



Florida Department of Environmental Protection

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Rick Scott
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Carlos Lopez-Cantera
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Jonathan P.
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Secretary

Permittee/Authorized Entity:

City of Naples
295 Riverside Circle
Naples, FL 34102

Naples Bay and Rocky Creek Oyster Habitat Restoration Project

Authorized Agent:

Scheda Ecological Associates, Inc.
6151 Lake Osprey Drive, Suite 320
Sarasota, FL 34240
dianne@scheda.com

Environmental Resource Permit State-owned Submerged Lands Authorization – Granted

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

Permit No.: 11-0345034-001

Permit Issuance Date: October 24, 2016
Permit Construction Phase Expiration Date: October 23, 2021

Consolidated Environmental Resource Permit and State-owned Submerged Lands Authorization

Permittee: City of Naples
Permit No: 11-0345034-001

PROJECT LOCATION

The activities authorized by this permit and sovereignty submerged lands authorization are located at two sites in Naples Bay and one near the confluence of Rocky Creek and the Gordon River. Site 1 is a 3.33-acre area located west of Parcel ID# 2076348002 and 20763520001 and Site 2 is a 1.41-acre area located west of Parcel ID # 20763440000, in Sections 15, Township 50 South, Range 25 East. Site 3 is a 0.18-acre site west of Parcel ID # 20763440000, in Section 3, Township 50 South, Range 25 East, Collier County.

PROJECT DESCRIPTION

The permittee is authorized to conduct oyster habitat restoration through the placement of: (1) bagged shell in approximately 4' x 4' pods having a maximum height of 5 feet, spaced at a minimum of 16 feet apart; (2) three 150' x 13' reef ball wave attenuation structures to be placed at Site 1; and (3) navigational warning signs and public educational signs at each site. The project will be located within Naples Bay, Class II Waters, Unclassified for Shellfish Harvesting and Rocky Creek, Class III Waters. Authorized activities are depicted on the attached exhibits.

AUTHORIZATIONS

Naples Bay and Rocky Creek Oyster Restoration Project

Environmental Resource Permit

The Department has determined that the activity qualifies for an Environmental Resource Permit. Therefore, the Environmental Resource Permit is hereby granted, pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Chapter 62-330, Florida Administrative Code (F.A.C.).

Sovereignty Submerged Lands Authorization

The activity is located on sovereignty submerged lands owned by the State of Florida. It therefore also 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 Section 253.77, F.S., and Chapter 258, F.S.

As staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) under Sections 253.002, F.S., the Department has determined that the activity qualifies for and requires a Letter of Consent, as long as the work performed is located within the boundaries as described and is consistent with the terms and conditions herein.

Federal Authorization

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **may be required** from the Corps. A copy of your permit application has been forwarded to the Corps for their review. **The Corps has assigned file number 2016-1788 to your project.** The Corps will issue their authorization directly to you or contact you if additional information is needed. If you have not heard from the Corps within 30 days from the date your application was received at the local FDEP Office, contact the Corps at the Fort Myers Regulatory Office at 239-334-1975, for status and further information. **Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.**

Authority for review - an agreement with the USACOE entitled “Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection, or Duly Authorized Designee, State Programmatic General Permit”, Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

Coastal Zone Management

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

Water Quality Certification

This permit also constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341

Other Authorizations

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

The activity described may be conducted only in accordance with the terms, conditions and attachments contained in this document. Issuance and granting of the permit and authorizations herein do not infer, nor guarantee, nor imply that future permits, authorizations, or modifications will be granted by the Department.

PERMIT and SOVEREIGNTY SUBMERGED LANDS CONDITIONS

The activities described must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The General 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 beginning the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings herein. If you are using a contractor, the contractor also should read and understand these conditions and drawings prior to beginning any activity. Failure to comply with these conditions, including any mitigation requirements, shall be grounds for the Department to revoke the permit and authorization and to take appropriate enforcement action.

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

SPECIFIC CONDITIONS – ADMINISTRATIVE

1. All required submittals, such as certifications, monitoring reports, notifications, etc., shall be submitted to the Florida Department of Environmental Protection, South District Office, Submerged Lands and Environmental Resource Permitting, P.O. Box 2549, Fort Myers, FL 33902-2549 ('South District Office'), or via e-mail to FTMERP_Compliance@dep.state.fl.us. All submittals shall include the project name and indicated permit number when referring to this project.

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)344-5600.

SPECIFIC CONDITIONS - PRIOR TO CONSTRUCTION

2. All work shall be conducted in accordance with the description provided in the attached drawings, unless otherwise specified in the specific conditions of this permit.

3. The project shall comply with applicable State Water Quality Standards, namely:
Rule 62-302.500, F.A.C. – Surface Waters: Minimum Criteria, General Criteria;
Rule 62-302.530, F.A.C. – Table: Surface Water Quality Criteria.

4. All storage or stockpiling of tools or materials shall be limited to uplands or within the impact areas authorized by this project.

5. Prior to the initiation of any work authorized by this permit, floating turbidity screens with weighted skirts that extend to within 1 foot of the bottom shall be placed so as to surround and isolate the active dredge area(s) from ambient waters. The screens shall be maintained and shall remain in place for the duration of each particular phase of project construction to ensure that turbidity levels outside the active dredge area do not exceed 29 NTU's above background levels. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order so that there are no violations of state water quality standards outside of the turbidity screens.

6. The following measure shall be taken by the permittee whenever turbidity levels within waters of the State surrounding the project site, exceed 29 NTUs above background:
a. Immediately cease all work contributing to the water quality violation;
b. Stabilize all exposed soils contributing to the turbidity violation, modify the work procedures that were responsible for the violation, and install more turbidity

containment devices and repair any non-functioning turbidity containment devices;
and

- c. Notify the DEP South District Office within 24 hours of the time the violation is first detected.

