



# FLORIDA DEPARTMENT OF Environmental Protection

South District  
PO Box 2549  
Fort Myers FL 33902-2549  
[SouthDistrict@FloridaDEP.gov](mailto:SouthDistrict@FloridaDEP.gov)

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

July 25, 2024

Lee County Board of County Commissioners – Peter Winton  
c/o Johanna Shifflette  
Hans Wilson & Associates  
1938 Hill Avenue  
Fort Myers, FL 33901  
[johanna@hanswilson.com](mailto:johanna@hanswilson.com)

File No.:0397966-003 EE, Lee County

Dear Lee County Board of County Commissioners – Peter Winton:

On May 1, 2024, we received your request for verification of exemption to perform the following activities:

To maintenance dredge 2,400 cubic yards of the existing entrance channel of Whiskey Creek to the Caloosahatchee River to a maximum depth of -5 mean low water, Class III Waters, Section 10, Township 45 South, Range 24 East, Lee County. The material will be dredged through hydraulic dredging, material will be pumped into a dump truck with a de-watering box and the dredged material will be hauled to a City of Fort Myers upland property located at 2751 Jacksonville Street, Fort Myers, FL 33916.

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

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

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

If you have any questions regarding this matter, please contact Casey Williams by telephone at (239) 344-5703 or by e-mail at [Casey.Williams@FloridaDEP.gov](mailto:Casey.Williams@FloridaDEP.gov).

## **1. Regulatory Review – VERIFIED**

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

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

## **2. Proprietary Review - GRANTED**

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

The activity appears to be located on sovereign submerged lands owned by the Board of Trustees. The activity is not exempt from the need to obtain the applicable proprietary authorization. As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the activity qualifies for a letter of consent under Rule 18-21.005(1)(c), Florida Administrative Code, and Section 253.77 of the Florida Statutes to construct and use the activity on the specified sovereign submerged lands and as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein.

During this term of this Letter of consent you shall maintain satisfactory evidence of sufficient upland interest as required by paragraph 18-21.004(3)(b), Florida Administrative Code. If such interest is terminated or the Board of Trustees determines that such interest did not exist on the date of issuance of this Letter of Consent, this Letter of Consent may be terminated by the Board of Trustees at its sole option. If the Board of Trustees terminates this Letter of Consent, you agree not to assert a claim or defense against the Board of Trustees arising out of this Letter of Consent.

### **Special Consent Conditions**

1. The applicant agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the applicant's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.
2. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.
3. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
4. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.
5. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

### **General Conditions for Authorizations for Activities**

All authorizations granted by rule or in writing under Rule 18-21.005, F.A.C., except those for geophysical testing, shall be subject to the general conditions as set forth in paragraphs (a) through (i) below. The general conditions shall be part of all authorizations under this chapter, shall be binding upon the grantee, and shall be enforceable under Chapter 253 or 258, Part II, F.S.

- (a) Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.

- (b) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.
- (c) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.
- (d) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.
- (e) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.
- (f) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.
- (g) Structures or activities shall not create a navigational hazard.
- (h) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.

Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities.

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

Your proposed activity as outlined on your application and attached drawings does not qualify for Federal authorization pursuant to the State Programmatic General Permit and a SEPARATE permit or authorization shall be required from the Corps. You must apply separately to the Corps using their *APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT*, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at: <https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book/>.

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

### **Additional Information**

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

### **NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

#### Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

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

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-

3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us). Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

#### Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

#### Extension of Time

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

#### Mediation

Mediation is not available in this proceeding.

#### FLAWAC Review

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

Judicial Review

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

Executed in Lee County, Florida

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Tori Gray  
Environmental Manager  
South District

