## FIRST AMENDMENT TO CONSTRUCTION AGREEMENT

(Doctor's Pass Maintenance Dredging--Bid 046-05)

**THIS FIRST AMENDMENT** (the "First Amendment") to Construction Agreement is made and entered into effective the \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF NAPLES, a Florida Municipal Corporation (the "City" or "Owner"), and Lake Michigan Contractors, Inc., (the "Contractor").

## WITNESSETH

**WHEREAS,** the City and the Contractor entered into that certain Agreement dated June 15, 2005, to furnish Construction Services (the "Original Agreement") to the City for maintenance dredging of Doctor's Pass (the "Project"); and

**WHEREAS,** misunderstandings have arisen concerning timeliness of permitting, issuance of the Notice to Proceed, unanticipated increases in costs such as fuel costs and the scope of contractual provisions; and

**WHEREAS**, the parties desire to amend the Original Agreement by this First Amendment so that the Contractual provisions are clarified and so that the costs and timeliness issues are resolved.

**NOW, THEREFORE,** for good and valuable consideration, the receipt of which is hereby acknowledged, and in consideration of the mutual covenants, promises and conditions herein set forth, it is hereby acknowledged and agreed as follows:

- 1. The above recitals are true and correct and are incorporated herein by this Reference.
- 2. The Agreement between the parties shall consist of all documents contained in the Bid Documents for Bid No. 046-05, the Original Agreement and this First Amendment to Construction Agreement. A copy of this First Amendment, the Original Agreement and the Bid Documents shall be kept on file with the City Clerk. To the extent of any conflict, this First Amendment controls over the Original Agreement and the Original Agreement controls over the Bid Documents. All of the other terms, provisions and conditions of Original Agreement, and the Bid Documents, except as expressly amended and modified by this First Amendment, shall remain unchanged and are hereby ratified and confirmed and shall remain in full force and effect.
- 3. The Original Agreement is further amended by <u>underline</u> and <u>strikethrough</u>, as follows:
  - a. Article Three-Time
    - 3.1 Services to be rendered by CONTRACTOR shall be commenced subsequent to the execution of this Agreement upon written Notice to Proceed from OWNER for all or any designated portions of the Project

and shall be performed and completed October 1, 2005

\_\_\_\_\_\_\_, 2006. Time is of the essence with respect to the performance of this agreement.

- b. Article Four-Compensation
  - 4.1 The total compensation to be paid to the CONTRACTOR by the OWNER for all Basic Services shall be an amount of \$550,000.00 \$668,663.86 and shall be paid in the manner set forth in Exhibit A, which is attached hereto and incorporated herein. The additional funds provided in this First Amendment shall be allocated evenly to the three items contained in the Bid Schedule, and paid accordingly.
- 4. This First Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original as against any part whose signature appears thereon and all of which shall together constitute one and the same instrument.

**IN WITNESS WHEREOF,** the City and the Contractor have caused this First Amendment to Contracting Agreement to be duly executed by their duly authorized officers, all as of the day and year first above written.

ATTEST	OWNER: CITY OF NAPLES, FLORID
By: Tara Norman, City Clerk	By: Dr. Robert E. Lee, City Manager
Approved as to form and legal sufficiency:	
By:Robert D. Pritt, City Attorney	
	CONTRACTOR: LAKE MICHIGAN CONTRACTORS, INC.
Witness  P: roritt-Amendment to Agreement-Doctor's Pass Dredging	By:
	Title: