE CITY IS CONDUCTING NEGOTIATIONS, OR (2) FINANCIAL OR OTHER INCENTIVES TO THE BUSINESS PROJECT.

DATED THIS THE 27TH DAY OF OCTOBER 2023

Angelique Soto, City Secretary

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF MEETING OF THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS IS A TRUE AND CORRECT COPY OF SAID NOTICE AND THAT I POSTED A TRUE AND CORRECT COPY OF SAID NOTICE ON THE BULLETIN BOARD AT CITY HALL/MUNICIPAL BUILDING AND THE CITY'S WEBSITE WWW.MYSPI.ORG ON FRIDAY, OCTOBER 27, 2023, AT/OR BEFORE 5:30 PM AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.

Angelique Soto, City Secretary

THIS FACILITY IS WHEELCHAIR ACCESSIBLE, AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT BUILDING OFFICIAL, GEORGE MARTINEZ AT (956)761-8103.

CITY OF SOUTH PADRE ISLAND

CITY OF SOUTH PADRE ISLAND
CITY COUNCIL
AGENDA REQUEST FORM

MEETING DATE: November 1, 2023

NAME & TITLE: Nikki Soto, City Secretary

DEPARTMENT: City Council

ITEM
Discussion and possible action to approve a contract to purchase real property located at North Half of Tract 21, Abst 260, Kirksey-Grady including Lots 1-8 Blk 1 , Lots 1-11 Blk 3, Lots 1-15 Blk 5 and Lots 1-14Blk 7, South Padre Island, TX, 78597, with contingencies. (City Council)

ITEM BACKGROUND
Land is one of South Padre Island's most precious assets, a fact exemplified by the Island's limited geography. Bounded by the Gulf of Mexico on one side and by the Laguna Madre on the other, the corporate limits of South Padre Island encompass 3.73 square miles. This requires careful consideration of the uses on the small, urbanized tracts that extend towards each body of water from Padre Boulevard.

BUDGET/FINANCIAL SUMMARY
PENDING

COMPREHENSIVE PLAN GOAL
Island Way 2022

LEGAL REVIEW
Sent to Legal:
Approved by Legal:

RECOMMENDATIONS/COMMENTS:

NOTICE OF CITY COUNCIL REGULAR MEETING
CITY OF SOUTH PADRE ISLAND

WEDNESDAY, NOVEMBER 15, 2023
5:30 PM AT THE MUNICIPAL BUILDING,
CITY COUNCIL CHAMBERS, 2ND FLOOR
4601 PADRE BOULEVARD, SOUTH PADRE ISLAND, TEXAS

1.Call to order

2.Pledge of Allegiance and Texas Pledge

3.Public Comments and Announcements:

This is an opportunity for citizens to speak to Council relating to agenda or non-agenda items. Speakers are required to address Council at the podium and give their name before addressing their concerns. [Note: State law will not permit the City Council to discuss, debate or consider items that are not on the agenda. Citizen comments may be referred to City Staff or may be placed on the agenda of a future City Council meeting]

4.Presentations and Proclamations:

4.1. Presentation of Proclamation for Municipal Courts Week. (Vasquez)

5.Approve Consent Agenda:

5.1. Approve invoices for payment. (Gimenez)

5.2. Update regarding the comparison of October 2022 to October 2023 Building Permit activity. (Medders)

5.3. Acknowledgement of monthly financial reports. (Gimenez)

5.4. Approve an excused absence for Council Member Ken Medders from the November 1, 2023 Regular City Council Meeting. (Medders)

5.5. Approval of the November 1, 2023 Regular City Council Meeting Minutes. (Soto)

5.6. Acknowledgment of the South Padre Island Chamber of Commerce's notice to terminate a rental lease at 321 Padre Blvd. Ste. A-103, South Padre Island, Texas 78597. (SPI Chamber)

6.Regular Agenda

CITY OF SOUTH PADRE ISLAND

6.1. Discussion and possible action to approve the first reading of Ordinance 23-13 by enacting a new Chapter 10, Article II Sections 10-10 through 10-37, with Exhibits A and B, related to Food Services and Mobile Food Units, and repealing current Sections 10-10 through 10-33 of Chapter 10, Article II of the City of South Padre Island City Codes. (City Council)