7. If a barge is used during construction, the permittee shall ensure at least one foot of clearance is maintained between the deepest draft of the barge and the top of any resources (i.e. seagrass, etc.) or bottom at all times. The permittee shall also ensure that the barge does not impact resources during construction activities.

8. All work shall be conducted by persons having expertise designing and implementing oyster habitat creation activities and that the person will carefully supervise all persons responsible for installing the LPOH.

9. The oyster habitat shall not be used to serve any aquaculture function.

10. An environmental resource survey of the bottom of the waterbody throughout the oyster habitat area shall be conducted, in conjunction with the Department, one-month prior to initiation of the project prior to initiation of the project. The survey should demonstrate that the oyster habitat area, does not have submerged grassbeds, clam beds, hardbottom, coral, or macroalgae communities.

11. The oyster habitat shall be installed using only clean, sediment free culture materials (cultch) that does not contain deleterious substances that have the potential to leach into surface waters.

12. The oyster habitat materials shall not be indiscriminately dumped, and shall not be placed outside of the total footprint limits.

13. Within 45 days but no less than 30 days prior to commencement of work the permittee shall publish a one-time notice in a newspaper of paid general circulation in the vicinity of the project location. The newspaper notice shall provide that any concerns about the oyster shall be directed to the Department at the Department's contact address. An affidavit of publication shall be provided to the Department within 30 days of the publication date. If the project is conducted in phases and not within the same calendar year, each phase shall be published in accordance with the timeframes specified.

SPECIFIC CONDITIONS – Monitoring and Reporting

14. The Permittee shall submit a “Monitoring Report” to the Department in accordance with the schedule below. The purpose is to determine the success of the oyster habitat area. Data shall be collected as necessary to prepare the Monitoring Report and to identify areas needing maintenance. Data shall be collected semi-annually the first year and annually thereafter if funding is available, for a minimum of three consecutive years. The Monitoring Reports shall include the following information:

- (a) Date of the inspection (“Monitoring Event”);
- (b) Color photographs taken from fixed reference points;

- (c) Brief description of the extent of work completed since the previous report. Indicate on copies of the permit drawings those areas where work has been completed;
- (d) The combined percent areal coverage of oyster habitat;
- (e) A description of any additional steps taken to enhance the project area;
- (f) Description of any native wetland species recruitment back into the project area;
- (g) Any observations of wildlife and tide stage monitoring.

Timeframe	Activity
Commencement of Construction	Initial oyster shell installation and Mapping of reef footprints
Six months after Initial Installation	Semi-Annual Monitoring Event
60 days after semi-annual Monitoring Event	Semi-annual Monitoring Report Due
Six months after Semi-Annual Event	Annual Monitoring Event
60 days after 1st Annual Monitoring Event	1st Annual Monitoring Report Due
One year after 1 st Annual Report	2 nd Annual Monitoring Event
60 days after 2nd Annual Monitoring Event	2nd Annual Monitoring Report Due
One year after 2 nd Annual Report	3 rd Annual Monitoring Event
60 days after 3rd Annual Monitoring Event	3rd Annual Monitoring Report Due

15. The oyster restoration shall be deemed successful when the following criteria are met for three consecutive years:

- a. The area shows a minimum of 80% survival rate of live oysters;
- b. There is evidence of natural recruitment, healthy growth, and reproduction within the restoration area a minimum density of 25% as calculated from the end of the first growing season with at least two size classes present by the end of the third year.

16. If it is determined by the Department that the proposed restoration site is not meeting or trending to the success criteria as outlined above, a plan for remedial actions, including the possible removal of all structures, shall be submitted to the Department within 30 days of the non-success determination. The program shall be implemented within 30 days of approval by the Department.

SPECIFIC CONDITIONS – MANATEE CONDITIONS

17. 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.

18. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area 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.

19. 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.

20. 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.

21. 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.

22. 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/media/415211/Manatee_EducationalSign.pdf

GENERAL CONDITIONS FOR INDIVIDUAL PERMITS

The following general conditions are binding on all individual permits issued under chapter 62-330, F.A.C., except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.

2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.

3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," [October 1, 2013], which is incorporated by reference in paragraph 62-330.350(1)(d), F.A.C., indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
 - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or
 - b. For all other activities "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].
 - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
 - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
 - b. Within 30 days of submittal of the as- built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity" [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

9. This permit does not:

- a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
- b. Convey to the permittee or create in the permittee any interest in real property;
- c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
- d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.

10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.

12. The permittee shall notify the Agency in writing:

- a. Immediately if any previously submitted information is discovered to be inaccurate; and
- b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.

14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.

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 Rule 62-330.201, F.A.C., provides otherwise.

16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.

17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.

18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

**GENERAL CONDITIONS FOR SOVEREIGNTY SUBMERGED LANDS
AUTHORIZATION**

Any use of sovereignty submerged lands is subject to the following general conditions are binding upon the applicant and are enforceable under Chapter 253, 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 will result in suspension or revocation of the applicant's use of the sovereignty submerged lands unless cured to the satisfaction of the Board of Trustees.

