

DRAFT FDEP Environmental Resource Permit

No. 11-0312776-001



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

South District Office
P.O. Box 2549
Fort Myers, FL 33902-2549

RICK SCOTT
GOVERNOR

JENNIFER CARROLL
LT. GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

VIA ELECTRONIC MAIL

Permittee/Authorized Entity:

City of Naples
295 Riverside Circle
Naples, FL 34102

Port Royal Dredging and Habitat Island Creation

Authorized Agent:

Karyn M. Erickson, P.E., D.CE
Erickson Consulting Engineers, Inc.
7201 Delainey Court, Sarasota, FL 34240
(c/o christin@ericksonconsultingengineers.com)

Environmental Resource Permit

**State-owned Submerged Lands Authorization – Granted Pending Document
Execution**

**U.S. Army Corps of Engineers Authorization – Separate Corps Authorization
Required**

Permit No.: 11-0312776-001
Easement File No.: 110236845

Permit Issuance Date: February _____, 2013
Permit Construction Phase Expiration Date: _____, 2023

Consolidated Environmental Resource Permit and State-owned Submerged Lands Authorization and Recommended Intent to Grant State-owned Submerged Lands Authorization

Permittee: City of Naples

Permit No: 11-0312776-001

PROJECT LOCATION

The activities authorized by this Permit and state-owned submerged lands authorization are located in several locations in Naples Bay, Class II Waters, Sections 15-16 and 21-22, Township 50 South, Range 25 East, within the City of Naples, Collier County.

AUTHORIZATIONS

Port Royal Dredging and Habitat Island Creation

Project Description

The permittee is authorized to: (1) dredge up to 38,860 cubic yards of material not to exceed -10.6 feet Mean Low Water (MLW) with a 0.5 foot allowable over dredge depth in man-altered waterbodies within a 9.9 acre area in Naples Bay to maintain public navigational access; (2) create a spoil/habitat island ("Island") not to exceed 146,680 square feet (3.3 acres) by placing approximately 27,140 cubic yards of dredged material, up to 5,600 cubic yards of riprap, 2,100 cubic yards of oyster shell, and 1,875 linear feet of geotextile containers in Naples Bay. Authorized activities are depicted on the attached drawings.

The project described above may be conducted only in accordance with the terms, conditions and attachments contained in this permit. The issuance of this permit does not infer, nor guarantee, nor imply that future permits or modifications will be granted by the Department.

Please be advised that this permit does not constitute the issuance of a NPDES Stormwater Permit or acceptance of an NPDES Stormwater Pollution Prevention Plan. For additional information regarding this matter please contact the NPDES Stormwater Notices Center toll free at (866) 336-6312 or Department personnel in Tallahassee at (850) 245-7522.

Sovereignty Submerged Lands Authorization

The portions of the project consisting of dredging submerged lands owned by the State of Florida and creating the Island on submerged lands owned by the State of Florida requires authorization, from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Sections 253.002 and 253.77, Florida Statutes (F.S.).

As staff to the Board of Trustees, the Department has determined that: (1) the proposed dredging of sovereignty submerged lands qualifies for a Letter of Consent as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein, including payment of required severance fees; and (2) the proposed Island requires a public easement. The final documents required to execute the easement will be sent to the Department's Division of State Lands. The Department intends to issue the easement upon satisfactory execution of those

documents, and compliance with the conditions in the previously issued Consolidated Notice of Intent to Issue. **You may not begin deposition of spoil material on sovereignty submerged lands as described above until you receive a copy of the executed public easement from the Department.**

Federal Authorization

A copy of this permit has been sent to the U.S. Army Corps of Engineers (USACE). The USACE may require a separate permit. Failure to obtain any required federal permits prior to construction could subject you to enforcement action by that agency.

Coastal Zone Management

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

Water Quality Certification

This permit constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

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

In addition, you are advised that your project may require additional authorizations or permits from the municipality/county in which the project is located. Please be sure to contact the local county building and environmental department to obtain these required authorizations.

PERMIT/SOVEREIGNTY SUBMERGED LANDS CONDITIONS

The activities described herein must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The General Consent Conditions for Sovereignty Submerged Lands Authorization**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these conditions and drawings prior to commencing the authorized activities. Failure to comply with these conditions, including any mitigation requirements, shall constitute grounds for revocation of the Permit and appropriate enforcement action by the Department.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit/certification/authorization and sovereignty submerged lands authorization, as specifically described above.

SPECIFIC CONDITIONS - PRIOR TO CONSTRUCTION

1. All required submittals such as certifications, notifications, etc., shall be submitted to the Department of Environmental Protection, South District Office, Submerged Lands and Environmental Resource Program, P.O. Box 2549, Fort Myers, FL 33902-2549.
2. All dredging and filling shall be conducted in accordance with the locations, depths and methodologies indicated on the attached permit drawings, Sediment Management Plan, and Construction Methods and Sequencing Plan.
3. Prior to any deviation from the specific permit conditions, permit drawings, and all attachments, the Permittee shall notify the Department of such proposed deviation to enable the Department to determine whether such deviation requires modification of this permit and submittal of the appropriate processing fee.
4. If the approved permit drawings conflict with the specific conditions, then the specific conditions shall prevail.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

5. Impacts to submerged resources outside the project footprint shall not be authorized during construction activities and/or at any time post-construction.
6. All watercraft associated with the permitted construction activities shall only operate within waters of sufficient depth (one-foot clearance from the deepest draft of the vessel to the submerged bottom) so as to preclude bottom scouring or prop dredging.
7. During construction and operational phases of this permit, the Permittee shall ensure that the project complies with applicable State Water Quality Standards, namely:
 - a. Section 62-302.500, F.A.C. – Surface Waters: Minimum Criteria, General Criteria; and
 - b. Section 62-302.530, F.A.C. – Table: Surface Water Quality Criteria - Class II Waters.
8. **Prior to the initiation of any in-water work at the site**, floating turbidity screens with weighted skirts that extend to within 1 ft. of the bottom shall be placed around the active construction area. The screens shall be maintained and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the construction area do not exceed the state's water quality standard for turbidity in Class II waters {29 nephelometric turbidity units (NTUs) above background}. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order so that there is no degradation of the ambient water quality outside of the turbidity screens.
9. The permittee shall ensure that all construction equipment is maintained in a manner to ensure that oils, greases, gasoline, or other pollutants are not released into wetlands or other surface waters.

10. Best management practices for erosion and turbidity control, including, but not limited to, the use of staked hay bales, silt screens, and turbidity curtains shall be used and maintained as necessary at all times during project construction. Any excess spoil material from the permitted dredging not deposited at the Island shall be deposited at a self-contained upland spoil containment site at a rate so that the spoil containment site is never filled to capacity. No return water is permitted into waters of the State in a manner that exceeds state water quality standards. The discharge from the spoil site shall be monitored for turbidity as described in the monitoring section of this permit.

11. The mooring of construction barges and/or other vessels utilized during construction shall be clearly marked to address navigation, including nighttime lighting, if applicable.

12. If at any time during the construction of the permitted facility, unforeseen construction impacts to adjacent surface waters occur, or complications preventing compliance with the specifications of this permit arise, the Permittee shall immediately cease work and notify the Department's South District Office, SLERP Section, P.O. Box 2549, Fort Myers, FL 33902-2549, (239) 344-5669. The Permittee shall submit an alternate construction plan to the Department to allow construction to proceed without additional impact or non-compliance. Work shall not continue until the Department has approved the modification in writing. Substantial changes from the permitted activities may require formal review and modification of this permit.

13. If historical or archaeological artifacts, such as Indian canoes, are discovered at any time within the permitted project sites the permittee shall immediately notify the district office and the Bureau of Historic Preservation, Division of Historical Resources, R. A. Gray Building, 500 S. Bronough St., Tallahassee, Florida 32399-0250. [1/14/13: NO DHR COMMENTS IN FILE. ON 1/3/13 REQUESTED DHR CONFIRM WHETHER THEY RECEIVED APPLICATION AND PROVIDED COMMENTS.]

SPECIFIC CONDITIONS – MANATEE CONDITIONS

14. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with, and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.

15. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area of the project site and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels shall follow routes of deep water whenever possible.

16. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers shall not impede manatee movement.

17. All on-site project personnel are responsible for observing water-related activities for the presence of manatees. All in-water operations, including vessels, shall be shutdown if a manatee

comes within 50 feet of the operation. Activities shall not resume until every manatee has moved beyond the 50-foot radius of the project operation, or until 30 minutes has elapsed wherein a manatee has not reappeared within 50 feet of the operation. Animals shall not be herded away or harassed into leaving.

18. Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida.

19. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used. One sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. Please see the Florida Fish and Wildlife Conservation Commission website for information on how to obtain appropriate signs: http://www.myfwc.com/docs/WildlifeHabitats/Manatee_EducationalSign.pdf

SPECIFIC CONDITIONS – MONITORING/REPORTING REQUIREMENTS

20. Once every four hours during all dredging and filling operations, the permittee shall monitor turbidity levels surrounding the active dredge area and the island creation site. The monitoring shall continue during dredging operations until project completion. Compliance samples shall be taken at one sample site within the densest portion of any visible turbidity plume within 5 feet outside of the turbidity curtains. Ambient samples shall be taken up-current at mid-depth and at no time shall the ambient sample be taken within an apparent turbidity plume. Sampling shall commence prior to, but no more than 24 hours before initiation of any dredging activities and before placement of spoil at the island site. Monitoring for turbidity shall be conducted for the duration of the project construction.