6.2. Discussion and possible action to change the name from South Padre Island Convention and Visitors Bureau to Visit South Padre Island. (Henry)

6.3. Discussion and action to authorize the City Manager to enter into a contract with the best qualified firm for the Tompkins Channel maintenance dredging and a budget amendment in an amount up to $1,480,505.19 from Beach Maintenance Excess Reserves Fund. (Boburka)

6.4. Discussion and action for approval of HDR's Tompkins Channel Phase IV services, to authorize the City Manager to execute the contract and a budget amendment in an amount up to $241,900 from Beach Maintenance Excess Reserve Fund. (Boburka)

6.5. Discussion and action to approve Resolution No. 2023-25 canvassing the returns and declaring the results of the November 7, 2023 General Election. (Soto)

7.Adjourn.

WE RESERVE THE RIGHT TO GO INTO EXECUTIVE SESSION REGARDING ANY OF THE ITEMS POSTED ON THIS AGENDA, PURSUANT TO SECTIONS 551.071, CONSULTATION WITH ATTORNEY; 551.072, DELIBERATIONS ABOUT REAL PROPERTY; 551.073, DELIBERATIONS ABOUT GIFTS & DONATIONS; 551.074, PERSONNEL MATTERS; 551.076, DELIBERATIONS ABOUT SECURITY DEVICES; AND/OR 551.087, DISCUSS (1) COMMERCIAL OR FINANCIAL INFORMATION RECEIVED FROM A BUSINESS PROSPECT WITH WHICH THE CITY IS CONDUCTING NEGOTIATIONS, OR (2) FINANCIAL OR OTHER INCENTIVES TO THE BUSINESS PROJECT.

DATED THIS THE 10TH DAY OF NOVEMBER 2023.

Angelique Soto, City Secretary

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF MEETING OF THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS IS A TRUE AND CORRECT COPY OF SAID NOTICE AND THAT I POSTED A TRUE AND CORRECT COPY OF SAID NOTICE ON THE BULLETIN BOARD AT CITY HALL/MUNICIPAL BUILDING AND THE CITY'S WEBSITE WWW.MYSPI.ORG ON FRIDAY, NOVEMBER 10, 2023, AT/OR BEFORE 6:30 PM AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.

Angelique Soto, City Secretary

THIS FACILITY IS WHEELCHAIR ACCESSIBLE, AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT BUILDING OFFICIAL, GEORGE MARTINEZ AT (956)761-8103.

CITY OF SOUTH PADRE ISLAND

CITY OF SOUTH PADRE ISLAND
CITY COUNCIL
AGENDA REQUEST FORM

MEETING DATE: November 15, 2023

NAME & TITLE: Nikki Soto, City Secretary

DEPARTMENT: City Managers Office

ITEM
Approval of the November 1, 2023 Regular City Council Meeting Minutes. (Soto)

ITEM BACKGROUND
Draft minutes of the November 1, 2023 Regular City Council Meeting.

BUDGET/FINANCIAL SUMMARY
Zero

COMPREHENSIVE PLAN GOAL
Island Way 2022

LEGAL REVIEW
Sent to Legal:
Approved by Legal:

RECOMMENDATIONS/COMMENTS:

MINUTES OF CITY COUNCIL REGULAR MEETING
CITY OF SOUTH PADRE ISLAND

WEDNESDAY, NOVEMBER 1, 2023

1.CALL TO ORDER

The City Council Members of the City of South Padre Island, Texas held a Regular City Council Meeting on Wednesday, November 1, 2023 at the Municipal Complex Building, 2 Floor, 4601 Padre Boulevard, South Padre Island, Texas. Mayor McNulty called the meeting to order at 5:30 p.m. A quorum was present: Mayor Patrick McNulty, Council Members Joe Ricco, Kerry Schwartz, Eva Jean Dalton, and Rees Langston.

City staff members present were City Manager Randy Smith, Director of Operations Wendi Delgado, Police Chief Claudine O'Carroll, Public Works Director Alex Sanchez, Assistant Public Works Director Jon Wilson, CVB Director Blake Henry, Shoreline Director Kristina Boburka, Human Resource Manager Wendy Saldana, EMS Lieutenant Emilio Hinojosa, Environmental Health Director Victor Baldovinos Administration Coordinator Hilda Delgado, and City Secretary Angelique Soto.