2. Authorization under Rule 18-21.005, F.A.C., conveys no title to sovereignty submerged lands 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 will 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 applicant 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 applicant'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. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant 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 applicant or its successors or assigns. Upon receipt of such notice, the applicant 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 applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant 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.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this

action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any email address, any facsimile number, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

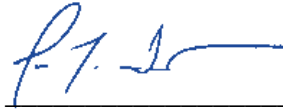
The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Executed in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart
District Director
South District Office

JMI/MM/pc

Attachments:

13 project drawing(s)

Notice of Permit Issuance

Post Issuance forms: <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>

Copies furnished to:

U.S. Army Corps of Engineers, File # 2016-1788, fdep.other@usace.army.mil

Collier County Property Appraiser, jredding@collierappraiser.com

FWC, Imperiled Species Management Section, fwcconservationplanningservices@myfwc.com

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 October 24, 2016 to the above listed persons.

FILING AND ACKNOWLEDGMENT

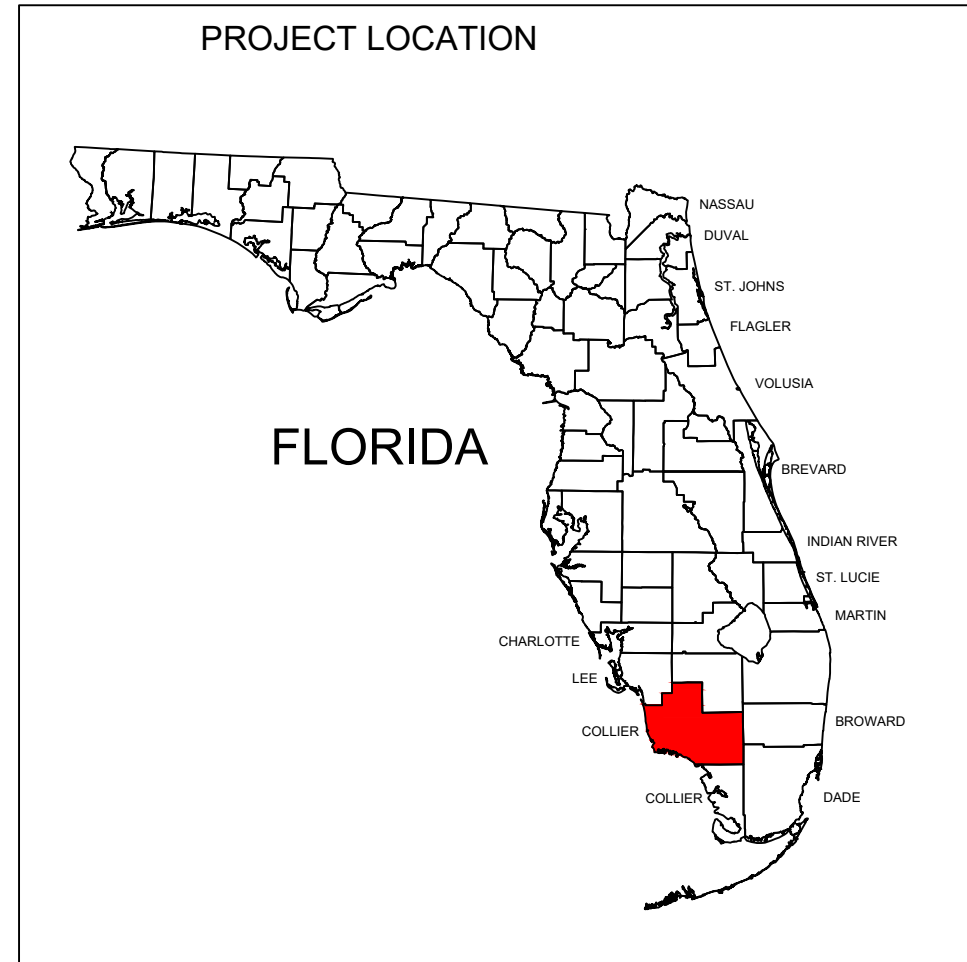
FILED, on this date, pursuant to Section 120.52(7), F.S., with the designated Department clerk, receipt of which is hereby acknowledged.