**Enclosures:**

12 Project drawings

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

**CERTIFICATE OF SERVICE**

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

U.S. Army Corps of Engineers, Fort Myers Office, fdep.other@usace.army.mil

**FILING AND ACKNOWLEDGMENT**

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

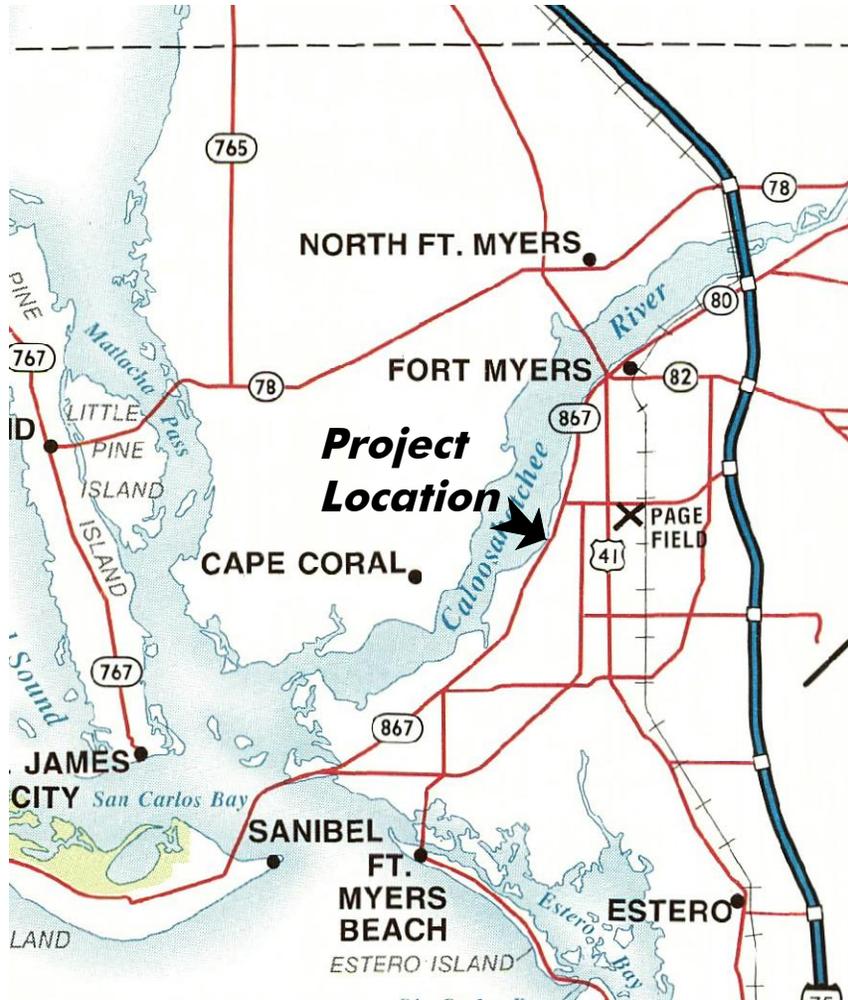
  
Clerk

July 25, 2024  
Date

SECTION: 10  
 TOWNSHIP: 45 South  
 RANGE: 24 East

0 2.5mi 5mi  
 SCALE FEET

0 1000 2000  
 SCALE FEET

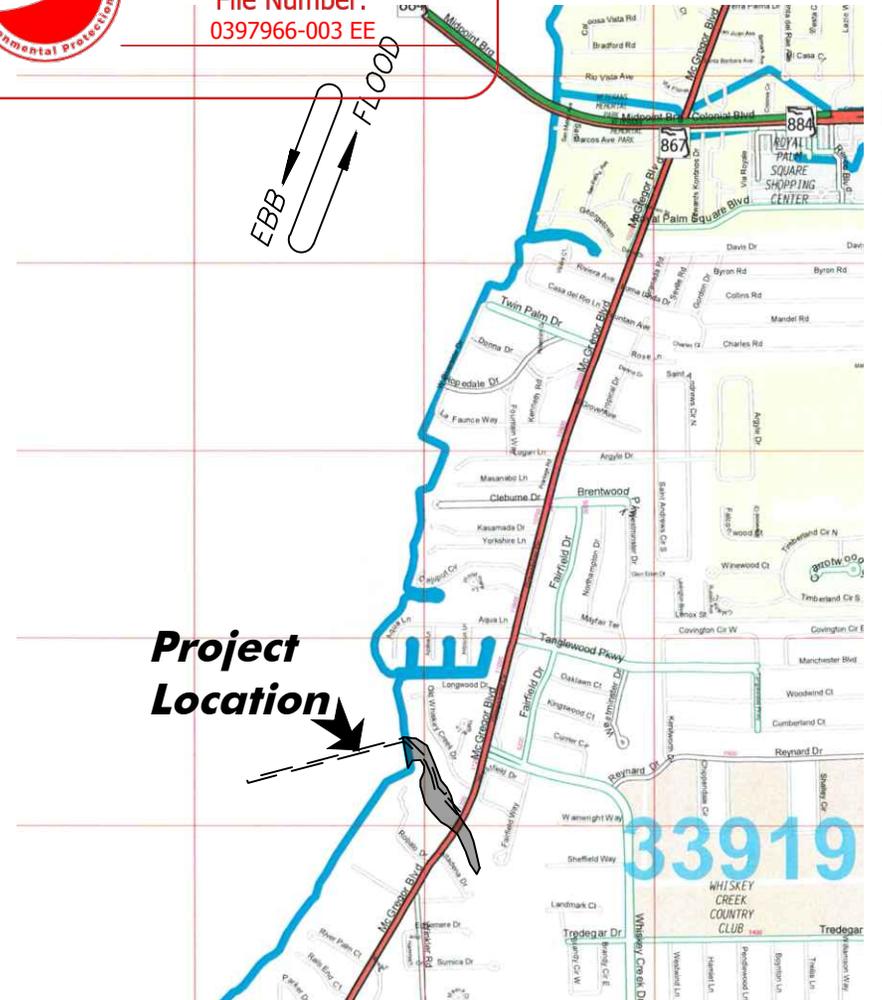


**Vicinity Map**

SCALE: 1" = 5mi



**EXEMPT**  
 File Number:  
 0397966-003 EE



**Location Map**

SCALE: 1" = 2000'

PERMIT PLANS, NOT FOR CONSTRUCTION

July 25, 2024 11:21:25 a.m.  
 Drawing: LEE29MASTER.DWG



1938 Hill Avenue, Fort Myers, Florida 33901  
 Office: 239-334-6870 Fax: 239-334-7810  
 MARINE and ENVIRONMENTAL CONSULTANTS

