



Lyle Seigler
Executive Director

Northwest Florida Water Management District

81 Water Management Drive, Havana, Florida 32333-4712
(U.S. Highway 90, 10 miles west of Tallahassee)

Phone: (850) 539-5999 • Fax: (850) 539-2777

November 7, 2022

Shannon White
U.S. Army Corps of Engineers
Regulatory Division – Jacksonville District
701 San Marco Blvd.
Jacksonville, FL 32207

RE: Sale of 0.471 Federal Mitigation Credits (Estuarine Emergent) from NFWFMD ILF Program, Live Oak Point Living Shorelines Mitigation Area, (SAJ-2011-00287-TMF) as Mitigation for US 98 Brooks Bridge (FDOT FPID 415474-2)

Dear Ms. White:

This letter shall serve to fulfill the Sponsor's (NFWFMD) obligations, described in sections 5.0 and 7.2 of the NFWFMD In-Lieu Fee Program Final Instrument, and in accordance with 33 CFR 332.3(l)(3) and 332.8(p)(1), to notify the U.S. Army Corps of Engineers of the sale of 0.471 federal mitigation credits (estuarine emergent) from the NFWFMD In-Lieu Fee Program, Live Oak Point Living Shorelines Mitigation Area project (SAJ-2011-00287-TMF) to the Florida Department of Transportation (FDOT). In support of this notification, copies of Florida Department of Environmental Protection (FDEP) State 404 Permit 0239218-004-SFI/46 (issued 8/15/2022), FDEP Environmental Resource Permit IND-239218-002-EI/46 (issued 8/15/2022), a credit sales letter signed and dated by the Sponsor and permittee are attached, and the following information is provided:

- Impact Project Name: US 98 Brooks Bridge (FPID 415474-2)
- State 404 Program Permit #: 0239218-004-SFI/46 (Specific Condition #5)
- ERP Permit #: 0239218-002-EI/46 (Specific Condition #11)
- Impact HUC-8: 03140105 – Pensacola Bay
- Impact Latitude/Longitude: 30.400860° North / -86.600335° West
- Impact Acreage: 0.808 (0.762 Acres Wetland; 0.046 Acres SAV Shading)
- Functional Loss: 0.471 UMAM (0.442 Wetland; 0.029 SAV)
- Mitigation Site: Live Oak Point Living Shorelines ILF
- Number of Credits: 0.471
- Type of Credits: Estuarine Emergent

The mitigation credits noted above have been paid in full by the Florida Department of Transportation and we have deducted them from the NFWFMD In-Lieu Fee, Live Oak Point Living Shorelines credit ledger. By action of this sale, the Sponsor accepts responsibility for providing the compensatory mitigation required by the permits noted above. If you have any questions regarding this request, please contact me at robert.lide@nwfwater.com.

Sincerely,

Robert F. Lide

Robert F. Lide
Enclosures

GEORGE ROBERTS
Chair
Panama City

JERRY PATE
Vice Chair
Pensacola

NICK PATRONIS
Secretary
Panama City

JOHN W. ALTER
Malone

GUS ANDREWS
DeFuniak Springs

TED EVERETT
Chipley

KELLIE RALSTON
Tallahassee

ANNA UPTON
Tallahassee



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
Pensacola, Florida 32502-5740

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

August 15, 2022

FDOT District 3
c/o Erica Brookman
1074 US 90
Chipley, Florida 32428
Erica.Brookman@dot.state.fl.us

File No. 0239218-004-SFG/46, Okaloosa County

Dear Ms. Brookman:

On December 6, 2021, we received your notice of intent to use a General Permit (GP), pursuant to Rule 62- 331.248, Florida Administrative Code (F.A.C.), to replace an existing bridge and construct intersection improvements which will result in the filling of approximately 33,192.72 square feet or 0.762 acres of depressional marsh and approximately 15,507.36 square feet or 0.356 acres of swale, within the landward extent of Santa Rosa Sound, a Class III Florida Waterbody. The direct and secondary impacts will result in a functional loss of 0.442 which will be mitigated for off-site through the construction of a living shoreline at the NFWMD Live Oak Peninsula mitigation area via oyster shell breakwater construction and planting of appropriate saltmarsh species as provided in the Approved Regional Mitigation Plan. The activities authorized by this permit are located along the U.S. Highway 98 right-of-way, Fort Walton Beach, Florida 32548, in Section 24, Township 2 South, Range 24 West and Section 19, Township 2 South, Range 23 West in Okaloosa County, from approximately 30°24'12.9986" North Latitude, 86°36'17.3387" West Longitude to 30°23'45.6104" North Latitude, 86°35'34.1721" West Longitude.

Your intent to use a general permit has been reviewed by Department staff for State 404 Program authorization. **Your project qualifies for authorization.** However, this letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity.

State 404 Program Review – Approved

Based on the forms, drawings, and documents revised with your notice, it appears that the project meets the requirements for the General Permit under Rule 62-331.248, F.A.C. Any activities performed under a general permit are subject to general conditions required in Rule 62-331.201, F.A.C., the conditions of Rule 62-331.248, F.A.C. (attached), and any specific conditions, below. Any deviations from these conditions may subject the permittee to enforcement action and possible penalties. Please read each section carefully.

Please be advised that the construction phase of the GP must be completed by December 22, 2025. State 404 Program permits cannot be extended or renewed.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

1. This permit does not authorize the construction of any additional structures not illustrated on the permit drawings.
2. Prior to construction, the limits of the proposed impact areas shall be clearly flagged and staked by the agent and/or contractor. All construction personnel shall be shown the location(s) of all wetland areas outside of the construction to prevent encroachment from heavy equipment into these areas.
3. Best management practices for erosion control shall be implemented prior to construction commencement and shall be maintained at all times during construction to prevent siltation and turbid discharges in excess of State water quality standards pursuant to Rule 62-302, F.A.C. Methods shall include, but not limited to the use of staked haybales, staked filter cloth, sodding, seeding, staged construction and the installation of turbidity screens around the immediate project site.
4. The permittee shall be responsible for ensuring that erosion control devices/procedures are inspected and maintained daily during all phases of construction authorized by this permit until all areas that were disturbed during construction are sufficiently stabilized to prevent erosion, siltation, and turbid discharges.
5. Prior to construction or impacts authorized by this permit, the permittee shall provide the Department with documentation on the location and plans of the proposed living shoreline at the NFWFMD Live Oak Peninsula mitigation area.

SPECIFIC CONDITIONS – LISTED SPECIES

6. The Permittee shall report any injured, sick, or dead federally or state listed animal(s) discovered onsite to the Florida Fish and Wildlife Conservation Commission Wildlife Alert number at 888-404-FWCC (3922).
7. This permit does not authorize the permittee to cause any adverse impact to or “take” of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or permittee associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of “take” and a list of fish and wildlife species. If listed species are observed onsite, Florida Fish and Wildlife Conservation Commission (FWC) staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a “take” permit cannot be issued. Requests for further information or review can be sent to ConservationPlanningServices@MyFWC.com.
8. If new information (e.g. listing of new species, new critical habitat, etc.) shows that the magnitude of impacts to federally listed species has the potential for adverse effects, the U.S.

