

City of Key West
Surface Water Drainage System
Maintenance Manual

Prepared for:

City of Key West
Utilities Department
Key West, Florida 33040

Prepared by:

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Background

The purpose of this manual is to provide the City of Key West with background, regulatory authorities, and clear direction on the type and extent of ongoing maintenance actions that are required to maintain the surface water drainage system in operating condition. Routine maintenance of the surface water drainage system is needed to prevent fast-growing mangroves from re-establishing in the open water conveyances and preventing the system to function. In addition, routine maintenance of the surface water drainage system is a regulatory requirement that will allow the system to be maintained without the need for ongoing permitting with the South Florida Water Management District (SFWMD). A lack of maintenance of the surface water drainage system that allows the mangroves to become re-established and obstruct the system may require new permits (and therefore mitigation) in order for the work to be authorized.

The SFWMD-permitted surface water drainage system serves to collect and convey stormwater to open waters, and includes eight (8) permitted sites for maintenance and two (2) mitigation sites. The two mitigation sites include the Hawk Missile Restoration Site and the West Salt Ponds Site and were established to offset mangrove impacts associated with the initial maintenance project. The permits issued by SFWMD require ongoing maintenance of the surface water drainage system, primarily mangrove trimming, at intervals no greater than seven (7) years between maintenance events to avoid potential new permitting associated with mangrove re-growth. The surface water drainage system is in need of maintenance to maintain the system performing properly and avoid future regulatory intervention. The ongoing maintenance required to keep the system functional and efficient is authorized under State exemptions for maintenance to systems and previously permitted works.

For the purpose of maintaining the City of Key West surface water drainage system, the definition of maintenance activities includes:

- Trimming of mangrove vegetation including un-anchored roots;
- Removal of debris throughout the system;
- Maintenance dredging of sediment accumulations to the original configuration;

- Repair and replacement of system headwalls, culverts, and other structures;

Regulatory Approvals - Applicable Exemptions

Ongoing maintenance of the surface water drainage system will be completed under regulatory exemptions as written in Florida Statue that apply to previously permitted activities. The various system components are covered under different exemption regulations, summarized below:

Culverts including headwalls:

62-330.051(9)-

(9) Pipes or Culverts –

(a) Repair or replacement, provided:

1. The pipes or culverts have equivalent hydraulic capacity to those being repaired or replaced;
2. The pipes or culverts function to discharge or convey stormwater, and are not associated with the repair, replacement, or alteration of a dam, spillway, or appurtenant works; and
3. Work is done in accordance with Section 403.813(1)(h), F.S.

62-403.813 (1) (h)-

(h) The repair or replacement of existing functional pipes or culverts the purpose of which is the discharge or conveyance of stormwater. In all cases, the invert elevation, the diameter, and the length of the culvert shall not be changed. However, the material used for the culvert may be different from the original.

Maintenance Dredging:

62-403.813(1)(f)-

(f) The performance of maintenance dredging of existing manmade canals, channels, intake and discharge structures, and previously dredged portions of natural water bodies within drainage rights-of-way or drainage easements which have been recorded in the public records of the county, where the spoil material is to be removed and deposited on a

self-contained, upland spoil site which will prevent the escape of the spoil material into the waters of the state, provided that no more dredging is to be performed than is necessary to restore the canals, channels, and intake and discharge structures, and previously dredged portions of natural water bodies, to original design specifications or configurations, provided that the work is conducted in compliance with s. [379.2431\(2\)\(d\)](#), provided that no significant impacts occur to previously undisturbed natural areas, and provided that control devices for return flow and best management practices for erosion and sediment control are utilized to prevent bank erosion and scouring and to prevent turbidity, dredged material, and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. Further, for maintenance dredging of previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements, an entity that seeks an exemption must notify the department or water management district, as applicable, at least 30 days prior to dredging and provide documentation of original design specifications or configurations where such exist. This exemption applies to all canals and previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements constructed prior to April 3, 1970, and to those canals and previously dredged portions of natural water bodies constructed on or after April 3, 1970, pursuant to all necessary state permits. This exemption does not apply to the removal of a natural or manmade barrier separating a canal or canal system from adjacent waters. When no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United States Army Corps of Engineers for construction or maintenance dredging of the existing manmade canal or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water. The Board of Trustees of the Internal Improvement Trust Fund may fix and recover from the permittee an amount equal to the difference between the fair market value and the actual cost of the maintenance dredging for material removed during such maintenance dredging. However, no charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority. The removing party may subsequently sell such material; however, proceeds from such sale that exceed the costs of maintenance dredging shall be remitted to the state and deposited in the Internal Improvement Trust Fund.

Mangrove Trimming:

62-403.9326(d)-

(d) The maintenance trimming of mangroves that have been previously trimmed in accordance with an exemption or government authorization, including those mangroves that naturally recruited into the area and any mangrove growth that has expanded from the area subsequent to the authorization, if the maintenance trimming does not exceed the height and configuration previously established. Historically established maintenance trimming is grandfathered in all respects, notwithstanding any other provisions of law. Documentation of established mangrove configuration may be verified by affidavit of a person with personal knowledge of the configuration or by photographs of the mangrove configuration.

62-403.9326(f)-

(f) The trimming of mangrove trees by a duly constituted communications, water, sewerage, electrical, or other utility company, or by a federal, state, county, or municipal agency, or by an engineer or a surveyor and mapper working under a contract with such utility company or agency, when the trimming is done as a governmental function of the agency.

Routine Custodial Maintenance:

62-330.020(1)(a)-

(1) A permit under this chapter is not required for activities that qualify for:

(a) Operation and routine custodial maintenance of projects legally in existence, provided the terms and conditions of the permit, exemption, or other authorization for such projects

continue to be met, and provided the activity is conducted in a manner that does not cause violations of state water quality standards. However, this exemption shall not apply to any project that is altered, modified, expanded, abandoned, or removed;

Site Specific System Exemptions

Table 1. Site Specific Permit Exemptions from the Florida Statute.

Site No.	Site Name	Applicable State Exemptions (per Florida Statute)
1.0	Riviera/9th St Canals	62-403.9326 (d)
		62-403.813(1)(f)
		62-330.020(1)(a)
2.0	Venetian Drive Drainage	62-403.9326 (d)
		62-403.813(1)(f)
		62-330.020(1)(a)
		62-330.051(9)
3.0	Jose Marti Drainage	62-403.9326 (d)
		62-403.813(1)(f)
		62-330.020(1)(a)
4.0/5.0	Poinciana/Donald Ave.	62-403.9326 (d)
		62-403.813(1)(f)
		62-330.020(1)(a)
6.0	Patterson Site	62-403.9326 (d)
		62-403.813(1)(f)
		62-330.020(1)(a)
7.0	Winn Dixie	62-403.9326 (d)
		62-403.813(1)(f)
		62-330.020(1)(a)
8.0	Linda Ave Canal	62-403.9326 (d)
		62-403.813(1)(f)

Site No.	Site Name	Applicable State Exemptions (per Florida Statute)
		62-330.020(1)(a)
9.0	Government Rd	62-330.051(9)
		62-403.9326(d)

Surface Water System Overview

Site 1.0 - Riviera/9th St Canals

Riviera/9th St Canals is a 3,200 foot canal conveyance with a maximum 25 feet width and depth of 4.5 feet. The canal is located beginning at the 11th Street boat ramp going west, up along 9th Street, under Flagler Avenue until ultimately discharging into the Atlantic Ocean via Salt Run Channel. This location includes open conveyances and a bridge beneath Flagler Avenue. Coordinates: 24°33'32.03"N, 81°46'7.56"W

Maintenance needs in this system include:

- Trimming of mangroves throughout channel
- Inspection of box culvert / bridge under Flagler Avenue for obstructions and condition
- Maintenance dredging to remove sediment accumulations
- Removal of accumulated debris



Photo of the Riviera Canal at Flagler Avenue showing mangrove branches and roots encroaching into the conveyance.



Photo of the Riviera Canal showing mangrove branches and roots encroaching into the conveyance.



Photo of a stormwater outfall into the Riviera Canal showing a partial obstruction in the pipe.

Site 2.0 - Venetian Drive Drainage

Venetian Drive Drainage is a recently constructed 400 foot long channel located between Venetian Drive and Government Road. The channel begins at the Venetian Drive culvert and flows southwest connecting to the Government Road culvert and ultimately draining into the Salt Ponds.

Coordinates: 24°33'27.57"N, 81°46'16.91"W

Maintenance needs in this system include:

- Trimming of mangroves near culverts
- Inspection of culvert under Venetian Drive for obstructions and condition
- Maintenance dredging to remove sediment accumulations
- Removal of accumulated debris



Photo of the Venetian Drive channel looking south and showing mangrove branches and roots encroaching into the conveyance.

Site 3.0 - Jose Marti Drainage

Jose Marti Drainage is a stormwater detention pond located on the corner of North Roosevelt Boulevard and Jose Marti Drive with a single outfall into Garrison Bight. Coordinates: 24°33'28.74"N, 81°47'15.50"W

Maintenance needs in this system include:

- Trimming of mangroves along shoreline outside the Conservation Easement and at culverts
- Inspection of culvert under North Roosevelt Boulevard and outfall into Garrison Bight for obstructions and condition
- Maintenance dredging to remove sediment accumulations
- Removal of accumulated debris



Photo of Jose Marti Pond showing scum accumulation and mangrove branches encroaching in pond.

Site 4.0/5.0, Poinciana/Donald Avenue

Poinciana/Donald Avenue is a 3,251 foot drainage channel and stormwater detention pond system. The system begins at Donald Avenue and Nineteenth Street and drains west into the Poinciana stormwater detention pond, then north where it enters a culvert at Northside Drive with an outfall. Coordinates: 24°34'2.37"N, 81°45'36.45"W

Maintenance needs in this system include:

- Trimming of mangroves along shoreline of pond area and throughout the channel extending from Northside Drive down Donald Avenue
- Inspection of culvert under Northside Drive and outfall pipes at Donald Avenue for obstructions and condition
- Maintenance dredging to remove sediment accumulations
- Removal of accumulated debris



Photo of Donald Avenue channel showing accumulation of algae growth and debris in the system.



Photo of culvert at Northside Drive showing debris accumulation and blockage into the pipe

Site 6.0, Patterson Avenue

Patterson Avenue is a 400 foot drainage channel with a maximum width of 15 feet. The channel begins on Eighth Street and drains into the Ninth St/Riviera canal. Coordinates: 24°33'46.35"N, 81°46'25.59"W

Maintenance needs in this system include:

- Trimming of mangroves throughout channel
- Maintenance dredging to remove sediment accumulations
- Removal of accumulated debris

Site 7.0, Winn Dixie

Winn Dixie is a 200 foot drainage channel with a maximum width of 15 feet located behind the Winn Dixie on North Roosevelt Boulevard. The channel can also be accessed from the intersection of Patterson Avenue and Tenth Street. Coordinates: 24°33'48.60"N, 81°46'18.60"W

Maintenance needs in this system include:

- Trimming of mangroves throughout channel
- Inspection of culvert for obstructions and condition
- Maintenance dredging to remove sediment accumulations
- Removal of accumulated debris



Photo of Winn Dixie looking south of culvert showing mangrove overgrowth and branches encroaching in conveyance.

Site 8.0, Linda Avenue Canal

The Linda Avenue Canal site is a 140 foot long drainage canal draining into the Salt Ponds. The canal begins at Linda Avenue and extends south towards the Salt Ponds. Coordinates: 24°33'25.30"N, 81°46'32.40"W

Maintenance needs in this system include:

- Trimming of mangroves throughout channel
- Maintenance dredging to remove sediment accumulations
- Removal of accumulated debris



Photo of Linda Avenue showing surface accumulation and debris along the banks of the channel.

Site 9.0, Government Road

Government Road is a culvert connecting the Salt Ponds to the Venetian Drive Drainway. The culvert is located on the west end of Government Road. Coordinates: 24°33'24.78"N, 81°46'19.46"W

Maintenance needs in this system include:

- Trimming of mangroves throughout connecting channel and near culvert
- Inspection of culvert under Government Road for obstructions and condition
- Maintenance dredging to remove sediment accumulations
- Removal of accumulated debris



Photo of Government Road looking south from culvert showing mangrove branches and roots encroaching into the conveyance.



Photo of Government Road culvert showing culvert condition and optimal flow.

Inspection Procedures

Routine Inspections

Routine Inspections shall be done to ensure the system is performing properly and efficiently. Inspections should be performed on a bi-annual basis or before and after severe rainfall/storm events to avoid system failure. Inspections are to include assessing the system and surrounding area to assure there is no blockage, debris/trapped sediment, or mangrove overgrowth impeding on the system and causing problems in the flow of water. Each inspection event should be recorded using the inspection checklist and any maintenance needed from assessing the system should be reported and performed following inspection.

Maintenance Procedures

This manual breaks down the routine maintenance procedures into four categories; mangrove trimming, trash and debris removal, maintenance dredging in conveyances and culvert / headwall maintenance. Each procedure varies by site and site condition. Site inspections will help to determine the type of maintenance needed and the severity of the procedure.

Yearly maintenance will help to improve the system and protect the areas from flooding during severe storm events. If maintained properly, the site conditions will improve and less maintenance will be required as time passes. The severity of maintenance required will vary by site. All sites can be accessed by land but water access is necessary for some maintenance procedures.

Mangrove Trimming

The intent of the routine mangrove trimming is to maintain the mangroves along all conveyances, channels and drainage ways so that the mangrove branches and especially the mangrove roots do not begin to overgrow and impede on the flow of the channel. The mangroves are to be trimmed to a width configuration based on what was previously permitted (see Table 2). All lateral branches and un-anchored mangrove roots may be trimmed to maintain width of channel, however roots that are anchored in the substrate may not be removed. See reference photos for details. Trimming

is to be performed by a Professional Mangrove Trimmer and all vegetative debris is to be disposed of legally per City of Key West regulations. In no case should mangrove trimmings including roots or branches be discarded in or adjacent to the surface water drainage system. Trimming of mangroves is best accomplished from a work boat in most cases.

Notifications for mangrove trimming: The local Marathon office of the Florida Department of Environmental Protection and South Florida Water Management District should be notified prior to conducting any mangrove trimming project.

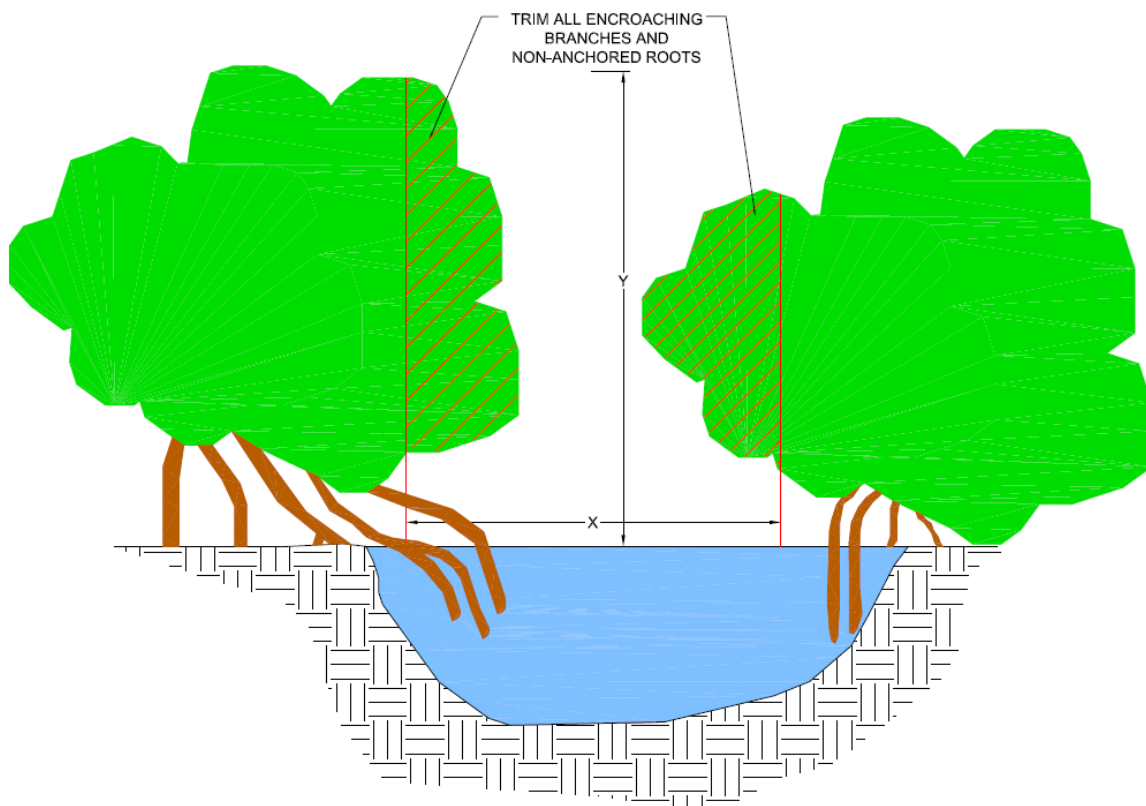


Figure 2. Mangrove trimming graphic, following dimensions given in Table 2.

Table 2. Site Specifications for mangrove trimming, width to be trimmed.	
Site	Width of Channel (ft)
Riviera/9 th St Canal (1.0)	25
Venetian Drive (2.0)	15
Jose Marti (3.0)	N/A
Poinciana/Donald Ave. (4.0)	13
Poinciana Detention Pond (5.0)	N/A
Patterson (6.0)	15
Winn Dixie (7.0)	15
Linda Ave (8.0)	15
Government Rd. (9.0)	15

Trash and debris removal

Removal of all trash and debris from conveyances, channels, and canals is important to maintain flows and prevent debris accumulations from clogging the system and accelerating sedimentation. Debris that enters from the banks can cause blockage and prevent sediment from flowing freely on the bottom causing unwanted buildup. All debris should be removed from within the mangrove fringe, floating on the surface, on the canal bottom and the grass and slopes adjacent to the canals. All collected trash and debris is to be disposed of legally per City of Key West regulations.

Maintenance Dredging

Maintenance dredging of sediment accumulations in conveyances, channels, and canals may be conducted to maintain the previously permitted configuration. Maintenance dredging will remove excess sediment that has settled on the bottom of conveyances that may be decreasing the area of flow. Permitted dimensions of the conveyances to be maintained vary by location, but in all cases the originally-permitted dimensions are to be maintained in accordance with the original permits (Table 3). Some variance will occur due to the topography of each conveyance but in general, the original dimensions should be maintained when conducting maintenance dredging projects. Best management practices including sediment and erosion control, silt fencing, and turbidity barriers should be deployed prior to maintenance dredging to avoid any adverse impacts to surface waters. All vessels used should be operated in a safe manner and a ‘no wake’ speed, and in accordance

with manatee guidelines (Attachment 4). All dredge material removed from the conveyance is to be disposed of legally per City of Key West regulations, typically at an approved upland spoil site as specified in the original SFWMD permits.

Notifications for maintenance dredging: The local Marathon office of the Florida Department of Environmental Protection and the South Florida Water Management District should be notified prior to conducting any maintenance dredging project.

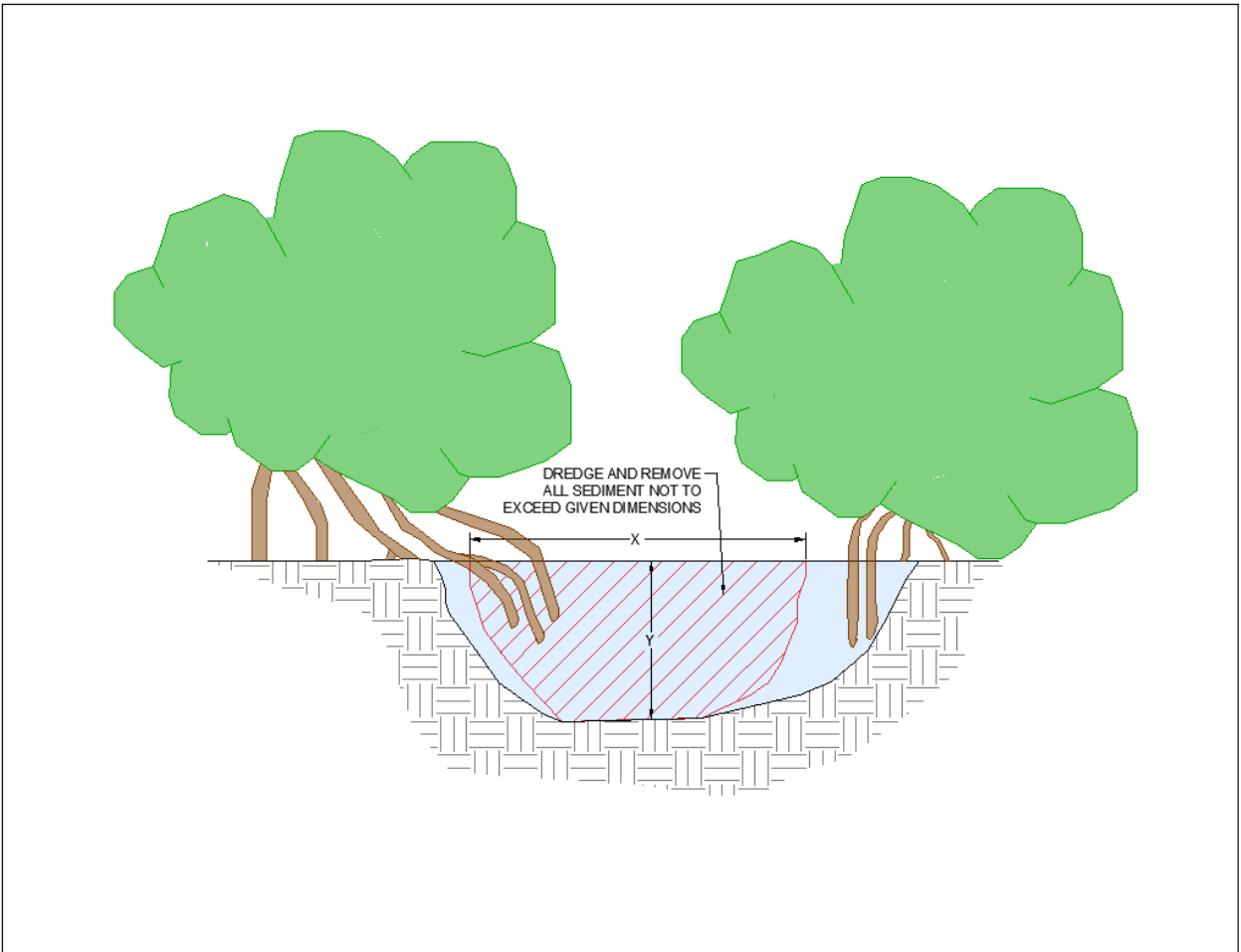


Figure 3. Channel dredging graphic, following dimensions given in Table 3.

Table 3. Site specifications for channel dredging, widths and depths to be dredged.		
Site	X (ft)	Y (ft)
Riviera/9 th St Canal (1.0)	25	4.5
Venetian Drive (2.0)	15	4.5
Jose Marti (3.0)	N/A	4.5
Poinciana/Donald Ave. (4.0)	13	4
Poinciana Detention Pond (5.0)	N/A	4.5
Patterson (6.0)	15	4.5
Winn Dixie (7.0)	15	4.5
Linda Ave (8.0)	15	4.5
Government Rd (9.0)	15	4.5

Culvert Maintenance

Culvert maintenance is to ensure proper connectivity to other systems and channels. The most routine maintenance will be to ensure proper flow and no blockage in the culvert. Less routine will be structural repairs and an engineer should be contacted if such repairs are needed. All culverts should be clear of debris and excess sediment. Culverts throughout the system range in size and openings but the same procedures apply. All material removed should be disposed of legally per City of Key West regulations and all personnel should follow all safety procedures per City of Key West regulations.

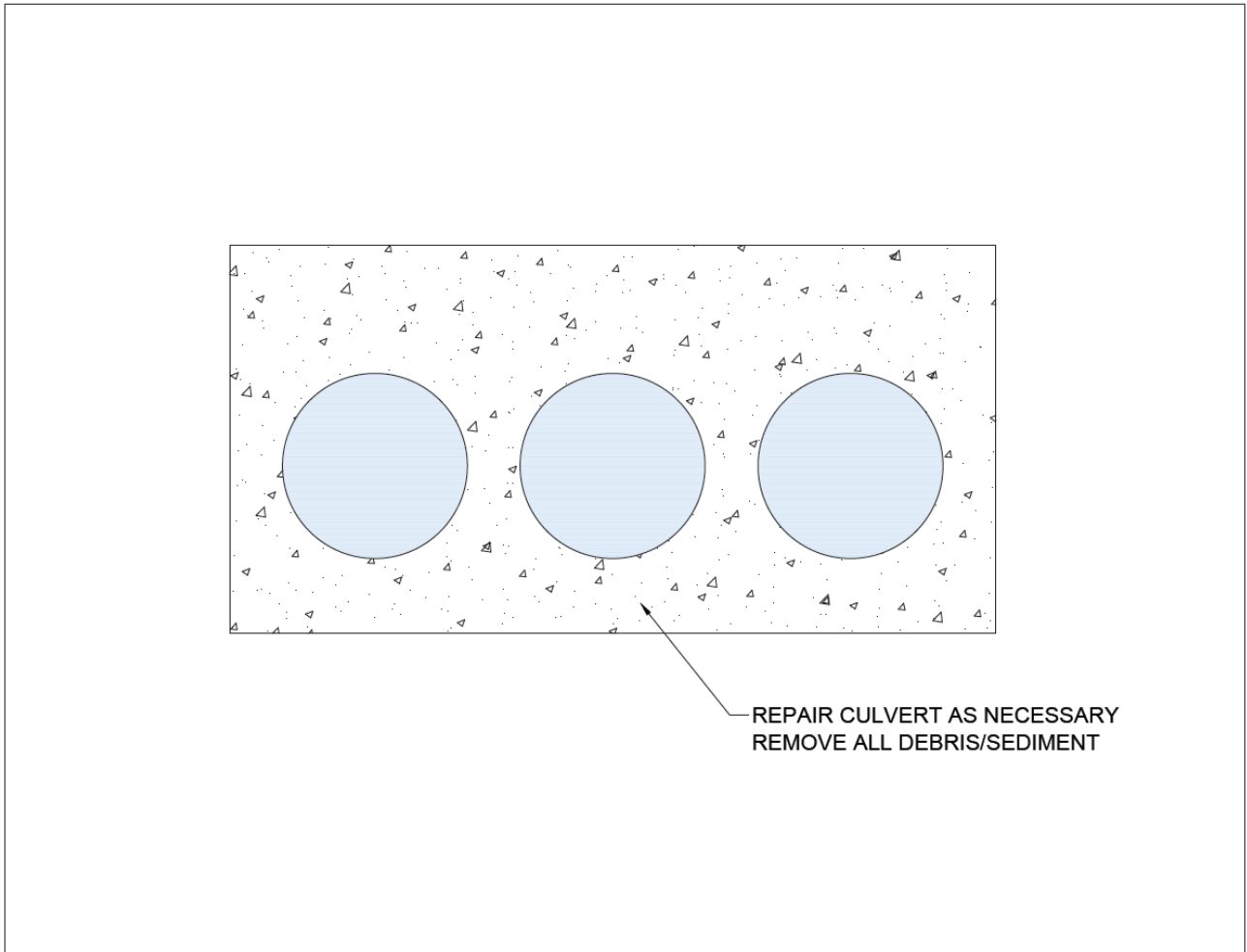


Figure 4. Culvert maintenance graphic, culverts vary by site.

Reporting and Record Keeping

Maintenance of records is important in that it documents to SFWMD that the City is actively maintaining the surface water drainage system in accordance with regulatory requirements. All inspection reports and maintenance work completed within the surface water drainage system should be documented and be retained by the City of Key West Utilities Department.

Notifications and Contacts

Prior to conducting maintenance work in the system, it is recommended that the regulatory agencies be notified so they are aware that the work is authorized under existing permits.

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South Florida Water Management District

Environmental Resource Bureau

2796 Overseas Highway, Suite 221

Marathon, FL 33050

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Bruce Franck

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Robert Kirby

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U.S. Army, Corps of Engineers

9900 SW 107 Ave, #203

Miami, FL 33176

Robert.J.Kirby@usace.army.mil

(305) 779-6050

Reference Photos



Photo 1. Debris blocking flow through culvert. Debris should be removed and disposed of properly per City of Key West regulations.

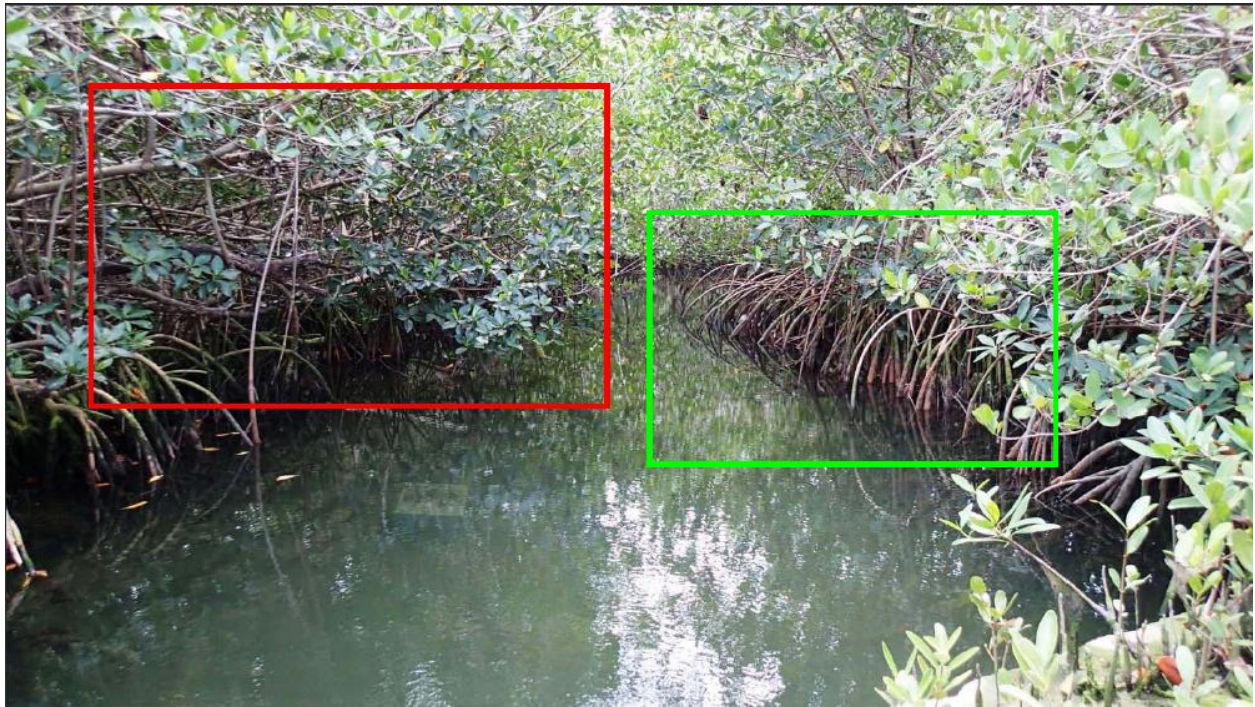


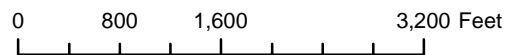
Photo 2. Mangrove trimming and overgrowth. The green box shows the anchored roots that may **NOT** be trimmed while the red box shows the lateral branches and un-attached roots that can be trimmed to maintain channel width.