7-25-24

CRY

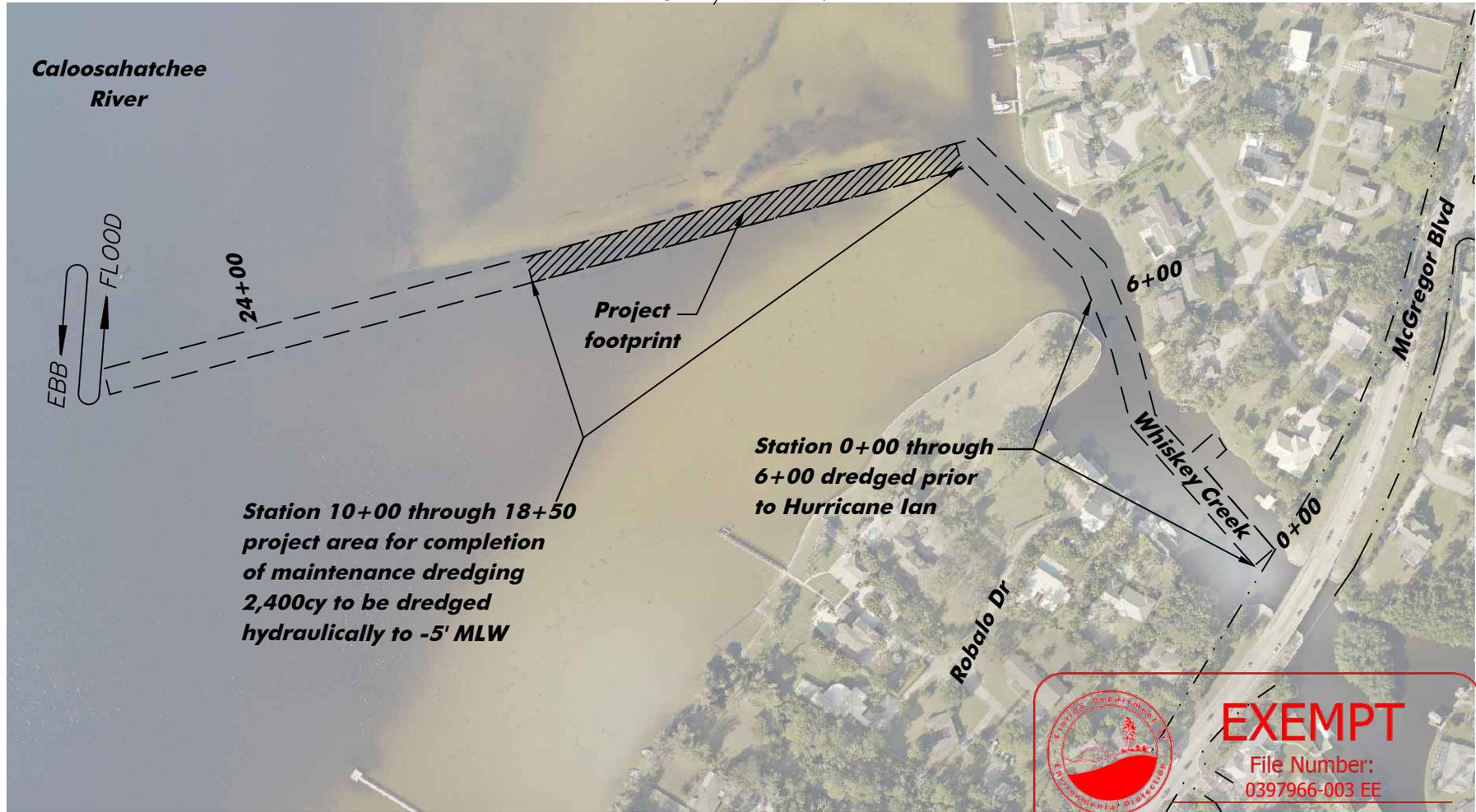
**Whiskey Creek**

SHEET  
**1/9**

SECTION: 10  
 TOWNSHIP: 45 South  
 RANGE: 24 East

Lee County Aerial 2019

0 150 300  
 SCALE FEET



Station 10+00 through 18+50  
 project area for completion  
 of maintenance dredging  
 2,400cy to be dredged  
 hydraulically to -5' MLW

Station 0+00 through  
 6+00 dredged prior  
 to Hurricane Ian

Notes: Property line per Lee County Property Appraiser. Bathymetric Survey completed by HWA, Inc on 11-8-22. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

## Overall Site Layout

SCALE: 1" = 300'

July 25, 2024 11:21:25 a.m.  
 Drawing: LEE29MASTER.DWG



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# Whiskey Creek

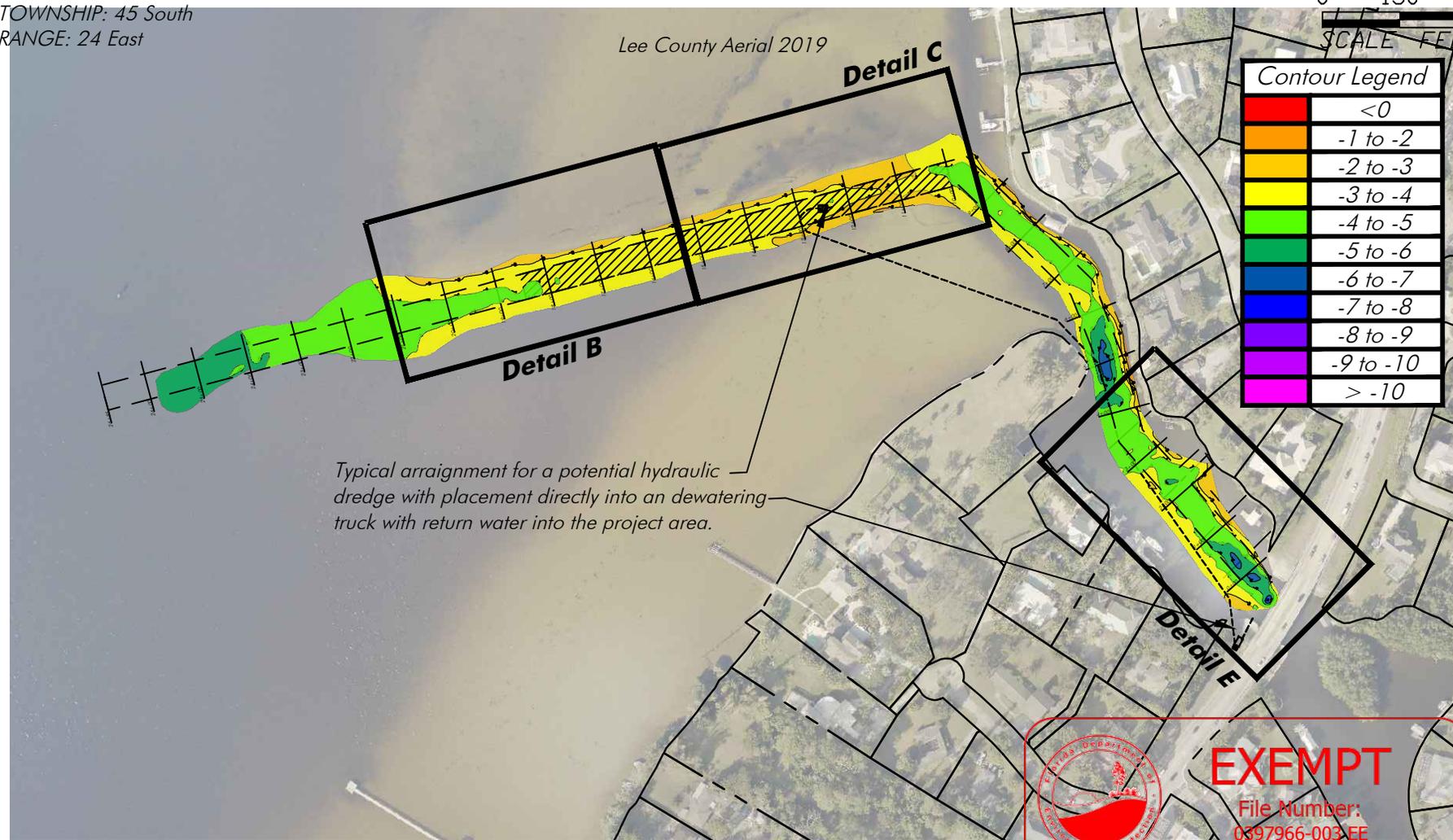
SHEET  
 2/9

SECTION: 10  
 TOWNSHIP: 45 South  
 RANGE: 24 East

Lee County Aerial 2019



Contour Legend	
<span style="color: red;">■</span>	<0
<span style="color: orange;">■</span>	-1 to -2
<span style="color: yellow;">■</span>	-2 to -3
<span style="color: lightgreen;">■</span>	-3 to -4
<span style="color: green;">■</span>	-4 to -5
<span style="color: teal;">■</span>	-5 to -6
<span style="color: blue;">■</span>	-6 to -7
<span style="color: darkblue;">■</span>	-7 to -8
<span style="color: purple;">■</span>	-8 to -9
<span style="color: magenta;">■</span>	-9 to -10
<span style="color: pink;">■</span>	> -10



Typical arraignment for a potential hydraulic dredge with placement directly into an dewatering truck with return water into the project area.