Fish and Wildlife Service (USFWS) will notify the Department. The Department will initiate coordination with the permittee and with the USFWS to determine what adverse impacts are likely and if additional minimization measures, reporting, or monitoring are required in order to be consistent with the Endangered Species Act, as deemed necessary by USFWS.

Authority for review – Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, F.A.C.

Additional Information

Please retain this general permit. 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 subsequent order may modify or take a different position than this action.

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, 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 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. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62- 110.106(10)(a).

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

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399- 3000, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, 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.

If you have any questions regarding this matter, please contact Whitney Bretana at the letterhead address, at (850)595-0658, or at Whitney.Bretana@FloridaDEP.gov.

EXECUTION AND CLERKING

Executed in Pensacola, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Kimberly R. Allen
Permitting Program Administrator

KRA:wb

Enclosures:

1. Rule 62-331.248, F.A.C., 4 pages
2. General Conditions for All General Permits, Rule 62-331.201, F.A.C., 8 pages
3. Certification of Compliance with State 404 Program General Permit, [form 62-331.200\(1\)](#)
4. Project Drawings, 233 pages
5. Wetland Impact Graphics, 11 pages
6. Approved Mitigation Plan, 12 pages

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

Florida DEP, Kim.Allen@FloridaDEP.gov, Russell.Sullivan@FloridaDEP.gov,
Blake.A.Chapman@FloridaDEP.gov, Whitney.Bretana@FloridaDEP.gov,
Savannah.Cowen@FloridaDEP.gov
Florida DOT, Erica.Brookman@dot.state.fl.us Stephen.furman@dot.state.fl.us
HDR, Josey.Walker@hdrinc.com Frank.Fu@hdrinc.com
Okaloosa County, mmartinez@co.okaloosa.fl.us jautrey@co.okaloosa.fl.us
sbitterman@co.okaloosa.fl.us propertyappraiser@okaloosapa.com

FILING AND ACKNOWLEDGMENT

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



Clerk

August 15, 2022
Date

Rule 62-331.248 , F.A.C.

(1) This general permit authorizes activities required for the construction of Florida Department of Transportation (FDOT) and Florida's Turnpike Enterprise (FTE) projects, with a Federal Highway Administration (FHWA) and/or FDOT approved Environmental Document (PD&E, Categorical Exclusion, Environmental Assessment, Environmental Impact Statement, or State Environmental Impact Report), including non-capacity and capacity improvements, where dredge and fill impacts do not result in the loss of greater than 5.0 acres of state-assumed waters (wetlands and surface waters) for any 1-mile segment of roadway length up to a maximum loss of 50 acres of state-assumed waters per project. This includes FTE projects with an approved state Environmental Document. Secondary impacts associated with projects authorized under this general permit shall be assessed, however, secondary impact acreages will not count toward the impact acreage limits (5.0 acres/1-mile and 50 acres total) within this general permit.

(2) This general permit does not authorize construction of a new alignment (non-existing roadway).

(3) This general permit is subject to the following conditions:

(a) Use of this general permit is limited to linear transportation projects that have been reviewed through the FDOT Efficient Transportation Decision Making (ETDM) and/or Project Development and Environment (PD&E) Study. The environmental documents must have been evaluated, re-evaluated, or confirmed to be current within five years of submittal of an application.

(b) The term "capacity" is used to express the maximum number of vehicles or persons that can pass a point on a roadway during a given time period under prevailing roadway and traffic conditions. A capacity improvement project is normally implemented by the addition of through travel lanes. A capacity improvement project can also be a new interchange or new intersection that is contiguous and connects to an existing roadway but would not include a new interchange or intersection that results in a new roadway alignment. Non-capacity improvement projects may include safety improvements, maintenance, bike lane, or sidewalk additions.

(c) No work shall be performed until the permittee submits satisfactory plans for the proposed activity and receives written authorization from the Agency.

(d) If the project includes modification of a federal project, no work shall be performed until the permittee receives authorization under 33 U.S.C §408 from the Corps of Engineers.

(e) Conformance with the descriptions, quantities, and criteria in this general permit does not guarantee authorization under this general permit. The Agency reserves the right to require that any request for authorization under this general permit be evaluated as an individual permit.

(f) A copy of all "Commitments" related to the avoidance and minimization of impacts to state-assumed waters identified in any completed Environmental Documents and the Quality Enhancement Strategies (QES) (effective date), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12075>), shall be submitted with the permit application prior to verification of this general permit.

(g) Prior to the verification of qualification for this general permit; the applicant shall provide the Agency with copies of the concurrence documents from the State Historic Preservation Officer (SHPO) in Tallahassee and the Tribal Historic Preservation Officer (THPO) where applicable.

(h) Cultural Resources and/or Historic Properties. In addition to the conditions for general permits in Rule 62-331.200, F.A.C., the following shall apply:

1. No structure or work shall adversely affect, impact, or disturb properties listed in the National Register of Historic Places (NRHP), or those eligible for listing in the NRHP where the

adverse effect, impact, or disturbance has not been resolved through consultation with the SHPO.

2. The applicant shall determine and document, in consultation with SHPO, the scope of identification efforts for cultural resources within the undertaking's area of potential effect and establish a determination of effects based upon these efforts. Documentation of this scope of identification efforts and determination shall be provided in summary form to the Agency along with the concurrence documents from SHPO.

3. If an archaeological monitor is required. A professional archeologist who meets the "Archeology and Historic Preservation: Secretary of Interior's Standards and Guidelines" shall be onsite during the initial ground-disturbing activities. The professional archeologist shall be responsible for monitoring the spoil and ground disturbance for archaeological deposits. Should potential significant archaeological deposits (which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), recovery be encountered, all work and ground disturbing activities must cease within a 100-meter diameter of the discovery to allow for proper assessment, recording, and recovery of the cultural deposits in a professional manner. The archeologist on site shall notify the Permittee, SHPO, and the Agency the same business day to assess the significance of the discovery and devise appropriate actions, including salvage operations, coordination with the SHPO/THPO, Tribes, and other consulting parties, as appropriate and in compliance with applicable historic preservation laws. Upon completion of the monitoring activities, an archaeological letter must be submitted to the Director of Florida's Division of Historical Resources (who also serves as the SHPO), along with an updated Florida Master Site File form and, as appropriate, a monitoring report.

(i) Compensatory Mitigation.