ATTACHMENT 1

Site Maps



- 2.0 Section ID
- Maintenance Boundary



Terramar Environmental Services
 1241 Crane Blvd
 Sugarloaf Key, FL 33042
 terramar@bellsouth.net

Figure A.
Site Overview Map



2.0 Section ID
 Maintenance Boundary

0 175 350 700 Feet

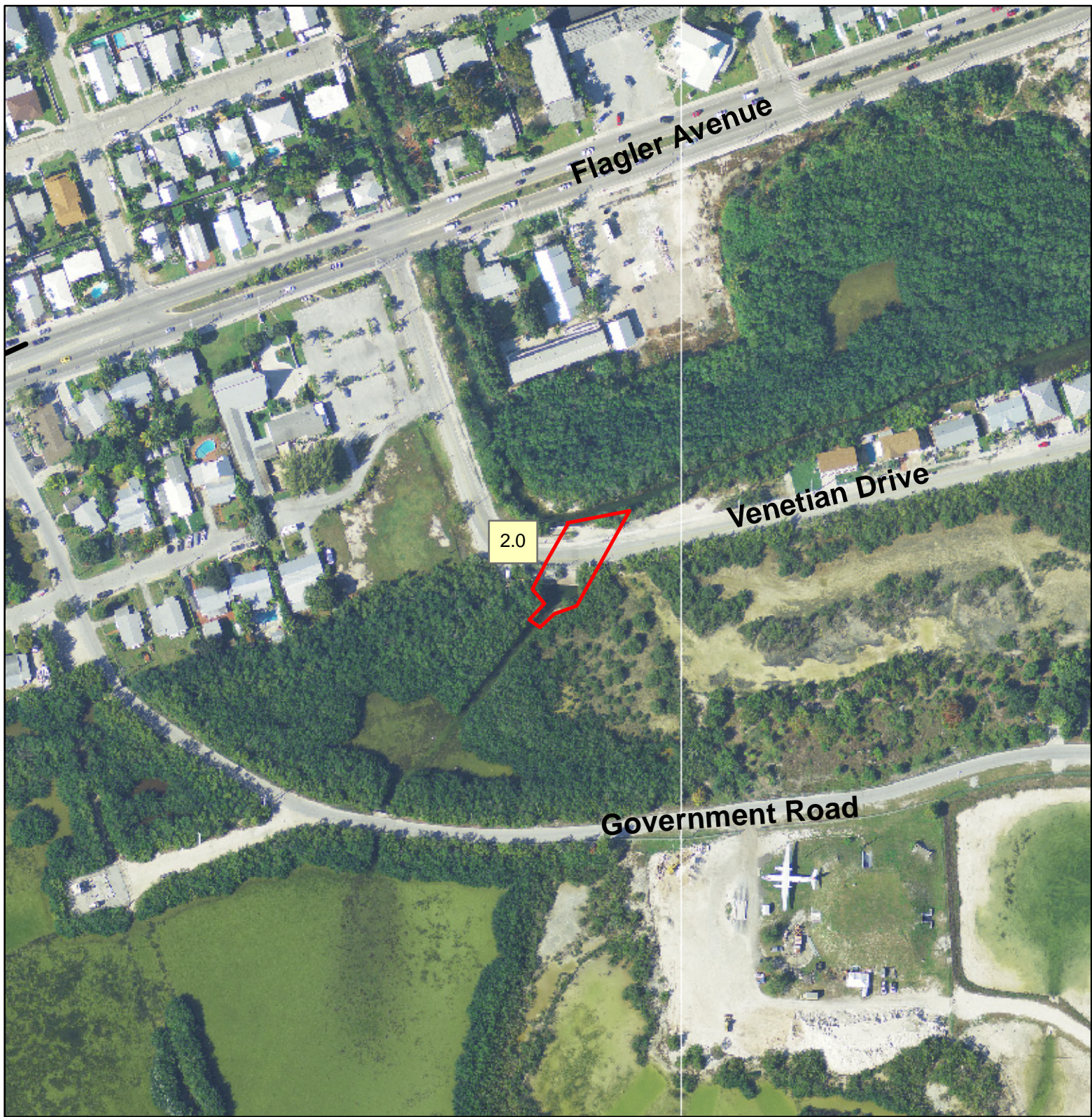


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Figure 1.

Riviera/9th Street Canal, Site 1.0

3,200 linear feet of drainageway
 Authorized by SFWMD Permit No. 44-00377-P
 Maintenance Exemptions: 62-403.9326(d),
 62-403.813(1)(f), and 62-330.020(1)(a)



2.0

Section ID



Maintenance Boundary

0 100 200 400 Feet



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Figure 2.

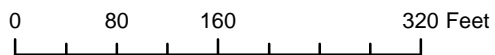
Venetian Drive Culvert, Site 2.0

Culvert with 400 linear foot channel
 Authorized by SFWMD Permit No. 44-00377-P

Maintenance Exemptions: 62-403.9326(d),
 62-403.813(1)(f), 62-330.020(1)(a), and 62-330.051(9)



- 2.0 Section ID
- Maintenance Boundary



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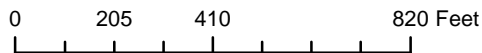
Figure 3.

Jose Marti Drainage Pond, Site 3.0

Stormwater detention pond
 Authorized by SFWMD Permit No. 44-00378-P
 Maintenance Exemptions: 62-403.9326(d),
 62-403.813(1)(f) and 62-330.020(1)(a)



- 2.0 Section ID
- Maintenance Boundary



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Figure 4.
Poinciana/Donald Ave, Site 4.0
Poinciana Detention Pond, Site 5.0
 3,251 linear feet of drainage channel, culvert at Northside Dr, and stormwater detention pond
 Authorized by SFWMD Permit No. 44-00378-P
 Maintenance Exemptions: 62-403.9326(d), 62-403.813(1)(f) and 62-330.020(1)(a)



2.0

Section ID



Maintenance Boundary

0 80 160 320 Feet



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Figure 5.

Patterson Avenue, Site 6.0

400 linear feet of drainage channel
Authorized by SFWMD Permit No. 44-00378-P
Maintenance Exemptions: 62-403.9326(d),
62-403.813(1)(f) and 62-330.020(1)(a)



2.0

Section ID



Maintenance Boundary

0 50 100 200 Feet



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Figure 6.

Winn Dixie, Site 7.0

200 linear feet of drainage channel and culvert
 Authorized by SFWMD Permit No. 44-00378-P
 Maintenance Exemptions: 62-403.9326(d),
 62-403.813(1)(f) and 62-330.020(1)(a)



2.0

Section ID



Maintenance Boundary

0 30 60 120 Feet



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Figure 7.

Linda Avenue, Site 8.0

140 linear feet of drainage channel
 Authorized by SFWMD Permit No. 44-00378-P
 Maintenance Exemptions: 62-403.9326(d),
 62-403.813(1)(f) and 62-330.020(1)(a)



2.0

Section ID



Maintenance Boundary

0 55 110 220 Feet



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Figure 8.

Government Road, Site 9.0

400 linear feet of drainage channel with culvert
 Authorized by SFWMD Permit No. 44-00378-P

Maintenance Exemptions: 62-403.9326(d),
 62-403.813(1)(f), 62-330.020(1)(a), and 62-330.051(9)

ATTACHMENT 2

Field Forms

Stormwater Management Maintenance Inspection Checklist

Type (Circle one): Drainage Channel Detention Pond Culvert

Site Name: _____

Inspector: _____

Date of Inspection: _____

Time lapse since last inspection: _____

Site Conditions: _____

Inspection Rating System

- 0 = Good Condition. Well-maintained, no action required
- 1 = Moderate Condition. Should monitor.
- 2 = Poor Condition. Routine maintenance and repair need.
- 3 = Serious Condition. Immediate need for maintenance or repair

Note to Inspector: All personnel entering sites must be properly equipped and notice must be given to City prior to inspection

Inspection Items	Rating	Comments/Corrective Actions Needed
Overall Drainage Area Conditions:		
Flow?	0 1 2 3 N/A	
Mangrove Fringe?	0 1 2 3 N/A	
Depth of Channel?	0 1 2 3 N/A	
Bank Erosion?	0 1 2 3 N/A	
Debris/Blockage?	0 1 2 3 N/A	
Surrounding area trash?	0 1 2 3 N/A	
Surrounding area grass?	0 1 2 3 N/A	
Culvert Structure?	0 1 2 3 N/A	
Vandalism?	0 1 2 3 N/A	
Corrective Actions	Recommended	Completed At Time of Inspection

Photographs

Please attach photographs, with descriptions, showing current conditions and any problem areas noted in this inspection

Stormwater Management Maintenance Log

Date	Site ID	Personnel	Work Performed	Follow Up Needed?

ATTACHMENT 3

Permits and Regulatory Guidance

SFWMD CONSENT ORDER
ERP 2006 096

BEFORE THE GOVERNING BOARD OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RECEIVED
DISTRICT CLERK'S OFFICE
APR 19 2007 2:27 PM
SOUTH FLORIDA
WATER MANAGEMENT DISTRICT

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, a public corporation,

Complainant,

vs.

ORDER NO.

City of Key West,
Respondent

SFWMD 2007 096 CO ERP

CONSENT AGREEMENT

This Consent Agreement is entered into between the Complainant, **SOUTH FLORIDA WATER MANAGEMENT DISTRICT** ("District") and the Respondent, City of Key West ("Respondent") by mutual consent, without trial or adjudication of any issue of fact or law.

FINDINGS OF FACT

The District and Respondent stipulate to the following Findings of Fact:

1. The District is a public corporation of the State of Florida existing by virtue of Chapter 25270, Laws of Florida, 1949, and operating pursuant to Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code, as a multipurpose water management district with its principal office at 3301 Gun Club Road, West Palm Beach, FL 33406.

2. Respondent, City of Key West is a Florida Municipal Corporation, whose business mailing address for the purpose of this consent agreement is PO Box 1409, 525 Angela Street, Key West, Florida 33040.

3. On July 27, 2006, District staff became aware of a newspaper article indicating that the City of Key West was dredging mangroves in a pond at the intersection of Jose Marti Drive and North Roosevelt Boulevard. An aerial inspection by District staff on July 28, 2006, confirmed that significant dredging, including mangrove removal, was taking place on the north and west sides of the pond.

4. This dredging activity was not authorized by an Environmental Resource Permit as required under Sections 373.413 and 373.414 of the Florida Statutes, and Rule 40E-4 of the Florida Administrative Code.

5. On July 28, 2006, the District notified the City and forwarded a Cease and Desist Notice (Exhibit A) requiring the City to stop any further dredging. The City stopped dredging soon thereafter.

6. Respondent indicated to District staff that they had cleared and dredged the mangrove wetlands at the Jose Marti location for emergency maintenance of the City storm water system due to potential on-coming hurricanes. Respondent also volunteered to the District that it had recently done similar dredging of mangrove and salt marsh wetlands for emergency storm water maintenance along the Donald Avenue area. The work at the Donald Avenue area was also done without authorization of an Environmental Resource Permit. The area impacted at the Jose Marti location was 0.341 acres, and the area impacted at Donald Avenue location was 0.870 acres. The properties are more particularly depicted on the location map attached as Exhibit B.

7. On August 11, 2006, District staff met on-site at the properties listed above with City of Key West officials and their consultants; U.S. Army Corps of Engineers (USACE); Florida Department of Environmental Protection; and Department of Community Affairs to assess the impacts and to discuss resolution of the violation. Included with the resolution of this violation was a proposal to develop a comprehensive mitigation and in-kind enhancement program to compensate for the impacts and proposed future impacts for the purpose of stormwater system management.

8. Since the August 11, 2006, meeting the Respondent and the District have met several times to negotiate settlement of this matter. The Respondent has prepared an Impact Assessment and Mitigation Plan, herein referenced as "the Plan" (Exhibit C) that, if successfully implemented, off-sets the impacts described above with an enhancement and restoration project at the abandoned Hawk Missile Base Site. Successful implementation of this enhancement and restoration project will also provide additional up front mitigation for future storm water projects that have wetland impacts.

9. Respondent is also proposing, in lieu of civil penalties, to construct, monitor and maintain a Western Salt Pond Enhancement Project. This Project is described in the Plan (Exhibit C). The Project should result in overall habitat improvements to over 136 acres of wetlands in the western Key West Salt Ponds .

ULTIMATE FACTS AND CONCLUSIONS OF LAW

10. The District alleges that the Respondent violated the District's rules by performing activities on the Property without prior issuance of an environmental resource permit pursuant to Chapter 373, Fla. Stat. and Chapter 40E-4, Fla. Admin. Code., which prohibit the construction and operation of any works without first satisfying the criteria of the District through the permitting process.

11. Pursuant to Sections 373.413, and 373.414, Fla. Stat., and the implementing regulations found in Title 40E, Fla. Admin. Code, the District is authorized to require permits for construction, alteration and/or operation of surface water management systems, including activities which impact wetlands. In the issuance of construction permits, the District is authorized to impose reasonable conditions necessary to assure the activities will not be harmful to the water resources of the District. As to issuance of operation permits, the District is authorized by Section 373.416, Fla. Stat., to impose reasonable conditions necessary to assure that the operation or maintenance of any surface water management system will not be inconsistent with the overall objectives of the District.

12. The District may enforce its permits and orders pursuant to Chapters 373 and 120, Fla. Stat., by maintenance of appropriate actions and may recover a civil penalty for each offense in an amount not to exceed Ten Thousand Dollars (\$10,000.00) per offense, with each date during which such violation occurs constituting a separate offense. The District may further recover investigative costs, court costs and reasonable attorney's fees.

13. Without admitting liability, the Respondent has provided the District with reasonable assurances of good faith by entering into a Consent Agreement with the District in return for the District not initiating judicial or enforcement action for the alleged unpermitted activities described above. The Respondent agrees that all factual and legal matters alleged herein or agreed to herein or which provide the basis for this Consent Agreement (including all terms, provisions and matters referred to in the "Findings of Fact" and/or "Ultimate Facts" and "Conclusions of Law" sections) shall not be contested in any subsequent legal proceeding(s) which may be brought to enforce the terms of this Consent Agreement.

14. The District is authorized to enter into agreements pursuant to Section 373.083, Fla. Stat.

15. The Governing Board has authorized the Executive Director, or her designee, to execute this Consent Agreement.

THEREFORE, having reached a resolution of this matter, the District and the Respondent mutually agree and it is ordered that:

ORDER

20. Respondent shall start construction of the restoration project for the Hawk Missile Restoration Project within six months of the effective date of this Consent Agreement and then complete the balance of the project (Exhibit C) within twelve months from the project start date. All construction must be completed no later than 18 months of the effective date of this Consent Agreement. The construction of the restoration and enhancement project shall be as set forth in the Plan (Exhibit C).

21. Respondent shall submit two certified copies of the recorded conservation easement or other similar restrictive covenant for the mitigation area at the former Hawk Missile Base site within one (1) year of the effective of this Consent Agreement

22. A monitoring program shall be implemented for the Hawk Missile Site Restoration project. The monitoring program shall extend for a period of 5 years with annual reports submitted to District staff. Respondent shall maintain and monitor the created/restored wetlands for a period of five (5) years from the approval date of construction completion by District staff. Maintenance shall be conducted for a period of five (5) years to ensure that the created/restored area is free from exotic vegetation immediately following a maintenance activity and that exotic and other nuisance species constitute no more than 5% total cover between maintenance activities. At the end of the 5-year monitoring program, the mitigation areas to be planted with red mangroves shall contain an 80% survival of mangroves. The detailed monitoring plan for this site is described in the Plan (Exhibit C) incorporated by reference in this settlement agreement. The Respondent shall perpetually manage the Hawk Missile Site Restoration project to ensure the maintenance of vegetative cover with desirable wetland vegetation and to further ensure that exotic and nuisance vegetation as defined by Florida EPPC does not exceed 5% of the total vegetative cover.

23. In lieu of civil penalties, Respondent shall construct the West Salt Ponds Project and shall maintenance dredge the Riviera Canal. This construction and dredging shall be completed as set forth in the Plan (Exhibit C). The West Salt Ponds Project shall be completed before June 1, 2003. The maintenance dredging of the Riviera Canal shall be completed before May 1, 2009.

24. A monitoring program shall be implemented for the Western Salt Ponds Enhancement Project that shall extend for a period of 5 years with annual reports submitted to District staff. Respondent shall maintain and monitor the hydrologically enhanced wetlands for a period of five (5) years from the approval date of construction completion by District staff. This monitoring program will document tidal flow at and between the inflow points and the Salt Ponds and will compare pre- and post-construction conditions to demonstrate that no adverse erosion or decrease in submerged habitat has occurred as a result of the construction of the improved tidal connections. The detailed monitoring plan for this site is described in the Plan (Exhibit C) incorporated by reference in this settlement agreement.

25. Respondent is authorized to construct the Future Emergency Mitigation Sites identified in the Plan (Exhibit C). However, Respondent shall submit an ERP application for these sites and all other known future storm water working sites (including the Jose Marti and Donald Avenue sites) that require ERPs within 6 months of the effective date of this Consent Agreement. Respondent shall obtain an ERP for these sites within one year of the effective date of this Consent Agreement. Future regular maintenance of these sites will remain exempt from permitting as per Florida Administrative Code Rule 40E-4.051 (2) provided the maintenance dredging of these canals are returned to the original permitted design specifications or to a depth of no more than five (5) feet below mean low water. Provided that the Respondent maintains these canals at a minimum frequency of every five (5) years to ensure the maintenance of the designed conveyance, no additional mitigation (beyond that which is required in this Consent Agreement) will be required.

26. Respondent agrees to maintain the flow-way connecting the Riviera Canal and the West Salt Ponds, at least every five (5) years.

27. In the event the Respondent fails to satisfy the requirements as set forth in paragraphs 20 through 26 above, Respondent agrees to pay to the District \$500.00 for each day of non-compliance, except as provided in paragraph 33 herein. Prior to initiating any action for such non-compliance, the District shall notify the Respondent of the alleged deficiency and permit the Respondent a reasonable time to comply.

28. Respondent shall, upon reasonable notice and during regular working hours, grant District representatives, along with any vehicles and equipment, who present appropriate credentials, access to the premises for the purpose of sampling, photographing, videotaping, monitoring and/or determining compliance with the terms of this Consent Agreement, Chapter 373, Fla. Stat., and/or the Rules of the District.

29. Respondent shall, in settlement of the allegations alleged in this Consent Agreement, pay the District's reasonable investigative costs and attorneys' fees in the amount of five thousand dollars (\$5,000.00) which total amount shall be paid by cashier's check or money order and tendered to the District via U.S. Mail or hand-delivery at the following address: **South Florida Water Management District, 3301 Gun Club Road, Post Office Box 24680, West Palm Beach, FL 33416-4680, Attn: Lisandra Jones, Environmental Resource Regulation Division, Environmental Resource Compliance Department** within thirty (30) days from the date of the effective date of this Consent Agreement. Respondent agrees that these amounts are reasonable and shall not contest them in any subsequent action regarding this Consent Agreement.

30. This Consent Agreement shall not constitute an admission of liability on the Respondent's behalf.

GENERAL PROVISIONS

31. The District hereby expressly reserves the right to petition for judicial enforcement of the terms of this Consent Agreement. In such event, the Respondent and its successors and/or assigns in interest shall not contest or deny any fact, legal conclusion, or any other matter or fact set forth in this Consent Agreement, including the Findings of Fact, Ultimate Facts and Conclusions of Law set forth herein. If the District successfully petitions or sues for enforcement of this Consent Agreement, the Respondent, its heirs, successors and/or assigns hereby agree to and shall pay all attorneys' fees, (including, but not limited to, the fair market value of in house counsel fees, as if performed by outside or private counsel, court costs and any other damages sustained by the District). In addition, the District hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit the future violation of applicable statutes or the rules promulgated thereunder, or to alleviate an immediate serious danger to the public health, safety or welfare.

32. Failure to comply with this Consent Agreement shall constitute a violation of Chapter 373, Fla. Stat., and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

33. If any event occurs which causes delay or reasonable likelihood of delay, in complying with the requirements or deadlines of this Consent Agreement, the Respondent shall have the burden of proving that the delay was or will be caused by circumstances

beyond the control of the Respondent, nor shall the failure of a contractor, subcontractor, material man, or other agent (collectively referred to as contractor) to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, the Respondent shall notify the District orally within 24 hours or by the next working day and shall, within seven days of oral notification to the District, notify the District in writing of the anticipated length and cause of the delay, the measures taken or to be taking to prevent or minimize the delay, and the timetable by which the Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstance beyond the reasonable control of the Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of the Respondent to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of the Respondent's right to request an extension of time for compliance with the requirements or deadlines in this Consent Agreement.

34. This Consent Agreement shall take effect after adoption by and execution on behalf of the Governing Board of the District, when the Consent Agreement is filed with and acknowledged by the Clerk of the District immediately thereafter, and shall remain in full force and effect until its terms and conditions are completed to the satisfaction of the District. The requirements of this Consent Agreement shall bind and inure to the benefit of the successors and assigns of the Respondent, except as modified by the parties hereto. In addition, prior to any sale, transfer, conveyance or lease of the Property, the

Respondent shall provide a copy of this Consent Agreement to any prospective successor in interest. Additionally, the Respondent shall provide notification to the District of the sale, transfer or conveyance of the Property.

35. Respondent hereby waives the right to request an administrative hearing on the terms of this Consent Agreement under Sections 120.569 and 120.57, Fla. Stat., and its right to appeal this Consent Agreement pursuant to Section 120.68 Fla. Stat.

36. Entry of this Consent Agreement does not relieve the Respondent of the need to comply with all applicable federal, state or local laws, regulation or ordinances, including any District permitting requirements. Also, the Consent Agreement does not give the Respondent the authority to conduct any activities on the Property which are under District jurisdiction without first obtaining District authority.

37. Respondent is fully aware that a violation of the terms of this Consent Agreement may subject the Respondent to judicial imposition of damages, civil penalties up to Ten Thousand Dollars (\$10,000.00) per offense per day, costs and criminal penalties.

38. Persons who are not parties to this Consent Agreement, but whose substantial interests maybe affected by this Consent Agreement, may have a right to petition this Consent Agreement. A notice of rights is attached and incorporated as Exhibit E.

39. This Consent Agreement is a final order from the District, pursuant to Section 120.52(7), F.S., and is final and effective on the date filed with the Clerk of the District unless a petition for administrative hearing is filed in accordance with Chapter 120,

F.S., or any other applicable state law. Upon the timely filing of a petition, the Consent Agreement will not be effective until further order from the District.

ORDER NO. SFWMD 2007 096 CO ERP

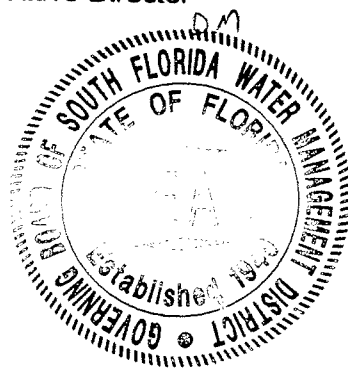
DONE AND SO ORDERED at West Palm Beach, Palm Beach County, Florida, this
12TH day of APRIL, 2007.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
BY ITS GOVERNING BOARD**

BY: *Terrie Bates*
Terrie Bates, Assistant Deputy Executive Director

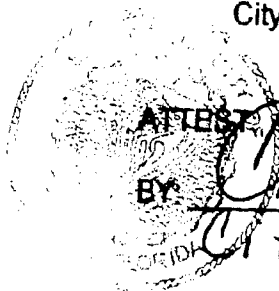
ATTEST:

BY: *Jane McGarty*
Assistant Secretary



RESPONDENT

BY: *[Signature]*
Authorized Representative
City of Key West



ATTEST
BY: *Cheryl Smith*
City Clerk



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • www.sfwmd.gov

CON 24-06-04
6181

July 28, 2006

Mr. Julio Avel, City Manager
City of Key West
525 Angela Street
Key West, Florida 33040

Dear Mr. Avel:

Hand Delivered:

Received by: Irma Borda (Irma Borda)

*Date: August 1, 2006 2:48 PM
& Time*

CEASE AND DESIST NOTICE

**Subject: Construction Without a Permit,
Alteration of Wetlands
Dewatering without a Permit
Key West Police Department Mangrove Wetlands
Monroe County
Sec. 31/Twp.68S/Rge.25E**

Recent field inspections by District staff indicate that you have violated Sections 373.413, and 373.4211 **Fla. Stat.** and Rules 40E-4.041, 40E-2, **Fla. Admin. Code**, at the above referenced property through the construction of "works" without permit authorization from the South Florida Water Management District. The "works" on this project include, but are not limited to the dredging and removal of mangrove wetlands. Furthermore, District staff observed that you were conducting dewatering without the necessary permit authorization.

You are directed to immediately cease all construction activities in violation of Sections 373.413 and 373.4211 **Fla. Stat.** and Rule 40E-4.041, **Fla. Admin. Code**, as described above. The District will seek civil penalties and recovery of staff investigative costs as a result of this violation.

EXHIBIT A

GOVERNING BOARD

Kevin McCarty, Chair
Irela M. Bagné, Vice-Chair
Miya Burt-Stewart

Alice J. Carlson
Michael Collins
Nicolás J. Gutierrez, Jr., Esq.

Lennart E. Lindahl, P.E.
Harkley R. Thornton
Malcolm S. Wade, Jr.

EXECUTIVE OFFICE

Carol Ann Wehler, Executive Director

Key West Police Department Mangrove Wetlands

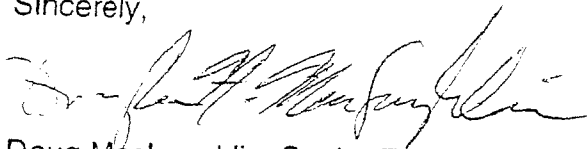
July 28, 2006

Page 2

Please be advised that the District is authorized under Section 373.129, **Fla. Stat.**, to seek civil penalties of up to Ten Thousand Dollars (\$10,000.00) per day per offense and to recover costs such as staff investigative time and attorney fees. Furthermore, the District will seek injunctive relief from the court to immediately stop all work should further construction activity occur.

You are directed to respond in writing within seven (7) days of receipt of this correspondence regarding your intentions in this matter. Should you have any questions, please contact me at (561) 682-2153.

Sincerely,



Doug MacLaughlin, Senior Regulatory Supervisor
Environmental Resource Compliance Department

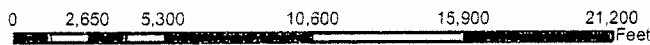
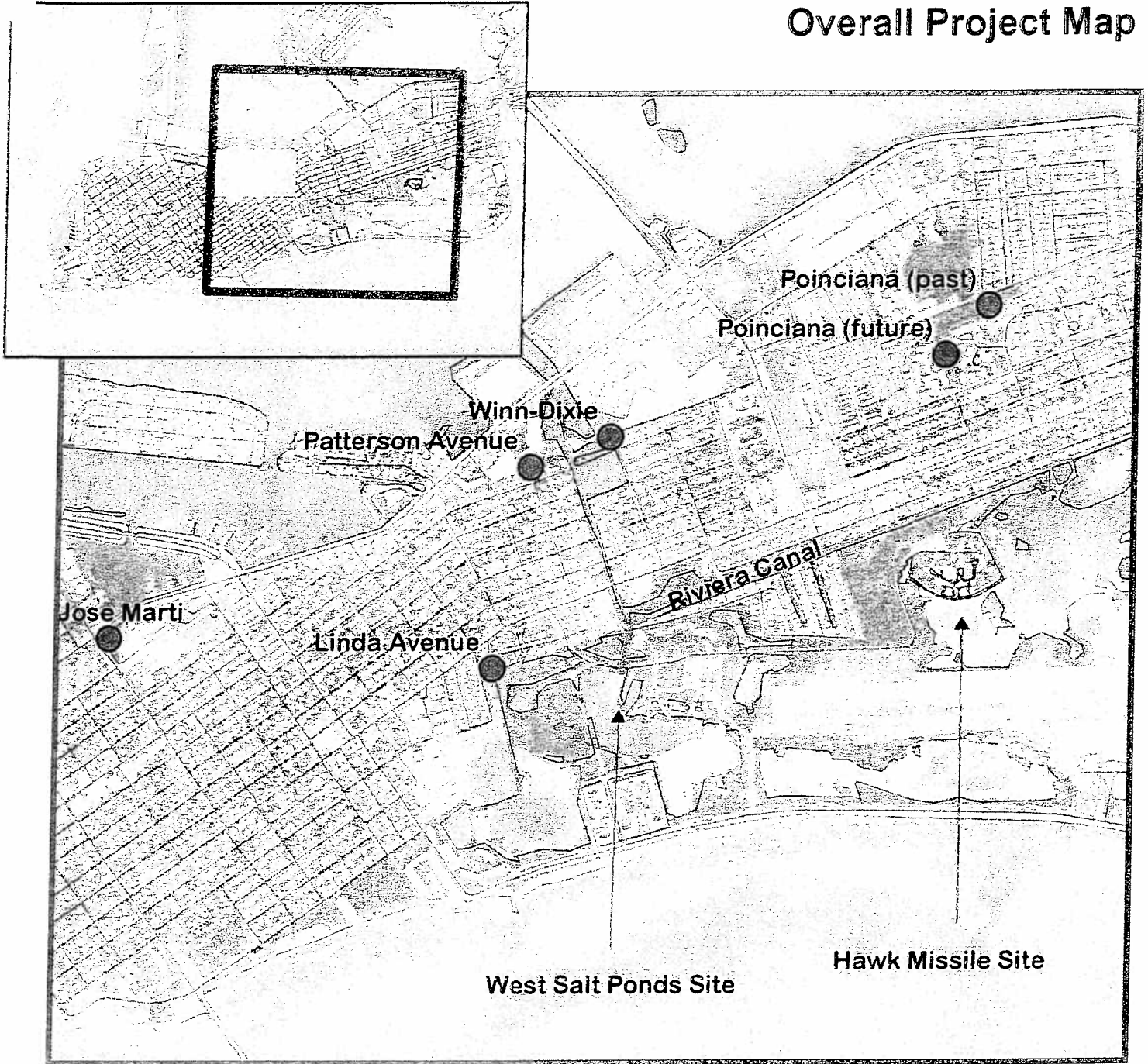
SM

RS/sm

CERTIFIED MAIL NO. 7003 3110 0004 9936 7502

c: Office of Counsel

ATTACHMENT 1 Overall Project Map



Source: Monroe county aerial photograph 2003
Adapted by SWC 1/4/07

Legend

Affect Areas




-  Affected Areas
-  Future Emergency Sites
-  West Salt Ponds Project



EXHIBIT B

SFWMD Permit 44-00377-P
Riviera / Ninth Street Canal, Venetian Flow Improvements



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
 ENVIRONMENTAL RESOURCE
 STANDARD GENERAL PERMIT NO. 44-00377-P
 DATE ISSUED: August 13, 2007**

Form #0941
 08/95

PERMITTEE: KEY WEST CITY OF
 525 ANGELA STREET
 P O BOX 1409
 KEY WEST, FL 33040

PROJECT DESCRIPTION: Improvements and maintenance to a stormwater drainage feature over 1.45 acres known as Riviera/Ninth Street Canals, Venetian Flow Improvements and Government Road Culverts.

PROJECT LOCATION: MONROE COUNTY, SEC 4 TWP 68S RGE 25E
 SEC 33,34 TWP 67S RGE 25E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 070426-1, dated April 26, 2007. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages : 2 - 4 of 6),
3. the attached 14 Special Conditions (See Pages : 5 - 6 of 6) and
4. the attached 2 Exhibit(s)

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 13th day of August, 2007, in accordance with Section 120.60(3), Florida Statutes.

BY: Anita R. Bain
 Anita R. Bain
 Director - Natural Resource Management
 Palm Beach Service Center

Certified mail number 7003 3110 0004 9935 6728

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 Part IV, 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 District 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 violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 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 waterbody 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 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. 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 District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification - For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite 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 District that the system is ready for inspection. Additionally, if deviation 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 noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. 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 (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit

GENERAL CONDITIONS

Applications within the South Florida Water Management District, 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 District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, 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 District 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, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District 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 District 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 authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District 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 the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit

GENERAL CONDITIONS

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 District 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 Rules 40E-1.6105 and 40E-1.6107, 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, District 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 District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on August 13, 2012.
2. Operation of the surface water management system shall be the responsibility of THE CITY OF KEY WEST.
3. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
4. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
5. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
6. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
7. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
8. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
9. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
10. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatee(s).

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 of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.

Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exist from essential habitat.

All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

If manatee(s) are seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) has departed the project area of its own

SPECIAL CONDITIONS

volition.

Any collision with and/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 (1-904-232-2580) for north Florida or Vero Beach (1-772-562-3909) in south Florida.

Temporary signs concerning manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the permittee upon completion of the project. A sign measuring at least 3 ft. by 4 ft. which reads Caution: Manatee Area will be posted in a location prominently visible to water related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8 1/2" by 11" which reads Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-772-562-3909) in south Florida.

11. Silt fencing shall be installed at the limits of construction to protect all of the preserve areas from silt and sediment deposition during the construction of the project. A floating turbidity barrier shall be installed during the construction of the final discharge structure into the adjacent canal/water body. The silt fencing and the turbidity barrier shall be installed in accordance with "Florida Land Development Manual" Chapter 6 "Stormwater and Erosion and Sediment Control Best Management Practices for Developing Areas" and Exhibit No. 2.01 - 2.03. The sediment controls shall be installed prior to the commencement of any clearing or construction and the installation must be inspected by the District's Environmental Resource Compliance staff. The silt fencing and turbidity barriers shall remain in place and be maintained in good functional condition until all adjacent construction activities have been completed and all fill slopes have been stabilized. Upon completion of the project and the stabilization of the fill, the permittee shall contact the District's Environmental Resource Compliance staff to inspect the site and approve the removal of the silt fencing and turbidity barriers.
12. The permittee shall comply with applicable state water quality standards including:
 - a)62-302.500 - Minimum criteria for all surface waters at all places and all times;
 - b)52-302.510 - Surface waters: general criteria;
 - c)62-302.560 - Class III waters; recreation, propagation and maintenance of a healthy, well balanced population of fish and wildlife;
 - d)62-302.700(1) - Special Protection.
13. Weighted turbidity screens or other such turbidity control measures shall be utilized during construction. The selected turbidity control measures shall be weighted to extend to the bottom of the waterway and shall surround the construction/work areas.
14. The following exhibits for the permit are incorporated by reference herein and are located in the permit file:

Exhibit No. 2.04 Consent Agreement Number SFWMD 2007 096 CO ERP

40E-4.321 Duration of Permits.

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C., is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. The effective date of the local government's comprehensive plan amendment,
2. The effective date of the local government development order,
3. The date on which the District issues the conceptual approval, or
4. The date on which the District issues a final order pertaining to the resolution of any Section 120.57, F.S., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, the construction phase authorizing construction, removal, alteration or abandonment of a system shall expire five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For an individual or standard general environmental resource permit, the operational phase of the permit is perpetual for operation and maintenance.

(e) For a noticed general permit issued pursuant to Chapter 40E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. The Governing Board takes action on an application for extension of an individual permit, or
2. Staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to paragraph 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of the permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.419, 373.426 FS. History--New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4-20-94, 10-3-95, 5-28-00

NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing and/or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Right to Request Administrative Hearing

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569, 120.57, and 120.60(3), Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision in accordance with Rule 28-106.111, Fla. Admin. Code. Any person who receives written notice of a District decision and fails to file a written request for hearing within 21 days waives the right to request a hearing on that decision as provided by Subsection 28-106.111(4), Fla. Admin. Code.