2.PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

Mayor McNulty led the Pledge of Allegiance and the Texas Pledge.

3.PUBLIC COMMENTS AND ANNOUNCEMENTS:

Public comments and announcements were given at this time.

4.APPROVE CONSENT AGENDA:

Mayor McNulty moved Consent Agenda Item 4.1 to Regular Agenda.

Council Member Ricco made a motion, seconded by Council Member Langston to approve Consent Agenda Items 4.2 through 4.8. Motion passed unanimously.

4.1. ADOPT ORDINANCE NO. 23-12 AMENDING THE CITY'S FISCAL YEAR 2022-23 OPERATING BUDGET TO INCORPORATE PRIOR BUDGET AMENDMENTS FROM THE MONTHS OF OCTOBER 2022 THROUGH SEPTEMBER 2023. (GIMENEZ)

Council Member Schwartz made a motion, seconded by Council Member Ricco to approve Ordinance No. 23-12 amending the City's Fiscal Year 2022-23 Operating Budget to incorporate prior budget amendments from the months of October 2022 through September 2023. Motion passed unanimously.

A true and correct copy of said Ordinance was placed in the City's Ordinance Book and entitled Ordinance No. 23-12 and, by reference hereto, included in these Minutes as if fully set out and spread upon the pages of the Minutes Book.

4.2. APPROVE A BUDGET AMENDMENT TO ROLLOVER FUNDING IN FY 2023-24 FOR OUTSTANDING BALANCES OF CURRENT PROJECTS AND CONTRACTS WITH AN ORIGINAL ALLOCATION APPROVED DURING LAST FISCAL YEAR. (GIMENEZ)

4.3. APPROVAL OF AN EXCUSED ABSENCE FOR COUNCIL MEMBER KERRY SCHWARTZ FROM THE SEPTEMBER 6, 2023 REGULAR CITY COUNCIL MEETING. (SCHWARTZ)

4.4. APPROVE AMENDMENTS TO THE CITY OF SOUTH PADRE ISLAND DRUG AND ALCOHOL POLICY FOR TRANSPORTATION EMPLOYEES AS PER DOT RULE 49 CFR, PART 40. (SALDANA)

4.5. APPROVE INVOICES FOR PAYMENT. (GIMENEZ)

4.6. APPROVE AN EXCUSED ABSENCE FOR COUNCIL MEMBER EVA JEAN DALTON FROM THE SPECIAL CITY COUNCIL MEETING ON OCTOBER 2, 2023 AND REGULAR CITY COUNCIL MEETING ON OCTOBER 18, 2023. (DALTON)

4.7. APPROVAL OF THE OCTOBER 18, 2023 REGULAR CITY COUNCIL MEETING MINUTES. (SOTO)

4.8. APPROVE BUDGET AMENDMENT IN THE AMOUNT OF $4,854 FOR ADDITIONAL COST RELATED TO CAMERON COUNTY APPRAISAL DISTRICT FEES. (GIMENEZ)

5.REGULAR AGENDA

5.1. DISCUSSION AND POSSIBLE ACTION ON THE APPEAL BY YEHUDA AZOULAY OF THE DECISION BY THE DEVELOPMENT STANDARDS REVIEW TASK FORCE DENYING A REQUEST FOR A VARIANCE FROM CHAPTER 15 SIGNS, SECTION 15-2, DEFINITIONS, AND 15-2.1 RULES AND PROCEDURES GOVERNING ART IN PUBLIC SPACES FOR AN OVERSIZED ART AT THE PROPERTY LOCATED AT 6000 PADRE BLVD. (LOT 1A BLOCK

202, FIESTA ISLES SUBDIVISION (PADRE BEACH, SECTION XII)) (SANCHEZ)

Council Member Schwartz made a motion, seconded by Council Member Dalton to approve the appeal by Yehuda Azoulay of the decision by the Development Standards Review Task Force denying a request for a variance from Chapter 15 signs, section 15-2, definition, and 15-2.1 Rules and Procedures governing art in public spaces for an oversized art at the property located at 6000 Padre Blvd. (Lot 1A Block 202, Fiesta Isles Subdivision (Padre Beach, Section XII)), and must follow the landscape requirement ordinance. Motion passed unanimously.

