

# EXHIBIT C: FDEP Permit



## FLORIDA DEPARTMENT OF Environmental Protection

South District  
PO Box 2549  
Fort Myers FL 33902-2549  
SouthDistrict@FloridaDEP.gov

Ron DeSantis  
Governor

Jeanette Nuñez  
Lt. Governor

Shawn Hamilton  
Secretary

**CORRECTED**

December 15, 2021

City of Naples  
c/o Arielle Poulos  
City of Naples  
1101 9<sup>th</sup> ST. S  
Naples, FL 34102  
[arielle@thanaples.com](mailto:arielle@thanaples.com)

File No.: 0374270-002, Collier County

Dear City of Naples:

On November 15, 2021, we received your request for verification of exemption to perform the following activities:

To maintenance dredge in a canal, Class II waters, to a depth of -5 feet Mean Low Water, removing approximately 242 cubic yards of material adjacent to the barge landing site, Section 9, Township 50 South, Range 25 East, Lee County. The spoil shall be removed and deposited in uplands with the final spoil disposal location at 25501 Bonita Grande Drive in Bonita Springs.

Your request has been reviewed to determine whether it qualifies for (1) a regulatory exemption, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal approval that may be necessary for work in wetlands or waters of the United States.

Your project did not qualify for the **proprietary and federal review portions** of this verification request. Specifically, the activity is not covered by the State Programmatic General Permit. **Additional authorization must be obtained prior to commencement of the proposed activity.** This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity. Please refer to the specific section(s) dealing with that portion of the review below for advice on how to proceed.

If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

[www.floridadep.gov](http://www.floridadep.gov)

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If you have any questions regarding this matter, please contact William Lange by telephone at (239) 344-5686 or by e-mail at [william.lange@floridadep.gov](mailto:william.lange@floridadep.gov).

## 1. Regulatory Review – VERIFIED

Based on the information submitted, the Department has verified that the activity as proposed is exempt under Chapter 62-330.051(7)(a), Florida Administrative Code, and Section 403.813(1)(f) of the Florida Statutes from the need to obtain a regulatory permit under Part IV of Chapter 373 of the Florida Statutes.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification may not be valid if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. In the event you need to re-verify the exempt status for the activity, a new request and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required.

## 2. Proprietary Review - ~~PENDING~~ GRANTED

The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereign submerged lands. The Department has the authority to review activities on sovereign submerged lands under Chapters 253 and 258 of the Florida Statutes, and Chapters 18-18, 18-20, and 18-21, Florida Administrative Code, as applicable.

The activity appears to be located on sovereign submerged lands owned by the Board of Trustees. As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the activity qualifies for an exception under Rule 18-21.0051(1)(a), Florida Administrative Code, and Section 253.77 of the Florida Statutes to construct and use the activity on the specified sovereign submerged lands, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein.

~~The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereign submerged lands. The Department has the authority to review activities on sovereign submerged lands under Chapters 253 and 258 of the Florida Statutes, and Chapters 18-18, 18-20, and 18-21, Florida Administrative Code, as applicable.~~

~~The activity appears to be located on sovereign submerged lands owned by the Board of Trustees. The activity is not exempt from the need to obtain the applicable proprietary authorization. As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the activity requires a letter of consent for the use of sovereign submerged lands. Based on the information provided, we have begun processing your~~

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~~application to use sovereign submerged lands but need additional information to continue processing this request. Please provide the information requested below by February 13, 2022 be denied without prejudice.~~

## **REQUEST FOR ADDITIONAL INFORMATION:**

~~The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereign submerged lands. The Department has the authority to review activities on sovereign submerged lands under Chapters 253 and 258 of the Florida Statutes, and Chapters 18-18 and 18-21, Florida Administrative Code, as applicable.~~

- ~~1. A portion of the proposed dredge area appears to be located on sovereign submerged lands. Severed dredge fees for the removal of sovereign submerged lands must be paid in the amount of 2.25 per cubic yard of material removed from sovereign submerged lands. Please provide the estimated total to be dredge from the area that has been determined to be sovereign submerged lands, or provide evidence that all dredging will be located landward of that line, or provide evidence that the severed dredge fees can be waived based on the conditions of Rule 18-21.011(3)(c), F.A.C.~~

~~Once the cubic yards of material has been confirmed that is proposed to be removed from sovereign submerged lands, the Department will provide instructions for making payment.~~

### **3. Federal Review - SPGP NOT APPROVED**

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 shall be required from the Corps. You must apply separately to the Corps using their *APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT*, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at: <https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book/>.