The Petition must be filed at the Office of the District Clerk of the SFWMD, 3301 Gun Club Road, P.O. Box 24680, West Palm Beach, Florida, 33416, and must comply with the requirements of Rule 28-106.104, Fla. Admin. Code. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Pursuant to Rule 28-106.104, Fla. Admin. Code, any document received by the office of the District Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.

- Filings made by mail must include the original and one copy and must be addressed to the Office of the District Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must also include the original and one copy of the petition. **Delivery of a petition to the District's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the District's security officer to contact the Clerk's office.** An employee of the District's Clerk's office will file the petition and return the extra copy reflecting the date and time of filing.
- Filings by facsimile must be transmitted to the District Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the District Clerk receives the complete document.

The following provisions may be applicable to SFWMD actions in combination with the applicable Uniform Rules of Procedure (Subsections 40E-0.109(1)(a) and 40E-1.511(1)(a), Fla. Admin. Code):

- (1)(a) "Receipt of written notice of agency decision" as set forth in Rule 28-106.111, Fla. Admin. Code, means receipt of either written notice through mail or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action.
- (b) If notice is published pursuant to Chapter 40E-1, F.A.C., publication shall constitute constructive notice to all persons. Until notice is published, the point of entry to request a formal or informal administrative proceeding shall remain open unless actual notice is received.
- (2) If the District's Governing Board takes action which substantially differs from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law. The District Governing Board's action is considered to substantially differ from the notice of intended agency decision when the potential impact on water resources has changed.
- (3) Notwithstanding the timeline in Rule 28-106.111, Fla. Admin. Code, intended agency decisions or agency decisions regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands pursuant to Section 373.427, Fla. Stat., shall provide a 14 day point of entry to file petitions for administrative hearing.

Hearings Involving Disputed Issues of Material Fact

The procedure for hearings involving disputed issues of material fact is set forth in Subsection 120.57(1), Fla. Stat., and Rules 28-106.201-.217, Fla. Admin. Code. Petitions involving disputed issues of material fact shall be filed in accordance with Rule 28-106.104, Fla. Admin. Code, and must comply with the requirements set forth in Rule 28-106.201, Fla. Admin. Code.

Hearings Not Involving Disputed Issues of Material Fact

The procedure for hearings not involving disputed issues of material fact is set forth in Subsection 120.57(2), Fla. Stat., and Rules 28-106.301-.307, Fla. Admin. Code. Petitions not involving disputed issues of material fact shall be filed in accordance with Rule 28-106.104, Fla. Admin. Code, and must comply with the requirements set forth in Rule 28-106.301, Fla. Admin. Code.

Mediation

As an alternative remedy under Sections 120.569 and 120.57, Fla. Stat., any person whose substantial interests are or may be affected by the SFWMD's action may choose to pursue mediation. The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-.405, Fla. Admin. Code. Choosing mediation will not adversely affect the rights to a hearing if mediation does not result in a settlement.

DISTRICT COURT OF APPEAL

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

Last Date For Agency Action: 07-SEP-2007

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Riviera And 9th Street Canals

Permit No.: 44-00377-P

Application No.: 070426-1

Application Type: Environmental Resource (New General Permit)

Location: Monroe County, S33,34/T67S/R25E
S4/T68S/R25E

Permittee : Key West City Of

Operating Entity : The City Of Key West

Project Area: 1.45 acres

Project Land Use: Government

Special Drainage District: NA

Total Acres Wetland Onsite: .30

Total Acres Impacted Onsite : .30

Conservation Easement To District : No

Sovereign Submerged Lands: No

PROJECT PURPOSE:

This application is a request for an Environmental Resource Permit to authorize improvements and maintenance of the Ninth Street and Riviera Canals, construction of a 400-foot drainage feature between Venetian Drive and Government Road, placement of an additional culvert under Venetian Drive and replacement of an existing culvert under Government Road totaling 1.45 acres.

PROJECT EVALUATION:**PROJECT SITE DESCRIPTION:**

The proposed project includes three components. One site is located between the Salt Run Channel end of the Ninth Street Canal to the Riviera Canal boat launch. Currently, the site contains an infrequently maintained drainage canal.

The second site is the proposed replacement of an existing culvert under Government Road. The third component of this project is the installation of an additional culvert under Venetian Drive and construction of a drainage feature between Venetian Drive and Government Road to improve flow to the West Salt Pond.

All locations are within the City of Key West, Monroe County.

There are no permitted surface water management facilities within the project area.

ENFORCEMENT:

There has been no enforcement activity associated with this application. However, the activities referenced in this permit are consistent with those identified in the Consent Order issued to the City of Key West (Order Number SFWMD 2007 096 CO ERP).

PROPOSED PROJECT:

Proposed is the improvement and continued maintenance of the existing Riviera and Ninth Street canals located from the Salt Run Channel end of the Ninth Street Canal to the Riviera Canal boat launch at Eleventh Street. Water from the Riviera and Ninth Street canals ultimately discharges to the Atlantic Ocean via the Salt Run Channel. Stormwater conveyance has been obstructed by thick mangrove growth within the drainage feature.

Installation of an additional culvert under Venetian Drive, construction of a 400 foot long channel between Venetian Drive and Government Road and the replacement of an existing culvert under Government Road is also proposed.

Installation of the proposed culverts and channel construction is anticipated to provide upstream drainage relief for the Riviera and Ninth Street Canal watershed while improving downstream tidal flow to the City of Key West Salt Ponds.

Plans for the proposed work are contained in Exhibits 2.01 through 2.03.

WATER QUALITY :

Since there are no additional impervious areas proposed with project development, no adverse water quality impacts are anticipated. Provisions for turbidity management are shown on Exhibits 2.01 through 2.03.

WETLANDS:

The Riviera and Ninth Street canals portion of the site extends approximately 2,700 feet along an existing drainageway with a maximum proposed width of 25-feet and maximum proposed depth of 4.5-feet. Red mangrove thickets have developed along the canal, restricting stormwater conveyance and compromising flood control. In certain areas where light penetrates the mangroves and substrate conditions are appropriate, mermaids wine glass, green vase algae, red turf algae and green hair algae are also present.

An estimated 2,200 cubic yards of material is proposed to be dredged from the Riviera and Ninth Street Canal system. Approximately 0.12 acre of red mangrove impacts will be incurred during this maintenance activity, resulting primarily from trimming of the mangrove fringe.

The Venetian Drive Drainage Improvements includes the construction and continued maintenance of a 400 foot long channel, with a maximum width of 15-feet and a maximum depth of 4.5-feet. Construction of this drainage feature will impact 0.17-acre of red mangrove forest. Approximately 371 cubic yards of material will be removed as a result of channel construction and culvert installation.

Placement of the new culvert under Government Road will not result in additional wetland impacts.

Mitigation, monitoring and management of the wetland mitigation plan designed to offset proposed wetland impacts is addressed through the Consent Agreement (Order Number SFWMD 2007 096 CO ERP).

Wetland Inventory :

CONSTRUCTION NEW -Riviera/9th St. Canals,Gov't. Rd. and Venetian Dr. Culverts

Site Id	Site Type	Pre-Development				Post-Development						
		Pre Fluc cs	AA Type	Acreage (Acres)	Current Wo Pres	With Project	Time Lag (Yrs)	Risk Factor	Pres. Adj. Factor	Post Fluc cs	Adj Delta	Functional Gain / Loss
01	ON	612	Direct	.30							.000	.000
02	ON	500	Direct	1.15							.000	.000
Total:				1.45								.00

<u>Fluc cs Code</u>	<u>Description</u>
500	Water
612	Mangrove Swamps

Wildlife Issues:

The project site does not contain preferred habitat for wetland-dependent endangered or threatened wildlife species or species of special concern. However, the proposed culvert to be placed under Venetian Drive (Exhibit Number 2.03) will incorporate manatee restriction grates. This permit is conditioned to require the implementation of manatee protection provisions during project development. No wetland-dependent endangered/threatened species or species of special concern were observed onsite, and submitted information indicates that potential use of the site by such species is minimal. This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, endangered/threatened species or species of special concern are discovered on the site.

CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4.361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

RELATED CONCERNS:

Water Use Permit Status:

The applicant has indicated that dewatering is not required for construction of this project.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a No-Notice Short-Term Dewatering permit pursuant to Chapter 40E-20.302(3) or is exempt pursuant to Section 40E-2.051, FAC.

CERP:

The proposed project is not located within or adjacent to a Comprehensive Everglades Restoration Project component.

Potable Water Supplier:

The project will not require potable water.

Right-Of-Way Permit Status:

A Right-of-Way Permit is not required for this project.

DRI Status:

This project is not a DRI.

Historical/Archeological Resources:

No information has been received that indicates the presence of archaeological or historical resources or that the proposed activities could cause adverse impacts to archaeological or historical resources.

DCA/CZM Consistency Review:

The District has not received a finding of inconsistency from the Florida Department of Environmental Protection or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

Third Party Interest:

No third party has contacted the District with concerns about this application.

STAFF REVIEW:

DIVISION APPROVAL:

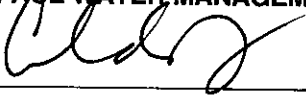
NATURAL RESOURCE MANAGEMENT:



Anita R. Bain

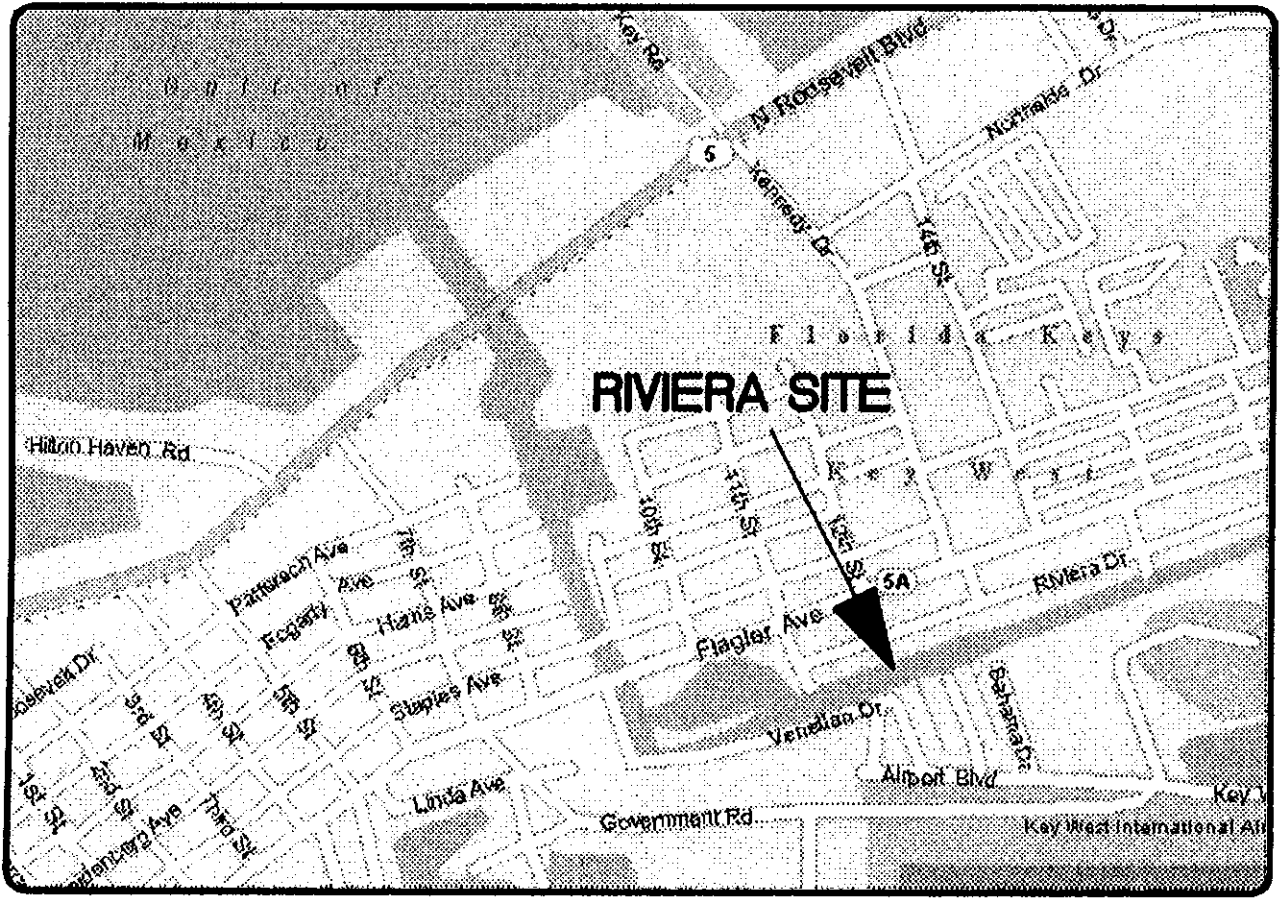
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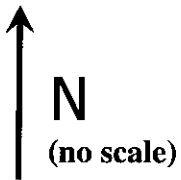


Carlos A. DeRojas, P.E.

DATE: 8/13/07



Location Map



Riviera /9th Street Canals City of Key West

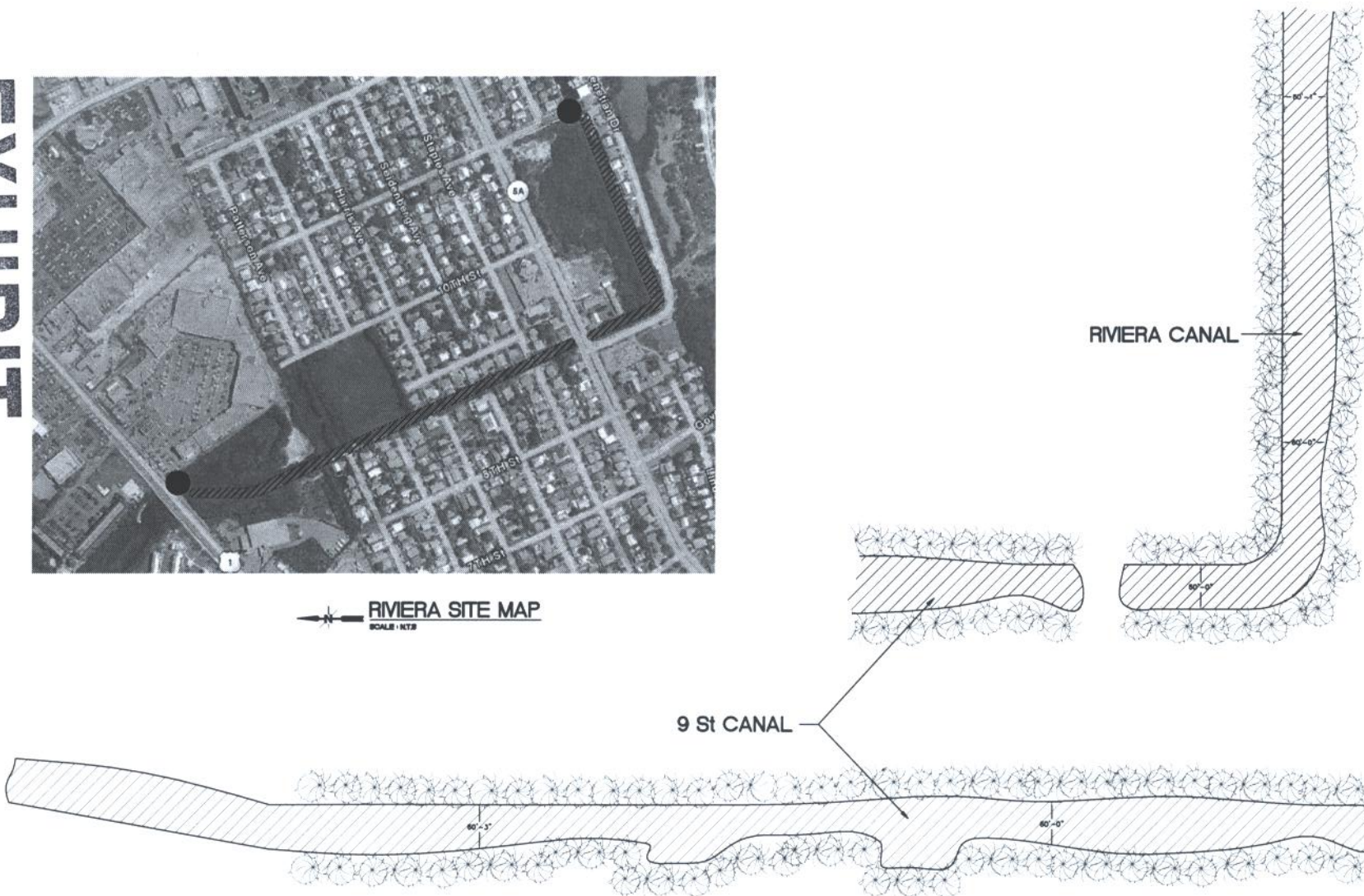
Application 070426-1

Exhibit 1

EXHIBIT
2.01B



RIVIERA SITE MAP
SCALE: NTS



SITE PLAN DETAIL
SCALE: 1/8" = 1'-0"



G. M. SELBY Inc.

6999 N. WATERWAY DR.
MIAMI, FL 33155
TEL : (305) 262-0715
FAX : (305) 262-0724

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S.M. SELBY NO: KWC240250
DRAWN BY: J.O. DATE: 12-06-06
CHECKED BY: G. ZADKOFF
ENGINEER: GERALD ZADKOFF
LICENSE NO: PE# 44206 FL

BBU

gg 12/14/06

REVISIONS	
NO.	DATE DESCRIPTION

RIVIERA CANAL

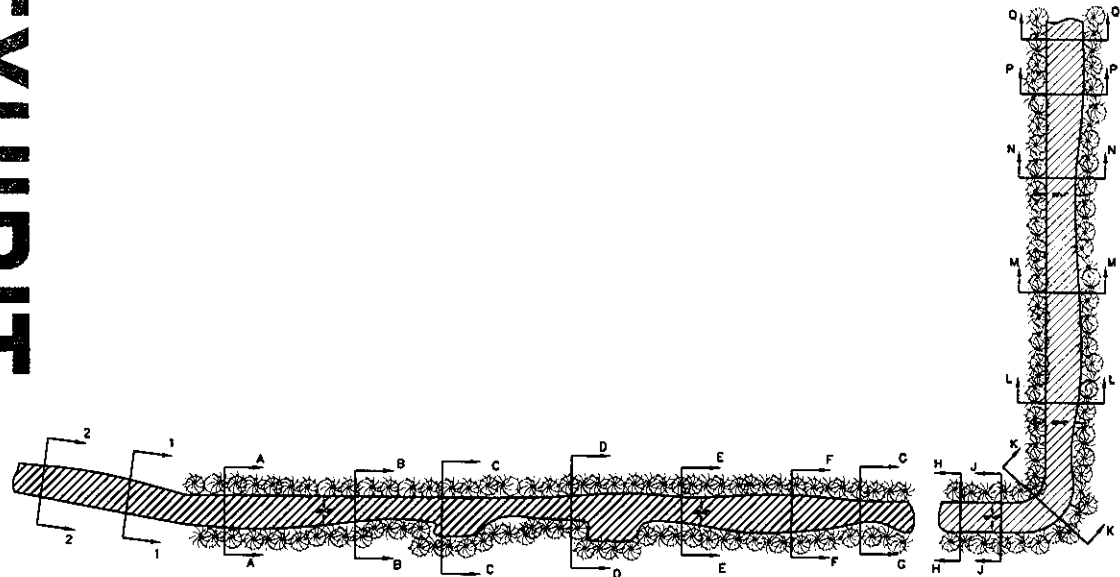
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SITE PLAN

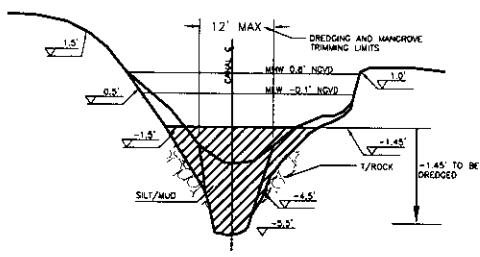
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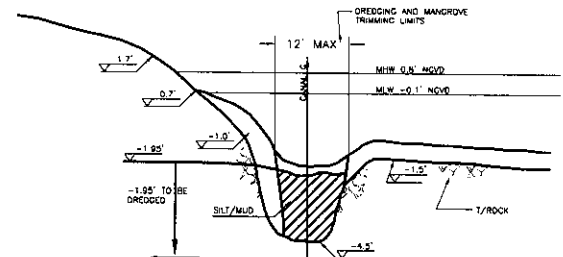
EXHIBIT
2.01C



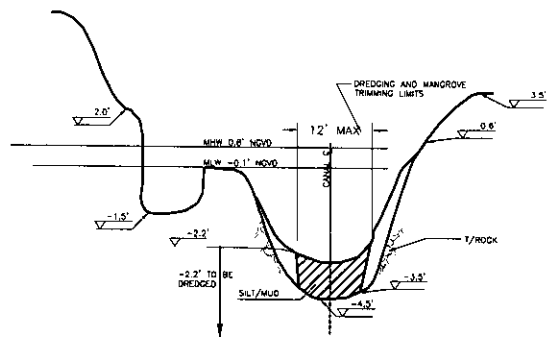
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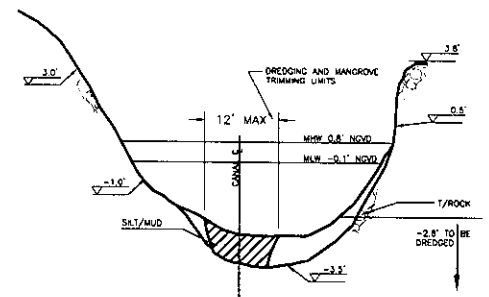
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SECTION 'C-C*
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243039.47 E



SECTION 'D-D*
83002.002 N
243409.81 E



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CHECKED BY G. ZADKOFF
ENGINEER GERALD ZADKOFF
LICENSE NO. PE# 44206 FL
M.B.H.

GG 12/14/06

REVISIONS	
NO.	DESCRIPTION

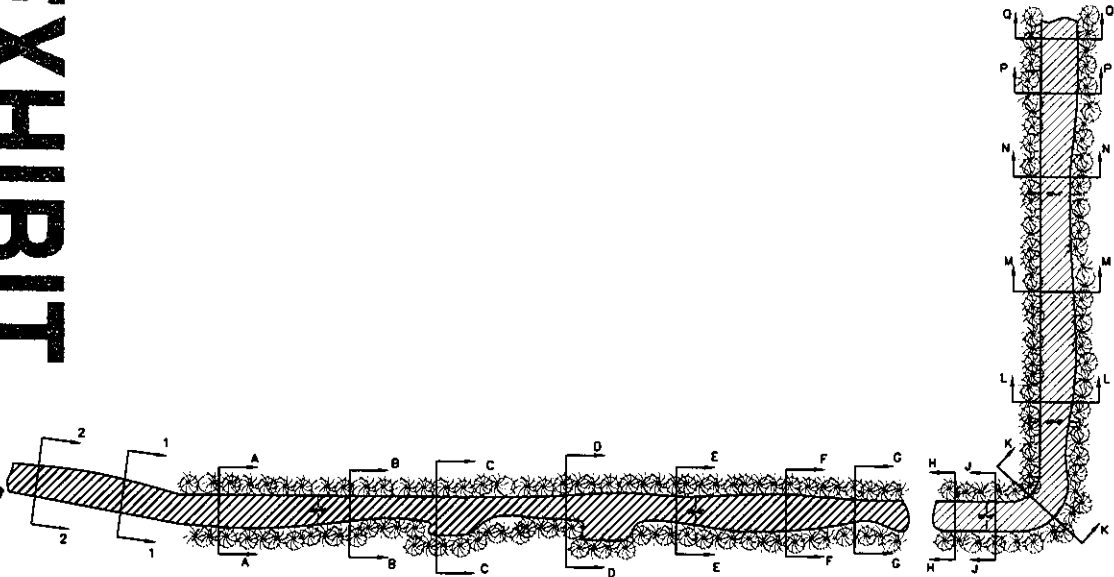
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CHANNEL DETAIL

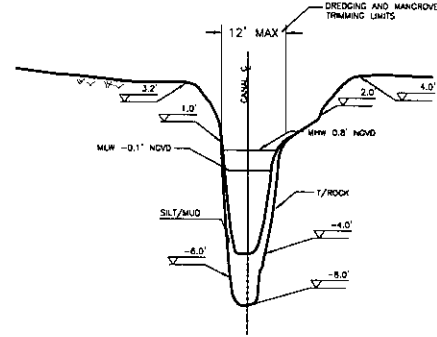
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EXHIBIT

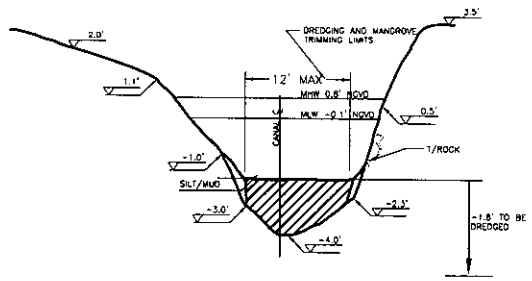
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CHANNEL TOP VIEW

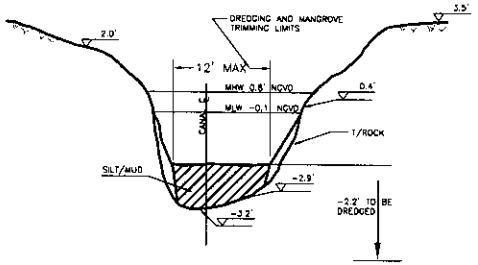


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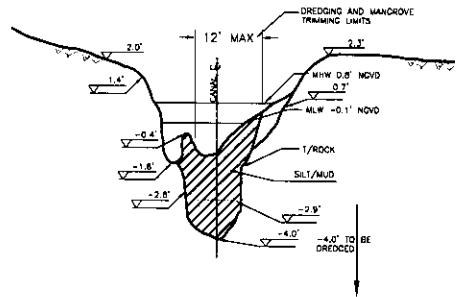
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SECTION 'F-F'

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SECTION 'G-G'

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243414.88 E



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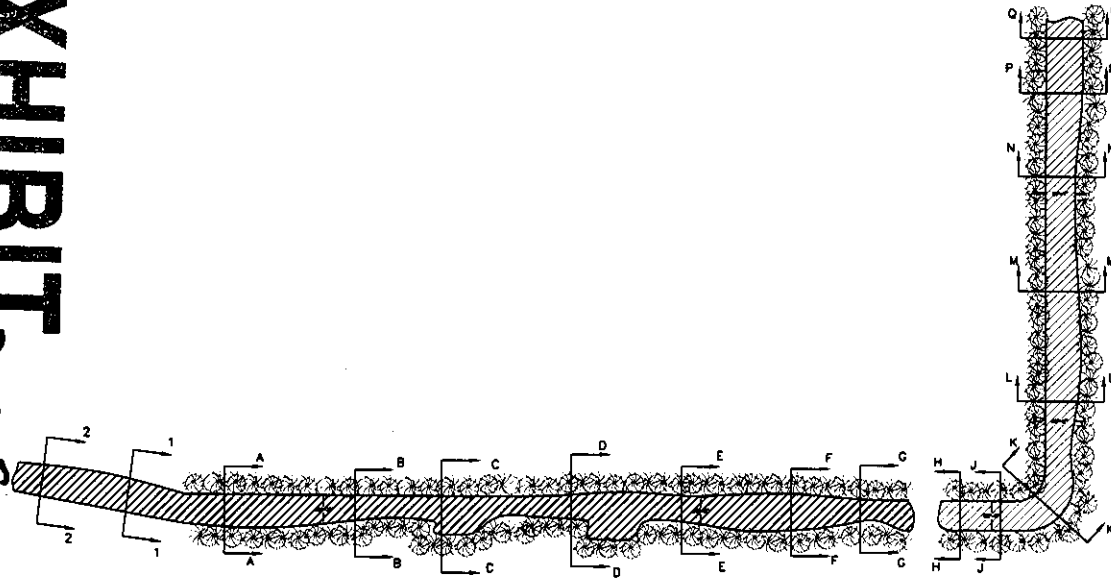
NO.	DATE	REVISIONS

RIVERA CANAL

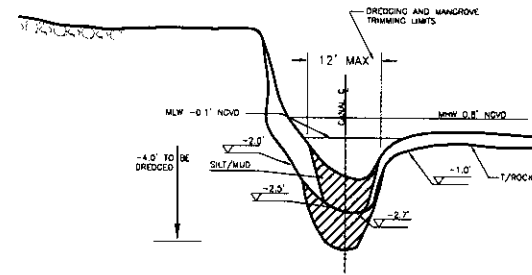
SHEET TITLE:
CHANNEL DETAIL

SHEET NO:
C-3

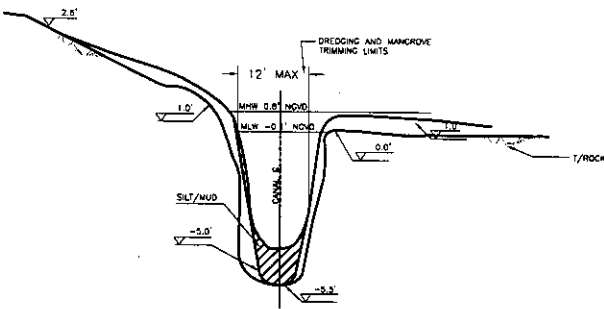
EXHIBIT 2.01E



CHANNEL TOP VIEW

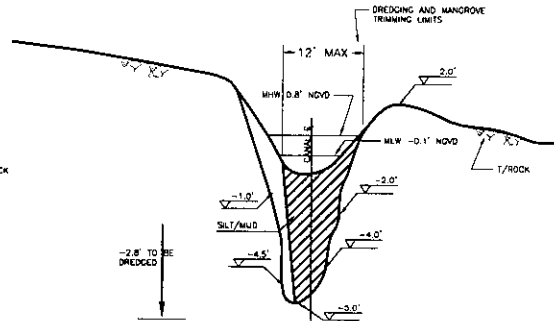


SECTION 'M-M'



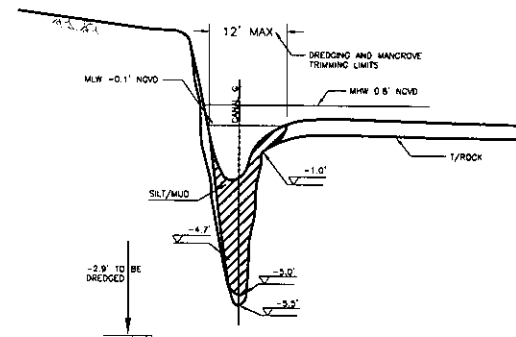
SECTION 'J-J'

82917.26 N
243414.88 E



SECTION 'K-K'

82389.14 N
243627.98 E



SECTION 'L-L'

82418.68 N
243761.09 E



G. M. SELBY Inc.

5999 N. WATERWAY DR.
MIAMI, FL 33155
TEL : (305) 262-0715
FAX : (305) 262-0724

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G.M. SELBY NO. KWC240250
DESIGNED BY: J.O. DATE: 12-05-08
CHECKED BY: G. ZADKOFF
ENGINEER: GERALD ZADKOFF
LICENSE NO.: PE 44208 FL