**EXEMPT**  
 File Number: 0397966-003.EE

Notes: Property line per Lee County Property Appraiser. Bathymetric Survey completed by HWA, Inc on 11-8-22. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

## Bathymetric Survey

SCALE: 1" = 300'

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July 25, 2024 11:21:25 a.m.  
 Drawing: LEE29MASTER.DWG



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## Whiskey Creek

SHEET  
**3/9**

SECTION: 10  
 TOWNSHIP: 45 South  
 RANGE: 24 East

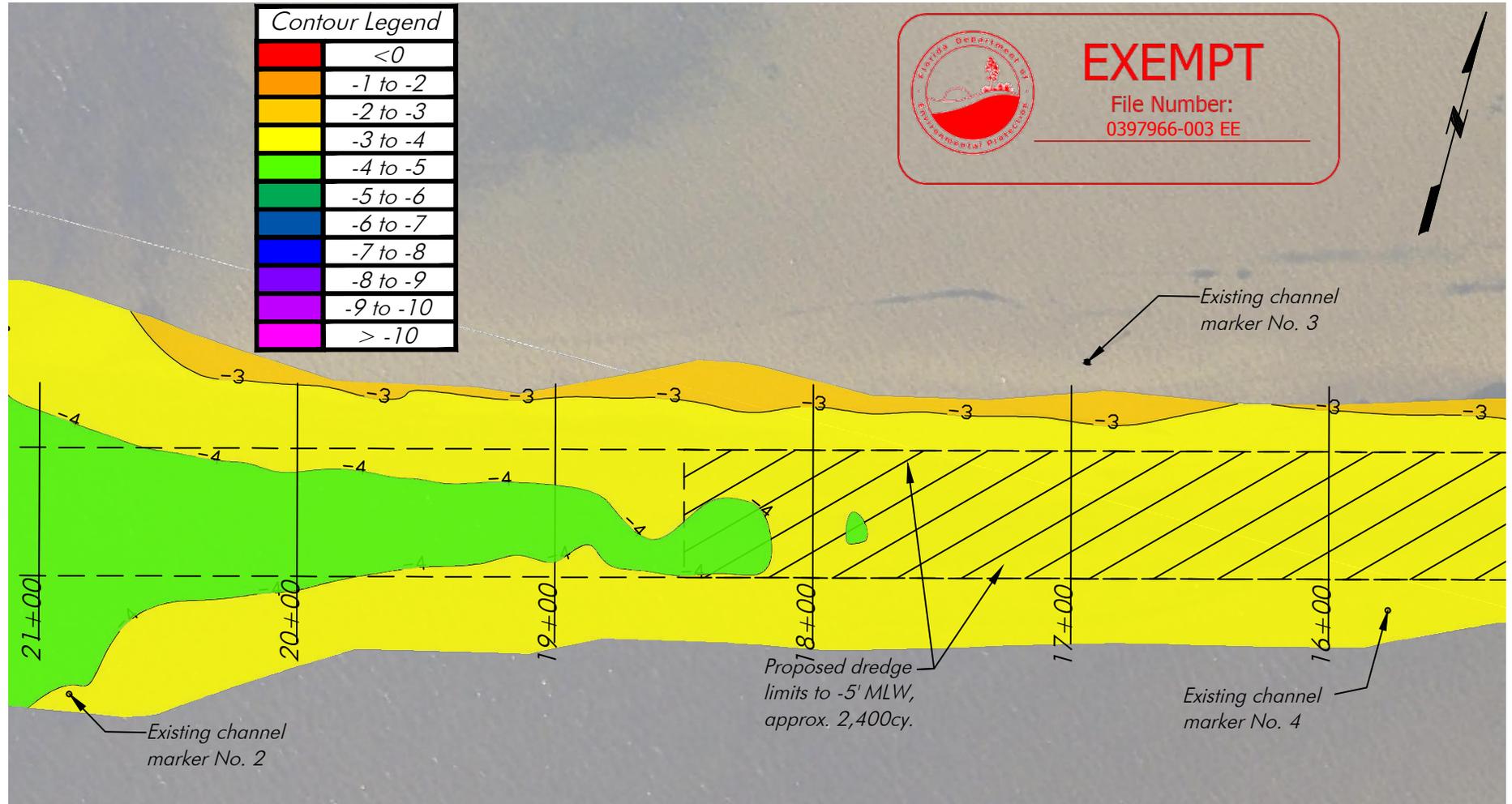
Lee County Aerial 2019

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 SCALE FEET

Contour Legend	
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	-1 to -2
	-2 to -3
	-3 to -4
	-4 to -5
	-5 to -6
	-6 to -7
	-7 to -8
	-8 to -9
	-9 to -10
	> -10

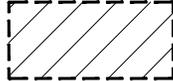


**EXEMPT**  
 File Number:  
 0397966-003 EE



Notes: Property line per Lee County Property Appraiser. Bathymetric Survey completed by HWA, Inc on 11-8-22. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

**Detail B**  
 SCALE: 1" = 60'

 Dredge limits @ 2,400 cy  
 (Cut depth @ -5' MLW)

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July 25, 2024 11:21:25 a.m.  
 Drawing: LEE29MASTER.DWG