21. Compliance samples shall be collected from surface, mid-depth and one foot above bottom. Mid-depth samples are sufficient in water that is less than five feet deep. Samples shall be collected with a Kemmerer, Van Dorn or a similar sampler that is designed to collect in situ water samples. Samples shall be analyzed immediately after collection with a turbidimeter that produces results in Nephelometric measurements. The field sample results shall be accurately recorded to the precision capabilities (decimal place) of the instrument. Field turbidimeter results shall be rounded to the next whole number (ex. 15.23 NTUs shall be recorded; however the results shall be interpreted as 16.00 NTUs). If monitoring reveals turbidity levels greater than the state's water quality standard for turbidity in Class II waters {29 nephelometric turbidity units (NTUs) above background}, the permittee shall cease all work pursuant to Specific Condition 25.

22. Measurements must be acquired in adherence to the Department's Standard Operating Procedure (SOP) for field turbidity, available at the website: www.dep.state.fl.us/labs/qa/sops.htm. More specifically, the instruments used to measure turbidity shall be fully calibrated within one month prior to commencement of the project, and at least once a

month thereafter during the project. Calibration shall be verified each morning prior to use, and after each time the instrument is turned on, using a turbidity “standard” that is different from the one used during calibration. Calibration procedures shall be recorded in a permanent logbook, and copies must be maintained consistent with Specific Condition 23 below.

23. Turbidity monitoring reports shall be maintained at the construction site and shall be made available for review by the Department upon request from project commencement until dredging completion. Monitoring reports shall contain the following information:
- a. Permit number;
 - b. Dates of sampling and analysis;
 - c. A statement describing the methods used in collection, handling, storage, and analysis of the samples;
 - d. A map indicating the sampling locations; and
 - e. Turbidity data for both a compliance sample and an ambient (background) sample for each monitoring event, referenced in Nephelometric Turbidity Units (NTUs).

Failure to submit reports in a timely manner constitutes a violation of the permit and may be grounds for revocation.

24. Monitoring reports shall also include the following information for each sample taken:
- a. Time of day sample was taken;
 - b. Depth of water body;
 - c. Depth of sample;
 - d. Tidal stage and direction of flow; and
 - e. Antecedent weather conditions, including wind direction and velocity.

25. If monitoring reveals turbidity levels at the compliance sample location(s) appear to violate the State Water quality standards (i.e., compliance sample(s) exceed 29 NTUs above background level), the following measures shall be taken by the permittee:
- a. Immediately cease all work contributing to the water quality violation. Work which may contribute to the violation shall not resume until corrective measures have been taken and turbidity levels have returned to acceptable levels compliant with 62-302, F.A.C.;
 - b. Modify the work procedures that were responsible for the violation, install more turbidity containment devices, and repair any non-functioning turbidity containment devices;
 - c. Increase monitoring frequency to every 2 hours until turbidity levels are within acceptable limits. Interim samples collected following the violation(s) shall be collected in the same manner and locations as the routine monitoring. Operations may not resume until the water quality standard for turbidity has returned to ambient levels; and
 - d. The violation(s) shall be immediately reported to the Department. The report shall include the description of the corrective actions being taken or proposed to be taken. If violation(s) are noted after normal business hours, on holidays, or on weekends, the report shall be made to the Department as soon as normal business hours resume. A

copy of the monitoring data sheets, which indicate violation(s), shall be forwarded immediately to the Department.

Note: In the event of an emergency, the Permittee should contact the Department by calling (800) 320-0519. During normal business hours, the Permittee should call (239) 334-5669.

Failure to report violation(s) or to follow correct procedures before resuming work shall constitute grounds for permit revocation and may subject the permittee to formal enforcement action.

SPECIFIC CONDITIONS – POST CONSTRUCTION

26. Within 30 days of completion of the permitted dredging activities, the permittee shall submit to the Department a detailed report describing the completed construction and including as-built drawings showing all completed dredge bathymetry and Island creation. The submitted drawings shall be plan and cross-sectional view drawings, fully scaled and dimensioned, signed and sealed by a registered professional engineer, showing the entire project area. These drawings shall clearly indicate the deviations from the permit drawings attached to this permit. If the as-built drawings show a significant over-dredge that, as determined by the Department, could potentially result in adverse effects to water quality, the permittee shall submit a backfilling plan acceptable to the Department to level the bottom surface by backfilling with clean fill material free of deleterious substances to the authorized design depth. The Department may require follow-up as-built drawings or bathymetry be submitted after any required backfilling activities. Any identified over-dredging shall not be considered corrected until a written compliance statement has been obtained from the Department.

SPECIFIC CONDITIONS – HABITAT ISLAND OPERATION AND MONITORING REQUIREMENTS

27. The Permittee shall monitor the Island in accordance with the attached Habitat Island Monitoring Plan.

\GENERAL CONDITIONS:

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and a violation of Part IV of Chapter 373, (F.S.).

2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.

3. Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violations of state water quality standards. Temporary

erosion control shall be implemented prior to and during construction and permanent control measures shall be completed within seven (7) days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving water-body exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter Six of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter, the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

4. The permittee shall notify the Department of the anticipated construction start date within thirty (30) days of the date that this permit is issued. **At least forty-eight (48) hours prior** to commencement of the activity authorized by this permit, the permittee shall submit to the Department an “Environmental Resource Permit Construction Commencement” notice (Form No. 62-343.900(3), Florida Administrative Code (F.A.C.)) indicating the actual start date and expected completion date.

5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the Department on an annual basis utilizing an “Annual Status Report Form” (Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year.

6. **Within thirty (30) days after completion of construction** of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law utilizing the supplied “Environmental Resource Permit As-Built Certification by a Registered Professional” (Form No. 62-343.900(5), F.A.C.). The Statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the Department that the system is ready for inspection. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations note. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as “as-built” or “record” drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.

7. The operation phase of this permit shall not become effective; until the permittee has complied with the requirements of condition number six (6) above, has **submitted a “Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase” (Form 62-343.900(7), F.A.C.)**; the Department determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the Department in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District—August 1995, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the Department, the permittee shall initiate transfer of permit to the approved responsible operation entity if different from the permittee. Until the permit is transferred pursuant to

Rule 62-343.110(1) (d), F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.

9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the Department along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District—August 1995, prior to lot or unit sales or prior to lot or unit sales or prior to the completion of the system, whichever occurs first. Other documents concerning the establishment and authority of the operation entity must be filed with the Secretary of State where appropriate. For those systems which are proposed to be maintained by the county or municipal entities, final operation and maintenance documents must be received by the Department when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.

10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.

11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C.

12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorization from the Board of Trustees prior to commencing activity on sovereignty lands or other state owned lands.

13. The permittee is advised that the rules of the South Florida Water Management District require the permittee to obtain a water use permit from the South Florida Water management District prior to construction dewatering, unless the work qualifies for a general permit pursuant to Rule 40E-20.302(4), F.A.C., also known as the “No Notice” rule.

14. The permittee shall hold and save the Department harmless from any and all damages, claims or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by this permit.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Section 373.421(2). F.S., provides otherwise.

16. The permittee shall notify the Department in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rule 62-343.130, F.A.C. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

17. Upon reasonable notice to the permittee, Department authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.

18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate Department office.

19. The permittee shall immediately notify the Department in writing of and previously submitted information that is later discovered to be inaccurate.

GENERAL CONDITIONS FOR SOVEREIGNTY SUBMERGED LANDS AUTHORIZATION

Any use of sovereignty submerged lands is subject to the following general conditions are binding upon the permittee and are enforceable under Chapter 253, F.S., and, as applicable, Chapter 258, F.S.:

1. Sovereignty submerged lands may be used only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use will constitute a violation. Violation of the authorization shall result in suspension or revocation of the permittee's use of the sovereignty submerged land unless cured to the satisfaction of the Board of Trustees.

2. Authorization under Rule 18-21.005, F.A.C., convey no title to sovereignty submerged land or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.

3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S., and Chapter 18-14, F.A.C.

4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.
5. Construction, use, or operation of the structure or activity will not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.
6. Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.
7. Structures or activities will not create a navigational hazard.
8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.
9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.
10. The permittee agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the permittee's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.
11. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.
12. Permittee binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the permittee or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the permittee or its successors or assigns. Upon receipt of such notice, the permittee or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
13. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the permittee. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The permittee will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.