Handwritten signature

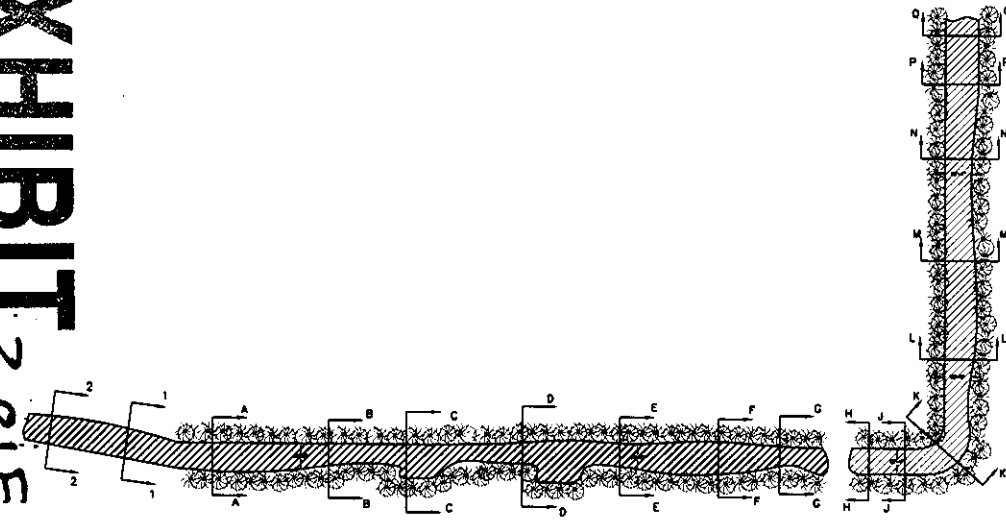
REVISIONS	
NO.	DESCRIPTION

RIVERA CANAL

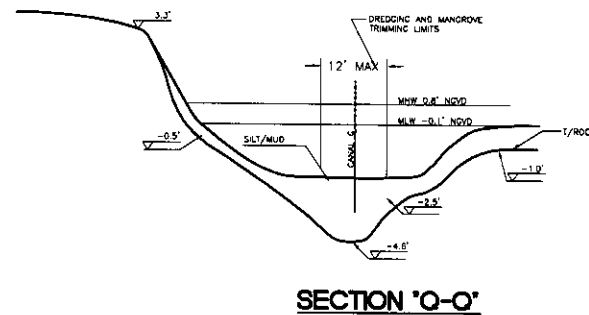
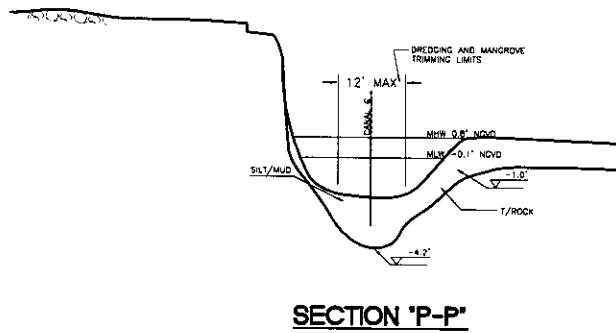
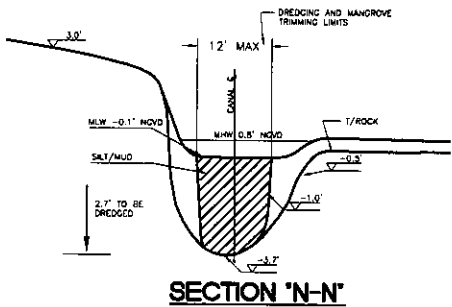
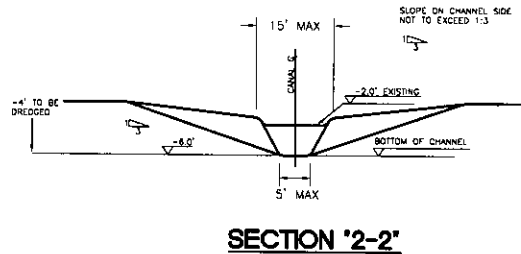
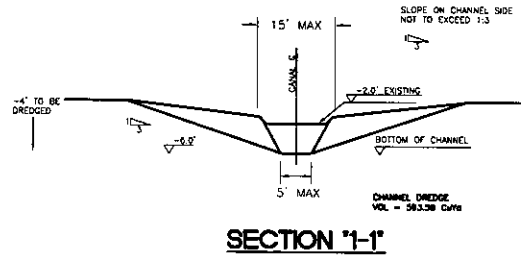
SHEET TITLE:
CHANNEL DETAIL

SHEET NO:
C-4

EXHIBIT 2.01F



CHANNEL TOP VIEW



82753.20 N
244593.94 E

82746.96 N
244627.14 E



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DRAWN BY: J.O. DATE: 12-06-08
CHECKED BY: G. ZADKOFF
ENGINEER: GERALD ZADKOFF
LICENSE NO: PE# 44208 FL

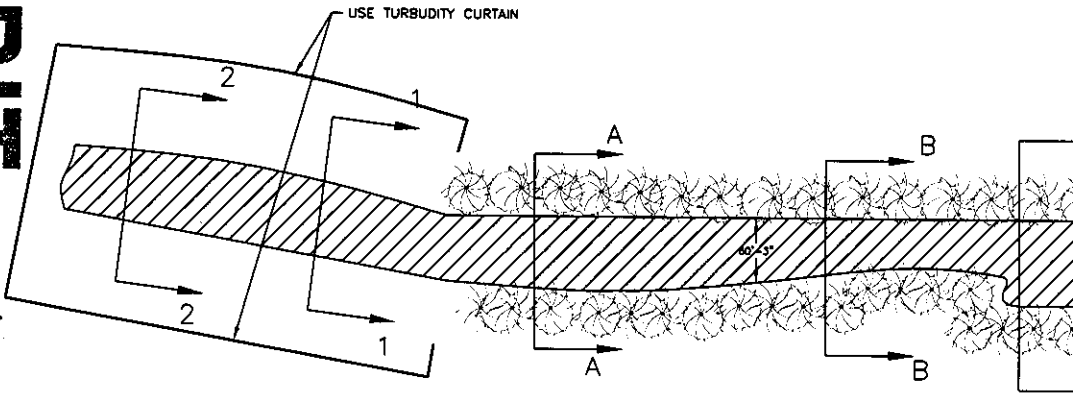
GZ

NO.	DATE	REVISIONS DESCRIPTION

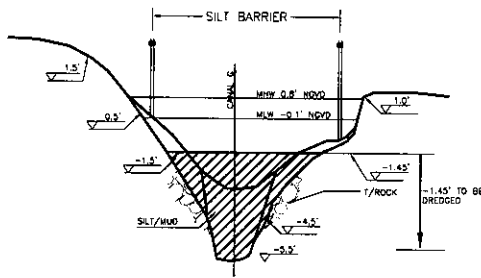
RIVERA CANAL

SHEET TITLE:
CHANNEL DETAIL

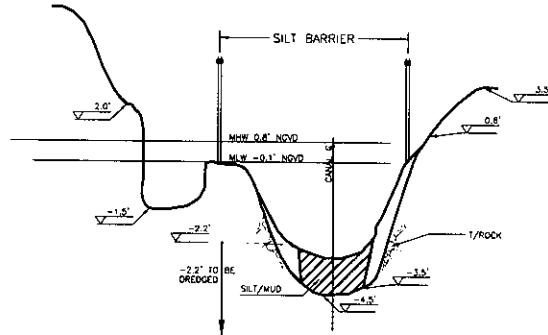
SHEET NO:
C-5



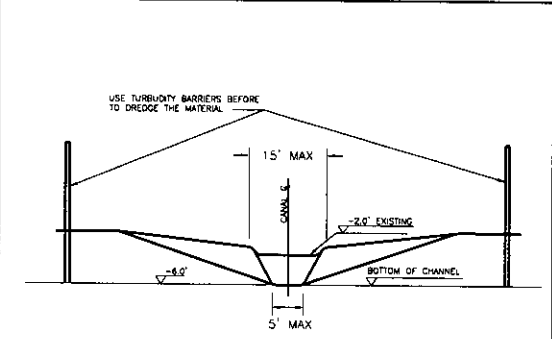
CHANNEL TOP VIEW



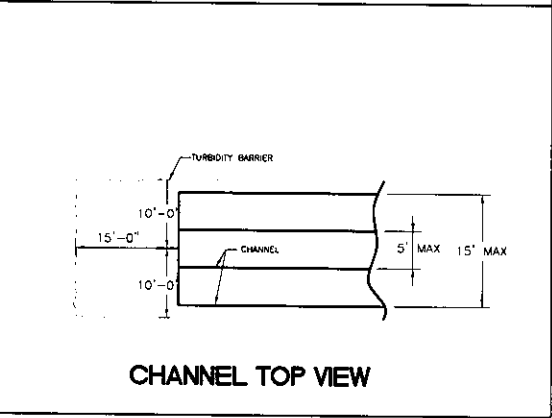
SECTION 'A-A'



SECTION 'B-B'

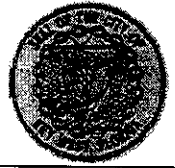


CHANNEL CROSS SECTION



CHANNEL TOP VIEW

TURBIDITY BARRIER DETAIL



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D.L. SELBY NO. KWCC40250
DESIGNER: J.D. DATE: 12-06-06
CHECKED BY: G. ZADKOFF
DESIGNED BY: GERALD ZADKOFF
LICENSING NO.: PE# 44206 FL
ISSUED:

Handwritten signature: GZ/04/06

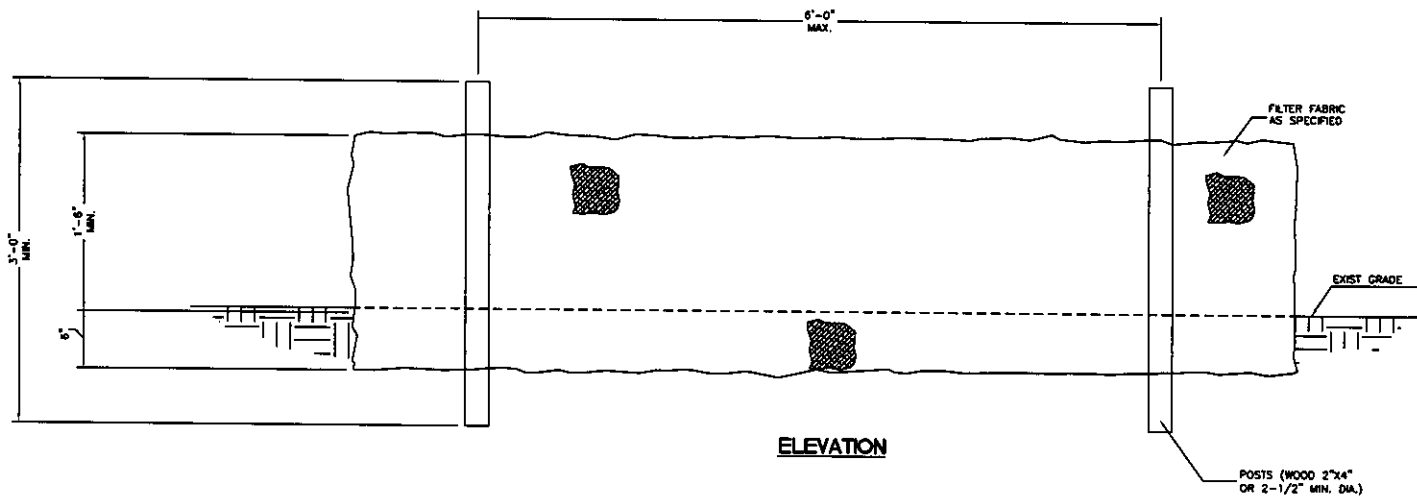
REVISIONS	
NO.	DATE DESCRIPTION

RIVERA CANAL

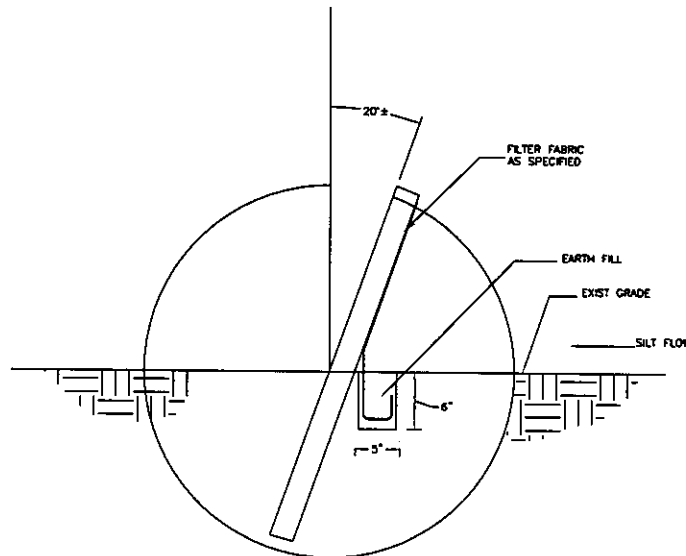
SHEET TITLE:
BARRIERS DETAILS

SHEET NO.:
C-6

EXHIBIT
2.014



ELEVATION



SECTION

NOTE:

CONTRACTOR SHALL ERECT ALL SILT BARRIERS AT LOCATIONS SHOWN ON THE DRAWINGS PRIOR TO START OF ANY CONSTRUCTION.

CONTRACTOR SHALL REMOVE THE DREDGE MATERIAL BY PUMP TRUCK.

MUST BE DISPOSED OF AT APPROVED DISPOSAL SITE.



G. M. SELBY Inc.

8908 N. WATERWAY DR.
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G.M. SELBY NO. KWCR40230
DESIGNER: J.D. DATE: 12-06-06
CHECKED BY: C. ZACKOFF
DESIGNER: GERALD ZACKOFF
LICENSE NO.: PE# 44206 FL

Handwritten signature and date: GY 12/4/06

REVISIONS	
NO.	DATE DESCRIPTION

**RIVERA
CANAL**

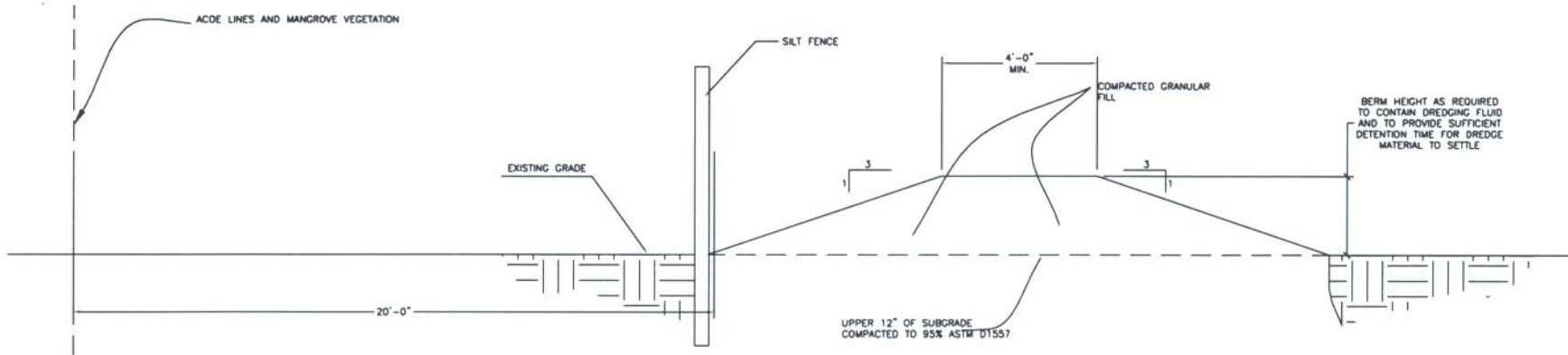
SHEET TITLE:
SILT FENCE DETAIL

SHEET NO:
C-7

EXHIBIT 2.01 I



RIVIERA SITE MAP
SCALE: NTS



**TYPICAL SPOIL AREA
CONTAINMENT BERM**



G. M. SELBY Inc.

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MIAMI, FL 33155
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DRAWN BY: J.O. DATE: 12-06-06
CHECKED BY: G. ZADKOFF
ENGINEER: GERALD ZADKOFF
LICENSE NO: PE# 44206 FL

EG 12/11/06

REVISIONS	
NO.	DATE DESCRIPTION

**RIVIERA
CANAL**

SHEET TITLE:
**SPOIL CONTAINMENT
AREA**

SHEET NO:
C-8

EXHIBIT 2.02A

PROJECT NAME:
PROJECT ADDRESS:

GOVERNMENT RD CULVERTS CITY OF KEY WEST, FLORIDA 33040



LOCATION MAP

SITE NAME: GOVERNMENT SITE
 SITE ADDRESS: GOVERNMENT RD.
 PROPERTY OWNER: CITY OF KEY WEST
 CONTACT PERSON: DAVID FERNANDEZ
 UTILITIES/GENERAL SERVICES DIRECTOR
 PHONE: (305) 293-6414
 FAX:
 APPLICANT: KEY WEST

PROJECT SUMMARY

SHEET #:	DESCRIPTION	△ REVISIONS
T-1	TITLE SHEET	
C-1	SITE MAP	
C-2	SITE PLAN	
C-3	FUTURE SITE	
C-4	CULVERT DETAIL	
C-5	CULVERT TRENCH DETAIL	
C-6	GENERAL NOTES AND DETAIL	

SHEET INDEX



G. M. SELBY & ASSOCIATES, Inc.
 7500 SW 50TH AVENUE
 SUITE 304
 MIAMI, FL 33155
 TEL.: (305) 896-5575
 FAX.: (305) 896-5514

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G.M. SELBY NO: KWC240210
 DRAWN BY: J.O. DATE: 12-06-06
 CHECKED BY: G. ZADIKOFF
 ENGINEER: GERALD ZADIKOFF
 LICENSE NO.: PE# 44206 FL

REVISIONS	
NO.	DATE DESCRIPTION

REVISIONS	
NO.	DATE DESCRIPTION

GOVERNMENT SITE

SHEET TITLE:
TITLE SHEET

SHEET NO:
T-1

EXHIBIT 2.02B



G. M. SELBY & ASSOCIATES, Inc.
 7400 SW 50th TERRACE
 SUITE 204
 MIAMI, FL 33150
 TEL: (305) 866-8775
 FAX: (305) 866-8014

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 DRAWN BY: J.O. DATE: 12-06-06
 CHECKED BY: G. ZADKOFF
 ENGINEER: GERALD ZADKOFF
 LICENSE NO.: PE# 44206 FL
 BS&S

NO.	DATE	REVISIONS DESCRIPTION

GOVERNMENT SITE

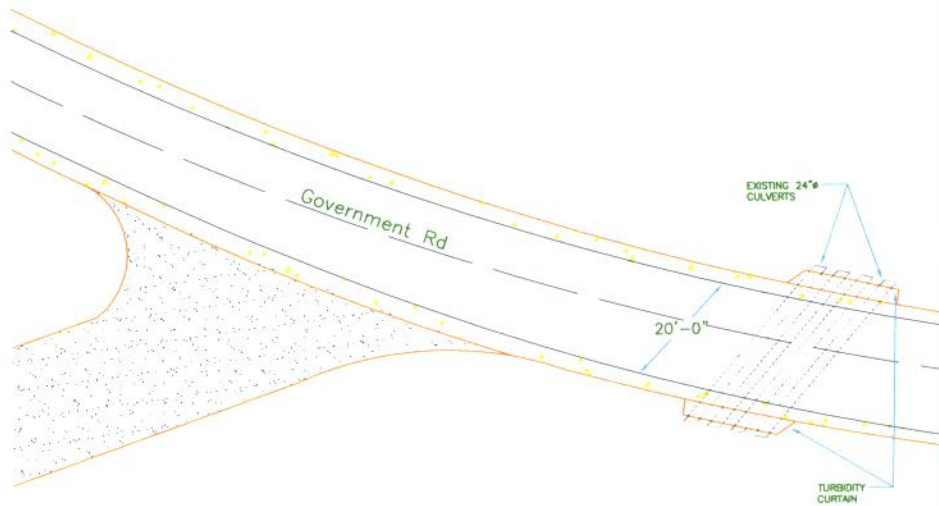
SHEET TITLE:
SITE MAP

SHEET NO:
C-1

EXHIBIT 2.02C



GOVERNMENT SITE MAP
N.T.S



SITE DETAIL
N.T.S



G. M. SELBY
&
ASSOCIATES, Inc.
7400 SW 50th TERRACE
SUITE 304
MIAMI, FL 33155
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DRAWN BY: J.O. DATE: 12-06-06
CHECKED BY: G. ZADIKOFF
ENGINEER: GERALD ZADIKOFF
LICENSE NO.: PE# 44206 FL

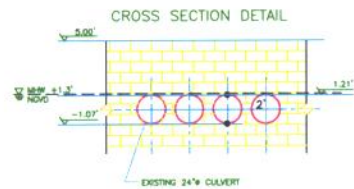
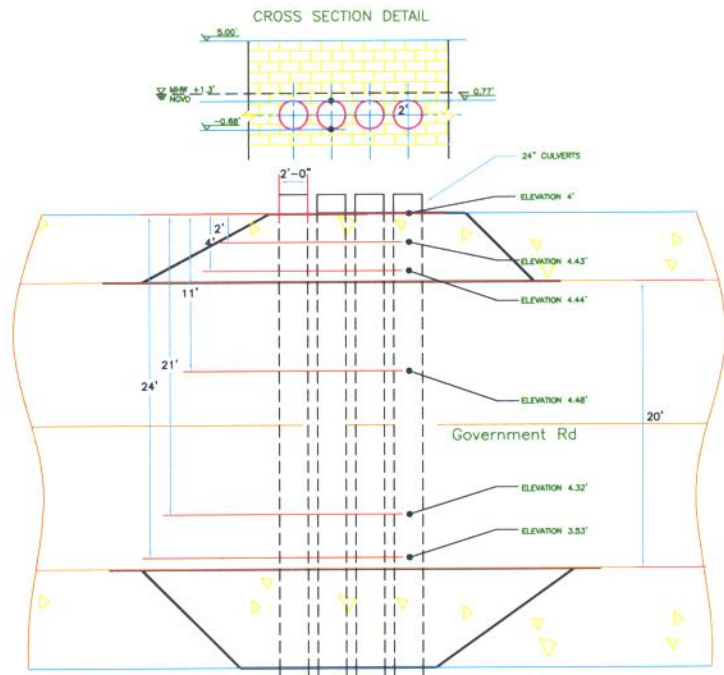
REVISIONS	
NO.	DESCRIPTION

GOVERNMENT SITE

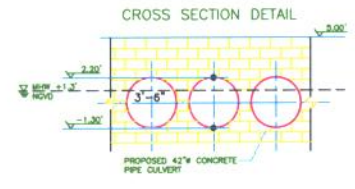
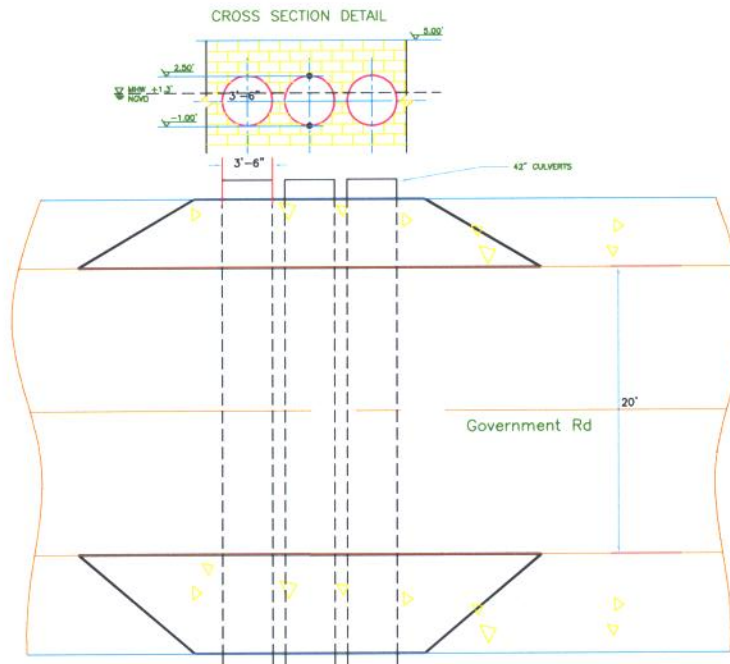
SHEET TITLE:
SITE PLAN

SHEET NO:
C-2

EXHIBIT 2.02D



EXISTING SITE
SCALE: 1/4" = 1'-0"



FUTURE SITE
SCALE: 1/4" = 1'-0"



G. M. SELBY
&
ASSOCIATES, Inc.
3408 SW 50th STREET
SUITE 304,
MIAMI, FL 33155
TEL.: (305) 846-5775
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DRAWN BY: J.O. DATE: 12-06-06
CHECKED BY: G. ZADIKOFF
ENGINEER: GERALD ZADIKOFF
LICENSE NO.: PE # 44206 FL
BML

REVISIONS	
NO.	DATE
	DESCRIPTION

GOVERNMENT
SITE

SHEET TITLE:
FUTURE SITE

SHEET NO:
C-3

EXHIBIT 2.02E

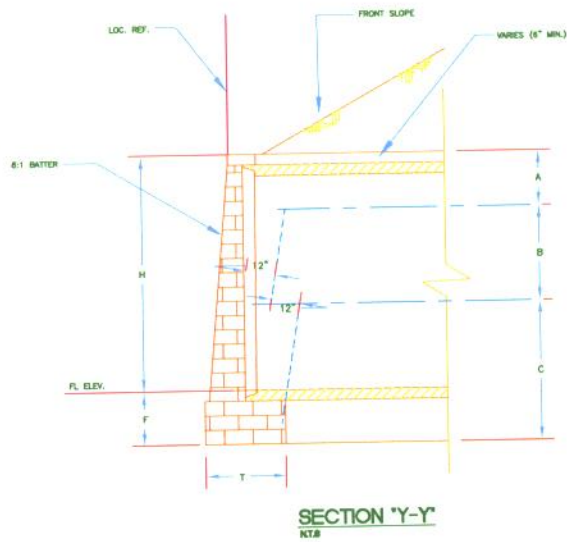
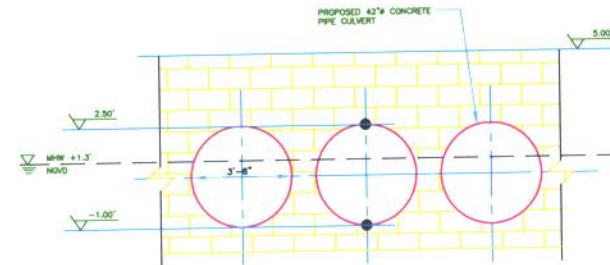
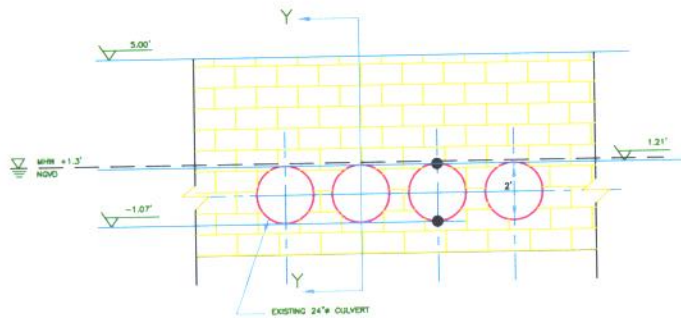


TABLE OF DIMENSIONS AND QUANTITIES FOR ONE ENDWALL

SIZE OF PIPE	H	T	A	B	C	F	X	
24"φ	2'-9"	2'-0"	2'-0"	2'-6"	0'-0"	1'-9"		EXISTING
42"φ	4'-5"	3'-0"	2'-0"	2'-0"	2'-4"	1'-11"	6'-0"	NEW



TYPICAL END DETAIL
SCALE - VE - 1"=0'



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 DRAWN BY: J.O. DATE: 12-06-06
 CHECKED BY: G. ZADIKOFF
 ENGINEER: GERALD ZADIKOFF
 LICENSE NO.: PE # 44206 FL

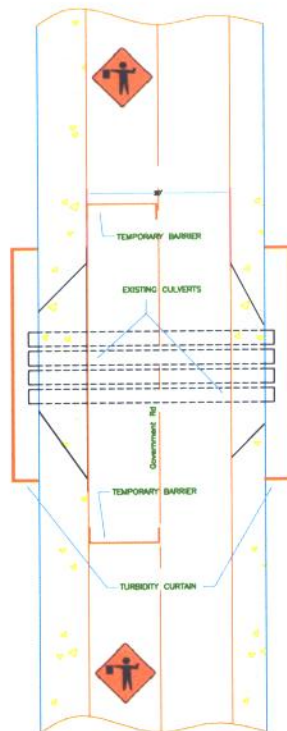
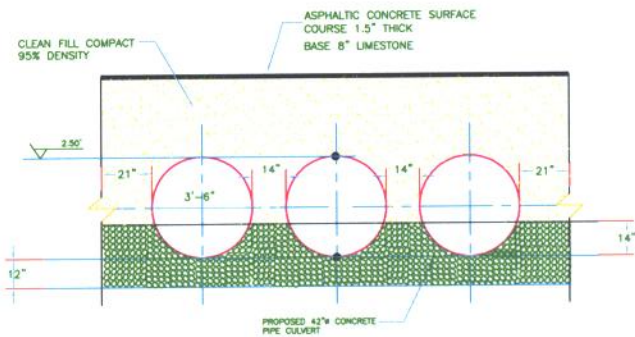
REVISIONS

NO.	DATE	DESCRIPTION

GOVERNMENT SITE

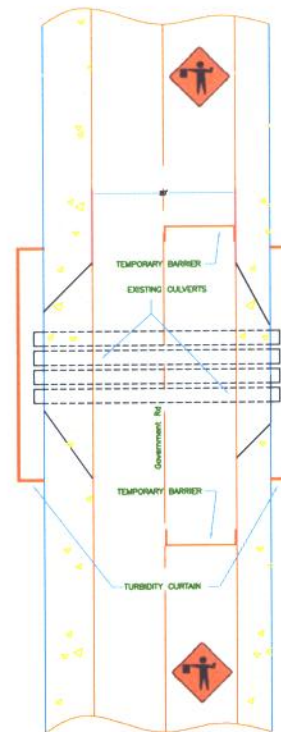
SHEET TITLE:
CULVERT DETAIL

SHEET NO:
C-4



PHASE II

- CONSTRUCTION PHASING II:
- 1- PUT THE TRAFFIC SIGN AND CLOSE ONE SIDE.
 - 2- USE TEMPORARY BARRIER IN WORK AREA.
 - 3- EXCAVATE AROUND PIPE.
 - 4- REMOVE OLD PIPE.
 - 5- INSTALL 42" PIPE, JOINT AND SEAL.
 - 6- FILL BETWEEN PIPE AND CLOSE.



PHASE I

- CONSTRUCTION PHASING I:
- 1- PUT THE TRAFFIC SIGN AND CLOSE ONE SIDE.
 - 2- USE TEMPORARY BARRIER IN WORK AREA.
 - 3- EXCAVATE AROUND PIPE.
 - 4- REMOVE OLD PIPE.
 - 5- INSTALL 42" PIPE, JOINT AND SEAL.
 - 6- FILL BETWEEN PIPE AND CLOSE.