1. Mitigation may be accomplished by one or more of the following mechanisms and preference hierarchy.

a. Securing appropriate number and resource type of credits from approved mitigation bank within the project's service area;

b. Payment of mitigation fees to an approved in-lieu program within the project's service area;

c. Through a "permittee-responsible" mitigation, including those mitigation projects that are part of the FDOT Mitigation Program in Section 373.4137, F.S.; on-site and in-kind mitigation; or off-site or out-of-kind compensatory mitigation.

d. It is the responsibility of the applicant to demonstrate to the Agency that the mitigation proposal is the environmentally preferable option to replace the ecological functions and services that would be lost through the implementation of any work proposed. All mitigation proposals must be approved prior to verification of this general permit.

2. Prior to proceeding with the activity authorized in this general permit, a final mitigation plan must be approved by the Agency. If the approved mitigation plan is the purchase of mitigation bank or in lieu fee credits, the credits must be purchased or in-lieu fees paid prior to proceeding.

3. When the purchase of mitigation credits is applicable, the Permittee shall provide verification to the Agency indicating the number and type of credits purchased and the specific federal mitigation bank from which credits have been purchased. When payment of in-lieu fees is applicable, evidence of fee payment shall be provided to the Agency. The above-described verification or notification shall be provided to the Agency before commencement of the activities authorized by this general permit.

4. If the general permit verification includes permittee-responsible mitigation, the mitigation

plan shall address the components of a complete mitigation plan as described in Rule 62-331.130, F.A.C.

(j) Prior to the verification of projects pursuant to this general permit, the applicant (FDOT, FTE, FHWA, or others) shall provide the Agency with a copy of either a concurrence document (May Affect, Not Likely to Adversely Affect determinations) or a finalized biological opinion (for May Affect, Likely to Adversely Affect determinations) written by the U.S. Fish and Wildlife Service (USFWS). These documents demonstrate that project consultation for federally listed species has been completed.

(k) No authorizations under this general permit shall be made for projects that jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify designated critical habitat.

(l) No authorizations under this general permit shall be made for projects resulting in any direct, indirect, or cumulative effect on very rare species, specifically the endangered Perdido Key beach mouse, Choctawhatchee beach mouse, and the St. Andrew beach mouse.

(m) All terms and conditions provided by the USFWS and/or the FWC shall be included as a special condition of any projects verified under this general permit.

(n) This general permit does not authorize stream channelization or the bank-to-bank filling and relocating and/or culverting of more than 300 linear feet of perennial or intermittent natural stream systems. Ditches, canals, swales or other non-natural channelized systems are not included in this restriction. The authorized activities shall not increase flooding, or negatively impact the pre-project hydrologic flow characteristics or water quality of any affected stream. This permit does not authorize severance of connections to upstream or downstream waters.

(o) To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters shall be maintained for each activity, including stream channelization and stormwater management activities, except as provided below. The activity shall be constructed to withstand expected high flows. The activity shall not restrict nor impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open water if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

(p) This general permit does not authorize fill activities which would sever hydrologic connection between wetlands or other surface waters.

(q) Best management practices for erosion and sediment control shall be used to prevent water quality violations during and after construction. These shall include a construction-phase stormwater management and erosion control plan that is designed and implemented to include site-specific measures adapted from practices and procedures described in "The State of Florida Erosion and Sediment Control Designer and Reviewer Manual, FDOT and FDEP" (June 2007), incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C. (<https://www.flrules.org/Gateway/reference.asp?No=Ref-02530>).

(r) Authorization under this general permit is void at any time if the information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.

(s) The permittee shall comply with USFWS "Standard Protection Measures for the Eastern Indigo Snake" (Aug. 12, 2013), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12076>).

(t) For projects accessible to manatees, the Permittee shall comply with the "Standard Manatee Conditions for In-Water Work" (2011), incorporated by reference in paragraph 62-331.201(4)(n),

F.A.C.

(u) As-Built Certification. Within 60 days of completion of the work authorized by this permit, the Permittee shall submit to the Agency as-built drawings of the authorized work and a completed Form 62-331.248(1) “As-Built Certification By Professional Engineer”, incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12077>). The as-built drawings shall be signed and sealed by a registered professional engineer and include the following:

1. A plan view drawing of the location of the authorized work footprint, as shown on the permit drawings, with transparent overlay of the work as constructed in the same scale as the permit drawings on 8½-inch by 11-inch sheets. The plan view drawing should show all “earth disturbance,” including wetland impacts and water management structures.

2. A list of any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the attached “As-Built Certification By Professional Engineer” form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or “As-Built Certification By Professional Engineer” form does not constitute approval of any deviations by the Agency.

3. Include the permit number on all sheets submitted.

Editor notes: The effective date of the rule will be the effective date of assumption, which is the date identified by EPA as published in the Federal Register §373.4146, F.S.

Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416, 373.422, 373.423, 373.429 FS. History—New 12-22-20.

Conditions for General Permits – Rule 62-331.201, F.A.C.

(1) General permits shall be subject to the conditions in subsections (2) and (3), below, and the general conditions for all general permits in Rule 62-330.405, F.A.C., except subsections 62-330.405(7) and (10), F.A.C. The Agency may revise the general conditions in Rule 62-330.405, F.A.C. to include references to applicable rules under this Chapter, as necessary.

(2) When a project requires submittal of a notice of intent to use a general permit, the Agency shall impose specific conditions as necessary to assure that the activities will be conducted in compliance with this Chapter, and in a manner which minimizes adverse impacts upon the physical, chemical, and biological integrity of wetlands or other surface waters, such as mitigation, monitoring, reporting, or recordkeeping requirements and protection measures for listed species or historical resources.

(3) In addition, general permits under this Chapter are subject to the following conditions:

(a) Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing shall be designed and constructed to minimize adverse effects to aquatic life movements.

(b) Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

(c) Migratory Bird Breeding Areas. Activities in state-assumed waters that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

(d) Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by general permits in Rule 62-331.211 or 62-331.244, F.A.C., or is a shellfish seeding or habitat restoration activity authorized by the general permit in Rule 62-331.225, F.A.C.

(e) Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or fill must be free from toxic pollutants in toxic amounts as listed in section 307 of the CWA, which is incorporated by reference in subparagraph 62-331.053(3)(a)3., F.A.C., or state law.

(f) Water Supply Intakes. No activity may occur within 1000 feet of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

(g) Fills Within 100-year Floodplains. The activity shall comply with applicable FEMA-approved state or local floodplain management requirements.

(h) Single and Complete Project. The activity must be a single and complete project. The same general permit cannot be used more than once for the same single and complete project unless otherwise stated within the general permit. (See 404 Handbook, section 3.2.1).