14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

Executed in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jon M. Iglehart
District Director
South District Office

JMI/mrm

Attachments:

Project Drawings and Design Specs., X (number of) pages

Sediment Management Plan X (number of) pages

Construction Methods and Sequencing Plan X (number of) pages

Habitat Island Monitoring Plan X (number of) pages

Commencement notice /62-343.900(3)*

Annual status report/62-343.900(4)*

As-built certification/62-343.900(5)*

Inspection certification/62-343.900(6)*

Transfer construction to operation phase/ 62-343.900(7)*

Application for transfer of an ERP permit/62-343.900(8)*

*Can be downloaded at: <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>

Copies furnished to:

DEP, Office of General Counsel (electronically)

U.S. Army Corps of Engineers, Log # 13806

FWC, Imperiled Species Management Section

Collier County Property Appraiser (electronically)

Bureau of Public Land Administration, BOT #110236845

Robert Diffenderfer, Lewis, Longman and Walker PA (electronically)

U.S. Coast Guard

[Federal Energy Regulatory Commission](#)

Department of Economic Opportunity (for docking facilities in OFWs, Class II Waters, or in areas frequented by manatees)

CERTIFICATE OF SERVICE

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

FILING AND ACKNOWLEDGMENT

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

Clerk

Date

City Resolution No. 11-13008

RESOLUTION 11-13008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, RELATING TO THE ESTABLISHMENT AND FUNDING OF THE PORT ROYAL CANAL DREDGING ASSESSMENT AREA; RATIFYING AND CONFIRMING THE INITIAL ASSESSMENT RESOLUTION; DETERMINING THAT CERTAIN REAL PROPERTY WILL BE SPECIALLY BENEFITED BY THE PORT ROYAL CANAL DREDGING ASSESSMENT AREA; ESTABLISHING THE METHOD OF ASSESSING THE COSTS OF THE IMPROVEMENTS AGAINST THE REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED THEREBY; ESTABLISHING OTHER TERMS AND CONDITIONS OF THE ASSESSMENTS; APPROVING THE ASSESSMENT ROLL; PROVIDING THE METHOD OF COLLECTION; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. AUTHORITY. This Resolution of the City of Naples, Florida (the "City") is adopted pursuant to the City Code in Sections 2-721 through 2-819, City Resolution No. 11-12978 (the "Initial Assessment Resolution"), Chapters 170 and 197, Florida Statutes, and other applicable provisions of law.

Section 2. DEFINITIONS. This Resolution is the Final Assessment Resolution. All capitalized terms in this Resolution shall have the meanings defined in the Assessment Ordinance and the Initial Assessment Resolution.

Section 3. FINDINGS. Upon duly-provided notice and upon consideration of testimony from affected property owners as to the propriety and advisability of making and funding the purposes for the assessment at a public hearing, it is hereby ascertained, determined and declared that:

- (A) The findings provided in Section 1.03 of the Initial Assessment Resolution are hereby ratified, confirmed, and incorporated as if set forth fully herein.
- (B) On November 2, 2011, the Council adopted the Initial Assessment Resolution, proposing the funding of the Port Royal Canal Dredging Project, describing the method of assessing the cost of such improvements against the real property that will be specifically benefited thereby, establishing a public hearing to consider imposition of the proposed non-ad valorem assessments, and directing preparation of the preliminary Assessment Roll and provision of the notices required by the Assessment Ordinance.
- (C) Pursuant to Section 2-766 of the Assessment Ordinance, the Council is required to repeal or confirm the Initial Assessment Resolution, with such amendments as the Council deems appropriate, after hearing concerns and receiving comments or objections of interested parties.
- (D) The Assessment Roll has heretofore been filed at the Office of the City Clerk, 735 8th Street South,

- Naples, Florida, and made available for public inspection.
- (E) As required by the terms of the Initial Assessment Resolution, notice of a public hearing has been published and mailed to each property owner proposed to be assessed notifying such property owner of the opportunity to be heard; the proof of publication and an affidavit of mailing are attached hereto as Appendices A and B respectively.
 - (F) A public hearing has been duly held and comments and objections of all interested persons have been heard and considered as required by law.
 - (G) The Assessments imposed pursuant to this Resolution will be imposed by the Council, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Resolution shall be construed solely as ministerial.
 - (H) The benefits derived from the Port Royal Canal Dredging Project exceed the amount of the Assessments levied and imposed hereunder. The Assessment for any Tax Parcel within the Port Royal Assessment Area does not exceed the proportional benefits that such Tax Parcel will receive compared to any other Tax Parcel within such area.
 - (I) The Council hereby finds and determines that the Assessments to be imposed in accordance with this Resolution provide an equitable method of funding the Port Royal Canal Dredging Project by fairly and reasonably allocating the cost to specially benefited property.

Section 4. RATIFICATION AND CONFIRMATION OF PRIOR ACTIONS AND INITIAL ASSESSMENT RESOLUTION. All actions taken by the Council at its meeting on November 2, 2011 are hereby ratified and confirmed. The Initial Assessment Resolution, as supplemented and modified by this Resolution, is hereby ratified and confirmed.

Section 5. APPROVAL OF ASSESSMENT ROLL. The Assessment Roll, which is on file with the City Clerk, is hereby approved.

Section 6. ASSESSMENTS.

- (A) The estimated cost of the Port Royal Canal Dredging Project necessary to serve the Assessment Area is \$2,013,369.00 and will be funded by the Assessments imposed hereunder beginning with the property tax bill issued in November, 2013 and each year thereafter for five years.
- (B) The Tax Parcels located within the Assessment Area and described in the Assessment Roll are hereby found to be specially benefited by an assessment based upon an apportionment approach as provided in Section 3.03 of the Initial Assessment Resolution.
- (C) A non-ad valorem special assessment computed in the manner described in the Initial Assessment Resolution, as supplemented by this Final Assessment

Resolution, is hereby levied and imposed on all Tax Parcels described in the Assessment Roll in order to fund the canal dredging project and shall be imposed over a period of six years.

- (D) Upon adoption hereof and the Annual Assessment Resolution for each fiscal year, the Assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, city or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon validation of the Obligations and adoption by the Council of the Annual Assessment Resolution and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

Section 7. COLLECTION OF ASSESSMENTS. The Assessments shall be collected pursuant to the provisions of the Initial Assessment Resolution and Uniform Assessment Collection Act. Upon adoption of the Annual Assessment Resolution for each fiscal year, the City Manager shall cause the certification and delivery of the Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act.

Section 8. EFFECT OF FINAL ASSESSMENT RESOLUTION. The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein and in the Initial Assessment Resolution (including, but not limited to, method by which the Assessments will be computed, the Assessment Roll, and the levy and lien of the Assessments), unless proper steps are initiated before the City Council sitting as the Equalization Board, within Twenty (20) days from the date of City Council's adoption of this Final Assessment Resolution or in a court of competent jurisdiction to secure other relief within twenty (20) days from the date of City Council's adoption of this Final Assessment Resolution.

Section 9. ASSESSMENT NOTICE. Upon validation of the Obligations and prior to certification of the Assessment Roll to the Tax Collector, the City Manager is hereby directed to record a general notice of the Assessments in the Official Records in the office of the Collier County Clerk of Courts. Such notice shall be in substantially the form attached hereto as Appendix C. The preliminary Assessment Roll and each annual Assessment Roll shall be retained by the City Manager and City Clerk and shall be available for public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each Tax Parcel can be determined by use of a computer terminal or internet access available to the public.

Section 10. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES,
FLORIDA, THIS 14TH DAY OF DECEMBER, 2011.

Bill Barnett, Mayor

Attest:

Approved as to form and legality:

Tara A. Norman, City Clerk

Robert D. Pritt, City Attorney

M:\REF\COUNCIL\RES\2011\11-13008

Date filed with City Clerk: _____

Appendix "A"
Proof of Publication

NAPLES DAILY NEWS
Published Daily
Naples, FL 34110

Affidavit of Publication
State of Florida
Counties of Collier and Lee

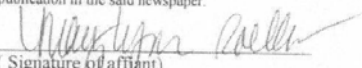
Before the undersigned they serve as the authority, personally appeared Marylynn Roeller, who on oath says that she serves as the Advertising Accounting Manager of the Naples Daily News, a daily newspaper published at Naples, in Collier County, Florida; distributed in Collier and Lee counties of Florida; that the attached copy of the advertising, being a

PUBLIC NOTICE

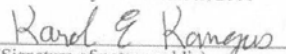
in the matter of PUBLIC NOTICE

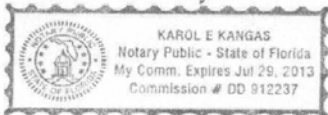
was published in said newspaper 1 time in the issue on November 10, 2011

Affiant further says that the said Naples Daily News is a newspaper published at Naples, in said Collier County, Florida, and that the said newspaper has heretofore been continuously published in said Collier County, Florida; distributed in Collier and Lee counties of Florida, each day and has been entered as second class mail matter at the post office in Naples, in said Collier County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

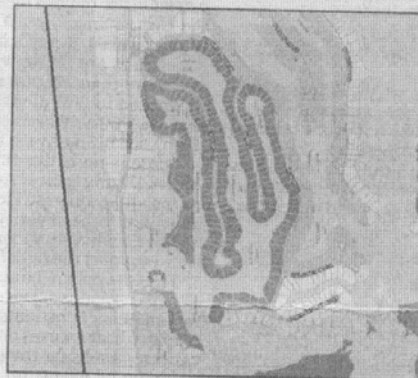

(Signature of affiant)

Sworn to and subscribed before me
This 11th day of November, 2011


(Signature of notary public)



NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SPECIAL ASSESSMENTS IN THE PORT ROYAL ASSESSMENT AREA



Notice is hereby given that the City Council of the City of Naples will conduct a public hearing to consider the collection of special assessments within the Port Royal and Champney Bay area as shown above, through the imposition of non-ad valorem assessments for the purpose of maintenance dredging of canals. The hearing will be held at 8:30 a.m. on December 14, 2011 at the City Council Chambers, 735 8th Street South, Naples, Florida, for the purpose of receiving public comment on the proposed Assessment Area, special assessments and improvements. All affected property owners have a right to appear and speak at the hearing and to file written objections with the City Council within twenty (20) days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk at 735 8th Street South, Naples, Florida, at least forty-eight (48) hours prior to the date of the hearing. The assessment for each assessed parcel of property will be based upon the total project cost to dredge each canal, divided equally among the properties adjacent to each canal.