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.

### **Additional Information**

Please retain this letter. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S., and Chapter 18-14, F.A.C.

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## 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 Rules 28-106.201 and 28-106.301, 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, 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, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us). 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 and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 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



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filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

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. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

## 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, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us), before the 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 Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, 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 must be filed within 30 days from the date this action is filed with the Clerk of the Department.

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**Executed in Orlando, Florida**

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Daniel Sensi  
Environmental Administrator  
South District

**Enclosures:**

4 Project drawings  
62-330.051(7)(a), F.A.C./403.813(1)(f), F.S.

**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments, including all copies, were sent to the addressee and to the following listed persons:

U.S. Army Corps of Engineers, Fort Myers Office, [fdep.other@usace.army.mil](mailto:fdep.other@usace.army.mil)

**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.

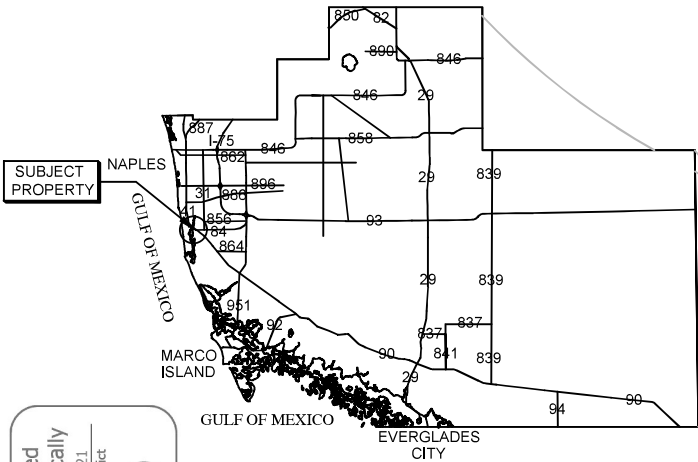
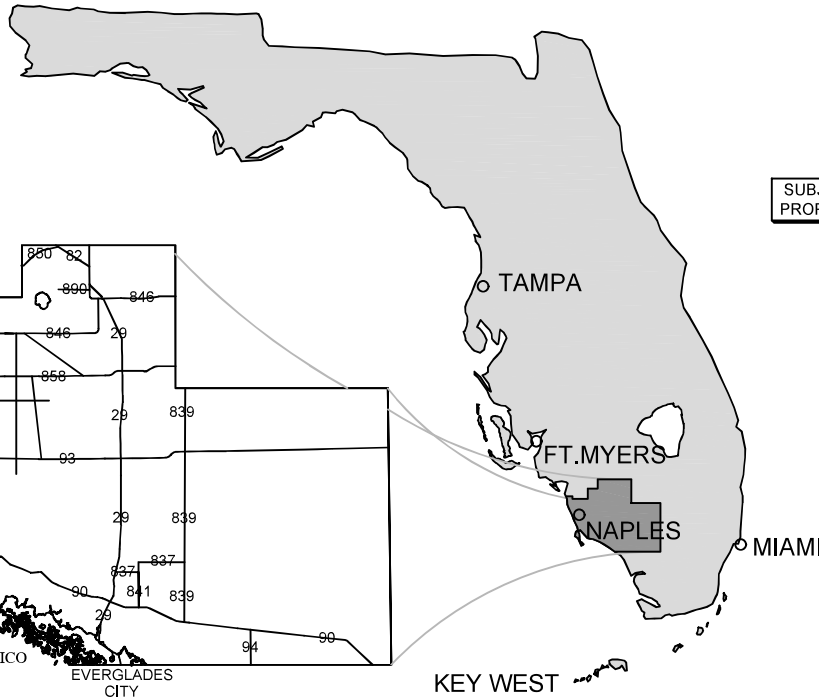
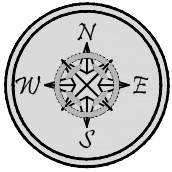


\_\_\_\_\_  
**Clerk**

February 2, 2022  
\_\_\_\_\_  
**Date**

# EXHIBIT C: FDEP Permit

STATE OF FLORIDA



## COLLIER COUNTY



## VICINITY MAP



## COUNTY AERIAL

**SITE ADDRESS:**

<> 1101 9TH ST S  
NAPLES, FL 34102

<> LATITUDE: N 26.135341  
<> LONGITUDE: W -81.792891

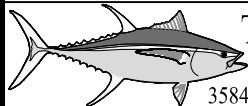
**NOTES:**

<> THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.