(i) Wild and Scenic Rivers. No general permit activity may occur in a component of the National Wild and Scenic Rivers System, or in a river officially designated by Congress as a study river for possible inclusion in the System while the river is in an official study status, unless the appropriate federal agency with direct management responsibility for such river has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(j) Tribal Rights. No general permit activity may cause more than minimal adverse effects on tribal rights (including treaty rights, settlement rights, or rights reserved under state or federal law), protected tribal resources (including cultural or burial resources off reservation), tribal waters, or to tribal lands.

(k) Listed species. No activity is authorized under any general permit which is likely to directly or indirectly jeopardize the continued existence of an endangered or threatened species or a species proposed for such designation, or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any general permit which may affect a listed species or critical habitat, unless the Agency has consulted with, or been provided technical assistance by the Florida Fish & Wildlife Conservation Commission, the U.S. Fish & Wildlife Service, and the National Marine Fisheries Service under their respective authorities and appropriate measures to address the effects of the proposed activity have been implemented or are required as a specific condition to the general permit.

(l) Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act, 16 U.S.C. §§ 703 – 712 (2018), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12068>), and the Bald and Golden Eagle Protection Act, 16 U.S.C. §§ 668 – 668(d) (2018), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12069>). The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether incidental take permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

(m) Historic Properties. In cases where the Agency determines, based on information from SHPO, that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized until a determination of “no effect” or “no adverse effect” is provided by SHPO.

(n) Manatees. In waters that are accessible to manatees, the permittee shall follow the “Standard Manatee Conditions for In-Water Work (2011)”, incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12070>).

(o) Sea turtles, smalltooth sawfish, Gulf sturgeon, or shortnose sturgeon. In waters that are accessible to these species, the permittee shall follow the “Sea Turtle and Smalltooth Sawfish Construction Conditions” (March 23, 2006), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12071>).

(p) Use of Multiple General Permits. The use of more than one general permit under this Chapter for a single and complete project is prohibited, except when specified within a specific general permit, or when the acreage loss of state-assumed waters authorized by the general permits does not exceed the acreage limit of the general permit with the highest specified acreage limit.

(q) Transfer of General Permit Verifications. If the permittee sells the property associated with the general permit verification, the permittee shall transfer the general permit verification to the new owner by submitting a completed Form 62-331.100(1) – “Transfer of State 404 Program General Permit Verification” (effective date), incorporated by reference in subsection 62-331.100(2), F.A.C., within 30 days of the sale, to the Agency that processed the original notice.

(r) Compliance Certification. Each permittee who receives a general permit verification letter under this Chapter must submit a completed Form 62-331.200(1) – “Certification of Compliance with a State 404 Program General Permit” (effective date), incorporated by reference in subsection 62-331.200(4), F.A.C., within 30 days of completion of the authorized activity, or the implementation of any required compensatory mitigation, whichever is later.

(s) Activities Affecting Structures or Work Built by the United States. If an activity also requires permission from the Corps pursuant to 33 U.S.C. § 408 because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project, the prospective permittee is responsible for obtaining such permission separately from the Corps prior to commencing activities authorized by the general permit.

(t) If during the ground disturbing activities and construction work within the permit area, there are archaeological or cultural materials encountered which were not the subject of a previous cultural resources assessment survey or to which such impacts were not anticipated, including but not limited to pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement; the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Agency within the same business day. The Agency shall then notify the State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) or tribe when the interested tribe does not have a THPO, to assess the significance of the discovery and devise appropriate actions.

(u) Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries or effects to historic properties as referenced in accordance with

condition (t), above, and if deemed necessary by the SHPO, or THPO(s), Tribes, or Agency. Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Agency may modify, suspend, or revoke the permit in accordance with Rule 62-331.080, F.A.C. Such activity shall not resume without written authorization from the SHPO and THPO(s), or tribe when the interested tribe does not have a THPO, concerning potential effects to cultural resources or historic properties for finds under their jurisdiction, and from the Agency.

(v) In the event that unmarked human remains are identified, they shall be treated in accordance with Section 872.05, F.S. All work and ground-disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Agency, and State Archaeologist within the same business day. The Agency shall then notify the appropriate SHPO and THPO(s) and appropriate tribes and other appropriate consulting parties. Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Agency may modify, suspend, or revoke the permit in accordance with Rule 62-331.080, F.A.C. Such activity shall not resume without written authorization from the medical examiner, State Archaeologist, and from the Agency. Additionally, if the unmarked remains were identified on federal lands, or lands where the Archaeological Resources Protection Act, 16 U.S.C. §§ 470aa – 470mm (2018), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12072>), or the Native American Graves Protection Repatriation 25 U.S.C. §§ 3001-3013 (2018), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12073>), applies, such activity shall not resume without written authorization from the SHPO, the appropriate THPO(s), and the federal land manager.

(w) Noncompliance. The permittee shall timely notify the Agency of any expected or known actual noncompliance.

(x) Inspection and entry. The permittee shall allow the Agency, upon presentation of proper identification, at reasonable times to:

1. Enter upon the permittee's premises where a regulated activity is located or where records must be kept under the conditions of the permit,
2. Have access to and copy any records that must be kept under the conditions of the permit,
3. Inspect operations regulated or required under the permit, and
4. Sample or monitor, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

(y) The permittee shall comply with all conditions of the permit, even if that requires halting or reducing the permitted activity to maintain compliance. Any permit violation constitutes a violation of Part IV of Chapter 373, F.S., and this Chapter, as well as a violation of the CWA.

(z) The permittee shall take all reasonable steps to prevent any unauthorized dredging or filling in violation of this permit.

(aa) Upon Agency request, the permittee shall provide information necessary to determine compliance status, or whether cause exists for permit modification, revocation, or termination.

Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416, 373.422, 373.423, 373.429 FS. History – New 12.22.2020.

62-330.405 General Conditions for All General Permits.

The following general permit conditions are binding upon the permittee and are enforceable under chapter 373, F.S. These conditions do not apply to the general permit for stormwater management systems under section 403.814(12), F.S

(1) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit and may subject the permittee to enforcement action and revocation of the permit under chapter 373, F.S

(2) The general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit; and it does not authorize any violation of any other applicable federal, state, local, or special district laws (including, but not limited to, those governing the “take” of listed species).

(3) The general 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 general permit.

(4) The general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution that violates state water quality standards.

(5) Section 253.77, F.S., provides that a person may not commence any excavation, construction, or other activity involving the use of state-owned 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 consent, lease, easement, or other form of authorization authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on state-owned lands.

(6) The authorization to conduct activities under a general permit may be modified, suspended or revoked in accordance with chapter 120, F.S., and section 373.429, F.S.

(7) Not applicable.

(8) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the permitted system to ensure conformity with the

plans and specifications approved by the general permit.

(9) The permittee shall maintain any permitted project or activity in accordance with the plans submitted to the Agency and authorized in the general permit.

(10) Not applicable.