A more specific description of the improvements and the method of computing the assessment for each parcel of property are set forth in the Initial Assessment Resolution adopted by the City Council on November 2, 2011. Copies of the Initial Assessment Resolution and the preliminary Assessment Roll are available for inspection at the office of the City Clerk.

Commencing in November, 2013, the assessments are anticipated to be collected on the ad valorem tax bill by the Collier County Tax Collector, as authorized by Section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. The City Council intends to collect the special assessment for a period of six (6) years.

If you have any questions, please contact the City Manager at (239) 213-1027 or citymanager@naplesgov.com.

No. 678175574

November 10, 2011

Appendix "B"
Affidavit of Mailing
Page 1 of 2



32605 Temecula Parkway, Suite 100
Temecula, CA 92592
Toll free: 800.676.7516 (P) 951.296.1997
nbsgov.com

December 13, 2011

Ann Marie S. Ricardi
Finance Director
City of Naples
735 8th St. South
Naples, FL 34102

RE: PROOF OF MAILING

Ann Marie,

I, Dave Ketcham, duly swear that NBS mailed, by regular first class USPS mail, on November 10, 2011, a Notice regarding the Port Royal Dredging Assessment Area to each affected owner as identified in the database provided to me by the City.

Sworn by:

A handwritten signature in black ink, appearing to read "Dave Ketcham", is written over a horizontal line.

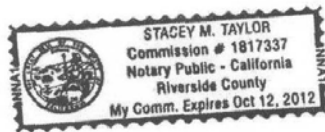
Name: Dave Ketcham
Title: Director
Address:
NBS
32605 Temecula Parkway, Suite 100
Temecula, CA 92592
Dated this 13th day of December, 2011

Appendix "B"
Affidavit of Mailing
Page 2 of 2

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of RIVERSIDE
On 12/13/11 before me, STACEY M TAYLOR, NOTARY PUBLIC
personally appeared DAVID KETCHAM

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Proof of Mailing
Document Date: 12/13/11 Number of Pages: 1
Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: DAVID KETCHAM
Individual
Corporate Officer - Title(s):
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other: DIRECTOR / NBS
Signer Is Representing:

Signer's Name:
Individual
Corporate Officer - Title(s):
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:
Signer Is Representing:



Appendix "C"
Form of Assessment Notice
Page 1 of 2

NOTICE OF ASSESSMENTS FOR THE PORT ROYAL CANAL DREDGING ASSESSMENT AREA

NOTICE IS HEREBY GIVEN THAT on November 2, 2011 the City Council of Naples, Florida (the "City") adopted Resolution No. 11-12978 which levied and imposed special assessments against property located within the Port Royal Canal Dredging Assessment Area ("Assessment Area"), described in Exhibit A attached hereto, for dredging of canals within the Assessment Area. The method for computing assessments to fund the canal dredging project within the Assessment Area is based upon the computation of the total project cost for each canal within the assessment area, divided by the number of parcels adjacent to each canal. Therefore, the assessment shall be equal for each parcel of property adjacent to each canal.

Resolution No. 11-12978 levied and imposed assessments. Collection of the non-ad valorem special assessments will commence with the ad valorem tax bill to be mailed in November, 2013 and will continue for five years thereafter in accordance with the terms and conditions established in the Initial Assessment Resolution No. 11-12978 and the Final Assessment Resolution No. 11-13008. These Resolutions and the special assessment roll which contains a list of the affected tax parcel numbers and property owners (as shown on the Collier County ad valorem tax assessment roll as of the effective date of Resolution No. 11-12978) are on file with the City Manager, 735 8th Street South, Naples, Florida, and open to public inspection.

This notice is recorded at the direction of the City Council of Naples, Florida pursuant to its Resolution No. 11-13008 in order to provide constructive notice of the levy and imposition of assessments upon real property located within the Assessment Area.

The City Council will adopt an annual assessment resolution for each fiscal year. Upon adoption of each annual assessment resolution, assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, city or municipal taxes and other non-ad valorem assessments. The lien shall be deemed perfected upon adoption of each annual assessment resolution and shall attach to the property included on the assessment roll as of the prior January 1, the lien date for ad valorem taxes. This notice does not and shall not be construed to require that individual liens or releases be filed in the Official Records.

Dated this _____ day of _____, 20____.

City Manager

Appendix "C"
Form of Assessment Notice
Page 2 of 2

STATE OF FLORIDA)
COUNTY OF COLLIER)

PERSONALLY APPEARED before me, the undersigned authority, A. WILLIAM MOSS, well known to me and known by me to be the City Manager of the City of Naples, Florida, and acknowledged before me that he executed the foregoing instrument on behalf of the City of Naples, Florida, as its true act and deed, and that he was duly authorized to do so.

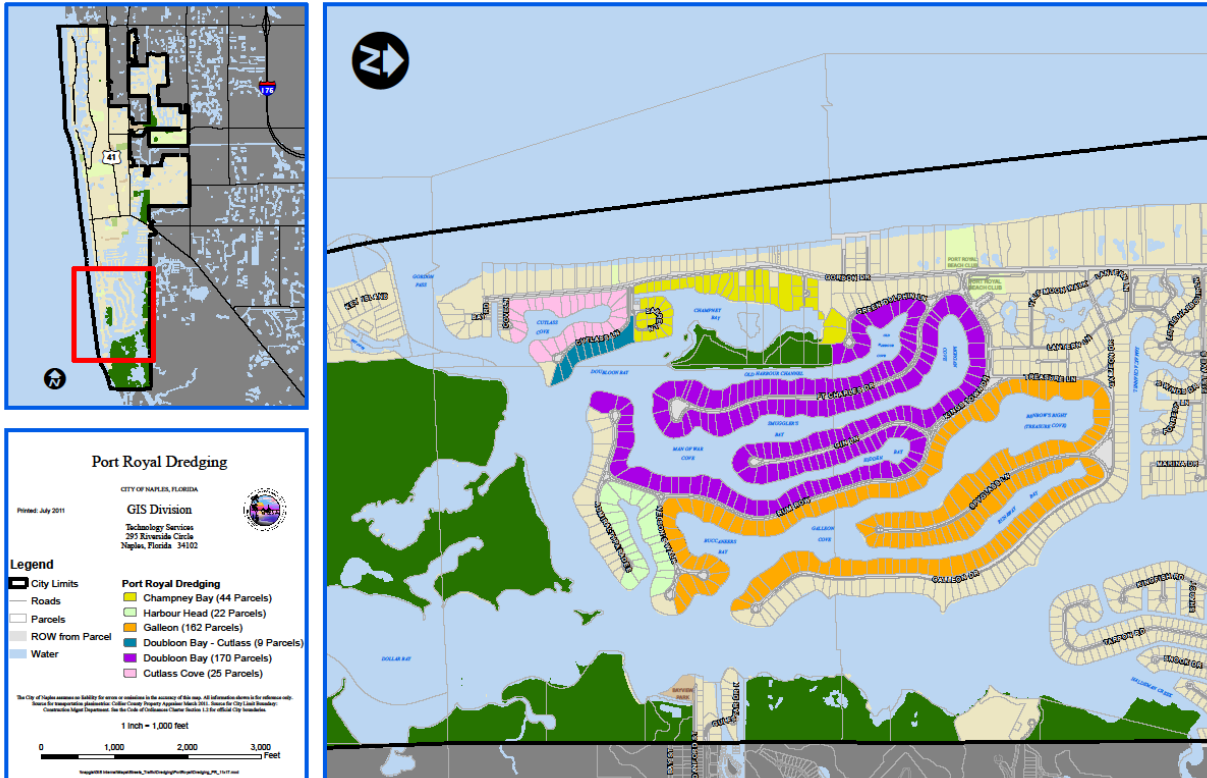
WITNESS my hand and official seal this day of _____, 20 .