**EXEMPT**

File Number:  
0374270-002



**Turrell, Hall & Associates, Inc.**  
Marine & Environmental Consulting  
3584 Exchange Ave. Naples, FL 34104-3732

Email: tuna@thanaples.com Phone: (239) 643-0166 Fax: (239) 643-6632

# NAPLES LANDINGS

## LOCATION MAP

RY NO. 5875

THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.

DESIGNED:	AP	REV#	REV BY	DATE	CHK BY	CHANGED
DRAWN BY:	RMJ	1.	-	-	-	-
CREATED:	10-25-21	2.	-	-	-	-
JOB NO.:	21177	3.	-	-	-	-
SHEET NO.:	01 OF 04	4.	-	-	-	-
		5.	-	-	-	-

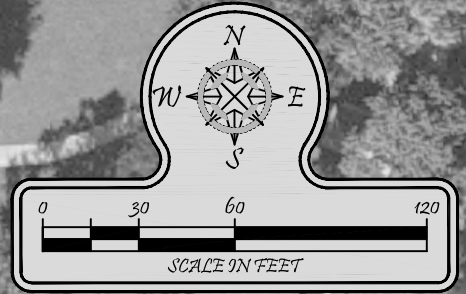
SECTION-9 TOWNSHIP- 50S RANGE- 25E

P:\21177\00 naples landings-dredge permitting\CAD\FRM\17-STATE\1717-STATE.dwg LOCATION MAP 11/11/2021

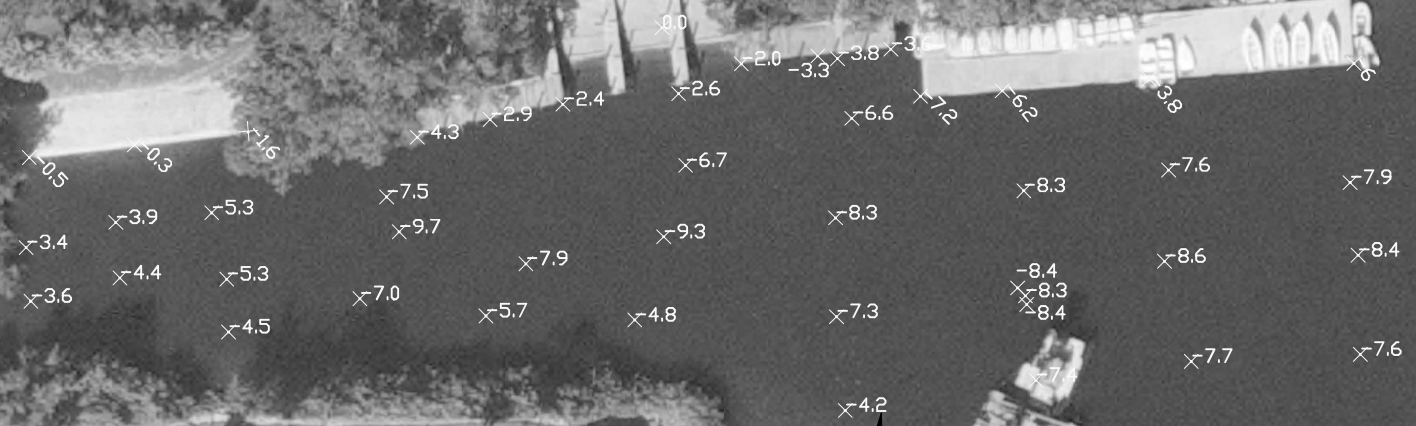


# EXHIBIT C: FDEP Permit

p:\21177-00 naples landings-dredge permitting\CAD\PERMIT-STATE\2117-STATE.dwg EXISTING CONDITIONS 11/1/2021



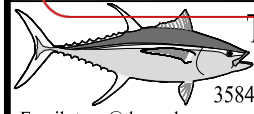
**SITE ADDRESS:**  
1101 9TH ST S  
NAPLES, FL 34102