G. M. SELBY & ASSOCIATES, Inc.
 7400 SW SUN TERRACE
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 MIAMI, FL 33156
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 DRAWN BY: J.O. | DATE: 12-06-06
 CHECKED BY: G. ZADIKOFF
 ENGINEER: GERALD ZADIKOFF
 LICENSE NO: PE# 44206 FL
 BSL

REVISIONS	
NO.	DESCRIPTION

GOVERNMENT SITE

SHEET TITLE:
CULVERT TRENCH DETAIL

SHEET NO:
C-5

EXHIBIT 2.02 F

CONSTRUCTION PHASING
 KTB

SECTION "A-A"
 KTB

PROJECT NAME:
PROJECT ADDRESS:

WEST SALT POND (VENETIAN) FLOW IMPROVEMENTS CITY OF KEY WEST, FLORIDA 33040



LOCATION MAP

SITE NAME:	WEST SALT POND (VENETIAN)
SITE ADDRESS:	VENETIAN Dr.
PROPERTY OWNER:	CITY OF KEY WEST
CONTACT PERSON:	DAVID FERNANDEZ UTILITIES/GENERAL SERVICES DIRECTOR
PHONE:	(305) 293-6414
FAX:	
APPLICANT:	KEY WEST

PROJECT SUMMARY

SHEET #	DESCRIPTION	Δ REVISIONS
T-1	TITLE SHEET	
C-1	SITE PLAN	
C-2	PARTIAL PLAN LAYOUT	
C-3	CULVERT DETAIL	
C-4	CHANNEL DESIGN	
C-5	SILT FENCE DETAIL	
C-6	SPOIL CONTAINMENT AREA	
C-7	CULVERT TRENCH DETAIL	
C-8	GENERAL NOTES	
C-9	PLAN VIEW	

SHEET INDEX

EXHIBIT 2.03A



G. M. SELBY Inc.

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G.M. SELBY NO: KWC240230
DRAWN BY: J.O. DATE: 12-05-06
CHECKED BY: G. ZADIKOFF
ENGINEER: GERALD ZADIKOFF
LICENSE NO. PE# 44206 FL

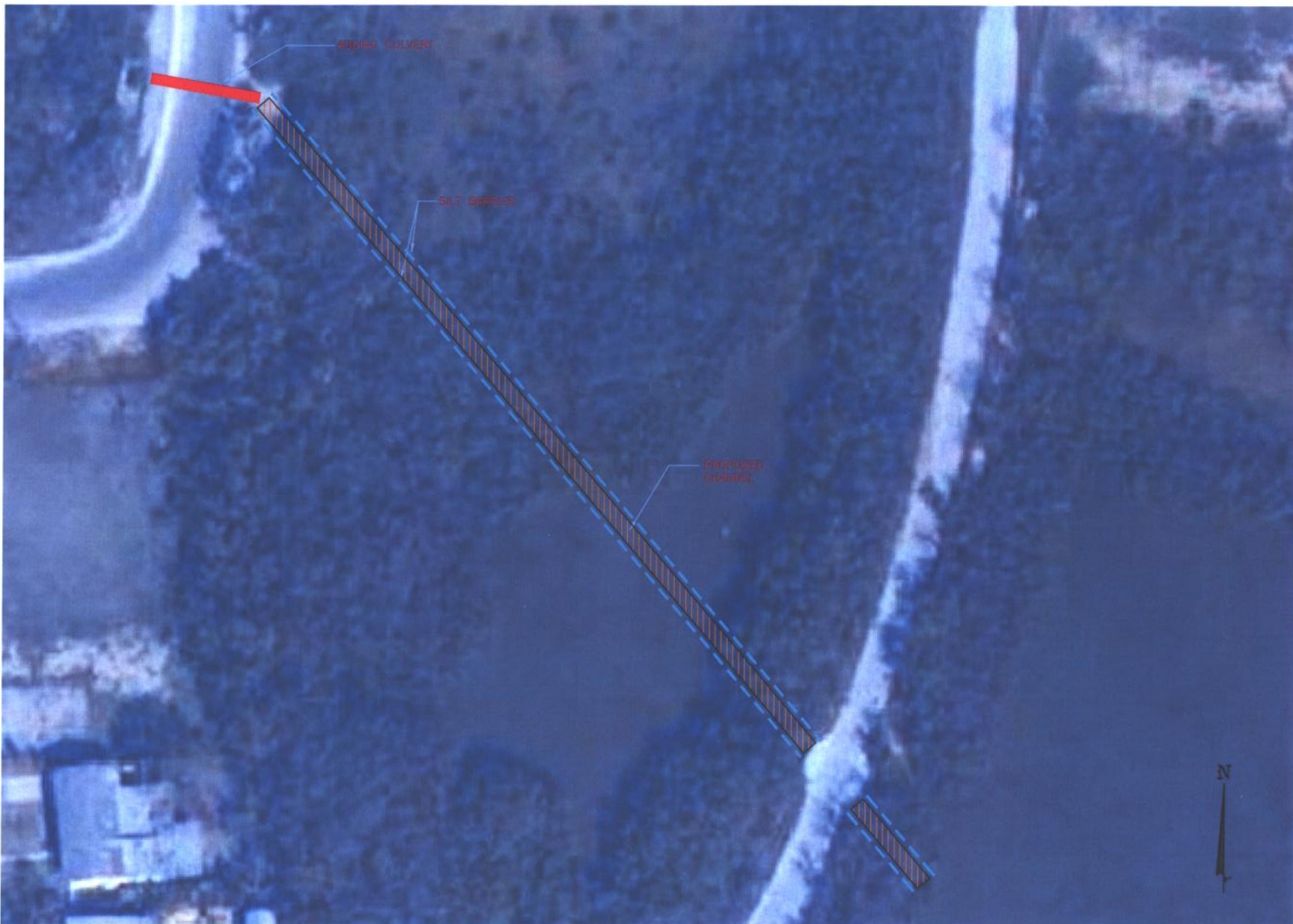
NO.	DATE	DESCRIPTION

NO.	DATE	DESCRIPTION

WEST SALT POND
(VENETIAN)
FLOW
IMPROVEMENTS

SHEET TITLE:
TITLE SHEET

SHEET NO:
T-1



G. M. SELBY Inc.

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G.M. SELBY NO. KWC240230
 DRAWN BY: J.O. DATE: 12-08-06
 CHECKED BY: G. ZADIKOFF
 ENGINEER: GERALD ZADIKOFF
 LICENSE NO.: PE# 44206 FL
 BSM

REVISIONS	
NO.	DATE DESCRIPTION

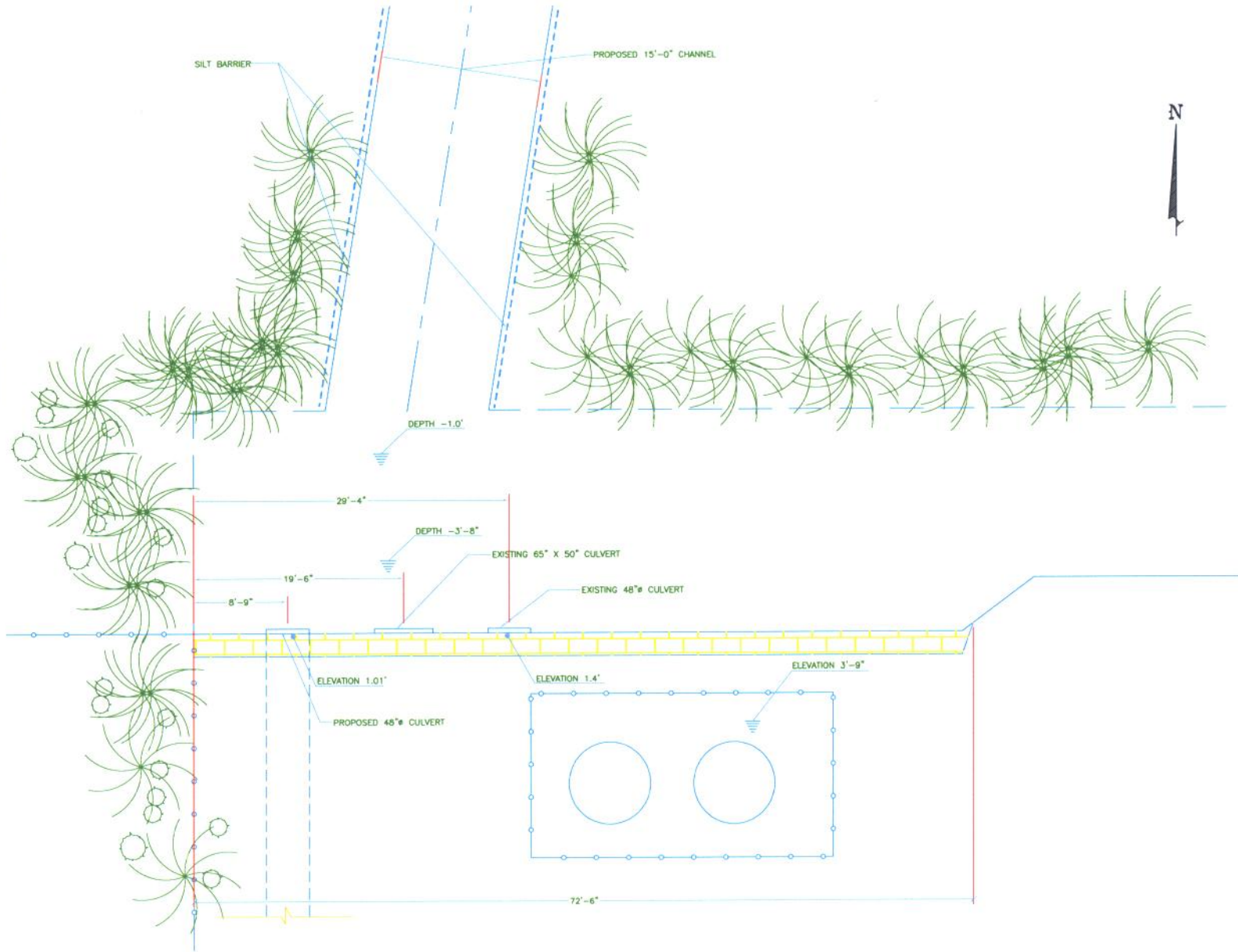
**WEST SALT POND
 (VENETIAN)
 FLOW
 IMPROVEMENTS**

SHEET TITLE:
SITE PLAN

SHEET NO:
C-1

EXHIBIT 2.03B

EXHIBIT
2.03C



6999 N. WATERWAY DR.
MIAMI, FL 33155
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G.M. SELBY NO: KWC240230
DRAWN BY: J.O. DATE: 12-08-06
CHECKED BY: G. ZADIKOFF
ENGINEER: GERALD ZADIKOFF
LICENSE NO: PE# 44206 FL
BSAL

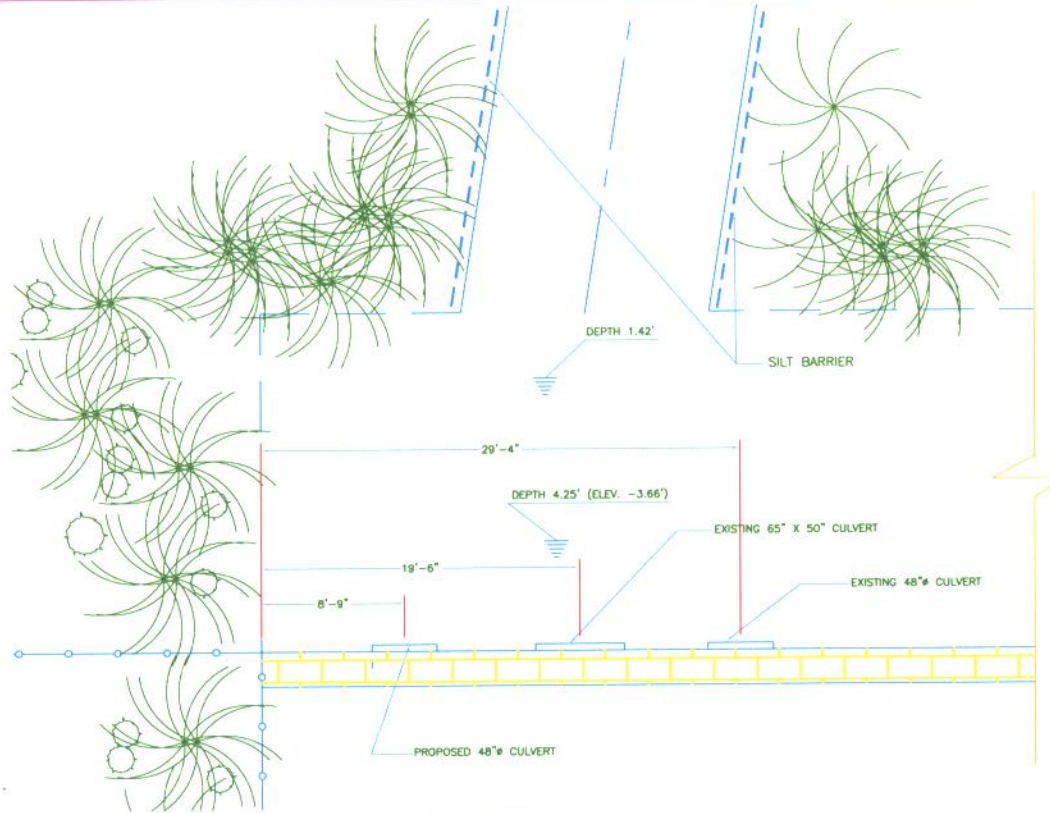
REVISIONS	
NO.	DESCRIPTION

WEST SALT POND
(VENETIAN)
FLOW
IMPROVEMENTS

SHEET TITLE:
PARTIAL PLAN LAYOUT

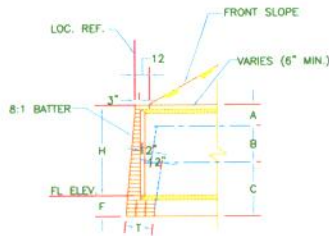
SHEET NO:
C-2

EXHIBIT 2.03D

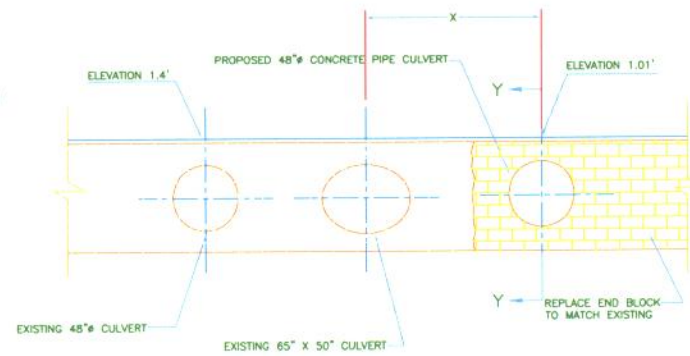


PLAN VIEW

TABLE OF DIMENSIONS AND QUANTITIES FOR ON ENDWALL							
SIZE OF PIPE	H	T	A	B	C	F	X
48" X 76"	4'-8"	3'-0"	2'-0"	2'-0"	2'-0"	1'-8"	EXISTING
48"	4'-11"	3'-0"	2'-0"	2'-0"	2'-10"	1'-11"	NEW



SECTION "Y-Y"



TYPICAL END DETAIL



G. M. SELBY Inc.

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ENGINEER: GERALD ZADKOFF
LICENSE NO.: PE# 44206 FL
SCALE:

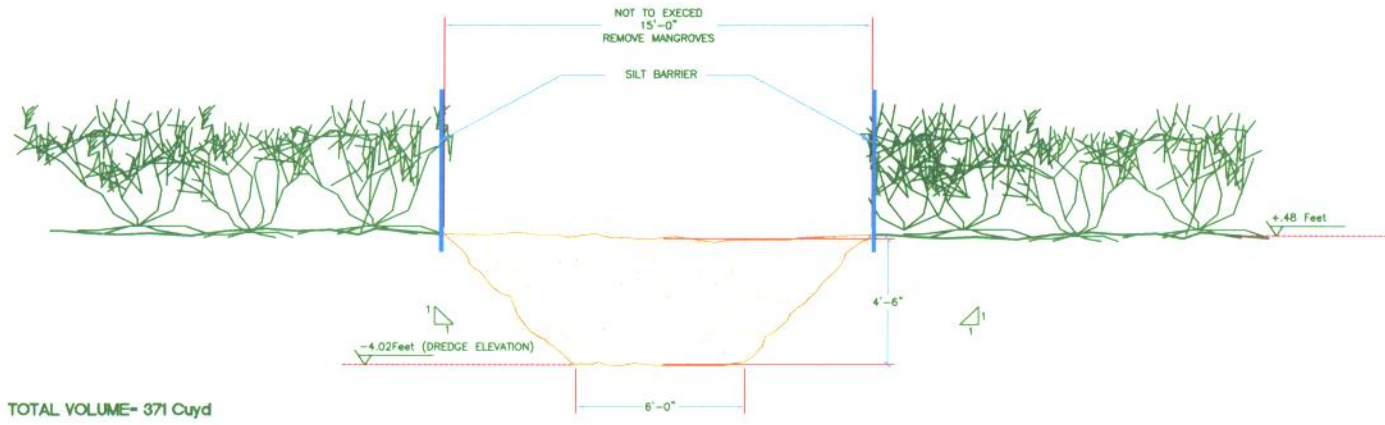
REVISIONS	
NO.	DATE DESCRIPTION

WEST SALT POND
(VENETIAN)
FLOW
IMPROVEMENTS

SHEET TITLE:
CULVERT DETAIL

SHEET NO:
C-3

EXHIBIT 2.03 E



TOTAL VOLUME- 371 Cuyd



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 DESIGNER: GERALD ZADKOFF
 LICENSE NO: PE# 44206 FL
 SEAL:

REVISIONS	
NO.	DESCRIPTION

WEST SALT POND (VENETIAN) FLOW IMPROVEMENTS

SHEET TITLE:
CHANNEL DESIGN

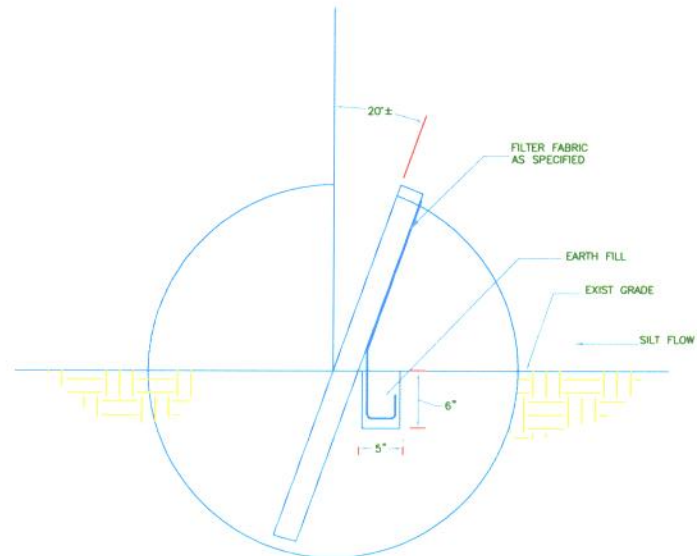
SHEET NO:
C-4

EXHIBIT 2.03F



ELEVATION

NOTE:
CONTRACTOR SHALL ERECT ALL SILT BARRIER SHOWN ON THE DRAWINGS PRIOR TO START OF ANY CONSTRUCTION



SECTION



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DRAWN BY: J.O. DATE: 12-08-06
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ENGINEER: GERALD ZADIKOFF
LICENSE NO. PE# 44206 FL
BSA:

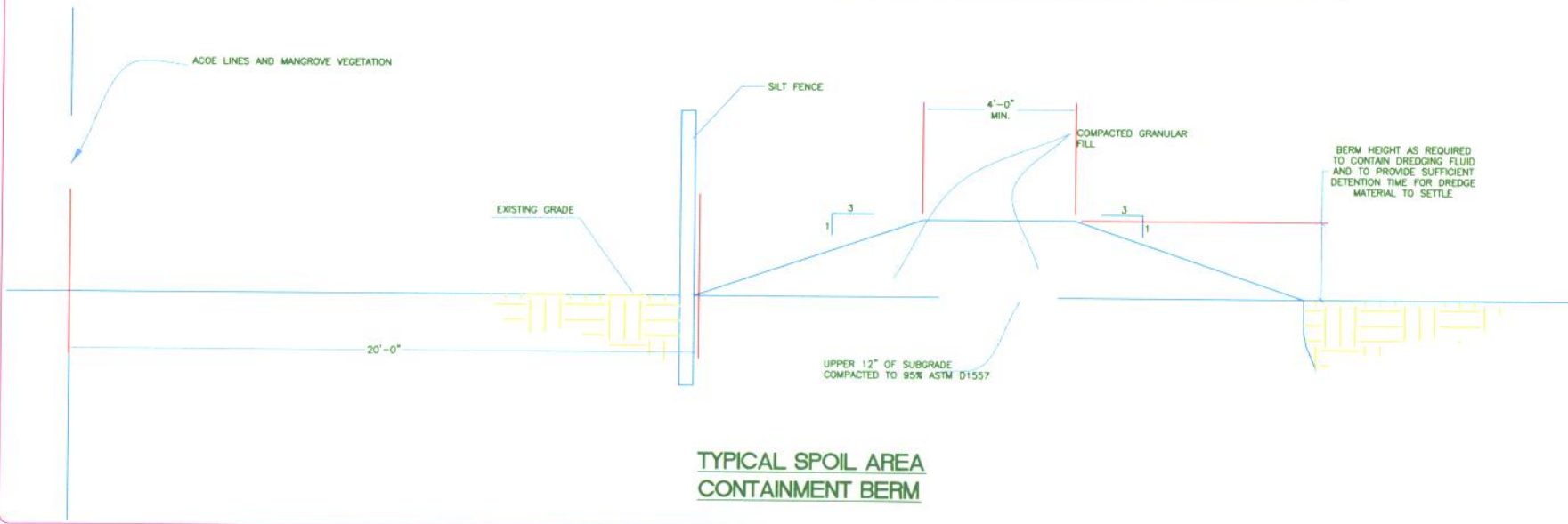
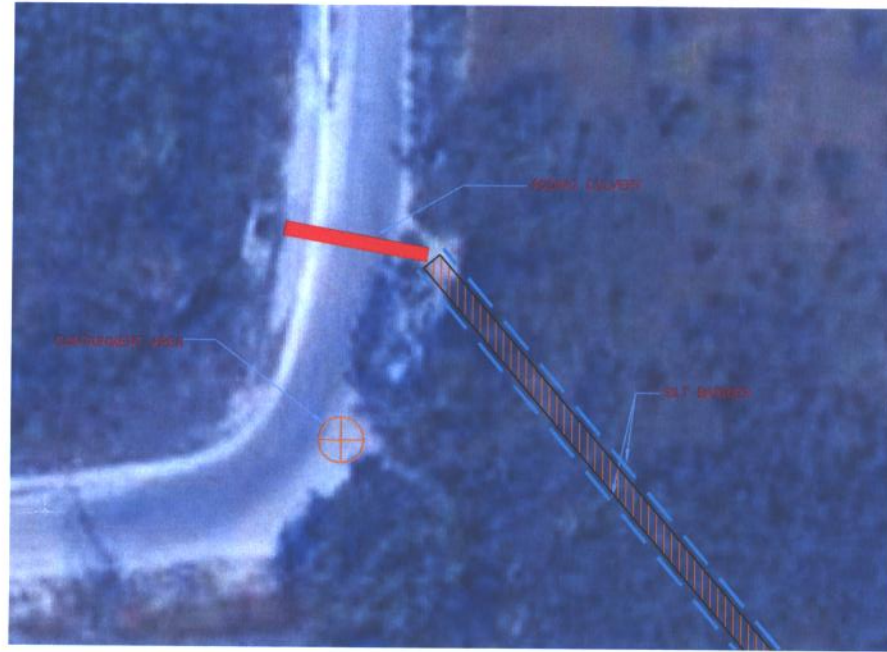
REVISIONS	
NO.	DATE DESCRIPTION

WEST SALT POND (VENETIAN) FLOW IMPROVEMENTS

SHEET TITLE:
SILT FENCE DETAIL

SHEET NO:
C-5

EXHIBIT 2.03 G





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ENGINEER: GERALD ZADIKOFF
LICENSE NO: PE# 44206 FL
SCALE:

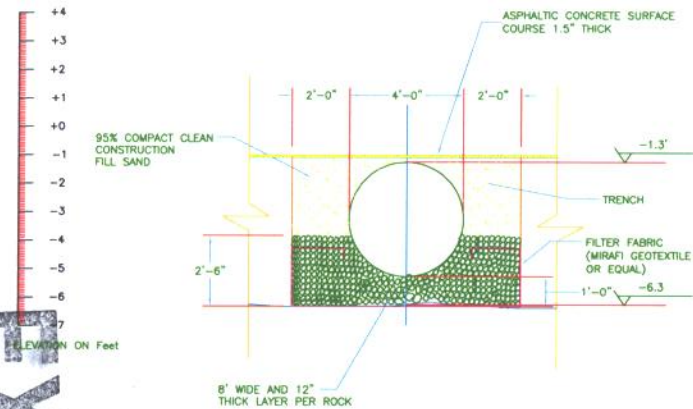
REVISIONS	
NO.	DATE DESCRIPTION

WEST SALT POND (VENETIAN) FLOW IMPROVEMENTS

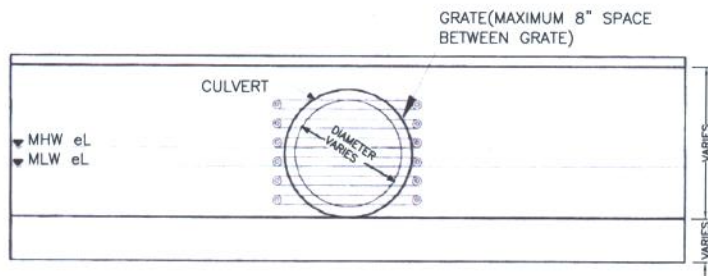
SHEET TITLE:
SPOIL CONTAINMENT AREA

SHEET NO:
C-6

EXHIBIT 2.03 H

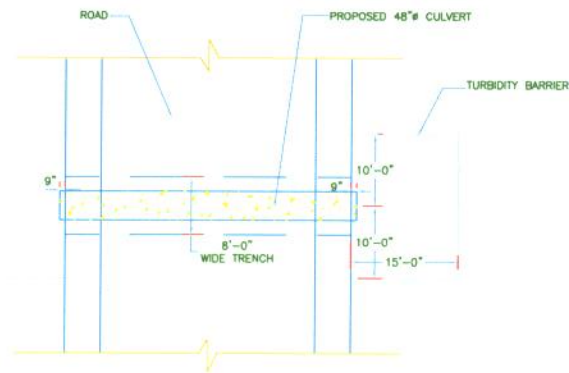


SECTION 'A-A'



NOTE: INSTALL GRATE ONLY FOR THE NEW CULVERT

GRATE FOR MANATEE PROTECTION



PLAN VIEW



G. M. SELBY Inc.

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ENGINEER: GERALD ZADKOFF
LICENSE NO. PE# 44206 FL
SCALE:

REVISIONS	
NO.	DATE DESCRIPTION

WEST SALT POND
(VENETIAN)
FLOW
IMPROVEMENTS

SHEET TITLE:
CULVERT TRENCH
DETAIL

SHEET NO:
C-7

EXHIBIT 2.03I

PIPE CULVERT NOTES:

CONSTRUCTION REQUIREMENTS

- 1.) LAYING: Rigid pipe shall be carefully laid as shown on the plans, with hub, bell or groove ends upstream and with the spigot or tongue end entered the full length into the adjacent section of pipe. If the pipe is to be laid below the ground line, a trench shall be excavated to the required section and depth to permit required compaction of the backfill under the haunches and around the pipe. Any pipe that is not in true alignment or that shows any undue settlement after laying, but before the fill is placed, shall be removed and re-laid at the contractor's expense. Corber shall be built into the pipe structure as shown on the plans or as approved by the engineer. All joints, except for field or private entrance culverts, shall be sealed with an approved plastic compound, tubular joint seal, an external wrap, cement mortar or other approved methods to create a soil tight condition. Lifting devices shall have sufficient bearing on the inside of the pipe to avoid damage resulting from a concentration of stresses around the lift holes. The joint between the bell and spigot shall be uniform for the full circumference and within allowable design tolerances.
- 2.) In sealing rigid pipe with mortar, the mortar contact areas of all pipe ends shall be damp when mortar is applied. After applying mortar to the entire interior surface of the bell or groove, the spigot or tongue end shall be forced into position. Any remaining void in the bell or groove shall be filled with a hub of mortar built up adjacent to the bell, or a bed of mortar built up around a groove-type joint. The interior joints of either shall be sealed with mortar as shown on the plans.
- 3a.) Category 1 soil shall consist of a well-graded mixture of stone fragments, gravel and sand in accordance with AASHTO M 145, Group A-1 or A-3.
- 4.) INSTALLATION OF PIPE PRIOR TO PLACING EMBANKMENT: After the pipe has been laid, the material in the haunch and lower side zones shall be placed to a minimum width of one pipe diameter outside the pipe. The haunch and lower side material shall be compacted to the required densities shown on the plans. When all material has been placed and compacted up to the springline of the pipe, the remaining fill material shall be placed in accordance with the requirements of the adjacent fill. If a sub-trench will be required to install the pipe to the specified grade, the width of the trench shall be 1.33 times the outside diameter of the pipe, but no less than 24 inches wider than the outside diameter of the pipe.

- 5.) INSTALLATION OF PIPE AFTER PLACING EMBANKMENT: The roadway embankment shall be placed and compacted to the required density to a minimum elevation of one foot below the bottom of the pavement base material. A trench, in accordance with the section shown on the plans, shall be excavated through the embankment to a depth sufficient to place the required bedding and maintain the specified grade of the pipe. Bedding shall be placed to the required thickness and grade and shall not be compacted under the middle one third of the pipe. The bedding outside the middle one third of the pipe and the material in the haunch and lower side zones shall be compacted up to the springline of the pipe. The placement of the remainder of the embankment material above the springline shall be compacted in accordance with the requirements for the adjacent fill.
- 6.) BACKFILLING: Backfilling shall be placed as soon as practical. Suitable backfill and embankment material, free from large lumps, clods or rocks, shall be compacted to 95% density. Care shall be taken to properly compact the backfill under the haunches of pipe-arch. Before heavy construction equipment is operated over the pipe, the contractor shall provide an adequate depth and width of compacted backfill or other cover to protect the pipe from damage or displacement. Any damage or displacement shall be required or corrected at the contractor's expense.
- 7.) INSPECTION: After the roadway has been completed and before final inspection of the project, the engineer will inspect all pipe locations for proper installation. Any section of pipe found to be improperly installed shall be replaced or repaired by the contractor, at the contractor's expense and to the satisfaction of the engineer. Any separation at joints deemed not detrimental to the pipe performance by the engineer shall be ressealed with either plastic joint compound, cement mortar or other approved material in accordance with Sec. 4. Repaired or replaced pipe will be re-inspected as deemed necessary by the engineer. The contractor shall provide equipment deemed necessary by the engineer to perform any testing. The following will constitute improper installation:
 - (a.) If any horizontal or vertical alignment is in excess of 15 percent from plan alignment, will restrict flow or will cause excessive ponding within the pipe.
 - (b.) If settlement is greater than one inch at 5 percent or more joints.
 - (c.) If the pipe shows evidence of separation at any location.

NOTE:
Contractor shall erect all turbidity barrier prior to start of any construction.



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ENGINEER: GERALD ZADIKOFF
LICENSE NO. PE# 44206 FL

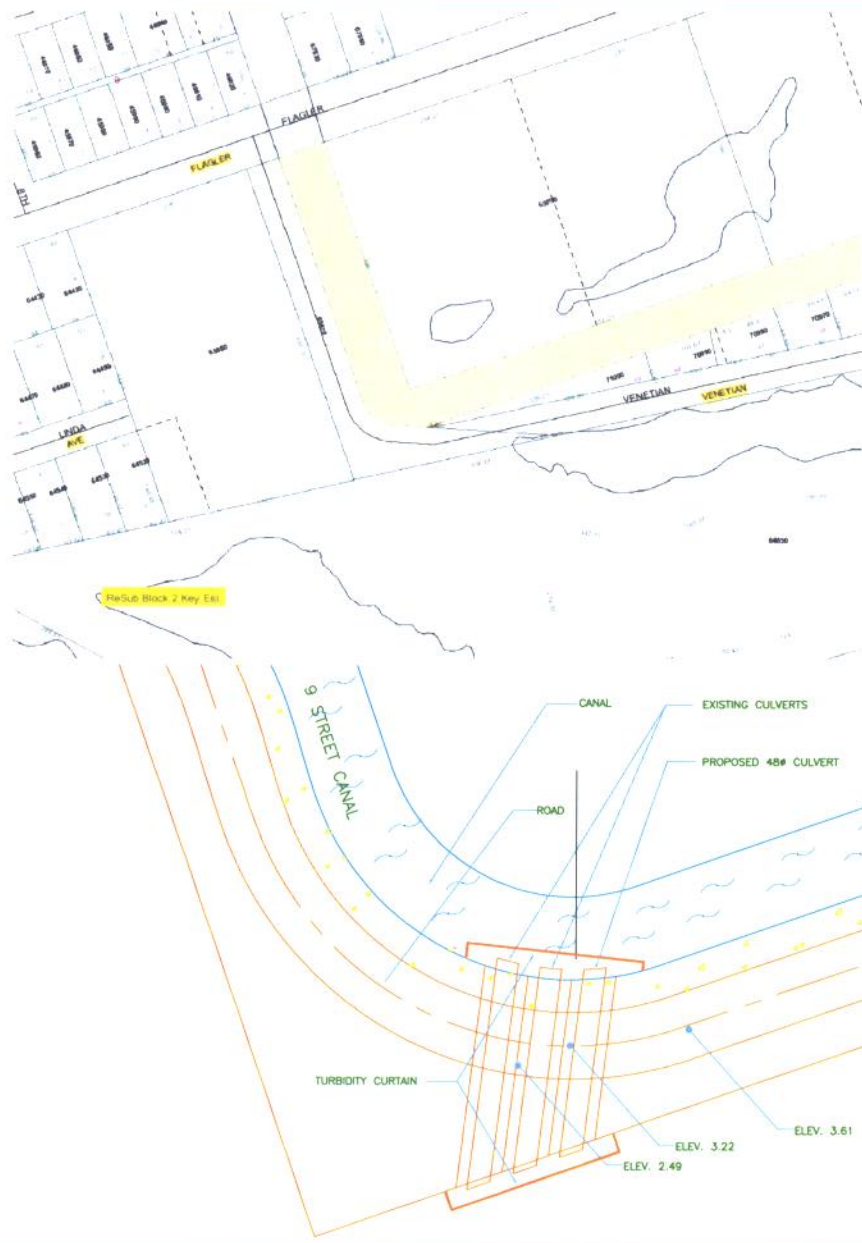
REVISIONS	
NO	DATE DESCRIPTION

WEST SALT POND
(VENETIAN)
FLOW
IMPROVEMENTS

SHEET TITLE:
GENERAL NOTES

SHEET NO.
C-8

EXHIBIT 2.035



- Venetian**
- Legend
 - Selected Features
 - Real Estate Number
 - Parcel Lot Text
 - Dimension Text
 - Block Text
 - Hook/Leads
 - Lot Lines
 - Road Names
 - Water Names
 - Parcels
 - Shoreline



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 ENGINEER: GERALD ZADIKOFF
 LICENSE NO.: PE# 44206 FL
 SEAL

REVISIONS	
NO.	DATE DESCRIPTION

WEST SALT POND (VENETIAN) FLOW IMPROVEMENTS

SHEET TITLE:
PLAN VIEW

SHEET NO:
C-9

STAFF REPORT DISTRIBUTION LIST

RIVIERA AND 9TH STREET CANALS

Application No: 070426-1

Permit No: 44-00377-P

INTERNAL DISTRIBUTION

- X Kevin G. Dickson, P.E. - 4220
- X Ronald Peekstok - 4250
- X Carlos A. DeRojas, P.E. - 4220
- X Anita R. Bain - 4230
- X H. Azizi - 4230
- X A. Waterhouse - 4220
- X ERC Enforcement - S. Myers - 4230
- X ERC Environmental - 4230
- X Florida Keys Service Center - 6830
- X J. Golden - 4210
- X Permit File
- X R. Karafel - 6830

EXTERNAL DISTRIBUTION

- X Permittee - Key West City Of
- X Engr Consultant - G M Selby Inc

GOVERNMENT AGENCIES

- X Bruce Franck, Environmental Manager - FDEP -
South District Branch Office
- X Div of Recreation and Park - District 5 - FDEP
- X Florida Department of Community Affairs Jerry Buckley
- X Monroe County Engineer
- X Monroe County Planning Dept - Steve Ferris, Dev.
Review Coord.
- X U.S. Army Corps of Engineers - Paul Kruger
- X U.S. Army Corps of Engineers - Shelly Carter

SFWMD Permit 44-00378-P
Jose Marti Pond, Poinciana/Donald Ave, Patterson,
Winn Dixie and Linda Ave.



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE PERMIT NO. 44-00378-P**

DATE ISSUED: JUNE 14, 2007

FORM 80145
Rev. 08/95

PERMITTEE: KEY WEST CITY OF
(FUTURE STORMWATER IMPROVEMENT PROJECT
525 ANGELA STREET, P O BOX 1409
KEY WEST, FL 33040

PROJECT DESCRIPTION: IMPROVEMENTS AND MAINTENANCE TO STORMWATER DRAINAGE FEATURES OVER 2.39 ACRES AT FIVE LOCATIONS KNOWN AS THE JOSE MARTI, POINCIANA/DONALD, PATTERSON SITE, WINN-DIXIE, AND LINDA SITES.

