



FLORIDA DEPARTMENT OF Environmental Protection

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

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Interim Secretary

November 29, 2021

Helical Foundations, P.L.L.C.
Ramsey Frangie
1751 Mound Street
Unit 207
Sarasota, FL 34236
ramsif@gmail.com

Re: Consent Order
OGC Case No. 21-0493
Site No. 388974/ Project No. 396737
Complaint No. 35506: 35619
Phillippi Creek, Class III Waters
Parcel No. 0085130036 – 5253 South Tamiami Trail, Sarasota, FL 34231
Sarasota County – SLERC

Dear Mr. Frangie:

Enclosed is the signed and entered Consent Order, OGC No. **21-0493**, to resolve this case. This copy is for your records. Please note that all compliance dates for the Consent Order begin on the date of entry, which is November 29, 2021. Upon satisfactory completion of all conditions of the Order, we will close this case and place it in our inactive file.

All payments required by the Consent Order should be a cashier's check/money order or paid online via the DEP Business Portal at <http://www.fldepportal.com/go/pay/>. Also, any document submittals may be mailed to the above address or for your convenience can be sent to our email mailbox at fimerp_compliance@dep.state.fl.us.

If you have any questions, please contact Tori Gray by email at Tori.A.Gray@FloridaDEP.gov or by phone at 239-344-5662. Your cooperation in resolving this case is appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Iglehart", with a long horizontal stroke extending to the right.

Jon M. Iglehart
Director of District Management

JMI/tg

Enclosures: Consent Order (with Attachment I)

cc: Kirk White, Office of General Counsel – Litigation (Kirk.White@FloridaDEP.gov)

STATE OF FLORIDA DEPARTMENT)
OF ENVIRONMENTAL PROTECTION,)
and THE BOARD OF TRUSTEES OF THE)
INTERNAL IMPROVEMENT TRUST FUND,)
)
Complainants,)
)
vs.)
)
HELICAL FOUNDATIONS, P.L.L.C.,)
)
Respondent.)
)

IN THE OFFICE OF THE)
SOUTH DISTRICT)
)
)
)
OGC FILE NO. 21-0493)
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This Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department"), and The Board of Trustees of the Internal Improvement Trust Fund ("Board") and Helical Foundations, P.L.L.C. ("Respondent") to reach settlement of certain matters at issue between the Department, the Board and Respondent.

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce Chapter 373, Part IV, and Chapter 403, Florida Statutes, and the rules promulgated and authorized thereunder, Title 62, Florida Administrative Code. The Department has jurisdiction over the matters addressed in this Consent Order.

3. Respondent is a person within the meaning of Section 253.04 and 373.019(15), Florida Statutes.

4. Respondent is an active Florida Professional Limited Liability Company that has a principal address of 1751 Mound St. #207, Sarasota, FL 34236 and a mailing address of P.O. Box 2291, Sarasota, FL 34230.

5. The “Upland Property” is located at 5253 South Tamiami Trail, Sarasota, FL 34231, further identified by Sarasota County Property Appraiser Parcel ID No. 0085130036. The Upland Property is located adjacent to Phillippi Creek, a Class III water of the state, and is associated with an upland commercial strip mall.

6. On June 11, 2020, the Department inspected the Upland Property in response to a complaint (No. 35506) received and discovered docking structures on site without regulatory and proprietary authorization. Eight personal watercraft (“PWC”) lifts were observed, collectively measuring approximately 480 square feet, and Department personnel observed wooden pilings along the seawall with potential for three additional mooring areas. The docking structures required an Environmental Resource Program (“ERP”) Permit and sovereign submerged lands lease (“Lease”) prior to construction. The PWC lifts, mooring pilings and boat mooring areas (collectively, “docking structures”) were located on sovereign submerged lands in Phillippi Creek adjacent to the Upland Property. The docking structures are an accessory facility to the revenue generating operation on the riparian Upland Property. The docking structures are connected to the Upland Property and extend beyond the mean high-water line in Phillippi Creek. Phillippi Creek in this location is a Class III water of the state, as defined in Chapter 62-302, Florida Administrative Code.

