

MINOR COASTAL ZONE MANAGEMENT PERMIT NO. CZT-09-14FL

1. **AUTHORITY.** This permit is issued by the Commissioner of the Department of Planning and Natural Resources and is administered and monitored by the Department pursuant to Title 12, Chapter 21, Virgin Islands Code. As herein, "Permitter" is the **Government of the Virgin Islands** and "Permittee" is **CHALLENGERS TRANSPORT SERVICES, INC.**
2. **SCOPE.** This permit allows for the continued use and occupancy of the filled submerged land area consisting of 18,774 ft² described as Parcel No. 45 Estate Crown Bay Fill, St. Thomas as a trucking yard facility. It also brings the existing building with an area of 900 ft² into compliance; allows for the installation of perimeter fencing, the re-surfacing of the parking area, and landscaping of the property.
3. **TERM.** This permit is effective upon its signing by the Commissioner of the Department of Planning and Natural Resources, approval by the Governor of the Virgin Islands, and approval by the Legislature of the Virgin Islands. As used herein, the "Effective Date" or "the date hereof" means the date of such approval. This permit will expire twenty (20) years after the Effective Date. The Permittee shall have the option to renew the permit within ninety (90) days before the permit expires and the terms, fees, and conditions are subject to negotiation. This permit is issued for a definite term, twenty (20) years, and shall not constitute a property right. The Permit shall be renewed only if the requirements of Title 12 of the Virgin Islands Code, Section 911, are met.
4. **DOCUMENTS INCORPORATED BY REFERENCE.**

EXHIBIT A: CZM Permit Application signed November 5, 2013

EXHIBIT B: Site plan and Drawings dated November 5, 2013

EXHIBIT C: Environmental Assessment Report dated May 7, 2012

EXHIBIT D: Lease Agreement between DPNR and Challengers Transport Services, Inc.

5. **GENERAL CONDITIONS.**
 - (a) **Liability.** The Permittee agrees to assume full and complete responsibility for all liability to any person or persons, including employees, as a result of its control of the area described in Paragraph 2 of this permit, and all improvements thereon (which area and improvements are herein after referred to as "the premises") and to hold the Permitter free and harmless from civil or other liability of any kind during the time the Permittee is in control of the premises pursuant to this permit.
 - (b) **Personal Property and Damage.** All personal property of any kind or description

whatsoever, located on the premises will be there at the Permittee's sole risk.

- (c) Assignments or Transfer. This permit may not be transferred or assigned except as provided in Section 910-15 of the Virgin Islands Rules and Regulations.
- (d) Permit to be displayed. A placard evidencing the permit shall be posted in a conspicuous place at the project site during the entire period of work.
- (e) Reliance on Information and Data. The Permittee affirms that the information, and data which he/she provided in connection with his/her permit application is true and accurate, and acknowledges that if subsequent to the effective date of this permit such information and data proves to be false or inaccurate, the permit may be modified, suspended or revoked in whole or in part, and that the Commissioner may, in addition, institute appropriate legal action.
- (f) Development to be commenced. Any and all development approved by this Coastal Zone Permit shall begin within twelve (12) months from the date this permit becomes effective and shall be continuous until completion. Failure to perform at least fifty (50%) percent of the work within such period and continuously construct thereafter until the completion of construction shall cause the permit to terminate automatically and render it null and void, unless the Permittee requests an extension in writing and demonstrates to the satisfaction of the Committee that good cause exists for granting such extension.
- (g) Notification of Completion. Upon completion of any activity authorized or required by this Coastal Zone Management Permit, the Permittee shall promptly so notify the Director of the Division of CZM ("The Director") and where the service of a professional engineer were required in undertaking the activity, a certification of compliance provided by the project engineer that the plans and specifications of the project and all applicable Virgin Islands Code requirements have been met, shall be filed with the Director.
- (h) Inspection. The Commissioner or his authorized agents or representatives shall have the power to enter at reasonable time during projects working hours upon any lands or waters for which a Coastal Zone Permit has been issued. The Permittee shall permit such entry for the purpose of inspection and ascertaining compliance with the terms and conditions of said Coastal Zone Management Permit. The Permittee shall provide access to such records as the Commissioner in the performance of his duties under the Act may require the Permittee to maintain. Such records may be examined and copies shall be submitted to the Commissioner upon request.
- (i) Conditions of premises. The development authorized by this permit shall be maintained in a safe, attractive and satisfactory condition and in accordance with the description, plans or drawings approved by the Commissioner.