, Notary

(SEAL)

EXHIBIT A TO APPENDIX "C"--THE PORT ROYAL CANAL DREDGING ASSESSMENT AREA

The Port Royal Canal Dredging Assessment Area is described:



RESOLUTION 11-13008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, RELATING TO THE ESTABLISHMENT AND FUNDING OF THE PORT ROYAL CANAL DREDGING ASSESSMENT AREA; RATIFYING AND CONFIRMING THE INITIAL ASSESSMENT RESOLUTION; DETERMINING THAT CERTAIN REAL PROPERTY WILL BE SPECIALLY BENEFITED BY THE PORT ROYAL CANAL DREDGING ASSESSMENT AREA; ESTABLISHING THE METHOD OF ASSESSING THE COSTS OF THE IMPROVEMENTS AGAINST THE REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED THEREBY; ESTABLISHING OTHER TERMS AND CONDITIONS OF THE ASSESSMENTS; APPROVING THE ASSESSMENT ROLL; PROVIDING THE METHOD OF COLLECTION; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. AUTHORITY. This Resolution of the City of Naples, Florida (the "City") is adopted pursuant to the City Code in Sections 2-721 through 2-819, City Resolution No. 11-12978 (the "Initial Assessment Resolution"), Chapters 170 and 197, Florida Statutes, and other applicable provisions of law.

Section 2. DEFINITIONS. This Resolution is the Final Assessment Resolution. All capitalized terms in this Resolution shall have the meanings defined in the Assessment Ordinance and the Initial Assessment Resolution.

Section 3. FINDINGS. Upon duly-provided notice and upon consideration of testimony from affected property owners as to the propriety and advisability of making and funding the purposes for the assessment at a public hearing, it is hereby ascertained, determined and declared that:

- (A) The findings provided in Section 1.03 of the Initial Assessment Resolution are hereby ratified, confirmed, and incorporated as if set forth fully herein.
- (B) On November 2, 2011, the Council adopted the Initial Assessment Resolution, proposing the funding of the Port Royal Canal Dredging Project, describing the method of assessing the cost of such improvements against the real property that will be specifically benefited thereby, establishing a public hearing to consider imposition of the proposed non-ad valorem assessments, and directing preparation of the preliminary Assessment Roll and provision of the notices required by the Assessment Ordinance.
- (C) Pursuant to Section 2-766 of the Assessment Ordinance, the Council is required to repeal or confirm the Initial Assessment Resolution, with such amendments as the Council deems appropriate, after hearing concerns and receiving comments or objections of interested parties.
- (D) The Assessment Roll has heretofore been filed at the Office of the City Clerk, 735 8th Street South,

- Naples, Florida, and made available for public inspection.
- (E) As required by the terms of the Initial Assessment Resolution, notice of a public hearing has been published and mailed to each property owner proposed to be assessed notifying such property owner of the opportunity to be heard; the proof of publication and an affidavit of mailing are attached hereto as Appendices A and B respectively.
 - (F) A public hearing has been duly held and comments and objections of all interested persons have been heard and considered as required by law.
 - (G) The Assessments imposed pursuant to this Resolution will be imposed by the Council, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Resolution shall be construed solely as ministerial.
 - (H) The benefits derived from the Port Royal Canal Dredging Project exceed the amount of the Assessments levied and imposed hereunder. The Assessment for any Tax Parcel within the Port Royal Assessment Area does not exceed the proportional benefits that such Tax Parcel will receive compared to any other Tax Parcel within such area.
 - (I) The Council hereby finds and determines that the Assessments to be imposed in accordance with this Resolution provide an equitable method of funding the Port Royal Canal Dredging Project by fairly and reasonably allocating the cost to specially benefited property.

Section 4. RATIFICATION AND CONFIRMATION OF PRIOR ACTIONS AND INITIAL ASSESSMENT RESOLUTION. All actions taken by the Council at its meeting on November 2, 2011 are hereby ratified and confirmed. The Initial Assessment Resolution, as supplemented and modified by this Resolution, is hereby ratified and confirmed.

Section 5. APPROVAL OF ASSESSMENT ROLL. The Assessment Roll, which is on file with the City Clerk, is hereby approved.

Section 6. ASSESSMENTS.

- (A) The estimated cost of the Port Royal Canal Dredging Project necessary to serve the Assessment Area is \$2,013,369.00 and will be funded by the Assessments imposed hereunder beginning with the property tax bill issued in November, 2013 and each year thereafter for five years.
- (B) The Tax Parcels located within the Assessment Area and described in the Assessment Roll are hereby found to be specially benefited by an assessment based upon an apportionment approach as provided in Section 3.03 of the Initial Assessment Resolution.
- (C) A non-ad valorem special assessment computed in the manner described in the Initial Assessment Resolution, as supplemented by this Final Assessment

Resolution, is hereby levied and imposed on all Tax Parcels described in the Assessment Roll in order to fund the canal dredging project and shall be imposed over a period of six years.

- (D) Upon adoption hereof and the Annual Assessment Resolution for each fiscal year, the Assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, city or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon validation of the Obligations and adoption by the Council of the Annual Assessment Resolution and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

Section 7. COLLECTION OF ASSESSMENTS. The Assessments shall be collected pursuant to the provisions of the Initial Assessment Resolution and Uniform Assessment Collection Act. Upon adoption of the Annual Assessment Resolution for each fiscal year, the City Manager shall cause the certification and delivery of the Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act.

Section 8. EFFECT OF FINAL ASSESSMENT RESOLUTION. The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein and in the Initial Assessment Resolution (including, but not limited to, method by which the Assessments will be computed, the Assessment Roll, and the levy and lien of the Assessments), unless proper steps are initiated before the City Council sitting as the Equalization Board, within Twenty (20) days from the date of City Council's adoption of this Final Assessment Resolution or in a court of competent jurisdiction to secure other relief within twenty (20) days from the date of City Council's adoption of this Final Assessment Resolution.

Section 9. ASSESSMENT NOTICE. Upon validation of the Obligations and prior to certification of the Assessment Roll to the Tax Collector, the City Manager is hereby directed to record a general notice of the Assessments in the Official Records in the office of the Collier County Clerk of Courts. Such notice shall be in substantially the form attached hereto as Appendix C. The preliminary Assessment Roll and each annual Assessment Roll shall be retained by the City Manager and City Clerk and shall be available for public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each Tax Parcel can be determined by use of a computer terminal or internet access available to the public.

Section 10. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES,
FLORIDA, THIS 14TH DAY OF DECEMBER, 2011.

Bill Barnett, Mayor

Attest:

Approved as to form and legality:

Tara A. Norman, City Clerk

Robert D. Pritt, City Attorney

M:\REF\COUNCIL\RES\2011\11-13008

Date filed with City Clerk: _____

Appendix "A"
Proof of Publication

NAPLES DAILY NEWS
Published Daily
Naples, FL 34110

Affidavit of Publication
State of Florida
Counties of Collier and Lee

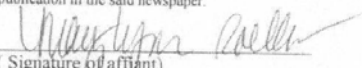
Before the undersigned they serve as the authority, personally appeared Marylynn Roeller, who on oath says that she serves as the Advertising Accounting Manager of the Naples Daily News, a daily newspaper published at Naples, in Collier County, Florida; distributed in Collier and Lee counties of Florida; that the attached copy of the advertising, being a

PUBLIC NOTICE

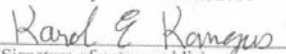
in the matter of PUBLIC NOTICE

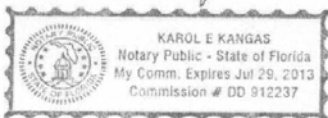
was published in said newspaper 1 time in the issue on November 10, 2011

Affiant further says that the said Naples Daily News is a newspaper published at Naples, in said Collier County, Florida, and that the said newspaper has heretofore been continuously published in said Collier County, Florida; distributed in Collier and Lee counties of Florida, each day and has been entered as second class mail matter at the post office in Naples, in said Collier County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

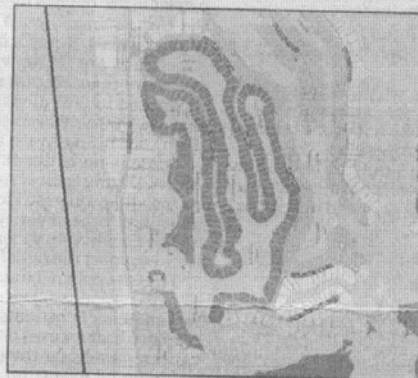

(Signature of affiant)

Sworn to and subscribed before me
This 11th day of November, 2011


(Signature of notary public)



NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SPECIAL ASSESSMENTS IN THE PORT ROYAL ASSESSMENT AREA



Notice is hereby given that the City Council of the City of Naples will conduct a public hearing to consider the collection of special assessments within the Port Royal and Champney Bay area as shown above, through the imposition of non-ad-valorem assessments for the purpose of maintenance dredging of canals. The hearing will be held at 8:30 a.m. on December 14, 2011 at the City Council Chambers, 735 8th Street South, Naples, Florida, for the purpose of receiving public comment on the proposed Assessment Area, special assessments and improvements. All affected property owners have a right to appear and speak at the hearing and to file written objections with the City Council within twenty (20) days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk at 735 8th Street South, Naples, Florida, at least forty-eight (48) hours prior to the date of the hearing.