(11) Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be implemented and maintained immediately prior to, during, and after construction as needed to stabilize all disturbed areas, including other measures specified in the permit to prevent adverse impacts to the water resources and adjacent lands. Erosion and sediment control measures shall be installed and maintained in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation, June 2007)*, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, available at http://publicfiles.dep.state.fl.us/DEAR/Stormwater_Training_Docs/erosion-inspectors-manual.pdf.

(12) Unless otherwise specified in the general permit, temporary vehicular access within wetlands during construction shall be performed using vehicles generating minimum ground pressure to minimize rutting and other environmental impacts. Within forested wetlands, the permittee shall choose alignments that minimize the destruction of mature wetland trees to the greatest extent practicable. When needed to prevent rutting or soil compaction, access vehicles shall be operated on wooden, composite, metal, or other non-earthen construction mats. In all cases, access in wetlands shall comply with the following:

(a) Access within forested wetlands shall not include the cutting or clearing of any native wetland tree having a diameter four inches or greater at breast height;

(b) The maximum width of the construction access area shall be limited to 15 feet;

(c) All mats shall be removed as soon as practicable after equipment has completed passage through, or work has been completed, at any location along the alignment of the project, but in no case longer than seven days after equipment has completed work or passage through that location; and

(d) Areas disturbed for access shall be restored to natural grades immediately after the maintenance or repair is completed.

(13) Barges or other work vessels used to conduct in-water activities shall be operated in a manner that prevents unauthorized dredging, water quality violations, and damage to submerged aquatic communities.

(14) The construction, alteration, or use of the authorized project shall not adversely impede navigation or create a navigational hazard in the water body.

(15) Except where specifically authorized in the general permit, activities must not:

(a) Impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving water and adjacent lands; or

(b) Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to section 373.042, F.S., or a Works of the District established pursuant to section 373.086, F.S.

(16) If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and the proper authorities notified in accordance with section 872.05, F.S.

(17) The activity must be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed, and must comply with any applicable District special basin and geographic area criteria.

(18) The permittee shall comply with the following when performing work within waters accessible to federally- or state-listed aquatic species, such as manatees, marine turtles, smalltooth sawfish, and Gulf sturgeon:

(a) All vessels associated with the project shall operate at "Idle Speed/No Wake" at all times while in the work area and where the draft of the vessels provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

(b) All deployed siltation or turbidity barriers shall be properly secured, monitored, and maintained to prevent entanglement or entrapment of listed species.

(c) All in-water activities, including vessel operation, must be shut down if a listed species comes within 50 feet of the work area. Activities shall not resume until the animal(s) has moved beyond a 50-foot radius of the in-water work, or until 30 minutes elapses since the last sighting within 50 feet. Animals must not be herded away or harassed into leaving. All onsite project personnel are responsible for observing water-related activities for the presence of listed species.

(d) Any listed species that is killed or injured by work associated with activities performed shall

be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1(888)404-3922 and ImperiledSpecies@myFWC.com.

(e) Whenever there is a spill or frac-out of drilling fluid into waters accessible to the above species during a directional drilling operation, the FWC shall be notified at ImperiledSpecies@myfwc.com with details of the event within 24 hours following detection of the spill or frac-out.

(19) The permittee shall hold and save the Agency 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 activity authorized by the general permit.

(20) The permittee shall immediately notify the Agency in writing of any submitted information that is discovered to be inaccurate.

Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.4131, 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.044, 373.118(1), 373.129, 373.136, 373.406(5), 373.413, 373.4131, 373.414(9), 373.4145, 373.416, 373.422, 373.423, 373.429, 403.814(1) FS. History—New 10-3-95, Amended 10-1-07, Formerly 62-341.215, Amended 10-1-13, 6-1-18.

Certification of Compliance with a State 404 Program General Permit

Instructions: To be completed, executed, and submitted to the Agency within 30 days of completion of the authorized activity.

Permit No: Permittee's Name:

Permittee's Address:

Telephone Number:

Location of the Work:

Date Work Started: _____ Date Work Completed: _____

PROPERTY IS INACCESSIBLE WITHOUT PRIOR NOTIFICATION: YES NO
TO SCHEDULE AN INSPECTION, PLEASE CONTACT AT

Description of the Work (e.g., bank stabilization, residential or commercial filling, docks, dredging, etc.):

Acreage or Square Feet of Impacts to state-assumed waters:

Describe Mitigation completed (if applicable):

Describe any Deviations from Permit (attach drawing(s) depicting the deviations):

I certify that all work, and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit. Any deviations as described above are depicted on the attached drawing(s).

Signature of Permittee

Date:

Name and Title

Enclosures:

- ☐ Attached drawing(s) depicting deviations from the permit (if any)
☐ Other



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
Pensacola, FL 32502

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

Permittee/Authorized Entity:

FDOT District 3
c/o Erica Brookman
1074 US 90
Chipley, Florida 32428, Washington County
Erica.Brookman@dot.state.fl.us

Brooks Bridge Replacement

Authorized Agent:

Josey Walker
25 W Cedar Street
Pensacola, Florida 32502
Josey.Walker@hdrinc.com

Environmental Resource Permit

**State-owned Submerged Lands Authorization – Granted Pending Document
Execution**

**U.S. Army Corps of Engineers Authorization – Separate Corps Authorization
Required**

Okaloosa County
Permit No.: 0239218-002-EI/46
BOT File No.: 460362221

Permit Issuance Date: August 15, 2022
Permit Construction Phase Expiration Date: August 15, 2027

Consolidated Environmental Resource Permit and Recommended Intent to Grant Sovereignty Submerged Lands Authorization

Permittee/Grantee: FDOT District 3
Permit No: 0239218-002-EI/46

PROJECT LOCATION

The activities authorized by this permit and sovereignty submerged lands authorization are located along U.S. Highway 98 right-of-way, from Perry Avenue to Pier Road in Fort Walton Beach, Florida 32548, in Section 24, Township 2 South, Range 24 West and Section 19, Township 2 South, Range 23 West in Okaloosa County, from approximately 30°24'12.9986" North Latitude, 86°36'17.3387" West Longitude to 30°23'45.6104" North Latitude, 86°35'34.1721" West Longitude.

PROJECT DESCRIPTION

The permittee is authorized to replace the existing four-lane John T. Brooks Bridge with a six-lane bridge with 11 foot travel lanes, 10 foot inside and outside shoulders, and 12 foot shared-use paths, construct intersection improvements at Perry Avenue, extend Pier Road, and construct an associated stormwater management system. The project is within unnamed wetlands associated with Santa Rosa Sound, a Class III Florida Waterbody, Prohibited Shellfish Harvesting Area. The project will fill approximately 33,192.72 square feet or 0.762 acres of depression marsh and 15,507.36 square feet or 0.356 acres of swale and will cause direct shading impacts to 0.046 acres and temporary shading impacts to 0.063 acres of submerged aquatic vegetation. Those activities include the new preemption of 69,423 square feet of state-owned sovereignty submerged lands.