Clerk  Date October 24, 2016

NAPLES BAY OYSTER RESTORATION CONSTRUCTION DRAWINGS

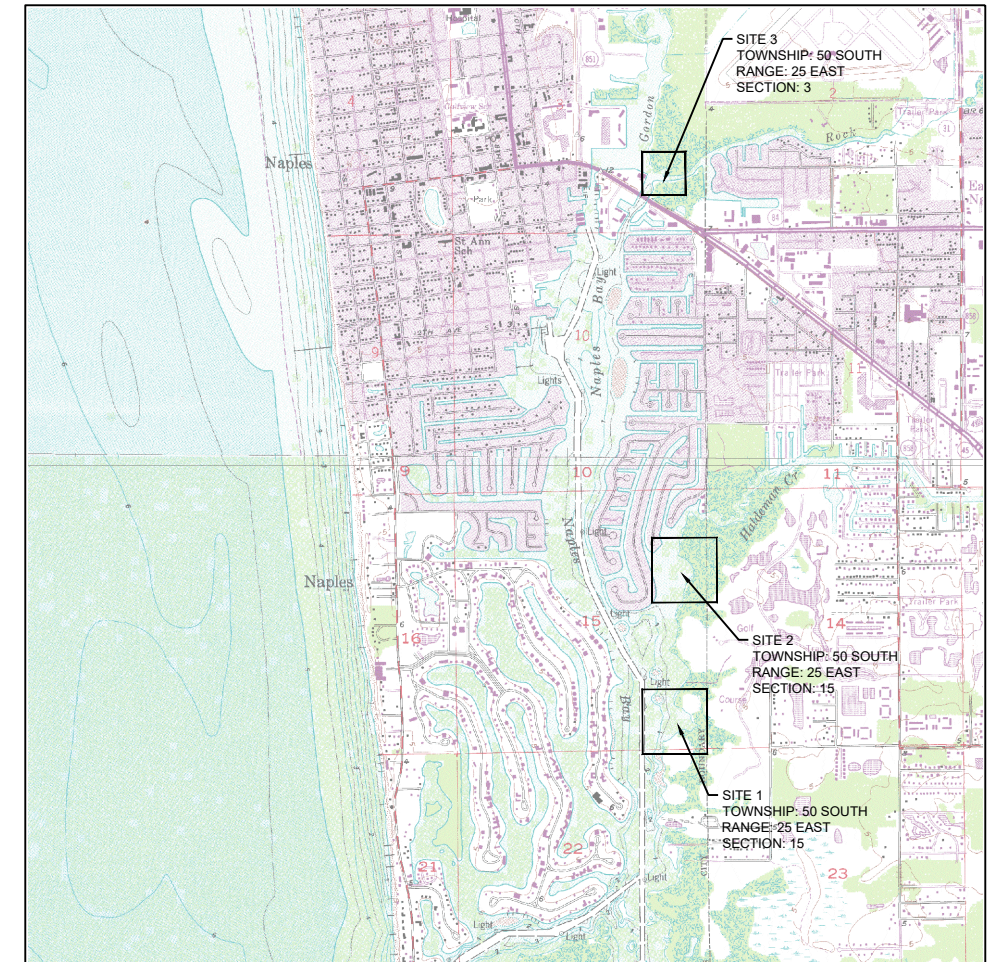
CITY OF NAPLES, COLLIER COUNTY, FLORIDA

90% SUBMITTAL
PERMIT APPLICATION
PURPOSES ONLY
NOT FOR
CONSTRUCTION



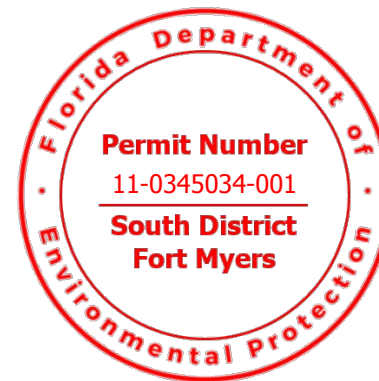
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LOCATION MAP
N.T.S.

VICINITY MAP
1" = 2,000' (22x34)
1" = 4,000' (11x17)