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**Whiskey Creek**

SHEET  
**4/9**



SECTION: 10  
TOWNSHIP: 45 South  
RANGE: 24 East

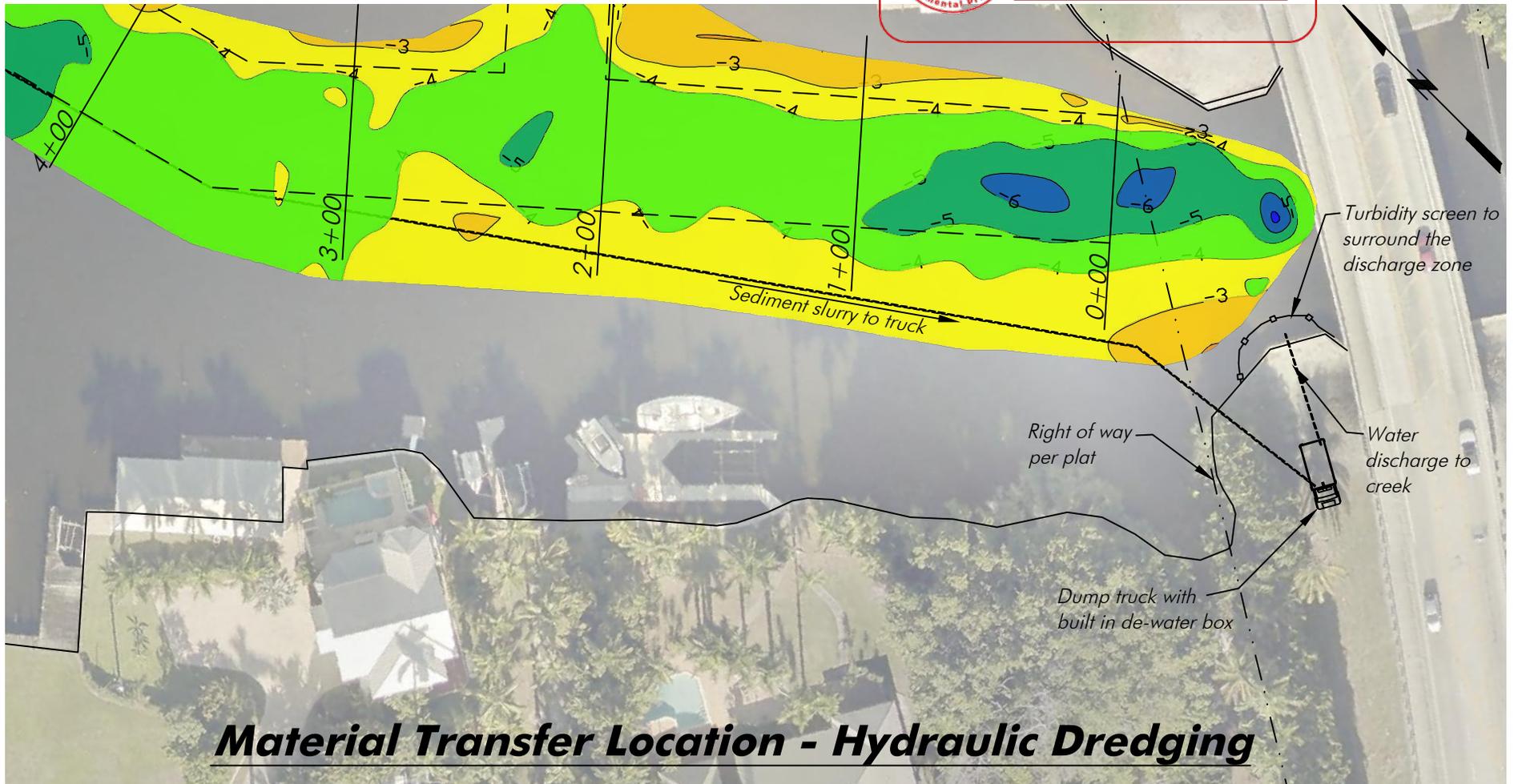
Lee County Aerial 2019



**EXEMPT**

File Number:  
0397966-003 EE

0 30 60  
SCALE FEET



## **Material Transfer Location - Hydraulic Dredging**

Notes: Property line per Lee County Property Appraiser. Bathymetric Survey completed by HWA, Inc on 11-8-22. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

**PERMIT PLANS, NOT FOR CONSTRUCTION**

### **Detail E**

SCALE: 1" = 60'

This area dredged during initial dredge work prior to Hurricane Ian

July 25, 2024 11:21:25 a.m.  
Drawing: LEE29MASTER.DWG



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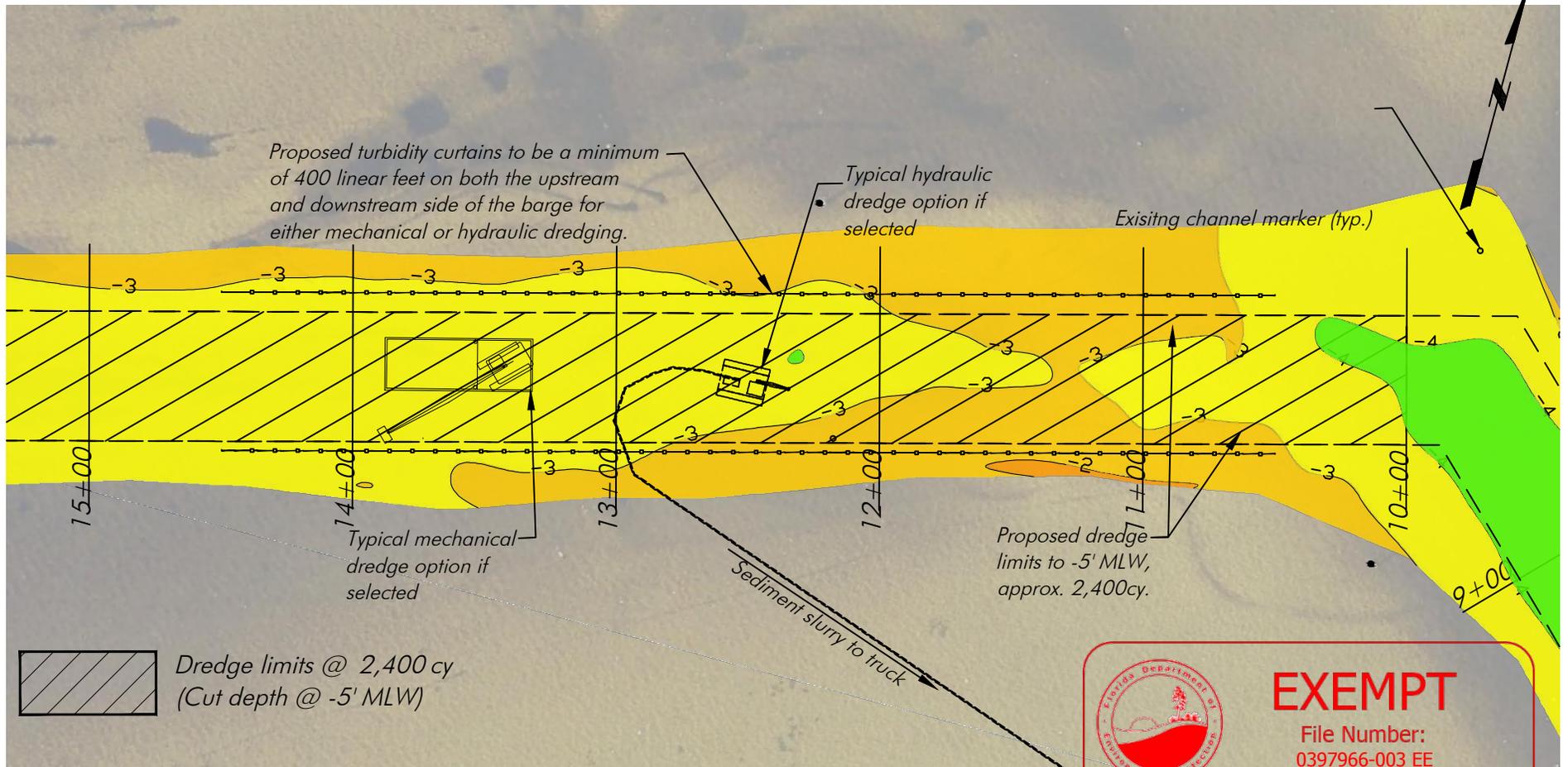
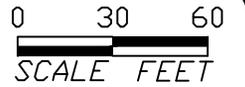
CRY