The stormwater management system will include one (1) dry retention ponds and three (3) wet detention ponds. The dry retention pond is designed to provide the required 0.53 ac-ft of combined treatment volume with recovery within 33 hours. The wet detention ponds are designed to provide the required 2.07 ac-ft of combined treatment volume. The site discharges to the Santa Rosa Sound and Choctawhatchee Bay, both tidally-influenced waterbodies. Per the design, the post-development rate of discharge will be less than the pre-development rate of discharge for the 2-year, and 25-year, 24-hour storm events. Attenuation is also provided for both storm events. Authorized activities are depicted on the attached exhibits.

To offset unavoidable impacts that will occur from these authorized activities, the permittee shall create a living shoreline at the NFWMD Live Oak Peninsula mitigation area via oyster shell breakwater construction and planting of appropriate saltmarsh species as provided in the Approved Regional Mitigation Plan.

AUTHORIZATIONS

Brooks Bridge Replacement

Environmental Resource Permit

The Department has determined that the activity qualifies for an Environmental Resource Permit. Therefore, the Environmental Resource Permit is hereby granted, pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Chapter 62-330, Florida Administrative Code (F.A.C.).

Sovereignty Submerged Lands Authorization

The activity is located on sovereignty submerged lands owned by the State of Florida. It therefore also requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.77, F.S. As staff to the Board of Trustees under Section 253.002, F.S., the Department has determined that the activity qualifies for and requires a public easement, as long as the work performed is located within the boundaries as described and is consistent with the terms and conditions herein.

The final documents required to execute the public easement will be sent to the grantee by the Department's Division of State Lands for execution. The Department intends to issue the public easement, upon satisfactory execution of those documents, including payment of required fees and compliance with the conditions in the attached permit. **You may not begin construction of the activities described until you receive a copy of the executed public easement from the Department.**

Federal Authorization

Your proposed activity as outlined in your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit VI-R1.

SEPARATE permit(s) or authorization **may be required** from the U.S. Army Corps of Engineers and/or Florida Department of Environmental Protection. If you do not already have a valid permit from the USACOE under Section 404 of the Clean Water Act, **a SEPARATE PERMIT** or authorization pursuant to the State 404 Program, as described in Chapter 62-331, F.A.C. **will be required**. State 404 Project No. 0239218-004-SFG/46 is currently under review by the Department.

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.

Coastal Zone Management

Issuance of this authorization also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.

Water Quality Certification

This permit also constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

You are advised that authorizations or permits for this activity may be required by other federal, state, regional, or local entities including but not limited to local governments or municipalities. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

The activity described may be conducted only in accordance with the terms, conditions and attachments contained in this document. Issuance and granting of the permit and authorizations herein do not infer, nor guarantee, nor imply that future permits, authorizations, or modifications will be granted by the Department.

PERMIT CONDITIONS

The activities described must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to beginning the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings herein. If you are using a contractor, the contractor also should read and understand these conditions and drawings prior to beginning any activity. Failure to comply with these conditions, including any mitigation requirements, shall be grounds for the Department to revoke the permit and authorization and to take appropriate enforcement action. Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit, as described.

SPECIFIC CONDITIONS – ADMINISTRATIVE/EMERGENCIES

1. The construction phase expires at 11:59 p.m. on the date indicated on the cover page of this permit.
2. The permittee shall be responsible for keeping records documenting that relevant permit conditions are met. This documentation shall include, at a minimum, the date of each inspection, the name and qualifications of the inspector, any maintenance actions taken, and a determination by the inspector as to whether the system is operating as intended. Inspection documentation must be readily available and shall be provided at the Department's request. Submittal of the inspection documentation to the Department is not required.
3. Within 30 days of any failure of a stormwater management system or deviation from the permit, a report shall be submitted to the Department on Form 62-330.311(1), Operation and Maintenance Inspection Certification, describing the remedial actions taken to resolve the failure of deviation. This report shall be signed and sealed by a registered professional.
4. For emergencies involving a serious threat to the public health, safety, welfare, or environment, the emergency telephone contact number is (800) 320-0519 (State Warning Point). The Department telephone number for reporting nonthreatening problems or system malfunctions is (850) 595-0663, day or night.
5. The mailing address for submittal of forms for the "Construction Commencement Notice", "As-Built Certification ...", "Request for Conversion of Stormwater Management Permit Construction Phase to Operation and Maintenance Phase", or other correspondence is FDEP, SLERP, 160 W Government Street, Suite 308, Pensacola, Florida 32502.

SPECIFIC CONDITIONS – PRIOR TO ANY CONSTRUCTION

6. This permit does not authorize the construction of any additional structures not illustrated on the permit drawings.
7. Prior to construction, the limits of the proposed impact areas shall be clearly flagged and staked by the agent and/or contractor. All construction personnel shall be shown the location(s) of all wetland areas outside of the construction to prevent encroachment from heavy equipment into these areas.
8. Prior to installation of turbidity screens or initiation of construction activities, the permittee shall use PVC pipes to clearly delineate the extent of seagrass beds in the vicinity of the construction area. The PVC pipes shall be removed within 72 hours of construction completion and once turbidity have returned to background.
9. Prior to the initiation of any work authorized by this permit, floating turbidity screens with weighted skirts that extend to within 1 ft. of the bottom shall be placed around the active construction areas of the site. The screens shall be maintained and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the construction area do not exceed 29 NTU's above background levels. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order so that there are no violations of state water quality standards outside of the turbidity screens.
10. Best management practices for erosion control shall be implemented prior to construction commencement and shall be maintained at all times during construction to prevent siltation and turbid discharges in excess of State water quality standards pursuant to Rule 62-302, F.A.C. Methods shall include, but not limited to the use of staked haybales, staked filter cloth, sodding, seeding, staged construction and the installation of turbidity screens around the immediate project site.

SPECIFIC CONDITIONS – MITIGATION

11. Prior to construction or impacts authorized by this permit, the permittee shall provide the Department with documentation on the location and plans of the proposed living shoreline at the NFWFMD Live Oak Peninsula mitigation area.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

12. The construction phase expires at 11:59 p.m. on the date indicated on the cover page of this permit, unless an application for extension is received and approved pursuant to Rule 62-330.320, F.A.C. If construction of the stormwater management system authorized by this environmental resource permit has not been completed and continued use of the system formally transferred to the operating phase before the expiration date of the permit, or an authorized extension, then at least 60 days before such expiration date, the permittee shall apply for another individual stormwater permit, using the forms and accompanied by the fee required by rules in effect at that time.
13. Erosion controls shall remain in place until the filled area has sufficient vegetative coverage to ensure stability and prevent erosion into the surrounding wetlands or surface waters. Grass seed and mulch or sod shall be installed and maintained on all exposed slopes and disturbed soil

areas within 48 hours of completing final grade, and at any other time as necessary, to prevent erosion, sedimentation, or turbid discharges into adjacent wetlands. A vegetative cover that stabilizes and prevents erosion of the fill material shall be established within 60 days of sodding or seeding. Upon establishment of a substantial vegetative cover, all erosion control devices shall be removed.