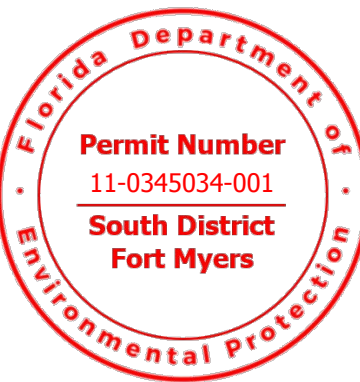




Always call 811 two full business days before you dig

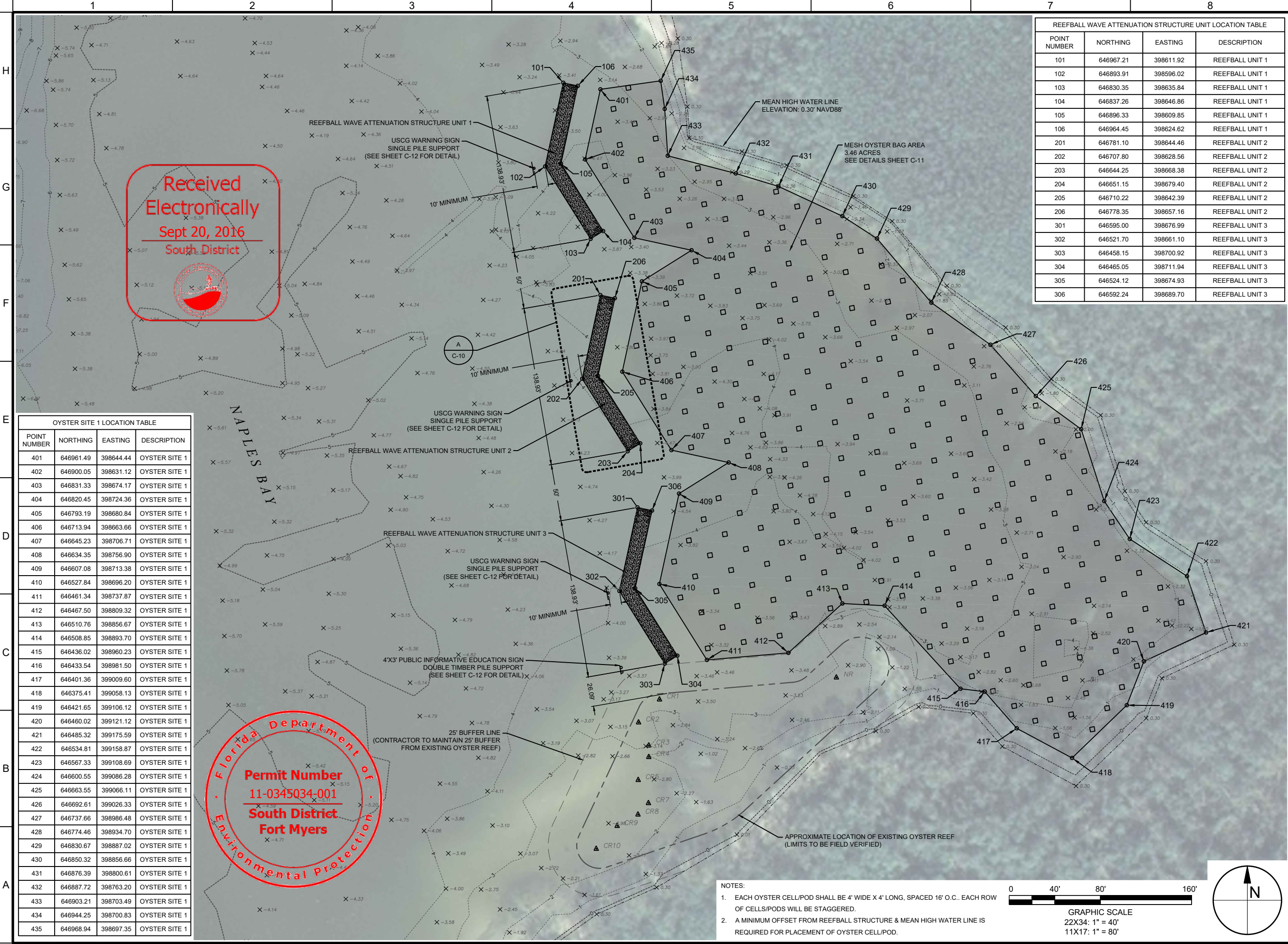


 TAYLOR ENGINEERING INC. 10151 DEERWOOD PARK BLVD. BLDG. 300, SUITE 300 JACKSONVILLE, FLORIDA 32256 (904)-731-7040 1675 PALM BEACH LAKES, SUITE 210 WEST PALM BEACH, FLORIDA 33401 (561)-640-7310 CERTIFICATE OF AUTHORIZATION # 4815	PRELIMINARY DRAWINGS: THESE DRAWINGS ARE NOT IN FINAL FORM, BUT ARE BEING TRANSMITTED FOR REVIEW.	SEAL 90% SUBMITTAL PERMIT APPLICATION PURPOSES ONLY NOT FOR CONSTRUCTION CLIFFORD L. TRUITT P.E. # 21194
	PROJECT TITLE NAPLES BAY OYSTER RESTORATION CONSTRUCTION DRAWINGS CITY OF NAPLES, COLLIER COUNTY, FLORIDA	
PROJECT NO C2015-037	DATE AUGUST 2016	