## **Whiskey Creek**

SHEET  
**6/9**

SECTION: 10  
 TOWNSHIP: 45 South  
 RANGE: 24 East

Lee County Aerial 2019



Notes: Property line per Lee County Property Appraiser. Bathymetric Survey completed by HWA, Inc on 11-8-22. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

**PERMIT PLANS, NOT FOR CONSTRUCTION**

## Turbidity Controls

SCALE: 1" = 60'

July 25, 2024 11:21:25 a.m.  
 Drawing: LEE29MASTER.DWG



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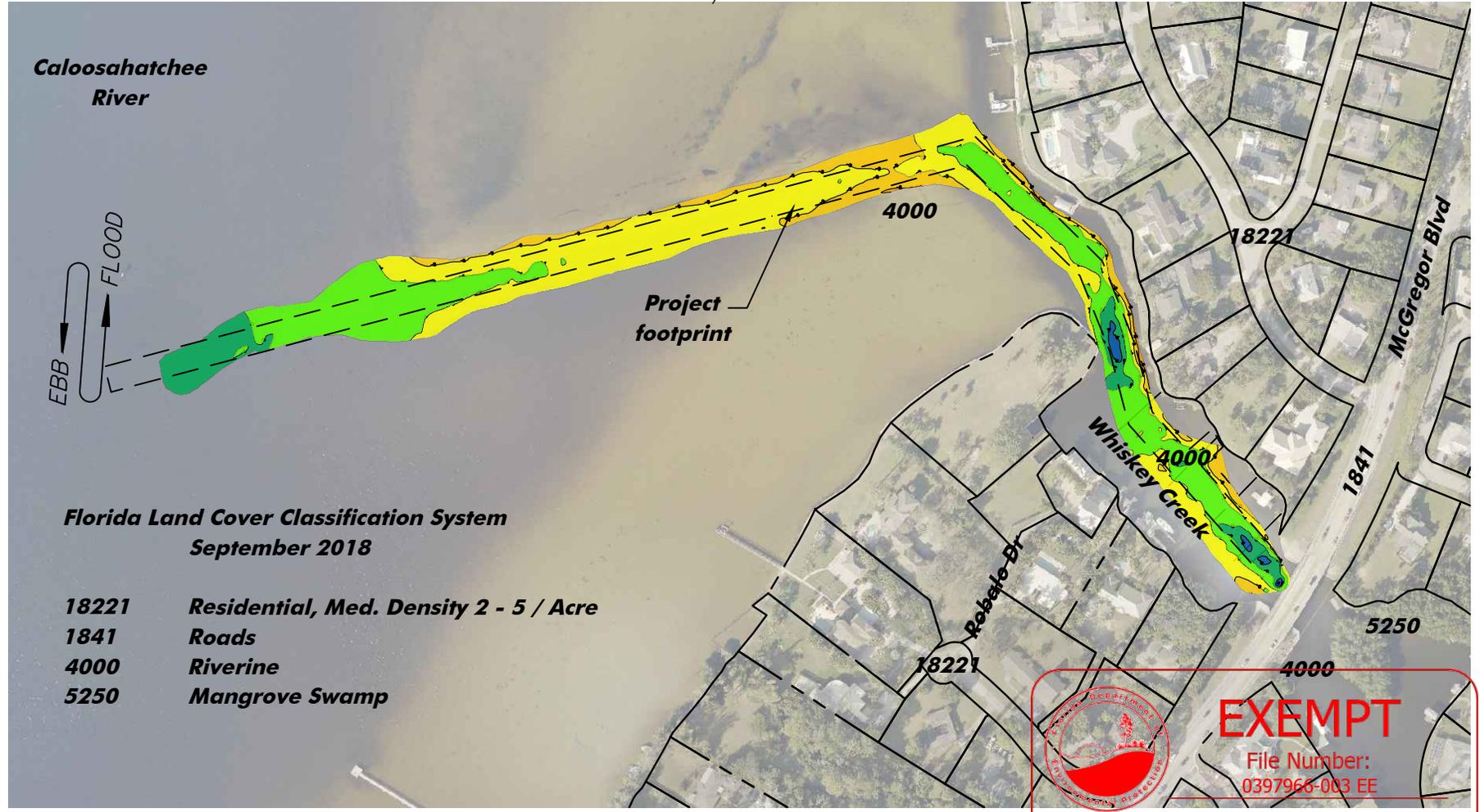
# Whiskey Creek

SHEET

**8/9**

SECTION: 10  
 TOWNSHIP: 45 South  
 RANGE: 24 East

Lee County Aerial 2019



**EXEMPT**  
 File Number:  
 0397966-003 EE

Notes: Property line per Lee County Property Appraiser. Bathymetric Survey completed by HWA, Inc on 11-8-22. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