14. All material used as fill shall be clean sand/fill dirt/shell material and shall not be contaminated with vegetation, garbage, trash, tires, hazardous waste, and deleterious materials.

15. The permittee shall be responsible for ensuring that erosion control devices/procedures are inspected and maintained daily during all phases of construction authorized by this permit until all areas that were disturbed during construction are sufficiently stabilized to prevent erosion, siltation, and turbid discharges.

16. If any construction de-watering is required which results in an offsite discharge of groundwater, the permittee and/or the contractor shall ensure that the requirements of pertinent portions of Chapter 62-621, F.A.C. are met. Please contact the FDEP Wastewater Department at 850-595-8300, for more information.

17. Construction equipment shall not be repaired or refueled in wetlands or elsewhere within waters of the state.

18. Any damage to wetlands outside of the authorized impact areas as a result of construction shall be immediately reported to the Department at (850)595-8300 and repaired by reestablishing the pre-construction elevations and replanting vegetation of the same species, size, and density as that in the adjacent areas. The restoration shall be completed within 30 days of completion of construction, and the Department shall be notified of its completion within that same 30-day period.

19. All wetland areas or water bodies which are adjacent to the specific limits of construction authorized by this permit shall be protected from erosion, sedimentation, siltation, scouring, excess turbidity or dewatering.

20. The following measures shall be taken by the permittee whenever turbidity levels within waters of the State surrounding the project site exceed 29 NTU's above background:

- a. Immediately cease all work contributing to the water quality violation.
- b. Modify the work procedures that were responsible for the violation, and install more turbidity containment devices and repair any non-functioning turbidity containment devices.
- c. Notify the Department of Environmental Protection, Submerged Lands & Environmental Resources Program, Compliance and Enforcement Section, Northwest District Office, 160 W Government Street, Pensacola, Florida 32502-5794, in writing or by telephone at (850)595-8300 within 24 hours of the time the violation is first detected.

21. There shall be no stock piling of tools, materials, (i.e. lumber, pilings, riprap, and debris) within wetlands, along the shoreline within the littoral zone, or elsewhere within the water/waters of the state.

22. All watercraft associated with the construction of the permitted structure shall only operate within waters of sufficient depth so as to preclude bottom scouring and prop dredging.

23. There shall be no stock piling of tools, materials, (i.e., lumber, pilings, riprap, and debris) within wetlands, along the shoreline within the littoral zone, or elsewhere within water/waters of the state.

24. Grass seed, or sod shall be installed and maintained on exposed slopes and disturbed soil areas within 48 hours of completing final grade, and at other times as necessary, to prevent erosion, sedimentation, or turbid discharges into the waters of the state and adjacent wetlands. A vegetative cover that stabilizes and prevents erosion of the fill material shall be established within 60 days of sodding or seeding. Turbidity barriers/erosion control devices shall be removed upon establishment of a substantial vegetative cover.

25. All cleared vegetation, excess lumber, scrap wood, trash, garbage and any other type of debris shall be removed from wetlands/waters of the state within 14 days of completion of the work authorized in this permit.

26. No dredging or filling of submerged grass beds is authorized by this permit.

SPECIFIC CONDITIONS – OTHER LISTED SPECIES

27. This permit does not authorize the permittee to cause any adverse impact to or “take” of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of “take” and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a “take” permit cannot be issued. Requests for further information or review can be sent to FWCConservationPlanningServices@MyFWC.com.

SPECIFIC CONDITIONS – OPERATION AND MAINTENANCE ACTIVITIES

28. All fill areas, fill slopes, and disturbed upland areas shall be stabilized at all times during and after construction so as to prevent any erosion, sedimentation, siltation, or scouring.

29. The remaining unimpacted wetlands and submerged vegetation onsite shall be maintained in a natural state. Removal of existing vegetation shall be minimized, with the exception of invasive exotic or nuisance species such as popcorn trees, Japanese climbing fern, cogon grass, and Chinese privet. For a more extensive list of invasive exotic and nuisance species, please go to: www.fleppc.org/list/.htm.

30. The authorized stormwater management system shall be completed prior to or simultaneously with associated upland development.

31. Once project construction has been deemed complete, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before the transfer to the Operation and Maintenance phase, all obsolete erosion control materials shall be removed.

32. The permittee shall be responsible for keeping records documenting that relevant permit conditions are met. This documentation shall include, at a minimum, the date of each inspection, the name and qualifications of the inspector, any maintenance actions taken, and a determination by the inspector as to whether the system is operating as intended. Inspection documentation must be readily available and shall be provided at the Department's request.

33. In addition to these conditions, the Permittee shall comply with all maintenance and inspection requirements prescribed in the Maintenance and Operation Plan developed by the registered professional who designed the system.

34. All structures authorized by this permit shall remain in operable condition and shall not be allowed to deteriorate or otherwise contribute to a water quality violation for the life of the facility. All stormwater structures identified by this permit shall be maintained in proper working order for the life of the facility.

35. Within 30 days of any failure of a dry retention pond or deviation from the permit, a report shall be submitted to the Department on Form 62-330.311(1), Operation and Maintenance Inspection Certification, describing the remedial actions taken to resolve the failure of deviation. This report shall be signed and sealed by a registered professional.

36. Percolation performance shall be evaluated within the dry retention ponds at least every third year. If there is evidence of inadequate percolation, the pond bottom must be re-scarified or deep-raked to restore percolation characteristics. If reworking the pond bottom fails to restore adequate percolation, additional retention area restoration shall be performed as follows:

- a. Remove the top layer of the retention area bottom material to a depth of 2 to 3 inches and scarify or deep-rake the excavated bottom.
- b. Replace excavated bottom material with suitably permeable material and restore the pond bottom to design grade.

37. Inspections by the Permittee.

- a. The dry retention ponds shall be inspected periodically for accumulation of debris and trash. Accumulations of debris and trash that negatively affect the function of the system shall be removed upon discovery.
- b. The dry retention ponds shall be inspected periodically for silt accumulation. Accumulations of silt that negatively affect the function of the system shall be removed.

38. The dry retention pond shall be inspected by a registered professional to evaluate whether the system is functioning as designed and permitted. Percolation performance should specifically be addressed. The registered professional may record his inspection on Form No. 62-330.311(1), Operation and Maintenance Inspection Certification or may provide his evaluation in any other format; however any report must be signed and sealed by the registered professional. Submittal of the inspection report to the Department is not required; but the report shall be made available to the Department upon request. Inspections shall be made by the registered professional in accordance with this schedule:

- a. On the first anniversary of the date of conversion to Operation and Maintenance Phase.
- b. Every fifth year on the anniversary of conversion to Operation and Maintenance phase, after the first year of successful operation.