1	2	3	4	5	6	7	8
<p><u>PROJECT NOTES</u></p> <p><u>DEFINITIONS</u></p> <ol style="list-style-type: none"> <u>OWNER</u>: CITY OF NAPLES AND THE ENTITY UNDER CONTRACT WITH THE CONTRACTOR TO PERFORM THE WORK. <u>ENGINEER</u>: OWNER'S DESIGNATED REPRESENTATIVE FOR CONSTRUCTION INSPECTION AND OVERSIGHT. <u>ENGINEER OF RECORD (EOR)</u>: ENGINEER WHOSE NAME AND SEAL IS AFFIXED TO THE DRAWINGS AND SPECIFICATIONS. <u>RECORD DRAWINGS</u>: RECORD DRAWINGS SHALL BE DEFINED AS A COPY OF THE ORIGINAL SIGNED AND SEALED DRAWINGS KEPT ONSITE AT ALL TIMES WHERE THE CONTRACTOR SHALL KEEP A RECORD OF ALL DEVIATIONS FROM THE ORIGINAL DRAWINGS MARKED IN RED PENCIL OR PEN. <u>U.N.O.</u> : UNLESS NOTED OTHERWISE <p><u>PROJECT NOTES:</u></p> <ol style="list-style-type: none"> ALL ELEVATIONS SHOWN ARE IN FEET AND REFER TO NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88). HORIZONTAL COORDINATES ARE BASED ON STATE PLANE COORDINATE SYSTEM FOR THE EAST ZONE (901) OF FLORIDA NAD 83/90. BATHYMETRIC SURVEYS CONDUCTED ON MARCH 2016 BY DaGOSTINO & WOOD, INC. THE INFORMATION DEPICTED ON THESE DRAWINGS REPRESENTS THE RESULTS OF SURVEYS MADE ON THE DATES INDICATED AND CAN ONLY BE CONSIDERED AS INDICATIONS OF GENERAL CONDITIONS EXISTING AT THAT TIME. <p><u>GENERAL NOTES</u></p> <ol style="list-style-type: none"> THE CONTRACTOR SHALL INVESTIGATE THE PROJECT SITE PRIOR TO INITIATING ANY CONSTRUCTION. THE CONTRACTOR SHALL FIELD VERIFY LOCATIONS OF ALL STRUCTURES, OYSTER REEFS AND EXISTING UTILITIES, WHETHER SHOWN OR NOT ON THE DRAWINGS. THE CONTRACTOR SHALL COORDINATE CONSTRUCTION TOGETHER WITH CITY OF NAPLES TO ENSURE PUBLIC AND PRIVATE SAFETY IN AND AROUND THE CONSTRUCTION SITE. THE CONTRACTOR SHALL PLACE WARNING BUOYS AND SIGNS INDICATING THE AREAS AND LIMITS OF CONSTRUCTION. THE CONTRACTOR SHALL COORDINATE WORK HOURS WITH OWNER TO MEET PROJECT SCHEDULE REQUIREMENTS. THE CONTRACTOR SHALL MAINTAIN A SET OF RECORD DRAWINGS AND SHALL KEEP A RECORD OF ALL DEVIATIONS FROM THE ORIGINAL DRAWINGS MARKED IN RED PENCIL OR PEN. THE RECORD DRAWINGS SHALL BE KEPT ONSITE AND SHALL BE AVAILABLE FOR INSPECTION BY THE ENGINEER. WHEN ALL SUBSTANTIAL WORK IS DONE AND BEFORE NOTICE OF FINAL COMPLETION OF THE WORK, THE CONTRACTOR SHALL SUBMIT THE ORIGINAL RECORD DRAWINGS TO THE ENGINEER AND UP TO 5 FULL SIZE OR REDUCED SIZE COPIES AS REQUESTED BY THE ENGINEER. THE CONTRACTOR SHALL PROVIDE ACCESS TO THE WORK FOR INSPECTION BY THE ENGINEER, REGULATORY AGENCIES, AND OWNER. THE CONTRACTOR IS RESPONSIBLE FOR COORDINATION WITH THE ENGINEER AS NECESSARY FOR CONSTRUCTION INSPECTION AND AS-BUILT CERTIFICATION. THE CONTRACTOR SHALL NOTIFY THE ENGINEER AT APPROPRIATE AND APPROVED TIMES DURING THE COURSE OF THE WORK THAT THE CONTRACTOR IS READY FOR INSPECTION. WORK THAT IS ASSEMBLED OR COVERED SO THAT THE ENGINEER CANNOT INSPECT THE WORK PROPERLY SHALL BE DISASSEMBLED, UNCOVERED, OR DESTROYED AS NECESSARY FOR INSPECTION. THE COSTS OF REPAIR OR RESTORATION OF THIS WORK SHALL BE BORNE SOLELY BY THE CONTRACTOR. THE CONTRACTOR SHALL PROVIDE PERSONNEL AND EQUIPMENT FOR ENGINEER TO INSPECT AND INQUIRE ABOUT THE WORK. THIS MAY INCLUDE PROJECT MANAGERS, SUPERINTENDENTS, FOREMAN, LABORERS, LADDERS, HARD HATS, LIFTS, SCAFFOLDING, MEASURING DEVICES, SURVEY EQUIPMENT, LIFE JACKETS, ETC. THE CONTRACTOR SHALL WARRANT THE WORK FOR A MINIMUM OF ONE YEAR UNLESS CLEARLY DEFINED OTHERWISE IN THE CONTRACT DOCUMENTS. THE CONTRACTOR SHALL REPAIR AND/OR REPLACE ALL DEFECTIVE MATERIALS AND WORK AT NO COSTS TO THE OWNER WITHIN THE STATED WARRANTY PERIOD. ALL PERMANENT MATERIAL SHALL BE NEW, USED, RECONDITIONED, OR REMANUFACTURED MATERIAL SHALL NOT BE ALLOWED UNLESS APPROVED BY THE OWNER IN WRITING. THE CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS. THE CONTRACTOR SHALL VERIFY THE EXISTENCE OF ALL ABOVE-GROUND, BELOW-GROUND, AND SUBMERGED UTILITIES WITHIN THE SITES. IF ANY UTILITIES ARE FOUND, CONTRACTOR MUST LOCATED & MARK LOCATIONS BEFORE BEGINNING WORK. IN THE EVENT OF A CONFLICT BETWEEN THE SPECIFICATIONS AND THE DRAWINGS, THE DRAWINGS SHALL GOVERN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DAMAGE TO ADJACENT FACILITIES AND STRUCTURES CAUSED BY HIS ACTIVITIES DURING PERFORMANCE OF THE WORK. THE CONTRACTOR SHALL RESTORE ALL SUCH DAMAGES TO THEIR PRE-CONSTRUCTION CONDITION AT NO COSTS TO THE OWNER. THE CONTRACTOR SHALL IMPLEMENT AND MAINTAIN EROSION CONTROL MEASURES AS NECESSARY TO COMPLY WITH LOCAL, STATE, AND FEDERAL LAWS AND REGULATIONS. EROSION CONTROL MEASURES MUST BE IMPLEMENTED PRIOR TO ANY WORK COMMENCING AND BE MAINTAINED FOR THE DURATION OF THE PROJECT AND ONLY REMOVED WHEN ALL CONSTRUCTION AND INSTALLATION OF ALL OYSTER MESH BAGS, REEFBALL UNITS AND FOUNDATIONS FOR REEFBALL UNITS HAS BEEN COMPLETED. THE CONTRACTOR MUST HAVE ALL USCG WARNING SIGNAGE AND ANY OTHER REQUIRED MARKERS, AND WARNING BUOYS IN PLACE BEFORE REMOVING WARNING BUOYS AND SIGNS INDICATING THE AREAS AND LIMITS OF CONSTRUCTION AND EROSION CONTROL MEASURES TO ENSURE THE PUBLIC IS AWARE OF PERMANENT SUBMERGED STRUCTURES WITHIN THE WATERWAYS. <p><u>PERMITS AND PERMIT CONDITIONS</u></p> <ol style="list-style-type: none"> THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS NOT SUPPLIED BY THE OWNER. COSTS OF OBTAINING PERMITS NOT SUPPLIED BY THE OWNER SHALL BE BORNE BY THE CONTRACTOR. THIS MAY INCLUDE BUT NOT BE LIMITED TO: NPDES PERMIT (OR NOI), CLEARING OR LAND DISTURBANCE PERMITS, TEMPORARY UTILITIES PERMITS, ETC. UNLESS CLEARLY SPECIFIED OTHERWISE BY THE OWNER IN THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR FILING ALL NOTICES OF COMMENCEMENTS AND NOTICES OF COMPLETION TO ALL PERMITTING AGENCIES INCLUDING PERMITS SUPPLIED BY THE OWNER. <p><u>AS-BUILT SURVEYS</u></p> <ol style="list-style-type: none"> UNLESS CLEARLY SPECIFIED OTHERWISE IN THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL INCLUDE THE COST OF AN AS-BUILT SURVEY IN THE BID PRICE AND SHALL STATE A SEPARATE PRICE FOR AN AS-BUILT SURVEY IN THE BID PRICE. THE AS-BUILT SURVEY SHALL BE SIGNED AND SEALED BY A SURVEYOR LICENSED IN THE STATE OF FLORIDA AND SHALL SHOW THE LOCATION AND ELEVATION OF ALL CONSTRUCTED OR INSTALLED FEATURES. THE AS-BUILT SURVEY SHALL BE SUBMITTED IN DIGITAL AND 22" X 34" PAPER VERSIONS (UP TO 5 COPIES) TO THE ENGINEER FOR APPROVAL. THE AS-BUILT SURVEY SHALL BE PERFORMED IN THE SAME HORIZONTAL AND VERTICAL COORDINATE SYSTEM THE DRAWINGS ARE IN. DIGITAL DRAWINGS SHALL BE IN AUTOCAD 2008 OR NEWER VERSION. 							
<p><u>SUBMITTALS AND TESTING REQUIREMENTS</u></p> <ol style="list-style-type: none"> ALL TESTING, EITHER PRE-CONSTRUCTION OR CONSTRUCTION, AS REQUIRED HEREIN OR IN THE CONTRACT DOCUMENTS, SHALL BE PERFORMED BY AN INDEPENDENT QUALIFIED TESTING COMPANY. THE COSTS OF ALL SUCH TESTING SHALL BE BORNE BY THE CONTRACTOR AND SHALL BE INCLUDED IN THE BID PRICE. THE QUALIFIED TESTING AGENCY SHALL BE APPROVED PER FDOT STANDARDS, AASHTO STANDARDS OR SIMILAR SUCH STANDARDS AS APPROVED BY THE ENGINEER. ALL TESTING WORK SHALL BE DONE UNDER THE SUPERVISION OF A REGISTERED PROFESSIONAL ENGINEER LICENSED IN FLORIDA AND SHALL BE SIGNED AND SEALED BY A REGISTERED PROFESSIONAL ENGINEER IF REQUESTED. UNLESS MODIFIED BY THE CONTRACT DOCUMENTS, SUBMITTALS AND REQUEST FOR INFORMATION SHALL BE SUBMITTED TO THE ENGINEER IN WRITING IN A FORMAT ACCEPTABLE TO THE ENGINEER AND SHALL BE SUBMITTED A MINIMUM OF 6 WORKING DAYS, PREFERABLY 10 WORKING DAYS, BEFORE ACTION IS REQUIRED. ALL REQUIRED SUBMITTALS OR MANUFACTURER'S INFORMATION SHALL BE IN U.S. CUSTOMARY UNITS. ALL SUBMITTALS REQUIRE APPROVAL BY THE ENGINEER U.N.O.. SUBMITTALS SHALL INCLUDE UP TO 7 COPIES AS REQUESTED BY THE ENGINEER UNLESS STATED OTHERWISE BY THE ENGINEER. 							