PROJECT LOCATION: MONROE COUNTY, SECTION 33,34 TWP 67S RGE 25E
SECTION 4,5 TWP 68S RGE 25E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This Permit is issued pursuant to Application No. 070426-5, dated April 16, 2007. Permittee agrees to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, operation, maintenance or use of activities authorized by this Permit. This Permit is issued under the provisions of Chapter 373, Part IV Florida Statutes (F.S.), and the Operating Agreement Concerning Regulation Under Part IV, Chapter 373 F.S., between South Florida Water Management District and the Department of Environmental Protection. Issuance of this Permit constitutes certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, unless this Permit is issued pursuant to the net improvement provisions of Subsections 373.414(1)(b), F.S., or as otherwise stated herein.

This Permit may be transferred pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-1.6107(1) and (2), and 40E-4.351(1), (2), and (4), Florida Administrative Code (F.A.C.). This Permit may be revoked, suspended, or modified at any time pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.351(1), (2), and (4), F.A.C.

This Permit shall be subject to the General Conditions set forth in Rule 40E-4.381, F.A.C., unless waived or modified by the Governing Board. The Application, and the Environmental Resource Permit Staff Review Summary of the Application, including all conditions, and all plans and specifications incorporated by reference, are a part of this Permit. All activities authorized by this Permit shall be implemented as set forth in the plans, specifications, and performance criteria as set forth and incorporated in the Environmental Resource Permit Staff Review Summary. Within 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, pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.361 and 40E-4.381, F.A.C.

In the event the property is sold or otherwise conveyed, the Permittee will remain liable for compliance with this Permit until transfer is approved by the District pursuant to Rule 40E-1.6107, F.A.C.

SPECIAL AND GENERAL CONDITIONS ARE AS FOLLOWS:

- SEE PAGES 2 - 3 OF 6 (15 SPECIAL CONDITIONS).
- SEE PAGES 4 - 6 OF 6 (19 GENERAL CONDITIONS).

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

On **ORIGINAL SIGNED BY:**

By **ELIZABETH VEGUILLA**
DEPUTY CLERK

SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on June 14, 2012.
2. Operation of the surface water management system shall be the responsibility of the permittee.
3. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
4. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
5. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
6. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
7. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
8. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
9. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
10. Pursuant to an Emergency Order of the Governing Board of the District, applications for water use permits for dewatering associated with the construction of the surface water management facilities proposed with this application will be considered on a case by case basis, and may or may not be issued prior to the Governing Board rescinding or modifying the Order. In addition, no irrigation with previously unallocated water may be conducted prior to the Governing Board rescinding or modifying the Order.
11. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatee(s).

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 of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.

Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exist from essential habitat.

All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

If manatee(s) are seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s)

has departed the project area of its own volition.

Any collision with and/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 (1-904-232-2580) for north Florida or Vero Beach (1-772-562-3909) in south Florida.

Temporary signs concerning manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the permittee upon completion of the project. A sign measuring at least 3 ft. by 4 ft. which reads Caution: Manatee Area will be posted in a location prominently visible to water related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8 1/2" by 11" which reads Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-772-562-3909) in south Florida.

12. The following exhibits for the permit are incorporated by reference herein and are located in the permit file:

Exhibit No. 2.06 Consent Agreement Number SFWMD 2007 096 CO ERP

13. Silt fencing shall be installed at the limits of construction to protect all of the preserve areas from silt and sediment deposition during the construction of the project. A floating turbidity barrier shall be installed during the construction of the final discharge structure into the adjacent canal/water body. The silt fencing and the turbidity barrier shall be installed in accordance with "Florida Land Development Manual" Chapter 6 "Stormwater and Erosion and Sediment Control Best Management Practices for Developing Areas" and Exhibit Numbers 2.01 through 2.06. The sediment controls shall be installed prior to the commencement of any clearing or construction and the installation must be inspected by the District's Environmental Resource Compliance staff. The silt fencing and turbidity barriers shall remain in place and be maintained in good functional condition until all adjacent construction activities have been completed and all fill slopes have been stabilized. Upon completion of the project and the stabilization of the fill, the permittee shall contact the District's Environmental Resource Compliance staff to inspect the site and approve the removal of the silt fencing and turbidity barriers.
14. The permittee shall comply with applicable state water quality standards including:
- a)62-302.500 - Minimum criteria for all surface waters at all places and all times;
 - b)52-302.510 - Surface waters: general criteria
 - c)62-302.560 - Class III waters; recreation, propagation and maintenance of a healthy, well balanced population of fish and wildlife;
 - d)62-302.600 - Classified waters.
15. Weighted turbidity screens or other such turbidity control measures shall be utilized during construction. The selected turbidity control measures shall be weighted to extend to the bottom of the waterway and shall surround the construction/work areas.

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 Part IV, 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 District 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 violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 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 waterbody 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 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. 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 District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification - For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite 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 District that the system is ready for inspection. Additionally, if deviation 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 noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. 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 (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District 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, 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 District, the permittee shall initiate transfer of the permit to the approved

responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, 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 District 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, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District 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 District 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 authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District 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 the 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 District 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 Rules 40E-1.6105 and 40E-1.6107, 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, District 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 District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

ENVIRONMENTAL RESOURCE PERMITS CHAPTER 40E-4 (01/07)

40E-4.321 Duration of Permits.

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C., is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRJ) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. The effective date of the local government's comprehensive plan amendment,
2. The effective date of the local government development order,
3. The date on which the District issues the conceptual approval, or 4. The date on which the District issues a final order pertaining to the resolution of any Section 120.57, F.S., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, the construction phase authorizing construction, removal, alteration or abandonment of a system shall expire five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For an individual or standard general environmental resource permit, the operational phase of the permit is perpetual for operation and maintenance.

(e) For a noticed general permit issued pursuant to Chapter 40E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made by electronic mail at the District's e-Permitting website or in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. The Governing Board takes action on an application for extension of an individual permit, or
2. Staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to paragraph 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of the permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific Authority 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 373.413, 373.416, 373.419, 373.426, 668.003, 668.004, 668.50 FS. History-New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4-20-94, 10-3-95, 5-28-00, 10-1-06.

EXHIBIT 2.02B



 **SITE MAP**



G. M. SELBY Inc.

6999 N. WATERWAY DR.
MIAMI, FL 33155
TEL : (305) 262-0715
FAX : (305) 262-0724

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G.M. SELBY NO. KWC240290
DRAWN BY: F.C. DATE: 03-06-07
CHECKED BY:
ENGINEER: GERALD ZADKOFF
LICENSE NO.: CML PE# 44206 FL

G. Selby

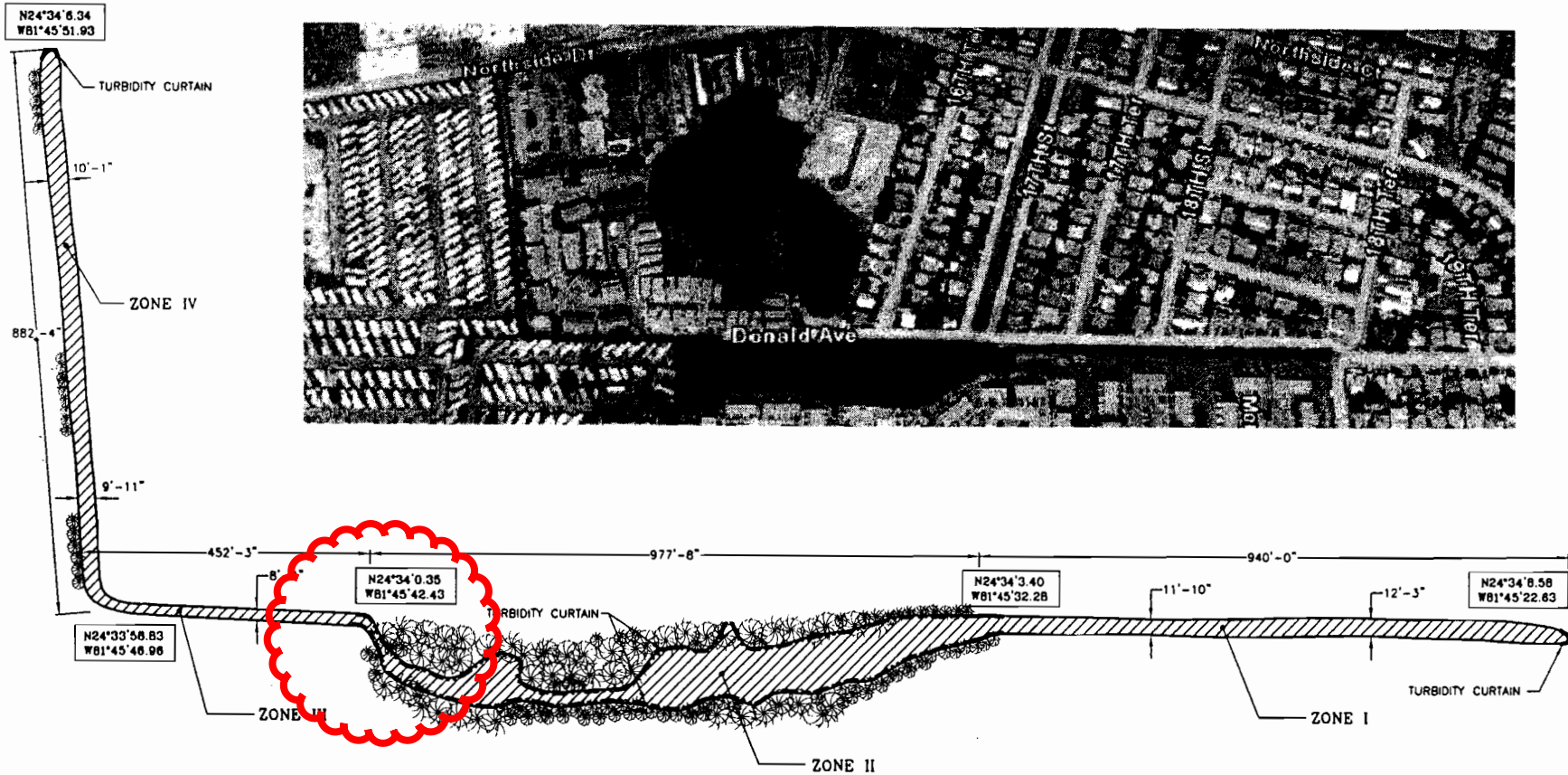
REVISIONS	
NO.	DATE

**POINCIANA
DONALD
DRAINAGE**

SHEET TITLE:
SITE MAP

SHEET NO:
C-1

EXHIBIT 2.02C



SITE PLAN

TOTAL VOLUME OF MATERIAL TO BE DREDGED= 5074 Cuyd



G. M. SELBY Inc.

5999 N. WATERWAY DR.
MIAMI, FL 33155
TEL : (305) 262-0715
FAX : (305) 262-0724

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G.M. SELBY NO. KWC240290
DRAWN BY: T.C. DATE: 03-06-07
CHECKED BY: GERALD ZADKOFF
LICENSE NO.: CIVIL PE# 44206 FL

Handwritten signature: G. M. Selby

REVISIONS	
NO.	DESCRIPTION

POINCIANA DONALD DRAINAGE

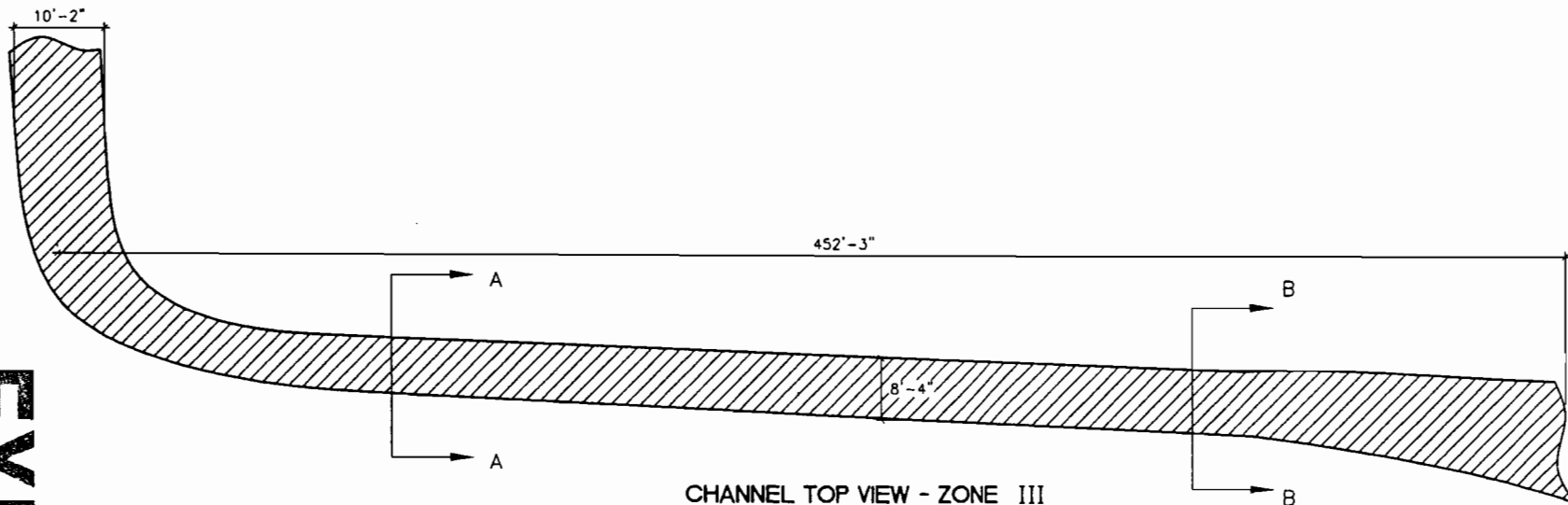
SHEET TITLE:

SITE PLAN

SHEET NO.:

C-2

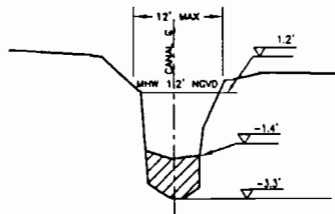
EXHIBIT
2.02 F



TOTAL VOLUME OF MATERIAL
TO BE DREDGED = 418 Cuyd

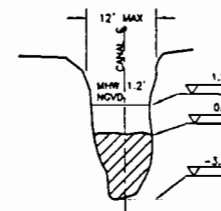
NOTE:
DREDGE ALL OPEN AREAS TO A DEPTH
OF 4.5 FEET AT LOW TIDE.
DREDGE FOR ELEVATION -4.3' NGVD
AT MLW.

TURBIDITY CURTAIN TO BE PLACED IN
FRONT OF ANY VEGETATION (MANGROVES).
IT MUST BE IN PLACE AT ALL TIME
DURING ANY WORK, AT THE SITE.



SECTION 'A-A'

N24'33.99'
WB1'45.73'



SECTION 'B-B'

N24'34.003'
WB1'45.723'



G. M. SELBY Inc.

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MIAMI, FL 33155
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FAX : (305) 282-0724

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DRAWN BY: F.C. DATE: 03-08-07
CHECKED BY:
ENGINEER: GERALD ZADKOFF
LICENSE NO. CIVIL PE# 44206 FL

REVISIONS	
NO.	DATE DESCRIPTION

**POINCIANA
DONALD
DRAINAGE**

SHEET TITLE:
CHANNEL DETAIL

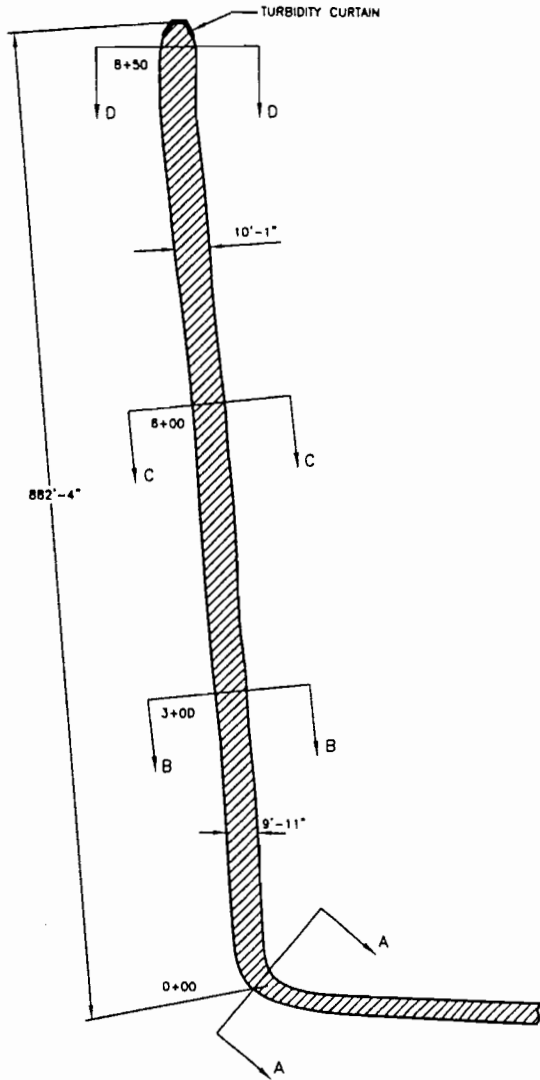
SHEET NO:
C-5

EXHIBIT 2.02 G

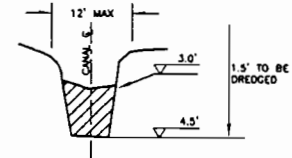
TOTAL VOLUME OF MATERIAL TO BE DREDGED = 518.32 CuYd

NOTE:
DREDGE ALL OPEN AREAS TO A DEPTH OF 4.5 FEET AT LOW TIDE.
DREDGE FOR ELEVATION -4.3' NGVD AT MLW.

TURBIDITY CURTAIN TO BE PLACED IN FRONT OF ANY VEGETATION (MANGROVES). IT MUST BE IN PLACE AT ALL TIME DURING ANY WORK, AT THE SITE.

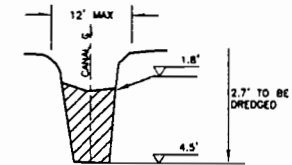


CHANNEL TOP VIEW - ZONE IV



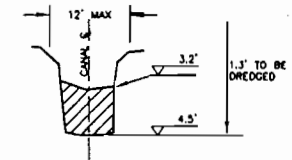
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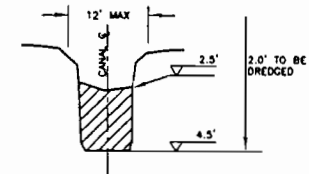
SECTION 'C-C'

6885 CF=255.000 CuYd



SECTION 'B-B'

3315 CF=122.778 CuYd



SECTION 'A-A'

1550 CF=57.407 CuYd



G. M. SELBY Inc.

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G.M. SELBY No. KWC240290
Drawn by: F.C. Date: 03-06-07
Checked by: GERALD ZADIKOFF
License No: CIVIL PE # 44206 FL

(Handwritten signature)

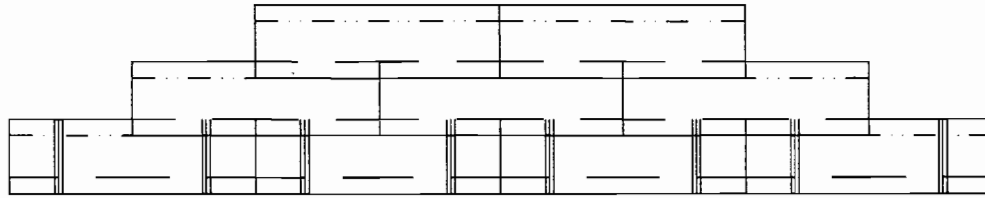
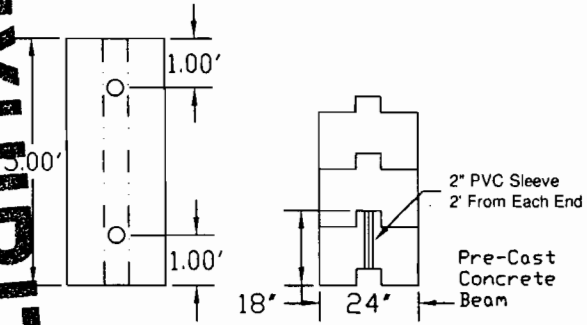
NO.	DATE	REVISIONS DESCRIPTION

POINCIANA DONALD DRAINAGE

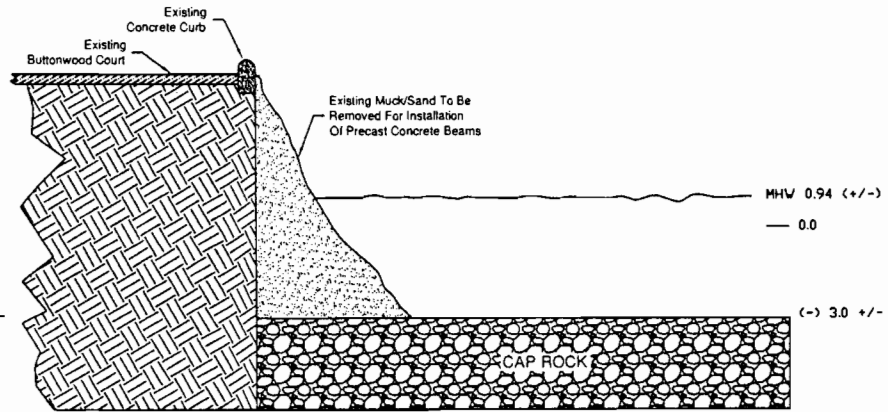
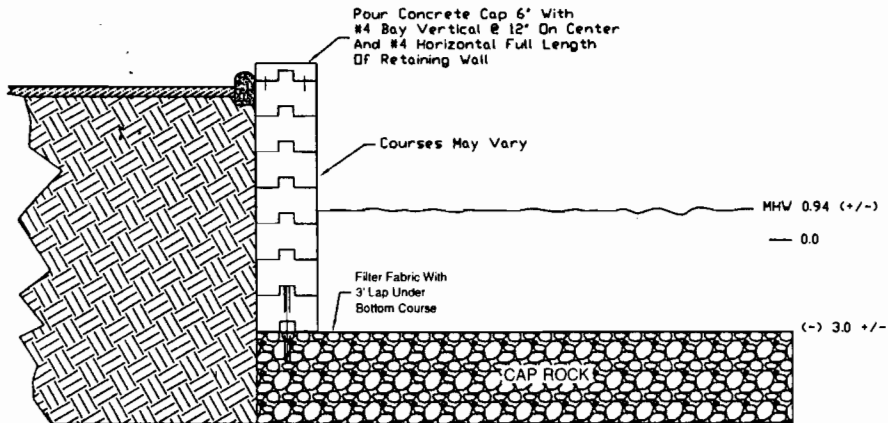
SHEET TITLE:
CHANNEL DETAIL

SHEET NO:
C-6

EXHIBIT 2.02H



NOTE: #8 Rebar Imbedment
12' Min Into Cap Rock



LINEAR Ft=453' X 2 EMBANKMENTS

NOTE:
TURBIDITY CURTAIN TO BE PLACED IN
FRONT OF ANY VEGETATION (MANGROVES).
IT MUST BE IN PLACE AT ALL TIME
DURING ANY WORK, AT THE SITE.

**EROSION CONTROL STRUCTURE ZONE III
OF THE POINCIANA/DONALD CANAL**



G. M. SELBY Inc.

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MIAMI, FL 33155
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G.M. SELBY NO. KWC240290
DRAWN BY: F.C. DATE: 03-06-07
CHECKED BY:
ENGINEER: GERALD ZADKOFF
LICENSE NO. CIVIL PE 44206 FL

G. M. Selby

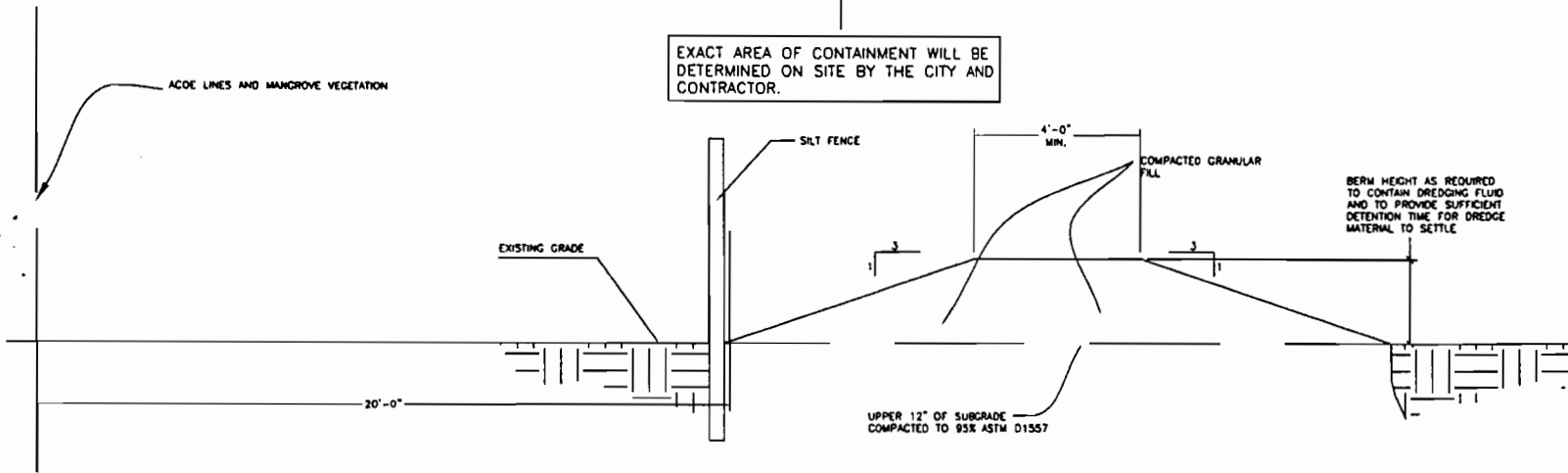
REVISIONS	
NO.	DATE DESCRIPTION

POINCIANA DONALD DRAINAGE

SHEET TITLE:
EROSION CONTROL STRUCTURE

SHEET NO:
C-7

EXHIBIT
2.025



TYPICAL SPOIL AREA
CONTAINMENT BERM



G. M. SELBY Inc.

6999 N. WATERWAY DR.
MIAMI, FL 33155
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FAX : (305) 262-0724

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G.M. SELBY NO. KWC240290
DRAWN BY: F.C. DATE: 03-06-07

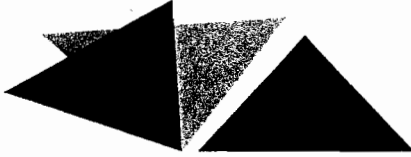
CHECKED BY:
ENGINEER: GERALD ZADKOFF
LICENSE NO.: CIVIL PE# 44206 FL

REVISIONS	
NO.	DATE DESCRIPTION

**POINCIANA
DONALD
DRAINAGE**

SHEET TITLE:
**SPOIL CONTAINMENT
AREA**

SHEET NO.:
C-9



G.M. SELBY, Inc.

ENVIRONMENTAL ASSESSMENT
FOR THE
POINCIANA/DONALD DRAINAGE SITE



EXHIBIT 2.02 K

PREPARED FOR THE CITY OF KEY WEST

MARCH 2007

SCOPE

The primary responsibility of governmental agencies is to their citizens, and their health and safety. After the devastating hurricane season of 2005, the City of Key West became acutely aware of its drainage problems. Standing water, especially in the tropical climate of Key West, is a well-known breeding ground for diseases and their vectors. Standing water also impairs the City's ability to provide emergency services to its citizens. The City of Key West has proposed several projects to relieve its city-wide drainage problems. Below, is one of the proposed projects. Project plans call for the improvement and continuing maintenance of existing drainageways.

- 1- Poinciana Donald Drainage- The project plans for the Donald canal call for the improvement and continuing maintenance of the existing drainageway through the restoration of approximately three-thousand, two-hundred, and fifty-one (3251) feet of total drainage channel length, with a width not to exceed thirteen (13) feet, and depth not to exceed four (4) feet.

The Donald canal drains into the Poinciana stormwater detention pond. The project plans for the Poinciana stormwater detention pond call for the improvement and continuing maintenance of the existing stormwater detention pond by dredging the existing open water area of the stormwater detention pond to a depth not to exceed four (4) feet, six (6) inches. Existing mangroves are to remain.

Location

The Donald Avenue canal and Poinciana stormwater detention pond from Northside Drive to Nineteenth Street. 24°34'2.37"N; 81°45'36.45"W.

Existing Features

The Poinciana Donald Drainage site was visited on March 4, 2007. The hydrology of the site was not readily apparent. Water from Poinciana Donald drainage detention pond may ultimately connect with the City of Key West Salt Ponds Park via drainage along Seventeenth St., or directly to the Atlantic Ocean via drainage along Donald Avenue.

The existing vegetation at the Poinciana detention pond shoreline appeared to be dominated by red mangrove (*Rhizophora mangle*). Black mangrove (*Avicennia germinans*), white mangrove (*Laguncularia racemosa*), and Brazilian Pepper (*Schinus terebinthifolius*) were also observed. Except for heavy growth of green alga, the unconsolidated nature of the bottom in both the canal and pond allowed for little benthic growth. However, green algae, (*acetabularia* sp.), and blue crab (*Callinectes* sp.) were observed. The above indicates that the canal and stormwater detention pond are tidally influenced. All existing mangroves are to remain.

Environmental Impacts

The project plans for the Donald canal call for the improvement and continuing maintenance of the existing drainageway through the restoration of approximately three-thousand, two-hundred, and fifty-one (3251) feet of total drainage channel length, with a width not to exceed thirteen (13) feet, and depth not to exceed four (4) feet.

The Donald canal drains into the Poinciana stormwater detention pond. The project plans for the Poinciana stormwater detention pond call for the improvement and continuing maintenance of the existing stormwater detention pond by dredging the existing open water area of the stormwater detention pond to a depth not to exceed four (4) feet, six (6) inches. All existing mangroves are to remain.

An estimated four-hundred and fifteen and fifty-six hundredths (415.56) cubic yards of material will be dredged from the Donald canal. An estimated four-thousand three-hundred and fifty-six (4356) cubic yards of material will be dredged from the Poinciana pond. There should be no, or limited temporary damage, to the mangroves at the Poinciana Donald Drainage site. All existing mangroves are to remain.

Continuing and on-going maintenance will include trimming of mangrove roots and limbs that encroach into the drainageway impeding the flow of stormwater. Periodic maintenance to remove debris and maintain the depth of drainageway may also impact mangroves.

EXHIBIT 2.02M

Recommendations

Plans should specify turbidity screens that go across the canals, crossing screens should be as close to the work as possible, and move upstream as the work does. Outfalls and culverts should be closed-off during construction.

Ripraping along the shore edge and mangrove margin in the Poinciana pond will define the maintenance area within the main drainage channel, and may slow the rate of mangrove growth out into it. Riprap will provide some habitat in the pond, and may help reduce turbidity in the pond.

EXHIBIT 2.02 N



Photograph 6: Poinciana Donald Drainageway



Photograph 7: Poinciana Donald Drainageway

Regulatory Guidance from Florida Statutes and FAC
ERP Exemptions
Mangrove Trimming Act of 1996

62-330.051 Exempt Activities.

The activities meeting the limitations and restrictions below are exempt from permitting. However, if located in, on, or over state-owned submerged lands, they are subject to a separate authorization under Chapters 253 and 258, F.S., and Chapters 18-18, 18-20, and 18-21, F.A.C., as applicable.

(1) Activities conducted in conformance with the District-specific exemptions in section 1.3 of Volume II applicable to the location of the activity.

(2) Activities conducted in conformance with the exemptions in Section 373.406, 373.4145(3), or 403.813(1), F.S.

(3) Aquatic Plant and Organic Detrital Control and Removal –

(a) Disking and tilling of exposed lake bottoms in accordance with a permit issued by the Florida Fish and Wildlife Conservation Commission or an exemption under Chapter 369, F.S.

(b) Organic detrital material removal in accordance with Section 403.813(1)(r) or (u), F.S.

(c) Aquatic plant control where the activity qualifies for an exemption authorized under Section 369.20, F.S., or in a permit from the Florida Fish and Wildlife Conservation Commission under Section 369.20 or 369.22, F.S.; and the harvested plant material is not disposed of in wetlands or other surface waters, or in a manner that adversely affects water quality or flood control.

(4) Bridges, Driveways, and Roadways –

(a) The replacement and repair of existing open-trestle foot bridges and vehicular bridges in accordance with Section 403.813(1)(l), F.S.

(b) Construction, alteration, or maintenance, and operation, of culverted driveway or roadway crossings and bridges of wholly artificial, non-navigable drainage conveyances, provided:

1. The construction project area does not exceed one acre and is for a discrete project that is not part of a larger plan of development that requires permitting under this chapter. However, these limitations shall not preclude use of this exemption to provide access to activities that qualify for the general permit in Section 403.814(12), F.S.;

2. The culvert or bridge shall be sized and installed to pass normal high water stages without causing adverse impacts to upstream or downstream property;

3. Culverts shall not be larger than one, 24-inch diameter pipe, or its hydraulic equivalent, and must not reduce the upstream hydraulic discharge capacity;

4. The crossing shall not:

a. Be longer than 30 feet from top-of-bank to top-of-bank;

b. Have a top width of more than 20 feet or a toe-to-toe width of more than 40 feet; and

c. Have side slopes steeper than 3 feet horizontal to 1 foot vertical;

5. There are no more than two crossings on any total land area, with a minimum distance of 500 feet between crossings;

6. If dewatering is performed, all temporary work and discharges must not cause flooding or impoundment, downstream siltation, erosion, or turbid discharges that violate state water quality standards;

7. Any temporary work shall be completely removed and all upstream and downstream areas that were disturbed shall be restored to pre-work grades, elevations and conditions; and

8. All work shall comply with subsection 62-330.050(9), F.A.C.

(c) Minor roadway safety construction, alteration, or maintenance, and operation, provided:

1. There is no work in wetlands other than those in drainage ditches constructed in uplands;

2. There is no alteration to a project previously permitted under Part IV of Chapter 373, F.S.; and

3. All work is conducted in compliance with subsection 62-330.050(9), F.A.C.; and

4. The work is limited to:

a. Sidewalks having a width of six feet or less;

b. Turn lanes less than 0.25 mile in length, and other safety-related intersection improvements; and

c. Road widening and shoulder paving that does not create additional traffic lanes and is necessary to meet current, generally accepted roadway design and safety standards.