5.2. DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 2023-24 CONSENTING TO THE ADDITION OF 87.29 ACRES IN THE CITY OF SOUTH PADRE ISLAND, CAMERON COUNTY, TEXAS, BY THE LAGUNA MADRE WATER DISTRICT TO THE DISTRICT'S BOUNDARIES, SAID 87.29 ACRES BEING AS DESCRIBED IN AN APPLICATION FOR ANNEXATION FROM THE SHORES ISLANDS DEVELOPMENT. (LAGUNA MADRE WATER DISTRICT)

Council Member Schwartz made a motion, seconded by Council Member Langston to approve Resolution No. 2023-24 consenting to the addition of 87.29 acres in the City of South Padre Island, Cameron County, Texas, by the Laguna Madre Water District to the District’s Boundaries, said 87.29 acres being as described in an application for annexation from The Shores Islands Development. Motion passed on a 5 to 0 vote with a record vote taken as a roll call vote as followed:

Mayor McNulty: Aye
Council Member Ricco: Aye
Council Member Dalton: Aye
Council Member Schwartz: Aye
Council Member Langston: Aye

A true and correct copy of said Reslution was placed in the City’s Resolution Book and entitled Resolution No. 2023-24 and, by reference hereto, included in these Minutes as if fully set out and spread upon the pages of the Minutes Book.

5.3. DISCUSSION AND POSSIBLE ACTION TO APPROVE AND ACCEPT THE CDM LIFESTYLES, LLC AS A TENANT IN THE ROBERT N. PINKERTON, JR. BUILDING, ALSO KNOWN AS ISLAND METRO MULTIMODAL FACILITY, AND AUTHORIZE THE CITY MANAGER TO APPROVE THE LEASE AGREEMENT. (ARRIAGA)

Council Member Dalton made a motion, seconded by Council Member Langston to approve and accept the CDM LIFESTYLES, LLC as a tenant in the Robert N. Pinkerton,

Jr, Building also known as Island Metro Multimodal Facility, and authorized the City Manager to approve the lease agreement. Motion passed unanimously.

5.4. DISCUSSION AND ACTION TO APPROVE A BUDGET AMENDMENT IN THE AMOUNT OF $256,469 FOR THE LIGHTED BOLLARDS SELECTED BY THE CITY COUNCIL AT THE OCTOBER 18TH CITY COUNCIL MEETING. (SANCHEZ)

Council Member Ricco made a motion, seconded by Council Member Schwartz to approve a budget amendment in the amount of $256,469 for the lighted bollards selected by the City Council at the October 18th City Council Meeting. Motion passed on a 4 to 1 vote with Council Member Dalton casting a nay vote.

5.5. DISCUSSION AND ACTION TO SELECT THE STYLE OF REMOVABLE BOLLARDS ON LAGUNA BLVD. (SANCHEZ)

Council Member Ricco made a motion, seconded by Council Member Langston to select Option 1 with the 23 Lumen. Motion passed on a 4 to 1 vote with Council Member Langston casting a nay vote.

5.6. DISCUSSION AND POSSIBLE ACTION TO APPROVE THE MARKETING PLAN FOR MEDIA PLACEMENT AND CREATIVE CONTENT FOR THE FISCAL YEAR 23/24. (HENRY)

Council Member Ricco made a motion, seconded by Council Member Schwartz to approve the marketing plan for media placement and creative content for the fiscal year 23/24. Motion passed unanimously.