The assessment for each assessed parcel of property will be based upon the total project cost to dredge each canal, divided equally among the properties adjacent to each canal.

A more specific description of the improvements and the method of computing the assessment for each parcel of property are set forth in the Initial Assessment Resolution adopted by the City Council on November 2, 2011. Copies of the Initial Assessment Resolution and the preliminary Assessment Roll are available for inspection at the office of the City Clerk.

Commencing in November, 2013, the assessments are anticipated to be collected on the ad valorem tax bill by the Collier County Tax Collector, as authorized by Section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. The City Council intends to collect the special assessment for a period of six (6) years.

If you have any questions, please contact the City Manager at (239) 213-1027 or citymanager@naplesgov.com.

No. 678175574

November 10, 2011

Appendix "B"
Affidavit of Mailing
Page 1 of 2



32605 Temecula Parkway, Suite 100
Temecula, CA 92592
Toll free: 800.676.7516 (P) 951.296.1997
nbsgov.com

December 13, 2011

Ann Marie S. Ricardi
Finance Director
City of Naples
735 8th St. South
Naples, FL 34102

RE: PROOF OF MAILING

Ann Marie,

I, Dave Ketcham, duly swear that NBS mailed, by regular first class USPS mail, on November 10, 2011, a Notice regarding the Port Royal Dredging Assessment Area to each affected owner as identified in the database provided to me by the City.

Sworn by:

A handwritten signature in black ink, appearing to read "Dave Ketcham", is written over a horizontal line.

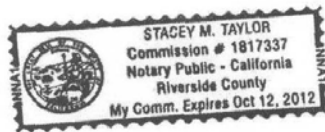
Name: Dave Ketcham
Title: Director
Address:
NBS
32605 Temecula Parkway, Suite 100
Temecula, CA 92592
Dated this 13th day of December, 2011

Appendix "B"
Affidavit of Mailing
Page 2 of 2

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of RIVERSIDE
On 12/13/11 before me, STACEY M TAYLOR, NOTARY PUBLIC
personally appeared DAVE KETCHAM

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Proof of Mailing
Document Date: 12/13/11 Number of Pages: 1
Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: DAVE KETCHAM
Individual
Corporate Officer - Title(s):
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other: DIRECTOR / NBS
Signer Is Representing:

Signer's Name:
Individual
Corporate Officer - Title(s):
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:
Signer Is Representing:



Appendix "C"
Form of Assessment Notice
Page 1 of 2

NOTICE OF ASSESSMENTS FOR THE PORT ROYAL CANAL DREDGING ASSESSMENT AREA

NOTICE IS HEREBY GIVEN THAT on November 2, 2011 the City Council of Naples, Florida (the "City") adopted Resolution No. 11-12978 which levied and imposed special assessments against property located within the Port Royal Canal Dredging Assessment Area ("Assessment Area"), described in Exhibit A attached hereto, for dredging of canals within the Assessment Area. The method for computing assessments to fund the canal dredging project within the Assessment Area is based upon the computation of the total project cost for each canal within the assessment area, divided by the number of parcels adjacent to each canal. Therefore, the assessment shall be equal for each parcel of property adjacent to each canal.

Resolution No. 11-12978 levied and imposed assessments. Collection of the non-ad valorem special assessments will commence with the ad valorem tax bill to be mailed in November, 2013 and will continue for five years thereafter in accordance with the terms and conditions established in the Initial Assessment Resolution No. 11-12978 and the Final Assessment Resolution No. 11-13008. These Resolutions and the special assessment roll which contains a list of the affected tax parcel numbers and property owners (as shown on the Collier County ad valorem tax assessment roll as of the effective date of Resolution No. 11-12978) are on file with the City Manager, 735 8th Street South, Naples, Florida, and open to public inspection.

This notice is recorded at the direction of the City Council of Naples, Florida pursuant to its Resolution No. 11-13008 in order to provide constructive notice of the levy and imposition of assessments upon real property located within the Assessment Area.

The City Council will adopt an annual assessment resolution for each fiscal year. Upon adoption of each annual assessment resolution, assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, city or municipal taxes and other non-ad valorem assessments. The lien shall be deemed perfected upon adoption of each annual assessment resolution and shall attach to the property included on the assessment roll as of the prior January 1, the lien date for ad valorem taxes. This notice does not and shall not be construed to require that individual liens or releases be filed in the Official Records.

Dated this _____ day of _____, 20____.

City Manager

Appendix "C"
Form of Assessment Notice
Page 2 of 2

STATE OF FLORIDA)
COUNTY OF COLLIER)

PERSONALLY APPEARED before me, the undersigned authority, A. WILLIAM MOSS, well known to me and known by me to be the City Manager of the City of Naples, Florida, and acknowledged before me that he executed the foregoing instrument on behalf of the City of Naples, Florida, as its true act and deed, and that he was duly authorized to do so.

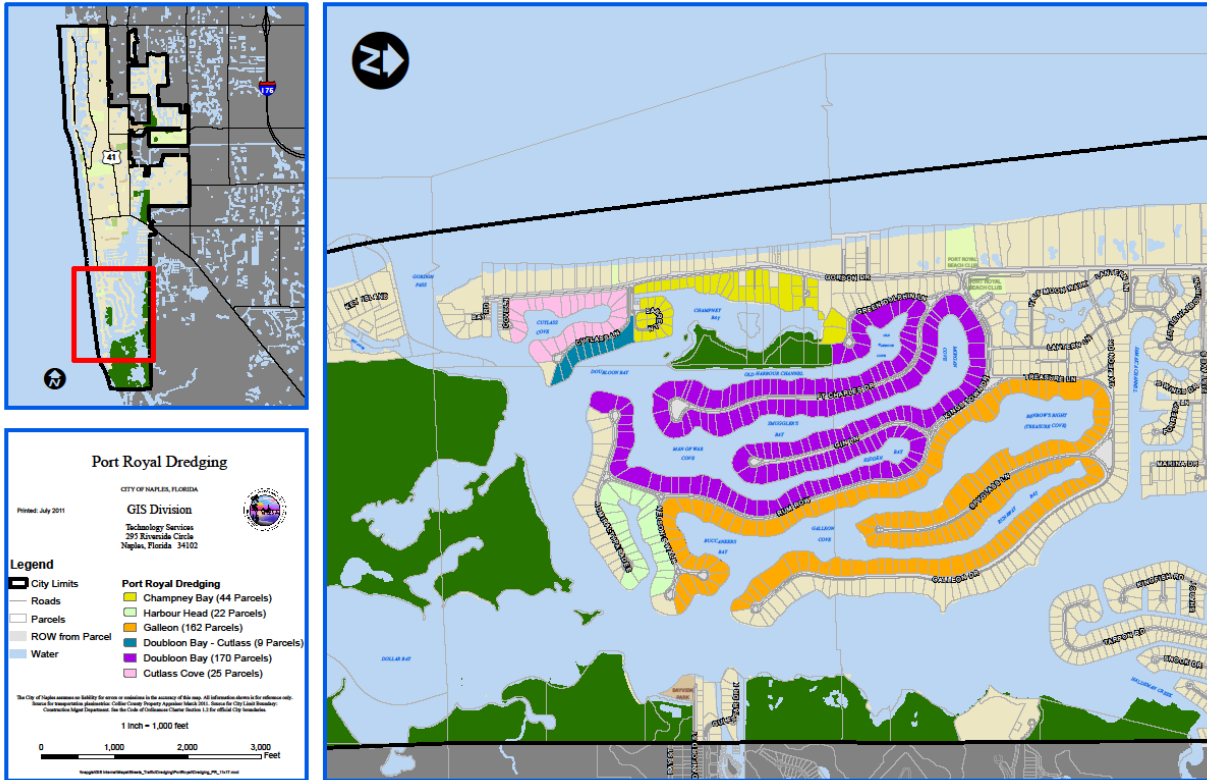
WITNESS my hand and official seal this day of _____, 20 .

, Notary

(SEAL)

EXHIBIT A TO APPENDIX "C"--THE PORT ROYAL CANAL DREDGING ASSESSMENT AREA

The Port Royal Canal Dredging Assessment Area is described:



DRAFT FDEP Environmental Resource Permit

No. 11-0312776-001

City Resolution No. 11-13008



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

South District Office
P.O. Box 2549
Fort Myers, FL 33902-2549

RICK SCOTT
GOVERNOR

JENNIFER CARROLL
LT. GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

VIA ELECTRONIC MAIL

Permittee/Authorized Entity:

City of Naples
295 Riverside Circle
Naples, FL 34102

Port Royal Dredging and Habitat Island Creation

Authorized Agent:

Karyn M. Erickson, P.E., D.CE
Erickson Consulting Engineers, Inc.
7201 Delainey Court, Sarasota, FL 34240
(c/o christin@ericksonconsultingengineers.com)

Environmental Resource Permit

**State-owned Submerged Lands Authorization – Granted Pending Document
Execution**

**U.S. Army Corps of Engineers Authorization – Separate Corps Authorization
Required**

Permit No.: 11-0312776-001
Easement File No.: 110236845

Permit Issuance Date: February _____, 2013
Permit Construction Phase Expiration Date: _____, 2023

Consolidated Environmental Resource Permit and State-owned Submerged Lands Authorization and Recommended Intent to Grant State-owned Submerged Lands Authorization

Permittee: City of Naples

Permit No: 11-0312776-001

PROJECT LOCATION

The activities authorized by this Permit and state-owned submerged lands authorization are located in several locations in Naples Bay, Class II Waters, Sections 15-16 and 21-22, Township 50 South, Range 25 East, within the City of Naples, Collier County.