(d) Resurfacing of existing paved roads, and grading of existing unpaved roads, provided

1. Travel lanes are not paved that are not already paved;

2. No substantive changes occur to existing road surface elevations, grades, or profiles; and

3. All work is conducted in compliance with subsection 62-330.050(9), F.A.C.

(e) Repair, stabilization, or paving of existing unpaved roads, and the repair or replacement of vehicular bridges that are part of the unpaved road, where:

1. They were in existence on or before January 1, 2002, and have:

a. Been publicly-used and under county or municipal ownership and maintenance thereafter, including when they have been presumed to be dedicated in accordance with Section 95.361, F.S.;

b. Subsequently become county or municipally-owned and maintained; or

c. Subsequently become perpetually maintained by the county or municipality through such means as being accepted by the county or municipality as part of a Municipal Service Taxing Unit or Municipal Service Benefit Unit; and

2. The work does not realign the road or expand the number of traffic lanes of the existing road, but may include safety shoulders, clearing vegetation, and other work reasonably necessary to repair, stabilize, pave, or repave the road, provided that the work is constructed using generally accepted roadway design standards;

3. Existing bridges are not widened more than is reasonably necessary to properly connect the bridge with the road to match the width of the roadway travel lanes and safely accommodate the traffic expected.

4. No debris from the original bridge shall be allowed to remain in wetlands or other surface waters;

5. Roadside swales or other effective means of stormwater treatment are incorporated as part of the work;

6. No more dredging or filling of wetlands or water of the state is performed than is reasonably necessary to perform the work in accordance with generally accepted roadway design standards; and

7. Notice of intent to use this exemption is provided to the Agency 30 days before performing any work.

8. All work is conducted in compliance with subsection 62-330.050(9), F.A.C.

(5) Dock, Pier, Boat Ramp and Other Boating-related Work –

(a) Installation or repair of pilings and dolphins associated with private docking facilities or piers that are exempt under Section 403.813(1)(b), F.S.;

(b) Installation of private docks, piers, and recreational docking facilities, and installation of local governmental piers and recreational docking facilities, in accordance with Section 403.813(1)(b), F.S. This includes associated structures such as boat shelters, boat lifts, and roofs, provided:

1. The cumulative square footage of all structures located over wetlands and other surface waters does not exceed the limitations in Section 403.813(1)(b), F.S.;

2. No structure is enclosed on more than three sides with walls and doors;

3. Structures are not used for residential habitation or commercial purposes, or storage of materials other than those associated with water dependent recreational use; and

4. Any dock and associated structure shall be the sole dock as measured along the shoreline for a minimum distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot.

(c) Construction of private docks of 1,000 square feet or less of over-water surface area in artificial waters and residential canal systems in accordance with Section 403.813(1)(i), F.S.

(d) Replacement or repair of existing docks and piers, including mooring piles, in accordance with Section 403.813(1)(d), F.S., provided the existing structure is still functional or has been rendered non-functional within the last year by a discrete event, such as a storm, flood, accident, or fire.

(e) The construction and maintenance to design specifications of boat ramps in accordance with Section 403.813(1)(c), F.S., where navigational access to the proposed ramp currently exists:

1. In artificial waters and residential canal systems; or

2. In any wetland or other surface waters when the ramps are open to the public; and

3. The installation of docks associated with and adjoining boat ramps constructed as part of the above ramps is limited to an area of 500 square feet or less over wetlands and other surface waters.

(f) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts in accordance with Section 403.813(1)(s), F.S.

(g) The removal of derelict vessels, as defined in Section 823.11(1), F.S., by federal, state, and local agencies, provided:

1. The derelict vessel case has been completed as specified in Section 705.103, F.S., and has been entered into the Statewide Derelict Vessel Database maintained by the Florida Fish and Wildlife Conservation Commission;

2. All work is done in a manner that, to the greatest practicable extent, avoids additional dredging or filling, grounding or dragging of vessels, and damage to submerged resources such as seagrass beds, oyster beds, coral communities, mangroves, other wetlands, and live bottom; and

3. An absorbent blanket or boom shall be immediately deployed on the surface of the water around the derelict vessel if fuel, oil, or other free-floating pollutants are observed during the work.

(6) Construction, alteration, maintenance, operation, and removal of freshwater fish attractors by the Florida Fish and Wildlife Conservation Commission, U.S. Forest Service, and county and municipal governments, provided:

- (a) The material is limited to clean concrete, rock, brush, logs, or trees;
- (b) The material is firmly anchored to the bottom of the waterbody;
- (c) The size of an individual fish attractor shall be limited to one quarter of an acre in area;
- (d) The top of the fish attractor shall be at least three feet below the water surface at mean annual low water;
- (e) The attractor shall be outside any posted navigational channels;
- (f) No material is placed on or in areas vegetated by native aquatic vegetation;
- (g) The site shall be marked with a buoy or buoys to ensure that no material is deposited outside of the site; and
- (h) The provisions of paragraph 62-330.050(9)(c), F.A.C., also shall apply to protect listed species during the work.

(7) Maintenance and Restoration –

- (a) Maintenance dredging under Section 403.813(1)(f), F.S.
- (b) Maintenance of insect control structures, dikes, and irrigation and drainage ditches under Section 403.813(1)(g), F.S.
- (c) The restoration of existing insect control impoundment dikes, and the connection of such impoundments to tidally influenced waters under Section 403.813(1)(p), F.S., provided:

- 1. The restored section of dike is limited to 100 feet in length;
- 2. The connection shall provide sufficient cross-sectional area to allow beneficial tidal influence;
- 3. Dredging and filling are limited to that needed to restore the dike to original design specifications; and
- 4. The final elevation of the dredge area shall be within two feet of immediately adjacent bottom elevations.

(d) Alteration and maintenance of treatment or disposal systems under Rule 62-340.700, F.A.C.

(e) Construction and maintenance of swales in accordance with Section 403.813(1)(j), F.S.

(f) Placement of wooden, composite, metal, or other non-earthen construction mats to provide temporary access to maintain or repair projects within wetlands, provided:

1. There is no cutting or clearing of wetland trees having a diameter 4 inches (circumference of 12 inches) or greater at breast height;

2. The maximum width of the construction access area shall be 15 feet;

3. Mats shall be removed no more than 72 hours after they are placed; and

4. Areas disturbed for access shall be restored to natural grades immediately after the work is complete.

(g) Port dredging under Section 403.813(3), F.S.

(8) The installation of aids to navigation, including bridge fender piles, “No Wake” and similar regulatory signs, and buoys associated with such aids, in accordance with Section 403.813(1)(k), F.S.

(9) Pipes or Culverts –

(a) Repair or replacement, provided:

1. The pipes or culverts have equivalent hydraulic capacity to those being repaired or replaced;

2. The pipes or culverts function to discharge or convey stormwater, and are not associated with the repair, replacement, or alteration of a dam, spillway, or appurtenant works; and

3. Work is done in accordance with Section 403.813(1)(h), F.S.

(b) Construction, alteration, operation, maintenance, and removal of outfall pipes, together with associated headwalls, and energy dissipation baffles, rocks, and other scour-reduction devices at the outfall locations, provided:

1. The pipes extend less than 20 feet in, on, or over wetlands or other surface waters;

2. The outfall is part of an activity that is exempt under Part IV of Chapter 373, F.S., or qualifies for the general permit in Section 403.814(12), F.S.;

3. The outfall is designed to prevent erosion and scour;

4. Work in natural waterbodies, wetlands, and Outstanding Florida Waters is limited to 0.03 acre;

5. No activities occur in seagrasses;
 6. Within waters accessible to manatees, submerged or partially submerged outfall pipes having a diameter larger than 8 inches shall have grating such that no opening is larger than 8-inches; and
 7. All work is conducted in compliance with subsection 62-330.050(9), F.A.C.
- (c) The extension of existing culverts and crossing approaches when done to accommodate an activity that does not require a permit under this chapter, when:
1. Work in wetlands or other surface waters is limited to a total of 100 cubic yards of filling, excavation, dredging, and filling, and no more than 0.10 acre at any culvert extension or crossing approach location; and
 2. All work is conducted in compliance with subsection 62-330.050(9), F.A.C.
- (10) The construction, alteration, maintenance, removal or abandonment of recreational paths for pedestrians, bicycles, and golf carts, provided the paths:
- (a) Are not located in, on, or over wetlands or other surface waters;
 - (b) Have a width of eight feet or less for pedestrian paths, and 14 feet or less for multi-use recreational paths;
 - (c) Are not intended for use by motorized vehicles powered by internal combustion engines or electric-powered roadway vehicles, except when needed for maintenance or emergency purposes; and
 - (d) Comply with the limitations and restrictions in paragraph 62-330.050(9)(a), F.A.C.
- (11) Sampling and Testing–
- (a) Collection of seagrass, macroalgae, and macrobenthos in accordance with the terms and conditions of a permit or license issued by the Florida Fish and Wildlife Conservation Commission.
 - (b) Construction, operation, maintenance, and removal of scientific sampling, measurement, and monitoring devices, provided:
 1. The device’s purpose is to measure and record scientific data, such as staff gages, tide and current gages, meteorological stations, water recording, biological observation and sampling, and water quality testing and improvement. Parshall flumes and other small weirs installed primarily to record water quantity and velocity are authorized, provided the amount of fill is limited to 25 cubic yards;
 2. The device and any associated structures or fill, such as foundations, anchors, buoys, and lines, is removed to the maximum extent practicable at the end of sampling;
 3. The site is restored to pre-construction conditions within 48 hours of complete use of the device.
 4. All work is conducted in compliance with subsection 62-330.050(9), F.A.C.
 - (c) An exemption for geotechnical, geophysical, and cultural resource data surveys, mapping, sounding, sampling, and coring associated with beach restoration and nourishment projects and inlet management activities is provided in Section 403.813(1)(v), F.S.
- (12) Construction, Replacement, Restoration, Enhancement, and Repair of Seawall, Riprap, and Other Shoreline Stabilization –
- (a) Construction replacement, and repair of seawalls or riprap in artificial waters and residential canal systems that are exempt under Section 403.813(1)(i), F.S., including only that backfilling needed to level the land behind seawalls or riprap.
 - (b) The restoration of a seawall or riprap under Section 403.813(1)(e), F.S., where:
 1. The seawall or riprap has been damaged or destroyed within the last year by a discrete event, such as a storm, flood, accident, or fire or where the seawall or rip rap restoration or repair involves only minimal backfilling to level the land directly associated with the restoration or repair and does not involve land reclamation as the primary project purpose, as further explained in section 3.2.4 of Volume I;
 2. Restoration shall be no more than 18 inches waterward of its previous location, as measured from the waterward face of the existing seawall to the face of the restored seawall, or from the waterward slope of the existing riprap to the waterward slope of the restored riprap;
 3. Applicable permits under Chapter 161, F.S., are obtained.
 - (c) The construction of seawalls or riprap in wetlands or other surface waters between and adjoining existing seawalls or riprap at both ends in accordance with Section 403.813(1)(o), F.S.
 - (d) Installation of batter or king piles used exclusively to stabilize and repair seawalls, provided they do not impede navigation.
 - (e) Restoration of an eroding shoreline with native wetland vegetative enhancement plantings, provided:
 1. The length of shoreline is 500 linear feet or less;
 2. Plantings are native wetland plants appropriate for the site obtained from commercially-grown stock;

3. Plantings extend no farther than 10 feet waterward of the approximate mean high water line (MHWL);
 4. All invasive and exotic vegetative species along the shoreline is removed in conjunction with the planting to the extent practicable;
 5. If temporary wave attenuation is needed, turbidity curtains shall be installed and maintained in place parallel to the shoreline for a full growing season;
 6. No fill is placed other than that needed to support the vegetative plantings, except that a “breakwater” is authorized to be established concurrent with the planting if permanent wave attenuation is required to maintain the shoreline vegetation, provided:
 - a. The inner toe of the “breakwater” extends no more than 10 feet waterward of the approximate MHWL, with a top height of no more than MHWL;
 - b. The “breakwater” is composed predominantly of natural oyster shell cultch (clean and fossilized oyster shell) or other stable, non-degradable materials such as oyster reef, reef balls, unconsolidated boulders, clean concrete rubble, rip rap, rock sills, or triangular concrete forms. Oyster shell cultch, if used, shall be enclosed in mesh bags having openings of no more than 3 inches, or securely fixed to matting prior to placement in the water. Oyster bags and mats must be anchored to prevent movement of shell from the project area;
 - c. The “breakwater” shall not be placed over, or within 3 feet (in any direction) of any submerged grassbed or existing emergent marsh vegetation;
 - d. The “breakwater” shall be placed in units so that there is a tidal channel of at least three feet wide located a minimum of every 20 feet along the “breakwater” so as to not substantially impede the flow of water;
 - e. All equipment used during construction shall be operated from, and be stored in uplands;
 - f. All work is conducted in compliance with subsection 62-330.050(9), F.A.C.
- (13) Single-Family Residences and Associated Residential Improvements –
- (a) The construction, alteration, maintenance, removal, and abandonment of one, individual single-family dwelling unit, duplex, triplex, or quadruplex, and associated residential improvements, that:
 1. Do not involve any work in wetlands or other surface waters;
 2. Are not part of a larger common plan of development or sale requiring a permit or modification of a permit under Part IV of Chapter 373, F.S.;
 3. Comply with the limitations and restrictions in paragraph 62-330.050(9)(a), F.A.C.
 - (b) The construction, alteration, maintenance, removal, and abandonment of one, individual single-family dwelling unit, duplex, triplex, or quadruplex, and associated residential improvements if it will be located:
 1. Within the boundaries of a valid permit issued under Part IV of Chapter 373, F.S., and it was accounted for under the permit, or
 2. Within the boundaries of a development that predates the applicable effective date for the permitting program established under Part IV of Chapter 373, F.S., provided the activity does not involve any work in wetlands or other surface waters.
 - (c) Construction, operation, or maintenance of a stormwater management facilities designed to serve single-family residential projects in conformance with Section 403.813(1)(q), F.S.
- (14) Utilities –
- (a) Installation of overhead transmission lines in accordance with Section 403.813(1)(a), F.S.
 - (b) Installation of subaqueous transmission and distribution lines in accordance with Section 403.813(1)(m), F.S.
 - (c) Replacement or repair of subaqueous transmission and distribution lines in accordance with Section 403.813(1)(n), F.S.
 - (d) Activities necessary to preserve, restore, repair, remove, or replace an existing communication or utility pole or aerial transmission or distribution line, provided there is no dredging or filling in wetlands or other surface waters except to remove poles and replace them with new poles, and temporary mats needed to access the site in accordance with paragraph 62-330.051(7)(f), F.A.C. The activity must not increase the voltage of existing power lines or relocate existing poles or lines more than 10 feet in any direction from their original location.
 - (e) Installation, removal, and replacement of utility poles that support telecommunication lines or cables, or electric distribution lines of 35kV or less, together with the bases and anchoring devices to support those poles. “Anchoring device” shall mean steel guy wires fastened to the ground, without the need for dredging, and “base” shall mean a concrete or steel foundation not exceeding four feet in radius, used to support a utility pole. Work must comply with the following:
 1. No more than 15 utility poles shall be installed, removed, or replaced in wetlands;

2. There shall be no permanent placement of fill other than utility poles and anchoring devices;
3. Work shall not occur in forested wetlands located within 550 feet from the mean or ordinary high water line of an Aquatic Preserve or a named waterbody designated as an Outstanding Florida Water or an Outstanding National Resource Water.
4. Vehicle usage in wetlands shall be conducted so as to minimize tire rutting and erosion impacts;
5. There shall be no dredging or filling to create fill pads or access roads, except to place temporary mats for access within the utility right-of-way in wetlands. All temporary mats shall be removed within 30 days after completion of the work.
6. Temporary disturbance to wetlands shall be limited to a length of 0.5 mile, a width of 30 feet, and a total area of 0.5 acre;
7. Maintenance of the utility right-of-way in wetlands shall be limited to a cleared corridor of up to 15 feet wide and a total area of 0.25 acre;
8. Except for the authorized permanent structures, pre-work ground elevations and contours shall be restored within 30 days of completion of the work;
9. Water jets shall not be used unless they are a pre-engineered part of the pole and the water for the jets is either recirculated on site or is discharged in a self-contained upland disposal site;
10. The installation of the utility poles and associated bases and anchoring devices shall not interfere with navigation or impede water flow in wetlands; and
11. Work is conducted in compliance with subsection 62-330.050(9), F.A.C.

(f) Excavation or dredging of temporary trenches to install utilities such as communication cables, water lines, and electrical lines, provided:

1. Material is not deposited within wetlands or other surface waters other than that needed to backfill the trench to restore ground to pre-work grades;
2. Backfilling is completed within 24 hours of disturbance; and
3. Work is conducted in compliance with subsection 62-330.050(9), F.A.C.

(15) Modification or reconstruction of an existing conveyance system constructed prior to the need to obtain a permit under Part IV of Chapter 373, F.S., provided:

- (a) The work is conducted by a city, county, state agency, or District;
- (b) The system alteration is not intended to serve new development;
- (c) The system does not:
 1. Discharge directly to Outstanding Florida Waters;
 2. Increase pollution loading;
 3. Change points of discharge in a manner that would adversely affect the designated uses of wetlands or other surface waters;
 4. Result in new adverse water quantity impacts to receiving waters and adjacent lands;
 5. Pipe and fill wetlands and other surface waters, including irrigation or drainage ditches; and
 6. Replace a functional treatment swale that was authorized under Chapter 62-25 or Part IV of Chapter 373, F.S.

(16) The construction, alteration, maintenance, or removal of wholly-owned, artificial surface waters that:

- (a) Were created entirely from uplands;
- (b) Are isolated such that they do not connect to any other wetlands or other surface waters;
- (c) Involve no more than a total of 0.5 acre of work in wetlands or other surface waters within the artificial waterbody;
- (d) Do not impound, or have the capability of impounding, more than 40 acre-feet of water;
- (e) Do not involve of a dam or appurtenant work that has a height of more than 10 feet, as measured from the lowest elevation of the downstream toe to the dam crest;
- (f) Were not created to provide mitigation under Part IV of Chapter 373, F.S.; and
- (g) Were not permitted for stormwater treatment or management under Chapter 62-25, F.A.C., or Part IV of Chapter 373, F.S.

Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 403.805(1) FS. Law Implemented 373.406, 373.4131, 373.4145, 373.415, 403.813(1) FS. History--New 10-1-13.

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, this subsection does not relieve an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(a) The installation of overhead transmission lines, with support structures which are not constructed in waters of the state and which do not create a navigational hazard.

(b) The installation and repair of mooring pilings and dolphins associated with private docking facilities or piers and the installation of private docks, piers and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat, any of which docks:

1. Has 500 square feet or less of over-water surface area for a dock which is located in an area designated as Outstanding Florida Waters or 1,000 square feet or less of over-water surface area for a dock which is located in an area which is not designated as Outstanding Florida Waters;

2. Is constructed on or held in place by pilings or is a floating dock which is constructed so as not to involve filling or dredging other than that necessary to install the pilings;

3. Shall not substantially impede the flow of water or create a navigational hazard;

4. Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and

5. Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot.

Nothing in this paragraph shall prohibit the department from taking appropriate enforcement action pursuant to this chapter to abate or prohibit any activity otherwise exempt from permitting pursuant to this paragraph if the department can demonstrate that the exempted activity has caused water pollution in violation of this chapter.

(c) The installation and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists or the installation of boat ramps open to the public in any waters of the state where navigational access to the proposed ramp exists and where the construction of the proposed ramp will be less than 30 feet wide and will involve the removal of less than 25 cubic yards of material from the waters of the state, and the maintenance to design specifications of such ramps; however, the material to be removed shall be placed upon a self-contained upland site so as to prevent the escape of the spoil material into the waters of the state.

(d) The replacement or repair of existing docks and piers, except that fill material may not be used and the replacement or repaired dock or pier must be in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired. This does not preclude the use of different construction materials or minor deviations to allow upgrades to current structural and design standards.

(e) The restoration of seawalls at their previous locations or upland of, or within 18 inches waterward of, their previous locations. However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.

(f) The performance of maintenance dredging of existing manmade canals, channels, intake and discharge structures, and previously dredged portions of natural water bodies within drainage rights-of-way or drainage easements which have been recorded in the public records of the county, where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into the waters of the state, provided that no more dredging is to be performed than is necessary to restore the canals, channels, and intake and discharge structures, and previously dredged portions of natural water bodies, to original design specifications or configurations, provided that the work is conducted in compliance with s. 379.2431(2)(d), provided that no significant impacts occur to previously undisturbed natural areas, and provided that control devices for return flow and best management practices for erosion and sediment control are utilized to prevent bank erosion and scouring and to prevent turbidity, dredged material, and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. Further, for maintenance dredging of previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements, an entity that seeks an exemption must notify the department or water management district, as applicable, at least 30 days prior to dredging and provide documentation of original design specifications or configurations where such exist. This exemption applies to all canals and previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements constructed prior to April 3, 1970, and to those canals and previously dredged portions of natural water bodies constructed on or after April 3, 1970, pursuant to all necessary state permits. This exemption does not apply to the removal of a natural or manmade barrier separating a canal or canal system from adjacent waters. When no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United States Army Corps of Engineers for construction or maintenance dredging of the existing manmade canal or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water. The Board of Trustees of the Internal Improvement Trust Fund may fix and recover from the permittee an amount equal to the difference between the fair market value and the actual cost of the maintenance dredging for material removed during such maintenance dredging. However, no charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority. The removing party may subsequently sell such material; however, proceeds from such sale

that exceed the costs of maintenance dredging shall be remitted to the state and deposited in the Internal Improvement Trust Fund.

(g) The maintenance of existing insect control structures, dikes, and irrigation and drainage ditches, provided that spoil material is deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into waters of the state. In the case of insect control structures, if the cost of using a self-contained upland spoil site is so excessive, as determined by the Department of Health, pursuant to s. 403.088(1), that it will inhibit proposed insect control, then-existing spoil sites or dikes may be used, upon notification to the department. In the case of insect control where upland spoil sites are not used pursuant to this exemption, turbidity control devices shall be used to confine the spoil material discharge to that area previously disturbed when the receiving body of water is used as a potable water supply, is designated as shellfish harvesting waters, or functions as a habitat for commercially or recreationally important shellfish or finfish. In all cases, no more dredging is to be performed than is necessary to restore the dike or irrigation or drainage ditch to its original design specifications.

(h) The repair or replacement of existing functional pipes or culverts the purpose of which is the discharge or conveyance of stormwater. In all cases, the invert elevation, the diameter, and the length of the culvert shall not be changed. However, the material used for the culvert may be different from the original.

(i) The construction of private docks of 1,000 square feet or less of over-water surface area and seawalls in artificially created waterways where such construction will not violate existing water quality standards, impede navigation, or affect flood control. This exemption does not apply to the construction of vertical seawalls in estuaries or lagoons unless the proposed construction is within an existing manmade canal where the shoreline is currently occupied in whole or part by vertical seawalls.

(j) The construction and maintenance of swales.

(k) The installation of aids to navigation and buoys associated with such aids, provided the devices are marked pursuant to s. 327.40.

(l) The replacement or repair of existing open-trestle foot bridges and vehicular bridges that are 100 feet or less in length and two lanes or less in width, provided that no more dredging or filling of submerged lands is performed other than that which is necessary to replace or repair pilings and that the structure to be replaced or repaired is the same length, the same configuration, and in the same location as the original bridge. No debris from the original bridge shall be allowed to remain in the waters of the state.

(m) The installation of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters in the state, except in Class I and Class II waters and aquatic preserves, provided no dredging or filling is necessary.

(n) The replacement or repair of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters of the state.

(o) The construction of private seawalls in wetlands or other surface waters where such construction is between and adjoins at both ends existing seawalls; follows a continuous and uniform seawall construction line with the existing seawalls; is no more than 150 feet in length; and does not violate existing water quality standards, impede navigation, or affect flood control. However, in estuaries and lagoons the construction of vertical seawalls is limited to the circumstances and purposes stated in s. 373.414(5)(b)1.-4. This paragraph does not affect the permitting requirements of chapter 161, and department rules must clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.

(p) The restoration of existing insect control impoundment dikes which are less than 100 feet in length. Such impoundments shall be connected to tidally influenced waters for 6 months each year beginning September 1 and ending February 28 if feasible or operated in accordance with an impoundment management plan approved by the department. A dike restoration may involve no more dredging than is necessary to restore the dike to its original design specifications. For the purposes of this paragraph, restoration does not include maintenance of impoundment dikes of operating insect control impoundments.

(q) The construction, operation, or maintenance of stormwater management facilities which are designed to serve single-family residential projects, including duplexes, triplexes, and quadruplexes, if they are less than 10 acres total land and have less than 2 acres of impervious surface and if the facilities:

1. Comply with all regulations or ordinances applicable to stormwater management and adopted by a city or county;
2. Are not part of a larger common plan of development or sale; and
3. Discharge into a stormwater discharge facility exempted or permitted by the department under this chapter which has sufficient capacity and treatment capability as specified in this chapter and is owned, maintained, or operated by a city, county, special district with drainage responsibility, or water management district; however, this exemption does not authorize discharge to a facility without the facility owner's prior written consent.

(r) The removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, and the associated removal from lakes of organic detrital material when such planting or removal is performed and authorized by permit or exemption granted under s. 369.20 or s. 369.25, provided that:

1. Organic detrital material that exists on the surface of natural mineral substrate shall be allowed to be removed to a depth of 3 feet or to the natural mineral substrate, whichever is less;
2. All material removed pursuant to this paragraph shall be deposited in an upland site in a manner that will prevent the reintroduction of the material into waters in the state except when spoil material is permitted to be used to create wildlife islands in freshwater bodies of the state when a governmental entity is permitted pursuant to s. 369.20 to create such islands as a part of a restoration or enhancement project;

3. All activities are performed in a manner consistent with state water quality standards; and
4. No activities under this exemption are conducted in wetland areas, as defined in s. 373.019(27), which are supported by a natural soil as shown in applicable United States Department of Agriculture county soil surveys, except when a governmental entity is permitted pursuant to s. 369.20 to conduct such activities as a part of a restoration or enhancement project.

The department may not adopt implementing rules for this paragraph, notwithstanding any other provision of law.

(s) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

1. Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;

2. Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;

3. Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in s. 253.141;

4. Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and

5. Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, shall not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government. Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations. Local governments may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in this section

or address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). The department shall adopt a general permit by rule for the construction, installation, operation, or maintenance of those floating vessel platforms or floating boat lifts that do not qualify for the exemption provided in this paragraph but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund. No local government shall impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. Local governments may require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

(t) The repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway, within the Northwest Florida Water Management District and the Suwannee River Water Management District, provided:

1. The road and associated bridge were in existence and in use as a public road or bridge, and were maintained by the county as a public road or bridge on or before January 1, 2002;
2. The construction activity does not realign the road or expand the number of existing traffic lanes of the existing road; however, the work may include the provision of safety shoulders, clearance of vegetation, and other work reasonably necessary to repair, stabilize, pave, or repave the road, provided that the work is constructed by generally accepted engineering standards;
3. The construction activity does not expand the existing width of an existing vehicular bridge in excess of that reasonably necessary to properly connect the bridge with the road being repaired, stabilized, paved, or repaved to safely accommodate the traffic expected on the road, which may include expanding the width of the bridge to match the existing connected road. However, no debris from the original bridge shall be allowed to remain in waters of the state, including wetlands;
4. Best management practices for erosion control shall be employed as necessary to prevent water quality violations;
5. Roadside swales or other effective means of stormwater treatment must be incorporated as part of the project;
6. No more dredging or filling of wetlands or water of the state is performed than that which is reasonably necessary to repair, stabilize, pave, or repave the road or to repair or replace the bridge, in accordance with generally accepted engineering standards; and

7. Notice of intent to use the exemption is provided to the department, if the work is to be performed within the Northwest Florida Water Management District, or to the Suwannee River Water Management District, if the work is to be performed within the Suwannee River Water Management District, 30 days prior to performing any work under the exemption.

Within 30 days after this act becomes a law, the department shall initiate rulemaking to adopt a no fee general permit for the repair, stabilization, or paving of existing roads that are maintained by the county and the repair or replacement of bridges that are part of the roadway where such activities do not cause significant adverse impacts to occur individually or cumulatively. The general permit shall apply statewide and, with no additional rulemaking required, apply to qualified projects reviewed by the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District under the division of responsibilities contained in the operating agreements applicable to part IV of chapter 373. Upon adoption, this general permit shall, pursuant to the provisions of subsection (2), supersede and replace the exemption in this paragraph.

(u) Notwithstanding any provision to the contrary in this subsection, a permit or other authorization under chapter 253, chapter 369, chapter 373, or this chapter is not required for an individual residential property owner for the removal of organic detrital material from freshwater rivers or lakes that have a natural sand or rocky substrate and that are not Aquatic Preserves or for the associated removal and replanting of aquatic vegetation for the purpose of environmental enhancement, providing that:

1. No activities under this exemption are conducted in wetland areas, as defined in s.373.019(27), which are supported by a natural soil as shown in applicable United States Department of Agriculture county soil surveys.
2. No filling or peat mining is allowed.
3. No removal of native wetland trees, including, but not limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.
4. When removing organic detrital material, no portion of the underlying natural mineral substrate or rocky substrate is removed.
5. Organic detrital material and plant material removed is deposited in an upland site in a manner that will not cause water quality violations.
6. All activities are conducted in such a manner, and with appropriate turbidity controls, so as to prevent any water quality violations outside the immediate work area.
7. Replanting with a variety of aquatic plants native to the state shall occur in a minimum of 25 percent of the preexisting vegetated areas where organic detrital material is removed, except for areas where the material is removed to bare rocky substrate; however, an area may be maintained clear of vegetation as an access corridor. The access corridor width may not exceed 50 percent of the property owner's frontage or 50 feet, whichever is less, and may be a sufficient length waterward to

create a corridor to allow access for a boat or swimmer to reach open water. Replanting must be at a minimum density of 2 feet on center and be completed within 90 days after removal of existing aquatic vegetation, except that under dewatered conditions replanting must be completed within 90 days after reflooding. The area to be replanted must extend waterward from the ordinary high water line to a point where normal water depth would be 3 feet or the preexisting vegetation line, whichever is less. Individuals are required to make a reasonable effort to maintain planting density for a period of 6 months after replanting is complete, and the plants, including naturally recruited native aquatic plants, must be allowed to expand and fill in the revegetation area. Native aquatic plants to be used for revegetation must be salvaged from the enhancement project site or obtained from an aquatic plant nursery regulated by the Department of Agriculture and Consumer Services. Plants that are not native to the state may not be used for replanting.

8. No activity occurs any farther than 100 feet waterward of the ordinary high water line, and all activities must be designed and conducted in a manner that will not unreasonably restrict or infringe upon the riparian rights of adjacent upland riparian owners.

9. The person seeking this exemption notifies the applicable department district office in writing at least 30 days before commencing work and allows the department to conduct a preconstruction site inspection. Notice must include an organic-detrital-material removal and disposal plan and, if applicable, a vegetation-removal and revegetation plan.

10. The department is provided written certification of compliance with the terms and conditions of this paragraph within 30 days after completion of any activity occurring under this exemption.

(v) Notwithstanding any other provision in this chapter, chapter 373, or chapter 161, a permit or other authorization is not required for the following exploratory activities associated with beach restoration and nourishment projects and inlet management activities:

1. The collection of geotechnical, geophysical, and cultural resource data, including surveys, mapping, acoustic soundings, benthic and other biologic sampling, and coring.

2. Oceanographic instrument deployment, including temporary installation on the seabed of coastal and oceanographic data collection equipment.

3. Incidental excavation associated with any of the activities listed under subparagraph 1. or subparagraph 2.

(2) The provisions of subsection (1) are superseded by general permits established pursuant to ss. 373.118 and 403.814 which include the same activities. Until such time as general permits are established, or should general permits be suspended or repealed, the exemptions under subsection (1) shall remain or shall be reestablished in full force and effect.

(3) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for maintenance dredging conducted under this section by the seaports of Jacksonville, Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina or by inland navigation districts if the dredging to be performed is no more than is

necessary to restore previously dredged areas to original design specifications or configurations, previously undisturbed natural areas are not significantly impacted, and the work conducted does not violate the protections for manatees under s. 379.2431(2)(d). In addition:

(a) A mixing zone for turbidity is granted within a 150-meter radius from the point of dredging while dredging is ongoing, except that the mixing zone may not extend into areas supporting wetland communities, submerged aquatic vegetation, or hardbottom communities.