**FLUCCS**  
 SCALE: 1" = 300'

July 25, 2024 11:21:25 a.m.  
 Drawing: LEE29MASTER.DWG



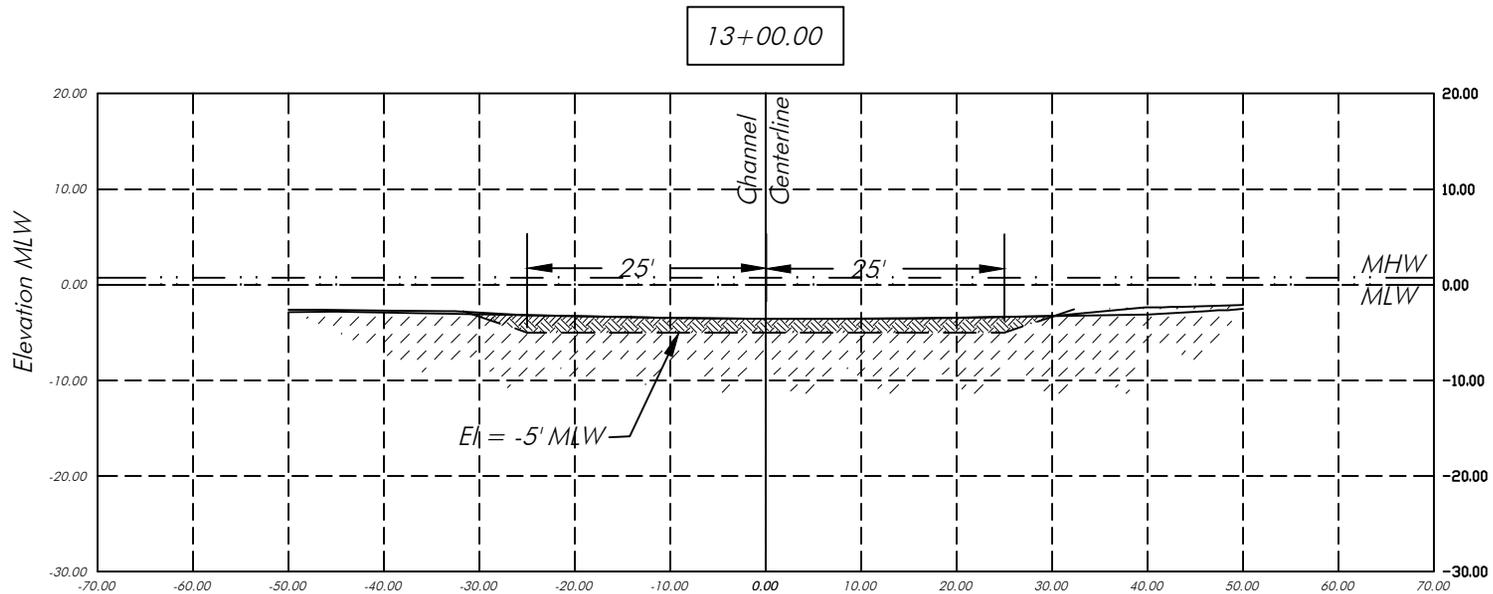
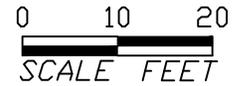
1938 Hill Avenue, Fort Myers, Florida 33901  
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7-25-24  
 CRY

**Whiskey Creek**

SHEET  
**9/9**

SECTION: 10  
 TOWNSHIP: 45 South  
 RANGE: 24 East



Total Cut Volume: 4,650cy.

## Cross Section A-A

SCALE: 1" = 20'



Notes: Bathymetric Survey completed by HWA, Inc on  
 11-8-22. Depths reference MLW per DEP MHW Request,  
 MHW = 0.13' NAVD88 MLW = -0.71' NAVD88.  
**PERMIT PLANS, NOT FOR CONSTRUCTION**

July 25, 2024 11:21:25 a.m.  
 Drawing: LEE29MASTER.DWG



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7-25-24

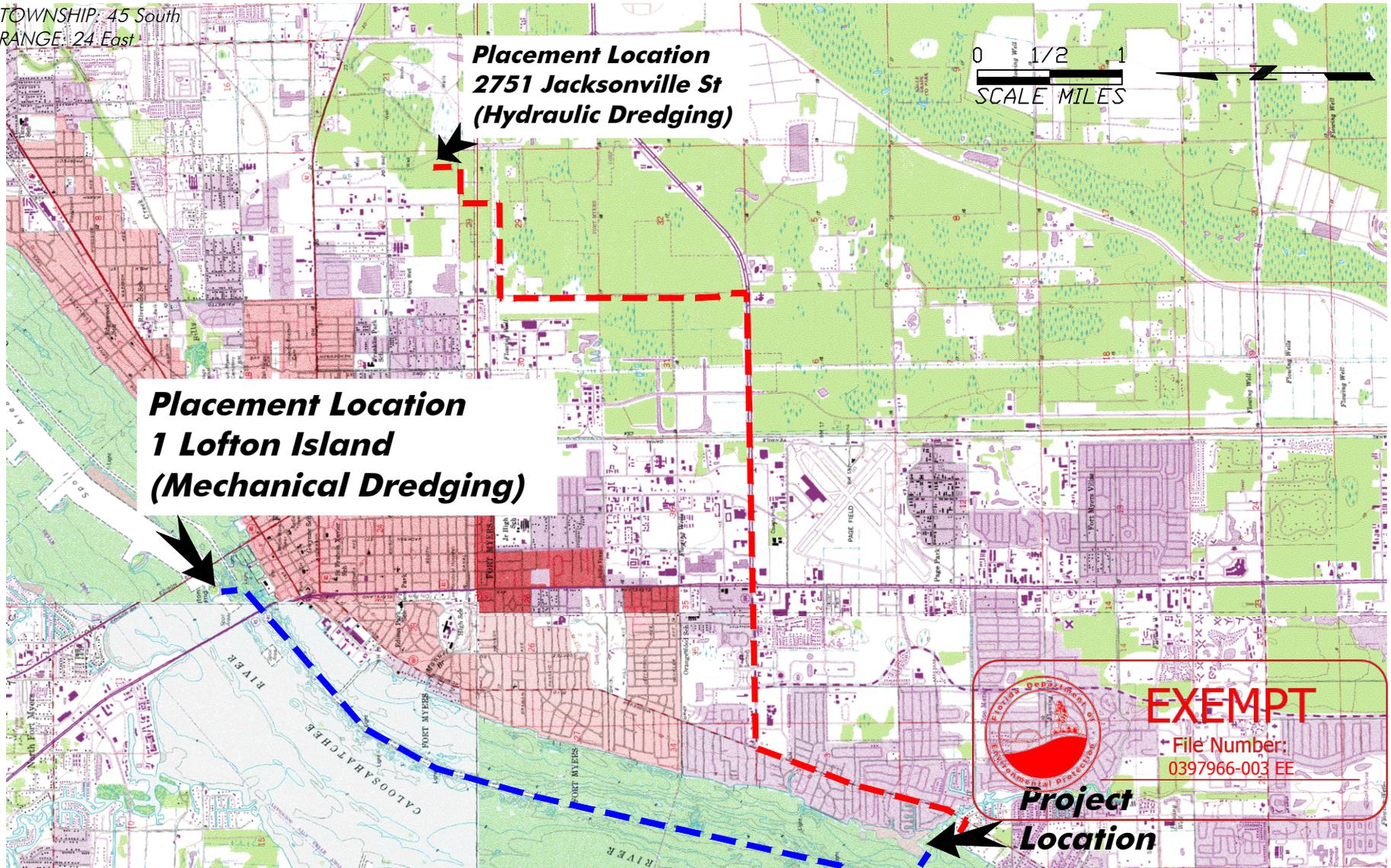
CRY

# Whiskey Creek

SHEET  
**7/9**

SECTION: 10  
TOWNSHIP: 45 South  
RANGE: 24 East

USGS Quad Map



**Material Placement Sites**

SCALE: 1" = 60'