**DEPTHS  
REFERENCED  
TO MLW**

- NOTES:**
- THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.
  - ALL WATER DEPTHS AND DREDGE ELEVATIONS ARE REFERENCED TO MLW
  - SURVEY COURTESY OF: "AGNOLI, BARBER & BRUNDAGE, INC."
  - SURVEY DATED: 10-6-2021
  - APPLICANT OWNED SHORELINE (APPX LF): N/A
  - EXISTING OVERWATER STRUCTURE (APPX SF): N/A
  - WIDTH OF WATERWAY, MHW TO MHW (APPX): 83' & 1439'
  - TIDAL DATUM:
    - MHW (NAVD)= +0.44'
    - MLW (NAVD)= -1.54'

**EXEMPT**  
File Number:  
0334270-002



**Turrell, Hall & Associates, Inc.**  
Marine & Environmental Consulting  
3584 Exchange Ave. Naples, FL 34104-3732  
Email: tuna@thanaples.com Phone: (239) 643-0166 Fax: (239) 643-6632

## NAPLES LANDINGS EXISTING CONDITIONS

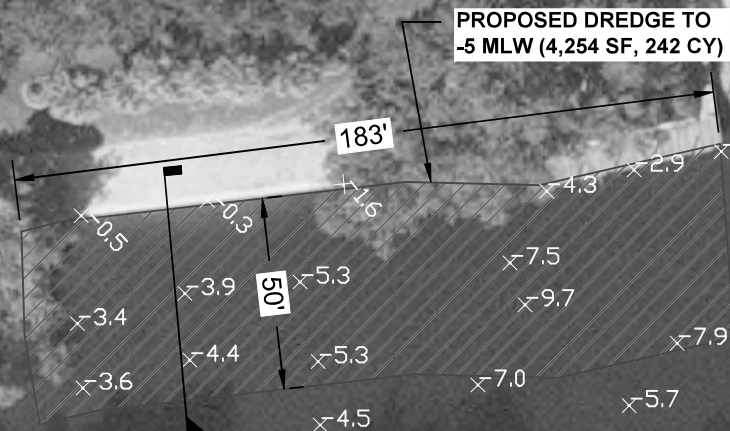
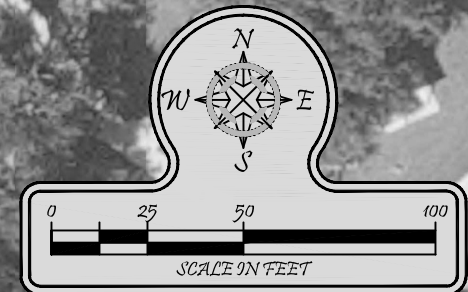
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CREATED:	10-25-21	2.	-	-	-	-	-
JOB NO.:	21177	3.	-	-	-	-	-
SHEET NO.:	02 OF 04	4.	-	-	-	-	-
		5.	-	-	-	-	-

SECTION-9 TOWNSHIP- 50S RANGE- 25E



# EXHIBIT C: FDEP Permit

Received Electronically  
Nov 9, 2021  
South District



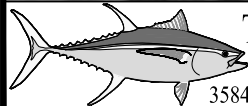
AA  
04

**DEPTHS REFERENCED TO MLW**

  
**EXEMPT**  
File Number: 0374270-062

- NOTES:**
- THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.
  - ALL WATER DEPTHS AND DREDGE ELEVATIONS ARE REFERENCED TO MLW
  - SURVEY COURTESY OF: "AGNOLI, BARBER & BRUNDAGE, INC."
  - SURVEY DATED: 10-5-2021
  - APPLICANT OWNED SHORELINE (APPX LF): N/A
  - EXISTING OVERWATER STRUCTURE (APPX SF): N/A
  - WIDTH OF WATERWAY, MHW TO MHW (APPX): 83' & 1439'
  - TIDAL DATUM:
    - MHW (NAVD)= +0.44'
    - MLW (NAVD)= -1.54'

P121177-00 naples landings dredge permitting\CAD\PERMIT-STATE\1177-STATE.dwg PROPOSED DREDGE 11/11/2021



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Marine & Environmental Consulting  
3584 Exchange Ave. Naples, FL 34104-3732  
Email: tuna@thanaples.com Phone: (239) 643-0166 Fax: (239) 643-6632

## NAPLES LANDINGS PROPOSED DREDGE

RY NO. 5875

THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.