 TAYLOR ENGINEERING INC. 10151 DEERWOOD PARK BLVD. BLDG. 300, SUITE 300 JACKSONVILLE, FLORIDA 32256 (904)-731-7040 1675 PALM BEACH LAKES, SUITE 210 WEST PALM BEACH, FLORIDA 33401 (561)-640-7310 <small>CERTIFICATE OF AUTHORIZATION # 4815</small>																																												
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<p>C-2</p> <p><small>SHEET 2 OF 13</small></p>																																												



Received Electronically
Sept 20, 2016
South District

Florida Department of Environmental Protection
Permit Number 11-0345034-001
South District
Fort Myers

REEFBALL WAVE ATTENUATION STRUCTURE UNIT LOCATION TABLE

POINT NUMBER	NORTHING	EASTING	DESCRIPTION
101	646967.21	398611.92	REEFBALL UNIT 1
102	646893.91	398596.02	REEFBALL UNIT 1
103	646830.35	398635.84	REEFBALL UNIT 1
104	646837.26	398646.86	REEFBALL UNIT 1
105	646896.33	398609.85	REEFBALL UNIT 1
106	646964.45	398624.62	REEFBALL UNIT 1
201	646781.10	398644.46	REEFBALL UNIT 2
202	646707.80	398628.56	REEFBALL UNIT 2
203	646644.25	398668.38	REEFBALL UNIT 2
204	646651.15	398679.40	REEFBALL UNIT 2
205	646710.22	398642.39	REEFBALL UNIT 2
206	646778.35	398657.16	REEFBALL UNIT 2
301	646595.00	398676.99	REEFBALL UNIT 3
302	646521.70	398661.10	REEFBALL UNIT 3
303	646458.15	398700.92	REEFBALL UNIT 3
304	646465.05	398711.94	REEFBALL UNIT 3
305	646524.12	398674.93	REEFBALL UNIT 3
306	646592.24	398689.70	REEFBALL UNIT 3