5.7. DISCUSSION AND POSSIBLE ACTION TO DIRECT THE PLANNING & ZONING COMMISSION AND THE DEVELOPMENT STANDARDS REVIEW TASK FORCE TO POSSIBLY DESIGNATE THE AN AREA ARTS AND ENTERTAINMENT DISTRICT, BEING BLOCKS 36, 39, 43 LOTS 1-6 31-32, BLK 42, LOTS 1 & 3, BLOCK 40, LOTS 1&2, BLOCK 35 PADRE BEACH SECTION IV, AND BLOCKS 28 & 31, LOTS 1&2, BLOCK 32, AND LOT 1, 4&5, BLOCK 27 PADRE BEACH SECTION III. (RICCO/LANGSTON)

Council Member Ricco made a motion, seconded by Council Member Langston to direct the Planning & Zoning Commission And The Development Standards Review Task Force to possibly designate an area Arts And Entertainment District, being Blocks 36, 39, 43 Lots 1-6 31-32, Blk 42, Lots 1 & 3, Block 40, Lots 1&2, Block 35 Padre Beach Section IV, And Blocks 28 & 31, Lots 1&2, Block 32, And Lot 1, 4&5, Block 27 Padre Beach Section III. Motion passed unanimously.

5.8. DISCUSSION AND POSSIBLE ACTION TO APPROVE A CONTRACT TO PURCHASE REAL PROPERTY LOCATED AT NORTH HALF OF TRACT 21, ABST 260, KIRKSEY-GRADY INCLUDING LOTS 1-8 BLK 1 , LOTS 1-11 BLK 3, LOTS 1-15 BLK 5 AND LOTS 1-14BLK 7, SOUTH PADRE ISLAND, TX, 78597, WITH CONTINGENCIES. (CITY COUNCIL)

Council Member Ricco made a motion, seconded by Council Member Langston to approve a contract to purchase real property located at North Half of Tract 21, ABST 260, Kirksey-Grady including lots 1-8 Blk. 1, Lots 1-11 Blk. 3, Lots 1-15 Blk. 5 and Lots 1-14 Blk. 7, South Padre Island, Texas 78597. Motion passed unanimously.

5.9. DISCUSSION AND POSSIBLE ACTION TO CANCEL THE JANUARY 3, 2024 REGULAR CITY COUNCIL MEETING. (SOTO)

Council Member Dalton made a motion, seconded by Council Member Schwartz to cancel the January 3, 2024 Regular City Council Meeting and scheduling Special City Council Meetings on January 10, 2024 and January 24, 2024. Motion passed on a 4 to 1 vote with Council Member Ricco casting a nay vote.

6.ADJOURN.

There being no further business, Mayor McNulty adjourned the meeting at 6:03 p.m.

_____
Angelique Soto, City Secretary

APPROVED

_____
Patrick McNulty, Mayor

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
5151 FLYNN PARKWAY, SUITE 306
CORPUS CHRISTI, TEXAS 78411-4318

March 5, 2024

Corpus Christi Field Office

SUBJECT: Withdrawal of Department of the Army Permit Application SWG-2018-00232

Mr. Randy Smith
City of South Padre Island
460 Padre Boulevard
South Padre Island, Texas 78597-7325

Dear Mr. Smith:

This is in reference to your permit application originally submitted on June 5, 2020, with the most recent revision of plans received June 9, 2023. The proposed project would result in permanent impacts to 1.62 acres of special aquatic sites in order to construct a permeable vehicular path from Park Road 100 to the Laguna Madre for recreational access associated with non-motorized wind and water-based activities (wind surfing, kayaking, fishing, etc.). The proposed project is located on a 107-acre parcel of land consisting of wind tidal flats, and salt marsh contiguous with the Laguna Madre, approximately 0.32 mile north of Beach Access Road 4 along Ocean Boulevard (Park Road 100), South Padre Island, Cameron County, Texas.

In a letter, dated November 14, 2023, the United States Army Corps of Engineers (Corps) requested additional information including, but not limited to specific issues that needed to be addressed for revision of the most recent draft compensatory mitigation plan submitted on June 9, 2023, to continue our review of your proposed project. The Corps advised you that if we did not receive all of the requested information within 30 days, your permit application would be withdrawn. On December 14, 2023 the Corps received a revised mitigation plan. After review of the revised plan, the following issues remain unaddressed:

In 1.0 Objectives, the proposed plan remains not strictly preservation, but also includes proposed restoration and enhancement efforts. In order for the Corps to accept preservation only, the following parameters are required:

(1) Preservation may be used to provide compensatory mitigation for activities authorized by DA permits when all the following criteria are met:

(i) The resources to be preserved provide important physical, chemical, or biological functions for the watershed

(ii) The resources to be preserved contribute significantly to the ecological sustainability of the watershed. In determining the contribution of those resources to the ecological sustainability of the watershed, the district engineer must use appropriate quantitative assessment tools, where available;

(iii) Preservation is determined by the district engineer to be appropriate and practicable;
(iv) The resources are under threat of destruction or adverse modifications; and
(v) The preserved site will be permanently protected through an appropriate real estate or other legal instrument (e.g., easement, title transfer to state resource agency or land trust).