DESIGNED:	AP	REV	REV BY	DATE	CHK BY	CHANGED
DRAWN BY:	RMJ	1.	-	-	-	-
CREATED:	10-25-21	2.	-	-	-	-
JOB NO.:	21177	3.	-	-	-	-
SHEET NO.:	03 OF 04	4.	-	-	-	-
		5.	-	-	-	-

SECTION-9 TOWNSHIP- 50S RANGE- 25 E

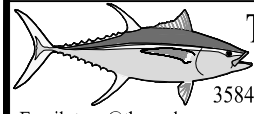
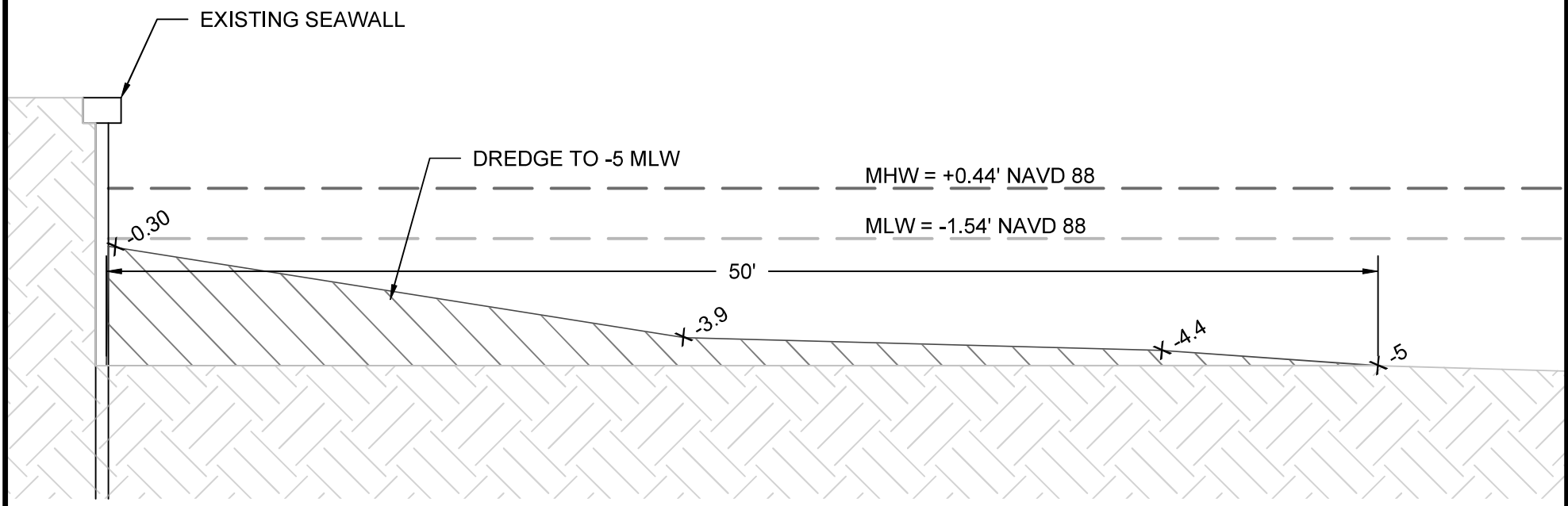
# EXHIBIT C: FDEP Permit

P:\21177-00 naples landings dredge permitting\CAD\ERMIT-STATE\21177-STATE.dwg CROSS SECTION AA 11/1/2021



EXEMPT

File Number:  
0374270-002



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 Marine & Environmental Consulting  
 3584 Exchange Ave. Naples, FL 34104-3732  
 Email: tuna@thanaples.com Phone: (239) 643-0166 Fax: (239) 643-6632

## NAPLES LANDINGS CROSS SECTION AA

DESIGNED:	AP	REV	REV BY	DATE	CHK BY	CHANGED
DRAWN BY:	RMJ	1.	-	-	-	-
CREATED:	10-25-21	2.	-	-	-	-
JOB NO.:	21177	3.	-	-	-	-
SHEET NO.:	04 OF 04	4.	-	-	-	-
		5.	-	-	-	-

SECTION-9 TOWNSHIP- 50 S RANGE- 25 E

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