AUTHORIZATIONS

Port Royal Dredging and Habitat Island Creation

Project Description

The permittee is authorized to: (1) dredge up to 38,860 cubic yards of material not to exceed -10.6 feet Mean Low Water (MLW) with a 0.5 foot allowable over dredge depth in man-altered waterbodies within a 9.9 acre area in Naples Bay to maintain public navigational access; (2) create a spoil/habitat island ("Island") not to exceed 146,680 square feet (3.3 acres) by placing approximately 27,140 cubic yards of dredged material, up to 5,600 cubic yards of riprap, 2,100 cubic yards of oyster shell, and 1,875 linear feet of geotextile containers in Naples Bay. Authorized activities are depicted on the attached drawings.

The project described above may be conducted only in accordance with the terms, conditions and attachments contained in this permit. The issuance of this permit does not infer, nor guarantee, nor imply that future permits or modifications will be granted by the Department.

Please be advised that this permit does not constitute the issuance of a NPDES Stormwater Permit or acceptance of an NPDES Stormwater Pollution Prevention Plan. For additional information regarding this matter please contact the NPDES Stormwater Notices Center toll free at (866) 336-6312 or Department personnel in Tallahassee at (850) 245-7522.

Sovereignty Submerged Lands Authorization

The portions of the project consisting of dredging submerged lands owned by the State of Florida and creating the Island on submerged lands owned by the State of Florida requires authorization, from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Sections 253.002 and 253.77, Florida Statutes (F.S.).

As staff to the Board of Trustees, the Department has determined that: (1) the proposed dredging of sovereignty submerged lands qualifies for a Letter of Consent as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein, including payment of required severance fees; and (2) the proposed Island requires a public easement. The final documents required to execute the easement will be sent to the Department's Division of State Lands. The Department intends to issue the easement upon satisfactory execution of those

documents, and compliance with the conditions in the previously issued Consolidated Notice of Intent to Issue. **You may not begin deposition of spoil material on sovereignty submerged lands as described above until you receive a copy of the executed public easement from the Department.**

Federal Authorization

A copy of this permit has been sent to the U.S. Army Corps of Engineers (USACE). The USACE may require a separate permit. Failure to obtain any required federal permits prior to construction could subject you to enforcement action by that agency.

Coastal Zone Management

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

Water Quality Certification

This permit constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

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

In addition, you are advised that your project may require additional authorizations or permits from the municipality/county in which the project is located. Please be sure to contact the local county building and environmental department to obtain these required authorizations.

PERMIT/SOVEREIGNTY SUBMERGED LANDS CONDITIONS

The activities described herein must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The General Consent Conditions for Sovereignty Submerged Lands Authorization**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these conditions and drawings prior to commencing the authorized activities. Failure to comply with these conditions, including any mitigation requirements, shall constitute grounds for revocation of the Permit and appropriate enforcement action by the Department.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit/certification/authorization and sovereignty submerged lands authorization, as specifically described above.

SPECIFIC CONDITIONS - PRIOR TO CONSTRUCTION

1. All required submittals such as certifications, notifications, etc., shall be submitted to the Department of Environmental Protection, South District Office, Submerged Lands and Environmental Resource Program, P.O. Box 2549, Fort Myers, FL 33902-2549.
2. All dredging and filling shall be conducted in accordance with the locations, depths and methodologies indicated on the attached permit drawings, Sediment Management Plan, and Construction Methods and Sequencing Plan.
3. Prior to any deviation from the specific permit conditions, permit drawings, and all attachments, the Permittee shall notify the Department of such proposed deviation to enable the Department to determine whether such deviation requires modification of this permit and submittal of the appropriate processing fee.
4. If the approved permit drawings conflict with the specific conditions, then the specific conditions shall prevail.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

5. Impacts to submerged resources outside the project footprint shall not be authorized during construction activities and/or at any time post-construction.
6. All watercraft associated with the permitted construction activities shall only operate within waters of sufficient depth (one-foot clearance from the deepest draft of the vessel to the submerged bottom) so as to preclude bottom scouring or prop dredging.
7. During construction and operational phases of this permit, the Permittee shall ensure that the project complies with applicable State Water Quality Standards, namely:
 - a. Section 62-302.500, F.A.C. – Surface Waters: Minimum Criteria, General Criteria; and
 - b. Section 62-302.530, F.A.C. – Table: Surface Water Quality Criteria - Class II Waters.
8. **Prior to the initiation of any in-water work at the site**, floating turbidity screens with weighted skirts that extend to within 1 ft. of the bottom shall be placed around the active construction area. The screens shall be maintained and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the construction area do not exceed the state's water quality standard for turbidity in Class II waters {29 nephelometric turbidity units (NTUs) above background}. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order so that there is no degradation of the ambient water quality outside of the turbidity screens.
9. The permittee shall ensure that all construction equipment is maintained in a manner to ensure that oils, greases, gasoline, or other pollutants are not released into wetlands or other surface waters.

10. Best management practices for erosion and turbidity control, including, but not limited to, the use of staked hay bales, silt screens, and turbidity curtains shall be used and maintained as necessary at all times during project construction. Any excess spoil material from the permitted dredging not deposited at the Island shall be deposited at a self-contained upland spoil containment site at a rate so that the spoil containment site is never filled to capacity. No return water is permitted into waters of the State in a manner that exceeds state water quality standards. The discharge from the spoil site shall be monitored for turbidity as described in the monitoring section of this permit.

11. The mooring of construction barges and/or other vessels utilized during construction shall be clearly marked to address navigation, including nighttime lighting, if applicable.

12. If at any time during the construction of the permitted facility, unforeseen construction impacts to adjacent surface waters occur, or complications preventing compliance with the specifications of this permit arise, the Permittee shall immediately cease work and notify the Department's South District Office, SLERP Section, P.O. Box 2549, Fort Myers, FL 33902-2549, (239) 344-5669. The Permittee shall submit an alternate construction plan to the Department to allow construction to proceed without additional impact or non-compliance. Work shall not continue until the Department has approved the modification in writing. Substantial changes from the permitted activities may require formal review and modification of this permit.

13. If historical or archaeological artifacts, such as Indian canoes, are discovered at any time within the permitted project sites the permittee shall immediately notify the district office and the Bureau of Historic Preservation, Division of Historical Resources, R. A. Gray Building, 500 S. Bronough St., Tallahassee, Florida 32399-0250. [1/14/13: NO DHR COMMENTS IN FILE. ON 1/3/13 REQUESTED DHR CONFIRM WHETHER THEY RECEIVED APPLICATION AND PROVIDED COMMENTS.]

SPECIFIC CONDITIONS – MANATEE CONDITIONS

14. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with, and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.

15. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area of the project site and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels shall follow routes of deep water whenever possible.

16. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers shall not impede manatee movement.

17. All on-site project personnel are responsible for observing water-related activities for the presence of manatees. All in-water operations, including vessels, shall be shutdown if a manatee

comes within 50 feet of the operation. Activities shall not resume until every manatee has moved beyond the 50-foot radius of the project operation, or until 30 minutes has elapsed wherein a manatee has not reappeared within 50 feet of the operation. Animals shall not be herded away or harassed into leaving.

18. Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida.

19. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used. One sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. Please see the Florida Fish and Wildlife Conservation Commission website for information on how to obtain appropriate signs: http://www.myfwc.com/docs/WildlifeHabitats/Manatee_EducationalSign.pdf

SPECIFIC CONDITIONS – MONITORING/REPORTING REQUIREMENTS

20. Once every four hours during all dredging and filling operations, the permittee shall monitor turbidity levels surrounding the active dredge area and the island creation site. The monitoring shall continue during dredging operations until project completion. Compliance samples shall be taken at one sample site within the densest portion of any visible turbidity plume within 5 feet outside of the turbidity curtains. Ambient samples shall be taken up-current at mid-depth and at no time shall the ambient sample be taken within an apparent turbidity plume. Sampling shall commence prior to, but no more than 24 hours before initiation of any dredging activities and before placement of spoil at the island site. Monitoring for turbidity shall be conducted for the duration of the project construction.

21. Compliance samples shall be collected from surface, mid-depth and one foot above bottom. Mid-depth samples are sufficient in water that is less than five feet deep. Samples shall be collected with a Kemmerer, Van Dorn or a similar sampler that is designed to collect in situ water samples. Samples shall be analyzed immediately after collection with a turbidimeter that produces results in Nephelometric measurements. The field sample results shall be accurately recorded to the precision capabilities (decimal place) of the instrument. Field turbidimeter results shall be rounded to the next whole number (ex. 15.23 NTUs shall be recorded; however the results shall be interpreted as 16.00 NTUs). If monitoring reveals turbidity levels greater than the state's water quality standard for turbidity in Class II waters {29 nephelometric turbidity units (NTUs) above background}, the permittee shall cease all work pursuant to Specific Condition 25.