(2) Where preservation is used to provide compensatory mitigation, to the extent appropriate and practicable the preservation shall be done in conjunction with aquatic resource restoration, establishment, and/or enhancement activities. This requirement may be waived by the district engineer where preservation has been identified as a high priority using a watershed approach, but compensation ratios shall be higher.

The revised proposed mitigation demonstrates an increase of preserved land to 10 acres of preservation and enhancement from the previously proposed approximately 1.70 acres of brackish marsh, salt marsh, and tidal/algal flat wetlands. However, there remains the discussion regarding whether the mitigation is preservation only, and whether there is a threat of destruction of the mitigation site specifically. There remains a lack of an immediate threat of development, with a general lack of permitted and/or construction activities for the area of South Padre Island north of Beach Access Road 4.

In 2.0 Site Selection, a description of the factors should be considered during the site selection process. This should include consideration of watershed needs, onsite alternatives, where applicable, and the practicability of accomplishing ecologically self-sustaining aquatic resource restoration, establishment, enhancement, and/or preservation at the compensatory mitigation project site. In determining the ecological suitability of the compensatory mitigation project site, consideration must be given to the factors listed in 33 CFR 332.3 (d)(1).

The revised proposed mitigation plan provides some discussion of the above-listed factors but is lacking in discussion regarding the practicability of accomplishing *ecologically self-sustaining* aquatic resource restoration, establishment, enhancement, and/or preservation at the proposed mitigation site.

In 3.0 Site Protection Instrument, long-term protection is an important element of every compensatory mitigation plan. The created, restored, and rehabilitated sites should be preserved in perpetuity, along with an appropriate buffer, to ensure the long-term viability of these compensatory mitigation sites. There are numerous mechanisms that are deemed appropriate for providing long-term protection for mitigation sites. These include fee transfer to another entity such as a non-profit conservation

organization or public agency with a conservation mandate, an easement held by a non-profit conservation organization or public agency with a conservation mandate, deed restriction, or restrictive covenant.

A proposed deed restriction draft was provided but does not include information regarding how access to the site is limited. These measures should include these access restrictions from all sides of the mitigation site, including prohibition of vehicles from driving onto the site from the adjacent flats. In addition, the draft site protection instrument does not provide a copy of the referred-to Attachment A-1, nor does it include any mention of the intended site recipients (Friends of Laguna Atascosa or Laguna Atascosa National Wildlife Refuge (LANWR).

In 4.0 Baseline Information, this information should be provided for the project site, proposed mitigation site, and the reference site. The baseline information for the proposed mitigation site must be sufficient to support the development of the mitigation work plan. The baseline information gathered for the reference site is used to identify the mitigation site potential and to assist in the development of appropriate performance standards. Therefore, a similar level of effort is required to describe the existing condition of the reference site as was made for the project site (e.g. delineation of aquatic resources). The reference site should be located within the same watershed as the mitigation site. Since the reference site will be monitored throughout the life of the proposed project, it must be located in an area that will not be affected by the proposed restoration activities or future development of adjacent or nearby properties.

You provided rudimentary baseline information for the proposed mitigation site but did not provide the baseline conditions of the project site or any information at all regarding the mitigation reference site. Also lacking is a comparison between the mitigation site and any reference site.

In Section 5.0 – Determination of credits, this should include an explanation of how the mitigation project will provide the required compensation for unavoidable impacts to aquatic resources resulting from the permitted activity.

You stated that to mitigate for the loss of 1.58 acres of wetlands at the venue location, 9.73 acres of wetlands will be preserved and enhanced at the Mitigation Site. Preservation will be accomplished through a deed restriction and enhancement will be accomplished by installing a series of parking bollards around the Mitigation Site, thereby excluding vehicles from entering the site. It is not clear how credits will be determined for the enhancement portion of the mitigation plan. There is minimal discussion of the initial state of the wetlands to be enhanced in the mitigation area (only

that vehicle ruts are present), and no determination of how credits will be measured from enhancement (ecological uplift) of these wetlands.