OYSTER SITE 1 LOCATION TABLE

POINT NUMBER	NORTHING	EASTING	DESCRIPTION
401	646961.49	398644.44	OYSTER SITE 1
402	646900.05	398631.12	OYSTER SITE 1
403	646831.33	398674.17	OYSTER SITE 1
404	646820.45	398724.36	OYSTER SITE 1
405	646793.19	398680.84	OYSTER SITE 1
406	646713.94	398663.66	OYSTER SITE 1
407	646645.23	398706.71	OYSTER SITE 1
408	646634.35	398756.90	OYSTER SITE 1
409	646607.08	398713.38	OYSTER SITE 1
410	646527.84	398696.20	OYSTER SITE 1
411	646461.34	398737.87	OYSTER SITE 1
412	646467.50	398809.32	OYSTER SITE 1
413	646510.76	398856.67	OYSTER SITE 1
414	646508.85	398893.70	OYSTER SITE 1
415	646436.02	398960.23	OYSTER SITE 1
416	646433.54	398981.50	OYSTER SITE 1
417	646401.36	399009.60	OYSTER SITE 1
418	646375.41	399058.13	OYSTER SITE 1
419	646421.65	399106.12	OYSTER SITE 1
420	646460.02	399121.12	OYSTER SITE 1
421	646485.32	399175.59	OYSTER SITE 1
422	646534.81	399158.87	OYSTER SITE 1
423	646567.33	399108.69	OYSTER SITE 1
424	646600.55	399086.28	OYSTER SITE 1
425	646663.55	399066.11	OYSTER SITE 1
426	646692.61	399026.33	OYSTER SITE 1
427	646737.66	398986.48	OYSTER SITE 1
428	646774.46	398934.70	OYSTER SITE 1
429	646830.67	398887.02	OYSTER SITE 1
430	646850.32	398856.66	OYSTER SITE 1
431	646876.39	398800.61	OYSTER SITE 1
432	646887.72	398763.20	OYSTER SITE 1
433	646903.21	398703.49	OYSTER SITE 1
434	646944.25	398700.83	OYSTER SITE 1
435	646968.94	398697.35	OYSTER SITE 1

TAYLOR ENGINEERING INC.
10151 DEERWOOD PARK BLVD.
BLDG. 300, SUITE 300
JACKSONVILLE, FLORIDA 32256
(904)-731-7040
1675 PALM BEACH LAKES, SUITE 210
WEST PALM BEACH, FLORIDA 33401
(561)-640-7310
CERTIFICATE OF AUTHORIZATION # 4815

CLIFFORD L. TRUITT P.E. # 21194
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Sunshine811.com

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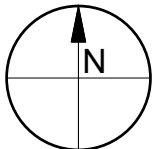
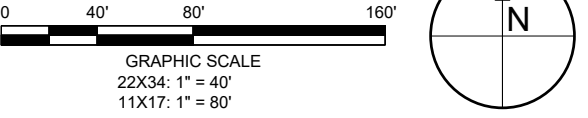
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DRAWN	RLJ
CHECKED	CAS
REVIEWED	CLT
SCALE	AS SHOWN

DRAWING TITLE
SITE PLAN SITE 1

C-7
SHEET 7 OF 13

- NOTES:
- EACH OYSTER CELL/POD SHALL BE 4' WIDE X 4' LONG, SPACED 16' O.C.. EACH ROW OF CELLS/PODS WILL BE STAGGERED.
 - A MINIMUM OFFSET FROM REEFBALL STRUCTURE & MEAN HIGH WATER LINE IS REQUIRED FOR PLACEMENT OF OYSTER CELL/POD.



REBECCA JOHNSON, 8/24/2016 9:38:17 AM, X:\wp\Projects\2015037 Naples Bay Oyster Reef Construction\2015037-C-Site Plan.dwg

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
CONSOLIDATED NOTICE OF PERMIT ISSUANCE
FOR ERP ACTIVITIES ON SOVEREIGN SUBMERGED LANDS

The Department of Environmental Protection gives notice of the issuance of an environmental resource permit, #11-0345034-001, and authorization to use sovereign submerged land to the City of Naples, 295 Riverside Circle, Naples, to conduct oyster habitat restoration through the placement of: (1) bagged shell in approximately 4' x 4' pods having a maximum height of 5 feet, spaced at a minimum of 16 feet apart; (2) three 150' x 13' reef ball wave attenuation structures to be placed at Site 1; and (3) navigational warning signs and public educational signs at each site. The project will be located within Naples Bay, Class II Waters, Unclassified for Shellfish Harvesting and Rocky Creek, Class III Waters.

Located at two sites in Naples Bay and one near the confluence of Rocky Creek and the Gordon River. Site 1 is a 3.33-acre area located west of Parcel ID# 2076348002 and 20763520001 and Site 2 is a 1.41-acre area located west of Parcel ID # 20763440000, in Sections 15, Township 50 South, Range 25 East. Site 3 is a 0.18-acre site west of Parcel ID # 20763440000, in Section 3, Township 50 South, Range 25 East, Collier County.

The application file is available online and can be accessed through the Department's Information Portal at: http://webapps.dep.state.fl.us/DepNexus/public/electronic-documents/ERP_345034/gis-facility!search. If you have any questions or are experiencing difficulty viewing the electronic application, please call Marie Vidrine by phone at 239-344-5601 or by email at marie.vidrine@dep.state.fl.us .

This permit and authorization to use sovereign submerged lands is hereby granted. This action is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient petition for an administrative hearing is timely filed, this action automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because an administrative hearing may result in the reversal or substantial modification of this action, the applicant is advised not to commence construction or other activities until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time have expired.

Mediation is not available.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a modification of the permit or even a denial of the application. If a sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this permit automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this permit until the deadlines noted below for filing a petition for an administrative hearing, or request for an extension of time have expired.

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

In the event that a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Any intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

In accordance with Rules 28-106.111(2) and 62-110.106(3)(a)(1), petitions for an administrative hearing by the applicant or any of the parties listed below must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3), F.S., must be filed with 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition with 14 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- a) The name and address of each agency affected and each agency's file or identification number, if known;
- b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- c) A statement of when and how the petitioner received notice of the agency decision;
- d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and
- g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Under Sections 120.569(2)(c) and (d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements and is untimely filed.

This intent to issue constitutes an order of the Department on its own behalf on the application for the regulatory permit, and on behalf of the Board of Trustees of the Internal Improvement Trust Fund on the application to use sovereign submerged lands. Subject to the provisions of Section 120.68(7)(a), F.S., which may require a remand for an administrative hearing, the applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee,

Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal.

The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department. The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the order is filed with the Clerk of the Department.