22. Measurements must be acquired in adherence to the Department's Standard Operating Procedure (SOP) for field turbidity, available at the website: www.dep.state.fl.us/labs/qa/sops.htm. More specifically, the instruments used to measure turbidity shall be fully calibrated within one month prior to commencement of the project, and at least once a

month thereafter during the project. Calibration shall be verified each morning prior to use, and after each time the instrument is turned on, using a turbidity “standard” that is different from the one used during calibration. Calibration procedures shall be recorded in a permanent logbook, and copies must be maintained consistent with Specific Condition 23 below.

23. Turbidity monitoring reports shall be maintained at the construction site and shall be made available for review by the Department upon request from project commencement until dredging completion. Monitoring reports shall contain the following information:
- a. Permit number;
 - b. Dates of sampling and analysis;
 - c. A statement describing the methods used in collection, handling, storage, and analysis of the samples;
 - d. A map indicating the sampling locations; and
 - e. Turbidity data for both a compliance sample and an ambient (background) sample for each monitoring event, referenced in Nephelometric Turbidity Units (NTUs).

Failure to submit reports in a timely manner constitutes a violation of the permit and may be grounds for revocation.

24. Monitoring reports shall also include the following information for each sample taken:
- a. Time of day sample was taken;
 - b. Depth of water body;
 - c. Depth of sample;
 - d. Tidal stage and direction of flow; and
 - e. Antecedent weather conditions, including wind direction and velocity.

25. If monitoring reveals turbidity levels at the compliance sample location(s) appear to violate the State Water quality standards (i.e., compliance sample(s) exceed 29 NTUs above background level), the following measures shall be taken by the permittee:
- a. Immediately cease all work contributing to the water quality violation. Work which may contribute to the violation shall not resume until corrective measures have been taken and turbidity levels have returned to acceptable levels compliant with 62-302, F.A.C.;
 - b. Modify the work procedures that were responsible for the violation, install more turbidity containment devices, and repair any non-functioning turbidity containment devices;
 - c. Increase monitoring frequency to every 2 hours until turbidity levels are within acceptable limits. Interim samples collected following the violation(s) shall be collected in the same manner and locations as the routine monitoring. Operations may not resume until the water quality standard for turbidity has returned to ambient levels; and
 - d. The violation(s) shall be immediately reported to the Department. The report shall include the description of the corrective actions being taken or proposed to be taken. If violation(s) are noted after normal business hours, on holidays, or on weekends, the report shall be made to the Department as soon as normal business hours resume. A

copy of the monitoring data sheets, which indicate violation(s), shall be forwarded immediately to the Department.

Note: In the event of an emergency, the Permittee should contact the Department by calling (800) 320-0519. During normal business hours, the Permittee should call (239) 334-5669.

Failure to report violation(s) or to follow correct procedures before resuming work shall constitute grounds for permit revocation and may subject the permittee to formal enforcement action.

SPECIFIC CONDITIONS – POST CONSTRUCTION

26. Within 30 days of completion of the permitted dredging activities, the permittee shall submit to the Department a detailed report describing the completed construction and including as-built drawings showing all completed dredge bathymetry and Island creation. The submitted drawings shall be plan and cross-sectional view drawings, fully scaled and dimensioned, signed and sealed by a registered professional engineer, showing the entire project area. These drawings shall clearly indicate the deviations from the permit drawings attached to this permit. If the as-built drawings show a significant over-dredge that, as determined by the Department, could potentially result in adverse effects to water quality, the permittee shall submit a backfilling plan acceptable to the Department to level the bottom surface by backfilling with clean fill material free of deleterious substances to the authorized design depth. The Department may require follow-up as-built drawings or bathymetry be submitted after any required backfilling activities. Any identified over-dredging shall not be considered corrected until a written compliance statement has been obtained from the Department.

SPECIFIC CONDITIONS – HABITAT ISLAND OPERATION AND MONITORING REQUIREMENTS

27. The Permittee shall monitor the Island in accordance with the attached Habitat Island Monitoring Plan.

\GENERAL CONDITIONS:

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and a violation of Part IV of Chapter 373, (F.S.).

2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.

3. Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violations of state water quality standards. Temporary

erosion control shall be implemented prior to and during construction and permanent control measures shall be completed within seven (7) days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving water-body exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter Six of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter, the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

4. The permittee shall notify the Department of the anticipated construction start date within thirty (30) days of the date that this permit is issued. **At least forty-eight (48) hours prior** to commencement of the activity authorized by this permit, the permittee shall submit to the Department an “Environmental Resource Permit Construction Commencement” notice (Form No. 62-343.900(3), Florida Administrative Code (F.A.C.)) indicating the actual start date and expected completion date.

5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the Department on an annual basis utilizing an “Annual Status Report Form” (Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year.

6. **Within thirty (30) days after completion of construction** of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law utilizing the supplied “Environmental Resource Permit As-Built Certification by a Registered Professional” (Form No. 62-343.900(5), F.A.C.). The Statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the Department that the system is ready for inspection. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations note. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as “as-built” or “record” drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.

7. The operation phase of this permit shall not become effective; until the permittee has complied with the requirements of condition number six (6) above, has **submitted a “Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase” (Form 62-343.900(7), F.A.C.)**; the Department determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the Department in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District—August 1995, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the Department, the permittee shall initiate transfer of permit to the approved responsible operation entity if different from the permittee. Until the permit is transferred pursuant to

Rule 62-343.110(1) (d), F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.

9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the Department along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District—August 1995, prior to lot or unit sales or prior to lot or unit sales or prior to the completion of the system, whichever occurs first. Other documents concerning the establishment and authority of the operation entity must be filed with the Secretary of State where appropriate. For those systems which are proposed to be maintained by the county or municipal entities, final operation and maintenance documents must be received by the Department when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.

10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.

11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C.

12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorization from the Board of Trustees prior to commencing activity on sovereignty lands or other state owned lands.

13. The permittee is advised that the rules of the South Florida Water Management District require the permittee to obtain a water use permit from the South Florida Water management District prior to construction dewatering, unless the work qualifies for a general permit pursuant to Rule 40E-20.302(4), F.A.C., also known as the “No Notice” rule.

14. The permittee shall hold and save the Department harmless from any and all damages, claims or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by this permit.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Section 373.421(2). F.S., provides otherwise.

16. The permittee shall notify the Department in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rule 62-343.130, F.A.C. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

17. Upon reasonable notice to the permittee, Department authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.

18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate Department office.

19. The permittee shall immediately notify the Department in writing of and previously submitted information that is later discovered to be inaccurate.

GENERAL CONDITIONS FOR SOVEREIGNTY SUBMERGED LANDS AUTHORIZATION

Any use of sovereignty submerged lands is subject to the following general conditions are binding upon the permittee and are enforceable under Chapter 253, F.S., and, as applicable, Chapter 258, F.S.:

1. Sovereignty submerged lands may be used only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use will constitute a violation. Violation of the authorization shall result in suspension or revocation of the permittee's use of the sovereignty submerged land unless cured to the satisfaction of the Board of Trustees.

2. Authorization under Rule 18-21.005, F.A.C., convey no title to sovereignty submerged land or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.

3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S., and Chapter 18-14, F.A.C.

4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.
5. Construction, use, or operation of the structure or activity will not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.
6. Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.
7. Structures or activities will not create a navigational hazard.
8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.
9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.
10. The permittee agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the permittee's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.
11. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.
12. Permittee binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the permittee or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the permittee or its successors or assigns. Upon receipt of such notice, the permittee or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
13. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the permittee. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The permittee will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.

14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

Executed in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jon M. Iglehart
District Director
South District Office

JMI/mrm

Attachments:

Project Drawings and Design Specs., X (number of) pages

Sediment Management Plan X (number of) pages

Construction Methods and Sequencing Plan X (number of) pages

Habitat Island Monitoring Plan X (number of) pages

Commencement notice /62-343.900(3)*

Annual status report/62-343.900(4)*

As-built certification/62-343.900(5)*

Inspection certification/62-343.900(6)*

Transfer construction to operation phase/ 62-343.900(7)*

Application for transfer of an ERP permit/62-343.900(8)*

*Can be downloaded at: <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>

Copies furnished to:

DEP, Office of General Counsel (electronically)

U.S. Army Corps of Engineers, Log # 13806

FWC, Imperiled Species Management Section

Collier County Property Appraiser (electronically)

Bureau of Public Land Administration, BOT #110236845

Robert Diffenderfer, Lewis, Longman and Walker PA (electronically)

U.S. Coast Guard

[Federal Energy Regulatory Commission](#)

Department of Economic Opportunity (for docking facilities in OFWs, Class II Waters, or in areas frequented by manatees)

CERTIFICATE OF SERVICE

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

FILING AND ACKNOWLEDGMENT

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

Clerk

Date