In 6.0 Mitigation Work Plan, we asked that you include a more thorough plan for restriction of vehicular access on the site. There is evidence that this site and the reference site are being accessed by vehicles travelling up and down the flats from other locations, and not just the gate at Park Road 100. This will likely require a more detailed map.

In Section 6.23 – Timing and Sequence, you stated that the mitigation site will be donated to Friends of Laguna Atascosa, a non-profit organization that acquires land for LANWR. The mitigation site will then be donated to and managed by the Refuge. There is no input from the Friends of Laguna Atascosa, nor from LANWR, regarding their acceptance of this land donation proposal, or whether these organizations are in a position to accept and manage this property. In addition, while LANWR is designated as the future owner/custodian of the proposed mitigation site, it remains the responsibility of the City to ensure that a plan is formulated by LANWR for the management of the property, as well as assurances that mitigation performance standards are met regarding determination of success for the mitigation site in terms of meeting project goals. The plan formulated by LANWR must be incorporated into the proposed mitigation plan, as presented to the Corps for review.

In Section 6.5 of an earlier mitigation plan submittal, you stated that if a vegetation dieback is documented during a site monitoring event, salt and brackish marsh communities will be supplemented through transplanting. The most recent submittal of the proposed mitigation plan lacks Section 6.5 altogether; as such, no trigger criteria were proposed that specifies when and where re-planting will occur following a die-back, nor criteria for ensuring these assets are maintained. In addition, no discussion was provided regarding an “acceptable level” of invasive species cover within the proposed mitigation site prior to or after herbicide treatment of these species, or whether the site would be compliant with expected conditions if these species are present at all.

In Section 7.0 – Maintenance Plan, the Corps requested information regarding the plan for how long monthly inspections are to continue. Is this to be expected for the duration of the five-year monitoring effort? Longer? What will these inspections entail? If the mitigation plan is preservation only, there may not be a maintenance plan necessary. Under preservation, the resource should already be in satisfactory productive condition and a work plan would not be necessary. Once the site is established, it should go into long-term management. If the mitigation plan is requiring

restoration/enhancement/establishment, the maintenance plan should reflect activities required to maintain the activities completed under the work plan.

You stated that the 10-acre mitigation site will be donated to and managed by LANWR, and the City would therefore not be responsible for the ongoing maintenance of the property. No input was provided by LANWR regarding how the property is to be managed and maintained. The plan formulated by LANWR must be incorporated into the proposed mitigation plan, as presented to the Corps for review.

In Section 8.0 – Performance Standards, the Corps stated that this section needs to be quantifiable. How will the mitigation site be measured for success? Percent vegetative coverage? A decrease in percent exotic species? Other quantifiable measures? Again, this all depends on what type of mitigation plan is proposed. If it is preservation only, then no performance standards are required. If it is restoration/enhancement, then there should be quantifiable, measurable, and scientifically based performance standards. “Preservation will be accomplished through the exclusion of vehicles and smoothing of old ruts, trenches, and tire tracks, thereby increasing the ecosystem function of tidal/algal flats, salt marsh, and brackish marsh habitats.” How will these efforts be quantified? What “measuring stick” will we use to determine success for mitigation of the loss of 1.58 acres of wetlands on the venue location? Is there a particular focus on success criteria? Possibly focus on habitat lift most effective for use by the piping plover and/or red knot?

You stated that performance standards for the mitigation site will focus on completing a conservation easement that provides appropriate protection in perpetuity and incorporating the site as part of the LANWR. No additional performance standards are proposed by the City. No input was provided by LANWR regarding performance standards. The plan formulated by LANWR must be incorporated into the proposed mitigation plan, as presented to the Corps for review.