(b) The discharge of the return water from the site used for the disposal of dredged material shall be allowed only if such discharge does not result in a violation of water quality standards in the receiving waters. The return-water discharge into receiving waters shall be granted a mixing zone for turbidity within a 150-meter radius from the point of discharge into the receiving waters during and immediately after the dredging, except that the mixing zone may not extend into areas supporting wetland communities, submerged aquatic vegetation, or hardbottom communities. Ditches, pipes, and similar types of linear conveyances may not be considered receiving waters for the purposes of this paragraph.

(c) The state may not exact a charge for material that this subsection allows a public port or an inland navigation district to remove. In addition, consent to use any sovereignty submerged lands pursuant to this section is hereby granted.

(d) The use of flocculants at the site used for disposal of the dredged material is allowed if the use, including supporting documentation, is coordinated in advance with the department and the department has determined that the use is not harmful to water resources.

(e) The spoil material from maintenance dredging may be deposited in a self-contained, upland disposal site. The site is not required to be permitted if:

1. The site exists as of January 1, 2011;
2. A professional engineer certifies that the site has been designed in accordance with generally accepted engineering standards for such disposal sites;
3. The site has adequate capacity to receive and retain the dredged material; and
4. The site has operating and maintenance procedures established that allow for discharge of return flow of water and to prevent the escape of the spoil material into the waters of the state.

(f) The department must be notified at least 30 days before the commencement of maintenance dredging. The notice shall include, if applicable, the professional engineer certification required by paragraph (e).

(g) This subsection does not prohibit maintenance dredging of areas where the loss of original design function and constructed configuration has been caused by a storm event, provided that the dredging is performed as soon as practical after the storm event. Maintenance dredging that commences within 3 years after the storm event shall be presumed to satisfy this provision. If more than 3 years are needed to commence the maintenance dredging after the storm event, a request for a specific time extension to perform the maintenance dredging shall be submitted to the department, prior to the end of the 3-year period, accompanied by a statement, including supporting

documentation, demonstrating that contractors are not available or that additional time is needed to obtain authorization for the maintenance dredging from the United States Army Corps of Engineers.

History.—s. 7, ch. 75-22; s. 143, ch. 77-104; s. 4, ch. 78-98; s. 1, ch. 78-146; s. 86, ch. 79-65; s. 1, ch. 80-44; s. 8, ch. 80-66; s. 3, ch. 82-80; s. 6, ch. 82-185; s. 65, ch. 83-218; s. 69, ch. 83-310; s. 43, ch. 84-338; s. 39, ch. 85-55; s. 12, ch. 86-138; s. 44, ch. 86-186; ss. 1, 3, ch. 89-324; s. 4, ch. 96-238; s. 3, ch. 97-22; s. 3, ch. 98-131; s. 163, ch. 99-8; s. 1, ch. 2000-145; s. 1, ch. 2002-164; s. 4, ch. 2002-253; s. 1, ch. 2004-16; s. 46, ch. 2006-1; s. 12, ch. 2006-220; s. 8, ch. 2006-309; s. 4, ch. 2008-40; s. 202, ch. 2008-247; s. 52, ch. 2009-21; s. 5, ch. 2010-201; s. 3, ch. 2010-208; s. 8, ch. 2011-164; s. 4, ch. 2012-65; s. 6, ch. 2012-150; s. 21, ch. 2013-92.

1996 Mangrove Trimming and Preservation Act

403.9321 Short Title—Sections 403.9321 - 403.9333 may be cited as the “Mangrove Trimming and Preservation Act.”

403.9322 Legislative findings.--

(1) The Legislature finds that there are over 555,000 acres of mangroves now existing in Florida. Of this total, over 80 percent are under some form of government or private ownership or control and are expressly set aside for preservation or conservation purposes.

(2) The Legislature finds that mangroves play an important ecological role as habitat for various species of marine and estuarine vertebrates, invertebrates, and other wildlife, including mammals, birds, and reptiles; as shoreline stabilization and storm protection; and for water-quality protection and maintenance and as food-web support. The mangrove forest is a tropical ecosystem that provides nursery support to the sports and commercial fisheries. Through a combination of functions, mangroves contribute to the economies of many coastal counties in the state.

(3) The Legislature finds that many areas of mangroves occur as narrow riparian mangrove fringes that do not provide all the functions of mangrove forests or provide such functions to a lesser degree.

(4) The Legislature finds that scientific studies have shown that mangroves are amenable to standard horticultural treatments and that waterfront property owners can live in harmony with mangroves by incorporating such treatments into their landscaping systems.

(5) The Legislature finds that the trimming of mangroves by professional mangrove trimmers has a significant potential to maintain the beneficial attributes of mangrove resources and that professional mangrove trimmers should be authorized to conduct mangrove trimming, under certain circumstances, without prior government authorization.

403.9323 Legislative intent.--

(1) It is the intent of the Legislature to protect and preserve mangrove resources valuable to our environment and economy from unregulated removal, defoliation, and destruction.

(2) It is the intent of the Legislature that no trimming or alteration of mangroves may be permitted on uninhabited islands which are publicly owned or on lands set aside for conservation and preservation, or mitigation, except where necessary to protect the public health, safety, and welfare, or to enhance public use of, or access to, conservation areas in accordance with approved management plans.

(3) It is the intent of the Legislature to provide waterfront property owners their riparian right of view, and other rights of riparian property ownership as recognized by s. 253.141 and any other provision of law, by allowing mangrove trimming in riparian mangrove fringes without prior government approval when the trimming activities will not result in the removal, defoliation, or destruction of the mangroves.

(4) It is the intent of the Legislature that ss. 403.9321-403.9333 shall be administered so as to encourage waterfront property owners to voluntarily maintain mangroves, encourage mangrove growth, and plant mangroves along their shorelines.

(5) It is the intent of the Legislature that all trimming of mangroves pursuant to this act conducted on parcels having multifamily residential units result in an equitable distribution of the riparian rights provided herein.

(6) It is the intent of the Legislature to grandfather certain historically established mangrove maintenance activities.

403.9324 Mangrove protection rule; delegation of mangrove protection to local governments.--

(1) Sections 403.9321-403.9333 and any lawful regulations adopted by a local government that

receives a delegation of the department's authority to administer and enforce the regulation of mangroves as provided by this section shall be the sole regulations in this state for the trimming and alteration of mangroves on privately or publicly owned lands. All other state and local regulation of mangrove is as provided in subsection (3).

(2) The department shall delegate its authority to regulate the trimming and alteration of mangroves to any local government that makes a written request for delegation, if the local government meets the requirements of this section. To receive delegation, a local government must demonstrate that it has sufficient resources and procedures for the adequate administration and enforcement of a delegated mangrove-regulatory program. When a county receives delegation from the department, it may, through interlocal agreement, further delegate the authority to administer and enforce regulation of mangrove trimming and alteration to municipalities that meet the requirements of this section. In no event shall more than one permit for the alteration or trimming of mangroves be required within the jurisdiction of any delegated local government.

(3) A local government that wants to establish a program for the regulation of mangroves may request delegation from the department at any time. However, all local government regulation of mangroves, except pursuant to a delegation as provided by this section, is abolished 180 days after this section takes effect.

(4) Within 45 days after receipt of a written request for delegation from a local government, the department shall grant or deny the request in writing. The request is deemed approved if the department fails to respond within the 45-day time period. In reviewing requests for delegation, the department shall limit its review to whether the request complies with the requirements of subsection (2). The department shall set forth in writing with specificity the reasons for denial of a request for delegation. The department's determination regarding delegation constitutes final agency action and is subject to review under chapter 120.

(5) The department may biannually review the performance of a delegated local program and, upon a determination by the department that the delegated program has failed to properly administer and enforce the program, may seek to revoke the authority under which the program was delegated. The department shall provide a delegated local government with written notice of its intent to revoke the authority to operate a delegated program. The department's revocation of the authority to operate a delegated program is subject to review under chapter 120.

(6) A local government that receives delegation of the department's authority to regulate mangroves shall issue all permits required by law and in lieu of any departmental permit provided for by ss. 403.9321-403.9333. The availability of the exemptions to trim mangroves in riparian mangrove fringe areas provided in s. 403.9326 may not be restricted or qualified in any way by any local government. This subsection does not preclude a delegated local government from imposing stricter substantive standards or more demanding procedural requirements for mangrove trimming or alteration outside of riparian mangrove fringe areas.

403.9325 Definitions.--For the purposes of ss. 403.9321-403.9333, the term:

(1) "Alter" means anything other than trimming of mangroves.

(2) "Local government" means a county or municipality.

(3) "Mangrove" means any specimen of the species *Laguncularia racemosa* (white mangrove), *Rhizophora mangle* (red mangrove), or *Avicennia germinans* (black mangrove).

(4) "Mangroves on lands that have been set aside as mitigation" means mangrove areas on public or private land which have been created, enhanced, restored, or preserved as mitigation under a dredge and fill permit issued under ss. 403.91-403.929, Florida Statutes (1984 Supplement, as amended), or a dredge and fill permit, management and storage of surface waters permit, or environmental resource permit issued under part IV of chapter 373, applicable dredge and fill licenses or permits issued by a local government, a resolution of an enforcement action, or a conservation easement that does not provide for trimming.

(5) "Professional mangrove trimmer" means a person who meets the qualifications set forth in s. 403.9329.

(6) "Public lands set aside for conservation or preservation" means:

Conservation and recreation lands under chapter 259;

State and national parks;

State and national reserves and preserves except as provided in s. 403.9326 (3);

(a) State and national wilderness areas;

(b) National wildlife refuges (only those lands under Federal Government ownership);

(c) Lands acquired through the Water Management Lands Trust Fund, Save Our Rivers

Program;

(d) Lands acquired under the save our coast program;

(e) Lands acquired under the environmentally endangered lands bond program;

(f) Public lands designated as conservation or preservation under a local government

comprehensive plan;

(g) Lands purchased by a water management district, the Florida Game and Fresh Water Fish Commission, or any other state agency for conservation or preservation purposes;

(h) Public lands encumbered by a conservation easement that does not provide for the trimming of mangroves; and

(i) Public lands designated as critical wildlife areas by the Florida Game and Fresh Water Fish Commission.

(7) "Riparian mangrove fringe" means mangroves growing along the shoreline on private property, property owned by a governmental entity, or sovereign submerged land, the depth of which does not exceed 50 feet as measured waterward from the trunk of the most landward mangrove tree in a direction perpendicular to the shoreline to the trunk of the most waterward mangrove tree. Riparian mangrove fringe does not include mangroves on uninhabited islands, or public lands that have been set aside for conservation or preservation, or mangroves on lands that have been set aside as mitigation, if the permit, enforcement instrument, or conservation easement establishing the mitigation area did not include provisions for the trimming of mangroves.

(8) "Trim" means to cut mangrove branches, twigs, limbs, and foliage, but does not mean to remove, defoliate, or destroy the mangroves.

403.9326 Exemptions.--

(1) The following activities are exempt from the permitting requirements of ss. 403.9321-403.9333 and any other provision of law if no herbicide or other chemical is used to remove mangrove foliage:

(a) Mangrove trimming in riparian mangrove fringe areas that meet the following criteria:

1. The riparian mangrove fringe must be located on lands owned or controlled by the person who will supervise or conduct the trimming activities or on sovereign submerged lands immediately waterward and perpendicular to the lands.

2. The mangroves that are the subject of the trimming activity may not exceed 10 feet in pretrimmed height as measured from the substrate and may not be trimmed so that the overall height of any mangrove is reduced to less than 6 feet as measured from the substrate. This exemption applies to property with a shoreline of 150 feet or less. Owners of property with a shoreline of more than 150 feet may not trim, under an exemption, more than 65 percent of the mangroves along the shoreline.

(b) Mangrove trimming supervised or conducted exclusively by a professional mangrove trimmer, as defined in s. 403.9325, in riparian mangrove fringe areas that meet the following criteria:

1. The riparian mangrove fringe must be located on lands owned or controlled by the professional mangrove trimmer or by the person contracting with the professional mangrove trimmer to perform the trimming activities, or on sovereign submerged lands immediately waterward and perpendicular to such lands.

2. The mangroves that are the subject of the trimming activity may not exceed 24 feet in pretrimmed height and may not be trimmed so that the overall height of any mangrove is reduced to less than 6 feet as measured from the substrate.

3. The trimming of mangroves that are 16 feet or greater in pretrimmed height must be conducted in stages so that no more than 25 percent of the foliage is removed annually.

4. A professional mangrove trimmer that is trimming red mangroves for the first time under the exemption provided by this paragraph must notify the department or delegated local government in writing at least 10 days before commencing the trimming activities.

This exemption applies to property with a shoreline of 150 feet or less. Owners of property with a shoreline of more than 150 feet may not trim, under an exemption, more than 65 percent of the mangroves along the shoreline.

(c) Mangrove trimming in riparian mangrove fringe areas which is designed to reestablish or maintain a previous mangrove configuration if the mangroves to be trimmed do not exceed 24 feet in pretrimmed height. The reestablishment of a previous mangrove configuration must not result in the destruction, defoliation, or removal of mangroves. Documentation of a previous mangrove configuration may be established by affidavit of a person with personal knowledge of such configuration, through current or past permits from the state or local government, or by photographs of the mangrove configuration. Trimming activities conducted under the exemption provided by this paragraph shall be conducted by a professional mangrove trimmer when the mangroves that are the subject of the trimming activity have a pretrimmed height which exceeds 10 feet as measured from the substrate. A person trimming red mangroves for the first time under the exemption provided by this paragraph must notify the department or delegated local government in writing at least 10 days before commencing the trimming activities.

(d) The maintenance trimming of mangroves that have been previously trimmed in accordance with an exemption or government authorization, including those mangroves that naturally recruited into the area and any mangrove growth that has expanded from the area subsequent to the authorization, if the maintenance trimming does not exceed the height and configuration previously established. Historically established maintenance trimming is grandfathered in all respects, notwithstanding any other provisions of law. Documentation of established mangrove configuration may be verified by affidavit of a person with personal knowledge of the configuration or by photographs of the mangrove configuration.

(e) The trimming of mangrove trees by a state-licensed surveyor in the performance of his duties, if the trimming is limited to a swath of 3 feet or less in width.

(f) The trimming of mangrove trees by a duly constituted communications, water, sewerage, electrical, or other utility company, or by a federal, state, county, or municipal agency, or by an engineer or a surveyor and mapper working under a contract with such utility company or agency, when the trimming is done as a governmental function of the agency.

(g) The trimming of mangrove trees by a duly constituted communications, water, sewerage, electrical, or other utility company in or adjacent to a public or private easement or right-of-way, if the trimming is limited to those areas where it is necessary for the maintenance of existing lines or facilities or for the construction of new lines or facilities in furtherance of providing utility service to its customers and if work is conducted so as to avoid any unnecessary trimming of mangrove trees.

(h) The trimming of mangrove trees by a duly constituted communications, water, sewerage, or electrical utility company on the grounds of a water treatment plant, sewerage treatment plant, or electric power plant or substation in furtherance of providing utility service to its customers, if work is conducted so as to avoid any unnecessary trimming of mangrove trees.

(2) Any rule, regulation, or other provision of law must be strictly construed so as not to limit directly or indirectly the exemptions provided by this section for trimming in riparian mangrove fringe areas except as provided in s. 403.9329(7)(b). Any rule or policy of the department, or local government regulation, that directly or indirectly serves as a limitation on the exemptions provided by this section for trimming in riparian mangrove fringe areas is invalid.

(3) The designation of riparian mangrove fringe areas as aquatic preserves or Outstanding Florida Waters shall not affect the use of the exemptions provided by this section.

403.9327 General permits.--

(1)(a) The following general permits are created for the trimming of mangroves that do not qualify for an exemption provided by s. 403.9326:

(b) A general permit to trim mangroves for riparian property owners, if:

1. The trimming is conducted in an area where the department has not delegated the authority to regulate mangroves to a local government;
2. The trimming is supervised or conducted exclusively by a professional mangrove trimmer;
3. The mangroves subject to trimming under the permit do not extend more than 500 feet waterward as measured from the trunk of the most landward mangrove tree in a direction perpendicular to the shoreline;
4. No more than 65 percent of the mangroves along the shoreline which exceed 6 feet in pretrimmed height as measured from the substrate will be trimmed, and no mangrove will be trimmed so that the overall height of any mangrove is reduced to less than 6 feet as measured from the substrate; and
5. No herbicide or other chemical will be used for the purpose of removing leaves of a mangrove.

(c) A general permit for the limited trimming of mangroves within existing navigational channels, basins, or canals to provide clearance for navigation of watercraft, if:

1. The trimming is conducted in an area where the department has not delegated the authority to regulate mangroves to a local government;
2. The trimming is supervised or conducted exclusively by a professional mangrove trimmer;
3. The mangroves are located on lands owned or controlled by the professional mangrove trimmer or by the person contracting with the professional mangrove trimmer to perform the trimming activities, or on sovereign submerged lands immediately waterward and perpendicular to such lands;
4. The trimming is limited to those portions of branches or trunks of mangroves which extend into the navigation channel beyond a vertical plane of the most waterward prop root or root system; and
5. No herbicide or other chemical will be used for the purpose of removing leaves of a mangrove.

(2) The department may establish additional general permits for mangrove trimming.

(3) The general permits under this section are subject to the following conditions:

(a) A general permit may be used only once on any parcel of property to achieve a mangrove height of no less than 6 feet;

(b) Trimming must be conducted in stages so that no more than 25 percent of the foliage is removed annually; and The height and configuration of mangroves trimmed under these general permits may be maintained under s. 403.9326(1)(d).

(4) Notice of intent to use a general permit must be made in writing to the department and must contain sufficient information to enable the department to determine the scope of the proposed trimming and whether the activity will comply with the conditions of this section.

(5) The department shall grant or deny in writing each request for a general permit within 30 days after receipt, unless the applicant agrees to an extension. If the applicant does not agree to an extension and the department fails to act on the request within the 30-day period, the request is approved. The department's denial of a request for a general permit is subject to review under chapter 120. The department's action may not receive a presumption of validity in any administrative or judicial proceeding for review.

(6) Trimming that does not qualify for an exemption under s. 403.9326 or a general permit under this section requires a permit as provided in s. 403.9328.

(7) If a local government receives delegation of the department's authority to regulate mangroves, the delegated local government shall issue permits for mangrove trimming in lieu of a general permit from the department, but the local government may not directly or indirectly limit the use of the exemptions in s. 403.9326. A delegated local government may impose stricter substantive standards than those of the department for the issuance of a permit authorized by this section; however, such regulations may not prohibit all mangrove trimming.

403.93271 Applicability to multifamily residential units.--

(1) When trimming under s. 403.9327(1)(a) occurs on property developed for multifamily residential use, the 65-percent shoreline trimming limit must be equitably distributed so that each owner's riparian view is similarly affected.

(2) If it is necessary to trim more than 65 percent of the mangroves along the shoreline in order to provide a water view from each unit, the department or delegated local government may authorize a greater percentage of trimming under s. 403.9327(1)(a). This subsection applies only to property on which multifamily residential units exist as of June 1, 1996.

403.9328 Alteration and trimming of mangroves; permit requirement.--

(1) A person may not alter or trim, or cause to be altered or trimmed, any mangrove within the landward extent of wetlands and other surface waters, as defined in chapter 62-340.200(19), Florida Administrative Code, using the methodology in s. 373.4211 and chapter 62-340, Florida Administrative Code, when the trimming does not meet the criteria in s. 403.9326 or s. 403.9327 except under a permit issued under this section by the department or a delegated local government or as otherwise provided by ss. 403.9321-403.9333. Any violation of ss. 403.9321-403.9333 is presumed to have occurred with the knowledge and consent of any owner, trustee, or other person who directly or indirectly has charge, control, or management, either exclusively or with others, of the property upon which the violation occurs. However, this presumption may be rebutted by competent, substantial evidence that the violation was not authorized by the owner, trustee, or other person.

(2)(a) The department, when deciding to issue or deny a permit for mangrove alteration or trimming under this section, shall use the criteria in s. 373.414(1) and (8). If the applicant is unable to meet these criteria, the department and the applicant shall first consider measures to reduce or eliminate the unpermittable impacts. If unpermittable impacts still remain, the applicant may propose, and the department shall consider, measures to mitigate the otherwise unpermittable impacts. A request for a permit to alter mangroves must be submitted in writing with sufficient specificity to enable the department to determine the scope and impacts of the proposed alteration activities.

(b) The department shall issue or deny a permit for mangrove alteration in accordance with chapter 120 and s. 403.0876.

(3) The use of herbicides or other chemicals for the purposes of removing leaves from a mangrove is strictly prohibited.

(4) If a local government receives delegation of the department's authority to regulate mangroves, the delegated local government shall issue permits for mangrove trimming when the trimming does not meet the criteria in s. 403.9326 or for mangrove alteration in lieu of a departmental permit. A delegated local government may impose stricter substantive standards than those of the department for the issuance of a permit authorized by this section but may not prohibit all mangrove trimming.

(5) A permit is not required under ss. 403.9321-403.9333 to trim or alter mangroves if the trimming or alteration is part of an activity that is exempt under s. 403.813 or is permitted under part IV of chapter 373. The procedures for permitting under part IV of chapter 373 will control in those instances.

403.9329 Professional mangrove trimmers.--

(1) For purposes of ss. 403.9321-403.9333, the following persons are considered professional mangrove trimmers:

- (a) Certified arborists, certified by the International Society of Arboriculture;
- (b) Professional wetland scientists, certified by the Society of Wetland Scientists;
- (c) Certified environmental professionals, certified by the Academy of Board Certified Environmental Professionals;
- (d) Certified ecologists certified by the Ecological Society of America;

(e) Persons licensed under part II of chapter 481. The Board of Landscape Architecture shall establish appropriate standards and continuing legal education requirements to assure the competence of licensees to conduct the activities authorized under ss. 403.9321-403.9333. Trimming by landscape architects as professional mangrove trimmers is not allowed until the establishment of standards by the board. The board shall also establish penalties for violating ss. 403.9321-403.9333. Only those landscape architects who are certified in the state may qualify as professional mangrove trimmers under ss. 403.9321-403.9333, notwithstanding any reciprocity agreements that may exist between this state and other states;

(f) Persons who have conducted mangrove trimming as part of their business or employment and who are able to demonstrate to the department or a delegated local government, as provided in subsection (2) or subsection (3), a sufficient level of competence to assure that they are able to conduct mangrove trimming in a manner that will ensure the survival of the mangroves that are trimmed; and

(g) Persons who have been qualified by a delegated local government through a mangrove-trimming qualification program as provided in subsection (7).

(2) A person who seeks to assert professional mangrove trimmer status under paragraph (1)(f) to trim mangroves under the exemptions and general permits provided in ss. 403.9326 and 403.9327, in areas where a local government has not established a professional mangrove trimmer qualification program as provided in subsection (7), must request in writing professional mangrove trimmer status from the department. The department shall grant or deny any written request for professional mangrove trimmer status within 60 days after receipt of the request. If professional mangrove trimmer status has been granted by the department, no additional requests for professional mangrove trimmer status need be made to the department to trim mangroves under the exemptions provided in s. 403.9326. Persons applying for professional mangrove trimmer status must provide to the department a notarized sworn statement attesting:

(a) That the applicant has successfully completed a minimum of 10 mangrove trimming projects authorized by the department or a local government program. Each project must be separately identified by project name and permit number;

(b) That a mangrove trimming or alteration project of the applicant is not in violation of ss. 403.9321-403.9333 or any lawful rules adopted thereunder; and

(c) That the applicant possesses the knowledge and ability to correctly identify mangrove species occurring in this state.

(3) A person asserting professional mangrove trimmer status who wishes to use a general permit authorized under s. 403.9327 must complete and sign a notice of intent to use the general permit, along with the individual who owns or controls the property, and provide a copy of the department's qualification of professional mangrove trimmer status as provided for in subsection (2). A professional mangrove trimmer signing a notice of intent to use the general permit must conduct or supervise the trimming at the site specified in the notice.

(4) The department may deny a request for professional mangrove trimmer status if the department finds that the information provided by the applicant is incorrect or incomplete, or if the applicant has demonstrated a past history of noncompliance with the provisions of ss. 403.9321-403.9333 or any adopted mangrove rules.

(5) A professional mangrove trimmer status granted by the department may be revoked by the department for any person who is responsible for any violations of ss. 403.9321-403.9333 or any adopted mangrove rules.

(6) The department's decision to grant, deny, or revoke a professional mangrove trimmer status is subject to review under chapter 120.

(7)(a) A local government that receives delegation of the department's mangrove regulatory authority may establish criteria for qualification of persons as professional mangrove trimmers working within the jurisdiction of the local government. A delegated local government that establishes a program shall provide procedures and minimum qualifications and may develop training programs for those persons wishing to become qualified as professional mangrove trimmers. A delegated local government may establish criteria for disciplining persons qualified as professional mangrove trimmers

working within its jurisdiction.

(b) A delegated local government may require that any person qualifying as a professional mangrove trimmer within the jurisdiction of the local government:

1. Be registered with the local government.
2. Pay an annual registration fee that may not exceed \$500.
3. Provide prior written notice to the delegated local government before conducting the trimming activities authorized under the exemptions provided by s. 403.9326.
4. Be onsite when mangrove trimming activities are performed.

(c) The department may require a person who qualifies as a professional mangrove trimmer and works in an area where a local government has not received delegation to provide written notice to the department 10 days before conducting trimming activities under the exemptions and general permits provided in ss. 403.9326 and 403.9327 and to be onsite when mangrove trimming activities are performed.

(d) Any person who qualifies as a professional mangrove trimmer under this subsection may conduct trimming activities within the jurisdiction of a delegated local government if the person registers and pays any appropriate fee required by a delegated local government. A delegated local government that wishes to discipline persons licensed under part II of chapter 481 for mangrove trimming or alteration activities may file a complaint against the licensee as provided for by chapter 481 and may take appropriate local disciplinary action. Any local disciplinary action imposed against a licensee is subject to administrative and judicial review.

(e) A locally registered mangrove trimmer may use the exemptions and general permits in ss. 403.9326 and 403.9327 only within the jurisdiction of delegated local governments in which the mangrove trimmer is registered. Nothing in ss. 403.9321-403.9333 shall prevent any person who qualifies as a professional mangrove trimmer under subsection (1) from using the exemptions and general permits in ss. 403.9326 and 403.9327 outside the jurisdiction of delegated local governments.

(f) Any local governmental regulation imposed on professional mangrove trimmers that has the effect of limiting directly or indirectly the availability of the exemptions provided by s. 403.9326 is invalid.

403.9331 Applicability; rules and policies.--

(1) The regulation of mangrove protection under ss. 403.9321-403.9333 is intended to be complete and effective without reference to or compliance with other statutory provisions.

(2) Any rule or policy applicable to permits provided for by s. 403.9327 or s. 403.9328 which establishes a standard applicable to mangrove trimming or alteration is invalid unless a scientific basis for the rule or policy is established. Such rules or policies shall not receive a presumption of validity in any administrative or judicial proceeding for review. Any such rule or policy must be demonstrated to substantially advance a fundamental purpose of the statute cited as authority for the rule or policy or shall be invalid.

403.9332 Mitigation and enforcement.--

(1)(a) Any area in which 5 percent or more of the trimmed mangrove trees have been trimmed below 6 feet in height, except as provided in s. 403.9326(1)(c), (d), (f), (g), and (h), destroyed, defoliated, or removed as a result of trimming conducted under s. 403.9326 or s. 403.9327 must be restored or mitigated. Restoration must be accomplished by replanting mangroves, in the same location and of the same species as each mangrove destroyed, defoliated, removed, or trimmed, to achieve within 5 years a canopy area equivalent to the area destroyed, removed, defoliated, or trimmed; or mitigation must be accomplished by replanting offsite, in areas suitable for mangrove growth, mangroves to achieve within 5 years a canopy area equivalent to the area destroyed, removed, defoliated, or trimmed. Where all or a portion of the restoration or mitigation is not practicable, as determined by the department or delegated local government, the impacts resulting from the destruction, defoliation, removal, or trimming of the mangroves must be offset by donating a sufficient

amount of money to offset the impacts, which must be used for the restoration, enhancement, creation, or preservation of mangrove wetlands within a restoration, enhancement, creation, or preservation project approved by the department or delegated local government; or by purchasing credits from a mitigation bank created under s. 373.4135 at a mitigation ratio of 2 to 1 credits to affected area. The donation must be equivalent to the cost, as verified by the department or delegated local government, of creating mangrove wetlands at a 2 to 1, created versus affected ratio, based on canopy area. The donation may not be less than \$4 per square foot of created wetland area.

(b) In all cases, the applicant, permittee, landowner, and person performing the trimming are jointly and severally liable for performing restoration under paragraph (a) and for ensuring that the restoration successfully results in a variable mangrove community that can offset the impacts caused by the removal, destruction, or defoliation of mangroves. The applicant, landowner, and person performing the trimming are also jointly and severally subject to penalties.

(c) If mangroves are to be trimmed or altered under a permit issued under s. 403.9328, the department or delegated local government may require mitigation. The department or delegated local government shall establish reasonable mitigation requirements that must include, as an option, the use of mitigation banks created under s. 373.4135, where appropriate. The department's mitigation requirements must ensure that payments received as mitigation are sufficient to offset impacts and are used for mangrove creation, preservation, protection, or enhancement.

(d) Any replanting for restoration and mitigation under this subsection must result in at least 80 percent survival of the planted mangroves 1 year after planting. If the survival requirement is not met, additional mangroves must be planted and maintained until 80 percent survival is achieved 1 year after the last mangrove planting.

(2) The department or delegated local government shall enforce the provisions of ss. 403.9321-403.9333 in the same manner and to the same extent provided for in ss. 403.141 and 403.161 for the first violation.

(3) For second and subsequent violations, the department or delegated local government, in addition to the provisions of ss. 403.141 and 403.161, shall impose additional monetary penalties for each mangrove illegally trimmed or altered as follows:

(a) Up to \$100 for each mangrove illegally trimmed; or

(b) Up to \$250 for each mangrove illegally altered.

(4) In addition to the penalty provisions provided in subsections (1)-(3), for second and all subsequent violations by a professional mangrove trimmer, the department or delegated local government shall impose a separate penalty upon the professional mangrove trimmer up to \$250 for each mangrove illegally trimmed or altered.

(5) This section does not limit or restrict a delegated local government from enforcing penalty, restoration, and mitigation provisions under its local authority.

403.9333 Variance relief.

Upon application, the department or delegated local government may grant a variance from the provisions of ss. 403.9321-403.9333 if compliance therewith would impose a unique and unnecessary hardship on the owner or any other person in control of the affected property. Relief may be granted upon demonstration that such hardship is not self-imposed and that the grant of the variance will be consistent with the general intent and purpose of ss. 403.9321-403.9333. The department or delegated local government may grant variances as it deems appropriate.

Nothing in this act shall invalidate any permit or order related to mangrove activities which has been approved by the department or any other governmental entity, nor shall it affect any application for permits related to mangrove activities deemed sufficient and substantially complete prior to the effective date of this act.

This act shall take effect July 1, 1996.

62-330.020 Regulated Activities.

(1) A permit under this chapter is not required for activities that qualify for:

(a) Operation and routine custodial maintenance of projects legally in existence, provided the terms and conditions of the permit, exemption, or other authorization for such projects continue to be met, and provided the activity is conducted in a manner that does not cause violations of state water quality standards. However, this exemption shall not apply to any project that is altered, modified, expanded, abandoned, or removed;

(b) An exemption listed in Rule 62-330.051, F.A.C., or in section 1.3 (District-specific exemptions) of the applicable Volume II;

(c) The “grandfathering” provisions of Sections 373.4131(4), 373.414(11), (12)(a), (13), (14), (15), or (16), F.S.; or

(d) The “10/2” general permit for upland stormwater systems authorized in Section 403.814(12), F.S.

(2) Unless the activity qualifies under subsection (1), above, a permit is required prior to the construction, alteration, operation, maintenance, removal, or abandonment of any new project that, by itself or in combination with an activity conducted after [October 1, 2013], cumulatively results in any of the following:

(a) Any project in, on, or over wetlands or other surface waters;

(b) A total of more than 4,000 square feet of impervious and semi-impervious surface areas subject to vehicular traffic;

(c) A total of more than 9,000 square feet impervious and semi-impervious surface area;

(d) A total project area of more than one acre;

(e) A capability of impounding more than 40 acre-feet of water;

(f) Any dam having a height of more than 10 feet, as measured from the lowest elevation of the downstream toe to the dam crest;

(g) Any project that is part of a larger common plan of development or sale;

(h) Any dry storage facility storing 10 or more vessels that is functionally associated with a boat launching area;

(i) Any project exceeding the thresholds in section 1.2 (District-specific thresholds) of the applicable Volume II; or

(j) Any modification or alteration of a project previously permitted under Part IV of Chapter 373, F.S.

Construction and operation of the above projects are subject to the additional limitations in paragraph 3.1.4(f) of Volume I.

(3) The following types of permits are available:

(a) A general permit, as provided in Rule 62-330.052, F.A.C., and Rules 62-330.407 through 62-330.635, F.A.C.

(b) An individual permit, as provided in Rule 62-330.054, F.A.C.; and

(c) A conceptual approval permit, as provided in Rule 62-330.055 or 62-330.056, F.A.C.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4131, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.117, 373.118, 373.409, 373.413, 373.4131, 373.4132, 373.4145, 373.416, 373.426, 403.0877 FS. History—New 10-1-13.

ATTACHMENT 4

Manatee Construction Guidelines

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. 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.
- b. 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 will follow routes of deep water whenever possible.
- c. 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 must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. 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, and to FWC at ImperiledSpecies@myFWC.com
- f. 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. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.