7. On June 15, 2020, the Department’s South District office staff requested a submerged lands ownership determination from the Department’s Division of State Lands, Bureau of Survey and Mapping, Title and Lands Record Section, for the submerged lands adjacent to the Upland Property. The Title and Lands Record Section determined that the State of Florida holds title to the lands below the mean high-water line (MHWL) prior to alteration of Phillippi Creek.

8. On June 23, 2020, the Department received a second complaint (No. 35619) alleging that multiple jet skis, pontoons, and other boats were being moored along the seawall adjacent to the Upland Property; there is no record of a State permit for the activities. The complaint further alleged that the addition of the vessels and various other floating devices has been disrupting the Phillippi Creek environment, due to increased boat traffic.

9. On July 13, 2020, the Department sent a Warning Letter to the Upland Property owner and docking facility operator. The Department's Warning Letter included the following Recommendations for Corrective Action: (1) within 30 days, remove all structures and cease all mooring at the site and notify the Department; (2) obtain the appropriate regulatory authorization from the Department, pursuant to Chapter 62-330, Fla. Admin. Code; and (3) obtain the appropriate proprietary authorization from the Department, pursuant to Chapter 18-21, Fla. Admin. Code. The Upland Property owner and docking facility operator did not remove the unauthorized structures.

10. On March 2, 2021, the Department sent a Second Warning Letter to the Upland Property owner and docking facility operator. The Second Warning Letter provided the recipients with an opportunity to resolve the non-compliance by removing all unauthorized structures, vessels, and navigational hazards at the facility and ceasing any further expansion and vessel mooring until appropriate regulatory and proprietary authorization was obtained. The existing unauthorized structures, vessels, and navigational hazards were not removed.

11. On May 20, 2021, Department personnel conducted a follow-up site inspection in conjunction with Sarasota County staff and the Respondent. Department personnel observed that none of the above-described violations were resolved. Department personnel observed the 8 PWC lifts installed in a different location than previously observed. The PWC lifts had been moved to the east of the original location observed during the June 11, 2020, inspection, and an additional two PWC lifts had been added to the existing eight lifts. Additionally, Department staff observed a banana boat moored waterward of the PWC lifts. Department staff also observed two new pilings wrapped with PVC sleeves installed east of the PWC lifts. Department staff observed twelve wooden pilings installed along the seawall. The pilings extended into the water and potentially into the sediment. Department personnel did not observe any structures or vessels moored over sovereign submerged lands at the time of the follow-up inspection.

12. On August 19, 2021, the Respondent submitted an Environmental Resource Permit (ERP) application to the Department to authorize the docking facility. To date, an ERP Permit has not been issued by the Department.

13. On October 27, 2021, the Department spoke with a representative of the Respondent via teleconference, in which the Respondent requested to enter into a Consent Order with the Department to address the non-compliance described above.

14. The Department finds that the Respondent violated Rule 62-330.020, Florida Administrative Code which requires that a permit must be obtained from the Department prior to dredging or filling in, on, or over wetlands and other surface waters. The facts also constitute a violation of Sections 373.430 and 403.161, Florida Statutes, which makes it a violation to fail to comply with Department rules. The activity was conducted waterward of the Upland Property within the landward extent of Phillippi Creek, a Class III waterbody of the State, as defined by Florida Law.

Having reached a resolution of the matter Respondent and the Department and the Board mutually agree and it is,

ORDERED:

15. **Within 30 days of the effective date of this Consent Order**, Respondent shall pay the Department \$7,750.00 in settlement of the **regulatory** matters addressed in this Consent Order. This amount includes \$250.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. The civil penalties are \$7,500.00 under Section 403.121(3)(c), Florida Statutes for violation of Rule 62-330.020, Florida Administrative Code and Sections 373.430 and 403.161, Florida Statutes. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "*Department of Environmental Protection*" and shall include both the OGC number assigned to this Order and the notation "*Water Quality Assurance Trust Fund*." Online payments by e-check can be made by going to the DEP Business Portal at <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

16. Respondent shall implement the Corrective Actions attached hereto and incorporated herein as Attachment I in the manner and within the time frames specified therein.

17. With the exception of the activities described in this Order, effective immediately and henceforth, Respondent shall not conduct any dredging, filling, or construction activities on or within the landward extent of waters of the state without first obtaining a valid Department permit or written notification from the Department that the activities appear to be exempt as proposed from Department permitting requirements; nor shall Respondent conduct any activities

on state owned lands below the ordinary or mean high water lines without first obtaining a lease, easement, or other consent of use from the Department.

18. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 16 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Order. **Within 30 days** of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to the "*The Department of Environmental Protection*" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "*Water Quality Assurance Trust Fund*." The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 15 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

19. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman 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 control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement

these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of 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 Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

~~20. Respondent shall allow all authorized representatives of the Department access to the property at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules and statutes of the Department.~~

21. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state or local laws, regulations or ordinances.

22. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 253.04 and 373.129, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 253.04 and 373.430, Florida Statutes.

23. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties of up to \$15,000 per day per violation and administrative fines of up to \$10,000 per day per violation and criminal penalties.

24. Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

- a) The name and address of each agency affected and each agency's file or identification number, if known;
- b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- c) A statement of when and how the petitioner received notice of the agency decision;
- d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
- (b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) The agreed allocation of the costs and fees associated with the mediation;
- (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (f) The name of each party's representative who shall have authority to settle or recommend settlement; and
- (g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference.

(h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

25. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

26. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations addressed in this Consent Order. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, and waives that right upon signing this Consent Order.

27. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

28. All submittals and payments required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, **South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549**. Online payments by e-check can be made

by going to the DEP Business Portal at <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

~~29. In the event of a sale or conveyance of the property, if all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the property, (1) notify the Department of such sale or conveyance and (2) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the property shall not relieve the Respondent of the obligations imposed in this Consent Order.~~

30. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law.

31. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:
HELICAL FOUNDATIONS, P.L.L.C.

November 21, 2021
DATE



Ramsey Frangie

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Please do not write below this line. For DEP use only.

DONE AND ORDERED this 29th day of November, 2021,
in Lee, Florida.

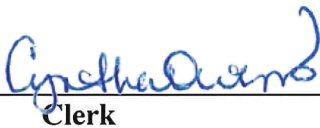
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart
Director of District Management
South Florida District
P.O. Box 2549
Fort Myers, Florida 33902-2549
Telephone: (239) 344-5600

Type text here

**Filed, on this date, pursuant to Section 120.52, F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.**


Clerk

November 29, 2021
Date

cc: Lea Crandall, Agency Clerk
Mail Station 35

ATTACHMENT I
OGC Case No. 21-0493
CORRECTIVE ACTIONS

1. **Immediately following the effective date of this Consent Order**, Respondent shall cease all operations until an Environmental Resource Permit (ERP) is issued by the Department for the docking facility.
2. ~~Within 90 days of the effective date of this Consent Order~~, Respondent shall obtain a Consolidated Environmental Resource Permit ("ERP") pursuant to Chapter 62-330, F.A.C. for all unauthorized docking structures and activities, including those discovered by the Department during the May 20, 2021, follow-up inspection.

DOCK REMOVAL IF ERP NOT ISSUED

3. If the Department does not issue the ERP within 90 days of this Order, Respondent shall immediately remove the unauthorized docking structures described in Paragraph 2 above. During removal of the unauthorized structures, Respondent shall comply with all applicable State Water Quality Standards, including but not limited to:
 - a. Rule 62-302.500, F.A.C. – Surface Waters: Minimum Criteria, General Criteria; and
 - b. Rule 62-302.530, F.A.C. – Table: Surface Water Quality Criteria – Class III Waters.
4. Floating turbidity curtains with weighted skirts that extend to within 1 ft. of the bottom shall be placed to surround the work area prior to the initiation of work authorized by this Order. The screens shall be maintained and remain in place for the duration of the construction to ensure turbidity levels outside the construction area do not degrade the ambient water quality of surrounding surface waters. The Respondent shall be responsible for inspecting and maintaining turbidity control devices so no degradation of the ambient water quality of surrounding surface waters outside of the turbidity screens occurs.
5. Best management practices for turbidity control, including but not limited to the use of turbidity curtains around the immediate project site shall be used and maintained as necessary at all times during project construction.
6. Respondent shall be responsible for ensuring that erosion control devices and procedures are inspected and maintained daily during all phases of structural removal authorized by this Order until all areas that were disturbed during construction are sufficiently stabilized to prevent siltation and turbid discharges.
7. If a barge or other watercraft is used to facilitate removal of structures, the barge or other watercraft shall be of an appropriate draft and operated in a manner that prevents prop scouring or other disturbance to submerged lands and associated benthic resources surrounding the project site.
8. All removed dock and piling materials shall be deposited on a self-contained upland disposal site that prevents discharge of turbid material into surface waters.
9. The following measures shall be taken immediately by the Respondent or Respondent's contractor when turbidity levels within waters of the State surrounding the project site, exceed

the ambient water quality levels of the surrounding surface waters:

- a. Immediately cease work contributing to the water quality violation;
 - b. Stabilize exposed soils contributing to the violation. Modify the work procedures responsible for the violation, install additional turbidity containment devices and repair non-functioning turbidity containment devices; and
 - c. Notify the Department within 24 hours of the time the violation is first detected.
10. Respondent shall protect all wetland areas or water bodies which are outside the specific limits of construction from erosion, siltation, scouring, excess turbidity, or dewatering. Turbidity curtains and other such erosion/turbidity control devices shall be installed pursuant to State of Florida Erosion and Sedimentation Control Inspectors Manual, FDEP (2008), available on the Department's website at <http://www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf>, prior to the commencement of dredging, filling, or construction activity. The devices shall remain functional at all times and shall be maintained on a regular basis. Turbidity and/or sedimentation resulting from any activities associated with the project shall not be allowed to enter waters of the State. Floating turbidity curtains (FDOT Type II or equivalent) shall be used to surround all open water work areas and shall remain in place until such time as turbidity levels within these work areas have reduced sufficiently so as not to exceed the State water quality standards.
11. Within seven (7) days of completion of all dock removal activities, Respondent shall submit to the Department sufficient documentation, such as photographs, showing the structures that have been removed. All submittals shall be sent to the Department's South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549, or by email at ftmerp_compliance@dep.state.fl.us. All submittals shall include thereon the OGC number assigned to this Order which is OGC No. 21-0493.
12. With the exception of the activities described in the above Corrective Actions, effective immediately and henceforth, Respondent shall not conduct any dredging, filling, or construction activities on or within the landward extent of waters of the state without first obtaining a valid Department permit or written notification from the Department that the activities appear to be exempt as proposed from Department permitting requirements; nor shall Respondent conduct any activities on state owned lands below the ordinary or mean high water lines without first obtaining a lease, easement, or other consent of use from the Department., pursuant to Part IV of Chapter 373, Florida Statutes (F.S.).

GENERAL CONDITIONS:

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

14. Activities approved by this Order shall be conducted in a manner, which does not cause violations of state water quality standards. The Respondent shall implement best management practices for erosion and pollution control to prevent violations of state water quality standards. 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 ordered 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 the State of Florida Erosion and Sedimentation Control Inspectors Manual, FDEP (2008), available on the Department's website at <http://www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf> unless a project-specific erosion and sediment control plan is approved as part of this Order. Thereafter the Respondent shall be responsible for the removal of the barriers. The Respondent shall correct any erosion or shoaling that causes adverse impacts to the water resources.
15. Should any other regulatory agency require changes to the herein authorized act, the Respondent shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a modification or amendment to this Order is required.
16. This Order 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 Order. This Order does not convey to the Respondent or create in the Respondent 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 Respondent, or convey any rights or privileges other than those specified in this Order and Chapter 62-330, F.A.C.
17. The Respondent shall hold and save the Department harmless from any and all damages, claims, or liabilities, which may arise by reason of the ordered activities, authorized by this Order.
18. If historical or archaeological artifacts are discovered at any time on the project site, the Respondents shall immediately notify the Department's South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549.
19. The Respondent shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.
20. The Respondent is hereby advised that Department authorization is required for all dredging and filling activities in wetlands or surface waters and for mangrove trimming, alteration and/or removal, pursuant to Chapters 403 and 373, Florida Statutes (F.S.). In addition, water quality standards, as stipulated in Chapter 62-302, F.A.C., shall be upheld. Respondent shall not commence any excavation, construction, or other activity within any wetland areas until Respondent has received from the Department (or the appropriate Water Management District) the required permit authorizing the activity. Pursuant to Chapter 373.129 and

403.141, if such work is done without authorization, the Department may levy civil penalties of up to \$10,000 per offense. Each date during which such violation occurs may constitute a separate offense.

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