- (j) Restoration of Area. The Permittee, upon revocation or expiration of the permit, shall upon order of the Commissioner, and his sole discretion, remove all structures authorized by the permit and restore the area to its original condition, and/or modify such structures, and/or comply with any directive of the Commissioner in satisfying the original permit condition in such time and manner as the Commissioner may direct.
- (k) Notices. All notices sent or required to be sent hereunder must be certified mail, return receipt requested. If addressed to the Permitter, same shall be sent to the Commissioner of the Department of Planning and Natural Resources, 8100 Lindberg Bay, Suite #61, Cyril E. King Airport Terminal Building, Second Floor, St. Thomas, VI 00802-5904 or to such place as the Permitter may herein after designate by certified mail. If addressed to the Permittee, same shall be sent to Challenger's Transport Services, Inc. P.O. Box 2276, St. Thomas, VI 00803 or to such place as the Permittee may hereinafter designate by certified mail, return receipt requested.
- (l) Nonwaiver. One or more waivers by the Permitter of any covenant or condition of this permit shall not be construed as a waiver or breach of the covenant or condition, and the consent or approval of the Permitter to or of any acts by the Permittee requiring the Permitter's consent or approval shall not be construed as approval of any subsequent similar act by the Permittee.
- (m) Revocation. It is specifically understood that all foregoing covenants and agreements, as well as other terms and special conditions hereby agreed to by Permittee, are to be well and faithfully kept by Permittee and that any failure by Permittee to keep same will result in revocation of this permit.
- (n) Other Approval. If the development covered under this permit requires separate and distinct approval from the United States Government or any agency, department, commission or bureau thereof, then no development or occupancy is allowed under this permit until such permits or approvals have been obtained.
- (o) Abandonment. If the Permittee abandons, deserts, or vacates the premises or discontinues its operations at the premises for a period totaling six (6) consecutive months, then the permit will terminate automatically and be rendered null and void.
- (p) Damage and Repair of Premises Described in Paragraph 2. In the event of damage to or destruction of the premises described in Paragraph 2 hereof, repair work may be done only after a request to do so has been submitted in writing to the Department and permission in writing has been granted. Repair must duplicate the original work, and must be in accordance with applicable law, rules and regulations.
- (q) Signatures on the Permit Document. The applicant shall sign and return the

permit document to the Department within sixty (60) days of receipt thereof. Failure to return the signed permit within the time period specified herein will be considered a rejection of the terms and conditions of the permit and will render the offer of the permit null and void, unless a written extension is requested and granted.

6. SPECIAL CONDITIONS.

1. This permit authorizes the use of the premises as stated in Section 2, "Scope." No other use is allowed.
2. The Permittee shall continue to operate in accordance with the VI Zoning Code.
3. The Permittee shall continue to clean and maintain the property.

7. **FEES.** The rental fees for the use and occupancy of the submerged and/or filled submerged lands as described in "2. SCOPE" are assessed pursuant to 12 VIC §911(f), have been negotiated with the Permittee pursuant to 12 VIRR §910-5, and have been memorialized in the Lease Agreement between Challengers Transport Services INC. and the Government of The Virgin Island. The initial payment under this permit is due upon receipt of the effective permit, and subsequent payments are due on the anniversary of the effective date. Payments are to be made to the Department of Planning and Natural Resources.

- A. The rental fee of **Twenty Four Thousand Dollars (\$24,000.00)** annually for the first five years, payable in monthly installments of **Two Thousand Dollars (\$2,000.00)** per month.
- B. At the commencement of the six (6th) year of the lease term, and at the commencement of every year thereafter, the rent payable under this Lease shall be adjusted in accordance with the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, and shall be calculated using the CPI Inflation Calculator on the U.S. Department of Labor Bureau of Labor Statistics' website (http://www.bls.gov/data/inflation_calculator.htm) using the previous year as the Base Year for comparison, provided, however, no adjustments in rental shall be increased more than 15% over the preceding year during the CPI Period.

8. **IT IS EXPRESSLY UNDERSTOOD** by the parties hereto that the title holder of all submerged or filled land which is altered or occupied on the basis of this permit is the Government of the Virgin Islands, and the Permittee shall have no right or interest therein, of any kind whatsoever, other than such rights as are expressly set forth herein, and that this instrument is not a lease.

IN TESTIMONY WHEREOF, the parties herein have hereunto set their hands and seals on the days and years appearing herein below.

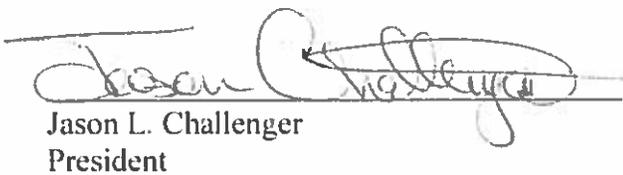
THE DEPARTMENT OF PLANNING AND NATURAL RESOURCES
Permitter



Dawn L. Henry, Esq.
Commissioner Designee

August 10, 2015
Date

CHALLENGER'S TRANSPORT SERVICES, INC.
Permittee



Jason L. Challenger
President

4/13/2015
Date

APPROVED



The Honorable Kenneth E. Mapp
Governor of the U.S. Virgin Islands

10-26-15
Date

APPROVED

The Honorable Neville S. James
President, 31st Legislature of the Virgin Islands

Date

**BASIS FOR NEGOTIATIONS
CHALLENGER'S TRANSPORT SERVICES, INC.
St. Thomas, Virgin Islands
(CZT-0914FL)**

I. General Information

Permit No. CZT-0914FL)
Applicant: **CHALLENGER'S TRANSPORT SERVICES, INC.**
Location: Parcel No. 45 Estate Crown Bay Fill. St. Thomas, Virgin Islands

II. Activity: Continued Use and Occupancy of Filled Submerged Lands

Total area of filled land = 18,771 ft² or 0.432 ac

Structure on Filled Land = 1,800 ft² or 0.0413 ac

III. FMV Calculations

No information on the fair market value of the land is available at the Tax Assessor's Office for parcel No. 45 Estate Crown Bay Fill as only assessed improved value is calculated on filled submerged land.

IV. Summary:

As no FMV of land is available for parcel No. 45 Estate Crown bay Fill, and in accordance with 12 VIR®S Section 910-5, CZM used the information of gross receipts submitted, along with the estimates for improvements to the property, to establish a rental fee of **\$24,000.00** per year. This represents a 30% increase of the last rental value of \$9167.04 which was originally set in 1992.