June 14, 2024 12:52:16 p.m.  
Drawing: LEE29MASTER.DWG



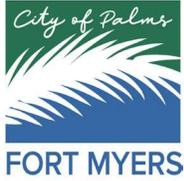
1938 Hill Avenue, Fort Myers, Florida 33901  
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6-14-24

cry

**Whiskey Creek**

SHEET



*City of Fort Myers, Florida*

P.O. Box 2217, Fort Myers, FL 33902-2217  
Telephone (239)321-8087



Peter Bieniek  
Public Works Director  
E-mail: [pbieniek@cityftmeyers.com](mailto:pbieniek@cityftmeyers.com)

June 25, 2024

Chester Young  
Senior Project Manager  
Hans Wilson and Associates.

**Project Name: Whiskey Creek Dredging**

The City of Fort Myers confirms that it is a willing recipient of uncontaminated channel bottom sediment to be generated by the proposed dredging of Whiskey Creek access channel within section 10, township 45 south, range 24 east. Specifically, the areas marked on the attached map as Sediment Sample #6 - #10. The city accepts the material based on the submitted lab report dated July 11, 2022, documenting the heavy metal concentrations are below FDEP residential standards. The City of Fort Myers will use the sediment for base fill of properties owned by the city.

Respectfully,

[Peter Bieniek \(Jun 25, 2024 13:44 EDT\)](#)

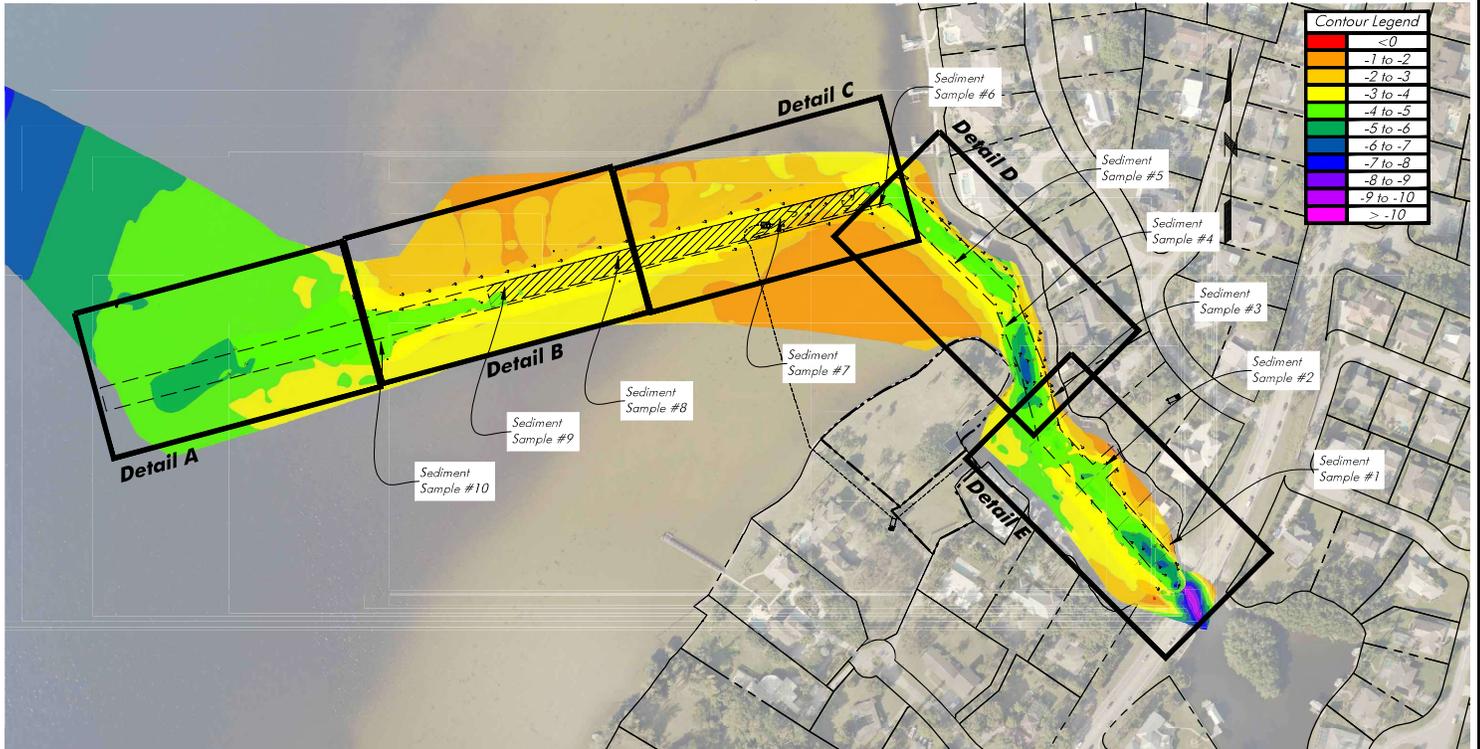
Peter Bieniek  
Public Works Director  
City of Fort Myers



SECTION: 10  
TOWNSHIP: 45 S  
RANGE: 24 E

Lee County Aerial 2019

0 100 200  
SCALE FEET



Notes: Bathymetric Survey completed by HWA, Inc on 11-18-22. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.  
Sediment sampling by HWA 6-23-22. Sediment analysis by Advanced Environmental laboratoires, Inc. completed 7-11-22

June 25, 2024 9:45:04 a.m.  
Drawing: LEE29MASTER.DWG

BID PLANS, NOT FOR CONSTRUCTION



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MARINE and ENVIRONMENTAL CONSULTANTS



**Sediment Sample Locations**

Scale 1" = 200'

6-25-24

CRY

**Lee County  
Whiskey Creek MSTBU**

SHEET

1/1

**EXEMPT**  
File Number:  
0397966-003 EE

### **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., as applicable.

(7) Maintenance and Restoration –

(a) Maintenance dredging under section 403.813(1)(f), 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, Amended 6-1-18.*

### **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:

(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.