In Section 9.0 – Monitoring Requirements, the Corps stated that this all depends on what type of mitigation plan is proposed. If it is preservation only, then no monitoring requirements are required. If it is restoration/enhancement, then these should be quantifiable, measurable, and scientifically based. Section 7.0 stated a monthly site visit, which is different from this section. Please clarify the discrepancy. Also establish goals for each monitoring effort regarding recording of environmental lift. Under hydrology - “Loss of algal crust due to desiccation, unintentional vegetation of algal flats, and/or a decline in native hydrophytic vegetation within marsh habitats will be interpreted as a failure to achieve performance standards.” Is this interpreted as any loss that occurs at all? Please provide triggers on when these corrective actions are to

be initiated. Also, please provide triggers regarding amounts or percentages of vegetation cover in the marsh areas.

You stated that performance standards for the mitigation site will focus on completing a conservation easement that provides appropriate protection in perpetuity and incorporating the site as part of the LANWR. No additional performance standards are proposed by the City. No input was provided by LANWR regarding monitoring requirements. The plan formulated by LANWR must be incorporated into the proposed mitigation plan, as presented to the Corps for review.

In Section 10.0 – Long-Term Management, the Corps stated that this section requires a more definitive description of how the mitigation site will be managed after performance standards have been achieved to ensure the long-term sustainability of the resource, including long-term financing mechanisms and the party responsible for long-term management. Please provide this specific information.

You stated that the mitigation site will be donated to and managed by LANWR. The City would therefore not be responsible for long-term management of the property. No input was provided by LANWR regarding long-term management of the proposed mitigation site. The plan formulated by LANWR must be incorporated into the proposed mitigation plan, as presented to the Corps for review.

In Section 11.0 – Adaptive Management, the Corps stated that this section requires a management strategy to address unforeseen changes in site conditions or other components of the mitigation project, including the party or parties responsible for implementing adaptive management measures. Once the prior identified shortcomings are addressed in the proposed mitigation plan, this may need to be adjusted to ensure the long-term adaptive management strategy is met.

You stated that the mitigation site will be donated to and managed by LANWR. The City would therefore not be responsible for long-term management of the property. No input was provided by LANWR regarding adaptive management of the proposed mitigation site. The plan formulated by LANWR must be incorporated into the proposed mitigation plan, as presented to the Corps for review.

In Section 12.0 - Financial Assurances, the Corps stated that this section requires a description of financial assurances that will be provided and how they are sufficient to ensure a high level of confidence that the mitigation project will be successfully completed, in accordance with its performance standards. Financial assurances may be in the form of performance bonds, escrow accounts, casualty insurance, letters of credit, legislative appropriations for government sponsored projects, or other appropriate

instruments, subject to the approval of the district engineer. The rationale for determining the amount of the required financial assurances must be documented in the administrative record for either the DA permit or the instrument. In determining the assurance amount, consider the cost of providing replacement mitigation, including costs for land acquisition, planning and engineering, legal fees, mobilization, construction, and monitoring. Please provide meeting minutes, proof of escrow, or similar legal document demonstrating the city's commitment to this requirement.

You stated that the proposed mitigation site will be protected by a conservation easement executed pursuant to the timeframe outlined in the DA permit. The Mitigation Site will be donated to and managed by LANWR. Aside from purchase of the real property and installation of the parking bollard system, the City has not proposed short- or long-term financial assurances. There is no input from LANWR regarding their acceptance of this land donation proposal, or whether LANWR is in a position to accept and manage this property. In addition, while LANWR is designated as the future owner/custodian of the proposed mitigation site, it remains the responsibility of the City to ensure that financial assurances are in place by (or for) LANWR for the fiscal management of the property, to ensure that mitigation performance standards are met regarding determination of success for the mitigation site in terms of meeting project goals.

As of the date of this letter, the Corps has not received all of the information requested in our November 14, 2023, letter. Therefore, your Department of Army Permit application SWG-2018-00232 is hereby withdrawn. This withdrawal is without prejudice to your right to reapply at a later date.

If you have questions or require additional information, please contact me at Matthew.L.Kimmel@usace.army.mil or by telephone at 361-814-5847 x1002. To assist us in improving our service to you, please complete the survey found at https://regulatory.ops.usace.army.mil/customer-service-survey/.

Sincerely,

Matthew Kimmel
Regulatory Project Manager

Copy to:
Mr. Nate Badgett, Hanson Professional Services, Inc.