39. The wet detention area shall be inspected periodically for debris and trash built up around the discharge structures. Accumulations of debris and trash that negatively affect the function of the system shall be removed upon discovery.

40. The wet detention ponds shall be inspected by a registered professional to evaluate whether the system is functioning as designed and permitted. The registered professional may record his inspection on Form No. 62-330.311(1), Operation and Maintenance Inspection Certification or may provide his evaluation in any other format; however any report must be signed and sealed by the registered professional. Submittal of the inspection report to the Department is not required; but the report shall be made available to the Department upon request. Inspections shall be made by the registered professional in accordance with this schedule:

- a. On the first anniversary of the date of conversion to Operation and Maintenance Phase.
- b. Every fifth year on the anniversary of conversion to Operation and Maintenance phase, after the first year of successful operation.

41. Signs shall be posted a minimum of every 100 feet around the perimeter of all wet detention ponds stating "Stormwater Treatment Pond – No mowing or spraying of aquatic vegetation allowed unless authorized by FDEP. Call 850-595-8300 for more information." These information signs shall be installed prior to the Transfer to Operation Phase and are required for the proper operation and maintenance of the stormwater treatment system.

GENERAL CONDITIONS FOR INDIVIDUAL PERMITS

The following general conditions are binding on all individual permits issued under chapter 62-330, F.A.C., except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.

2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.

3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual* (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment

control plan is approved or other water quality control measures are required as part of the permit.

4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," [October 1, 2013], which is incorporated by reference in paragraph 62-330.350(1)(d), F.A.C., indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.

5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.

6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:

- a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex – "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or
- b. For all other activities – "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].
- c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.

7. If the final operation and maintenance entity is a third party:

- a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
- b. Within 30 days of submittal of the as- built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity" [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

9. This permit does not:

- a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
- b. Convey to the permittee or create in the permittee any interest in real property;
- c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or

- d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
12. The permittee shall notify the Agency in writing:
- a. Immediately if any previously submitted information is discovered to be inaccurate; and
 - b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.
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 Rule 62-330.201, F.A.C., provides otherwise.
16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.

17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.

18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

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 a subsequent order of the Department. Because the administrative hearing process is designed to formulate final agency action, the subsequent order may modify or take a different position than this action.

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@FloridaDEP.gov. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant to 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@FloridaDEP.gov, 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.

Thank you for applying to the Submerged Lands and Environmental Resource Permit Program. If you have any questions regarding this matter, please contact Whitney Bretana at the letterhead address, at (850)595-0658, or at Whitney.Bretana@FloridaDEP.gov

EXECUTION AND CLERKING

Executed in Pensacola, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Elizabeth Mullins Orr
Northwest District Director

EMO:wb

Attachments:

Standard Manatee Construction Conditions 2011, 2 pages
Project Drawings and Design Specs., 233 pages
Wetland Impacts and Proposed Ponds Graphics, 11 pages
Operation and Maintenance Plan, 2 pages
Approved Mitigation Plan, 12 pages

Copies of 62-330 forms may be obtained at: <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/forms-environmental-resource>

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

Florida DEP, Elizabeth.Orr@FloridaDEP.gov, Kim.Allen@FloridaDEP.gov,
Russell.Sullivan@FloridaDEP.gov, Blake.A.Chapman@FloridaDEP.gov,
Whitney.Bretana@FloridaDEP.gov, Savannah.Cowen@FloridaDEP.gov
Florida DOT, Erica.Brookman@dot.state.fl.us Stephen.furman@dot.state.fl.us
HDR, Josey.Walker@hdrinc.com Frank.Fu@hdrinc.com
Okaloosa County, mmartinez@co.okaloosa.fl.us jautrey@co.okaloosa.fl.us
sbitterman@co.okaloosa.fl.us propertyappraiser@okaloosapa.com

FILING AND ACKNOWLEDGMENT

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



Clerk

August 15, 2022

Date

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.

CAUTION: MANATEE HABITAT

All project vessels

IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work
all in-water activities must

SHUT DOWN

Report any collision with or injury to a manatee:

Wildlife Alert:

1-888-404-FWCC(3922)

cell *FWC or #FWC



Northwest Florida Water Management District
In-Lieu Fee Wetland Mitigation Program

CREDIT RESERVATION, PURCHASE AGREEMENT AND CERTIFICATE

The Northwest Florida Water Management District (NFWFMD), a Florida governmental agency and sponsor of the NFWFMD In-Lieu Fee Mitigation Program, (hereinafter referred to as "Seller"), does hereby reserve and set aside for future assignment for the sole benefit of the Florida Department of Transportation (hereinafter referred to as "Buyer"), a total of 0.471 federal and state Estuarine Emergent UMAM Credits from the Live Oak Point Living Shorelines In-Lieu Fee Mitigation Area credit ledgers, issued to Seller's In-Lieu Fee Mitigation Program pursuant to United States Army Corps of Engineers Permit Number SAJ-2011-00287-TMF and provisions contained in 33 CFR, Parts 325 and 332, as revised effective June 9, 2008 (Federal Mitigation Rule).

This reservation is for use of credit in connection with mitigating adverse wetland impacts which may arise as a result of construction or other projects undertaken or to be undertaken by the Buyer for FDOT Financial Project ID (FPID) 415474-2 for the US 98 Brooks Bridge in Okaloosa County (State 404 Permit 0239218-004-SFI/46; FDEP ERP Permit IND-0239218-002-EI/46). Seller warrants that it will take no action inconsistent with the reservation and future assignment described herein. However, this agreement does not constitute a permit or permission to proceed with any proposed action. The Buyer is responsible for obtaining all necessary permits for a proposed action.

Upon receipt of the full purchase price, Seller is committed to transfer to Buyer 0.471 federal and state estuarine emergent credits from the Live Oak Point Living Shorelines In-Lieu Fee Mitigation Area credit ledgers for use in offsetting wetland impacts. The Purchase Price for the 0.471 federal and state estuarine emergent mitigation credits associated with FDOT Project 415474-2, in accordance with the NFWFMD In-Lieu Fee Program Final Instrument and section 373.4137, Florida Statutes, is one hundred two thousand four hundred four dollars and thirty cents (\$102,404.30). Seller will assume full legal responsibility for success of purchased mitigation credits as required by permits noted above and will at the appropriate time request withdrawal of the specified credits from the Live Oak Point Living Shorelines In-Lieu Fee Program credit ledgers.

	BUYER	SELLER
Name:	<u>Florida Department of Transportation</u>	<u>Northwest Florida Water Management District</u>
By:	<u></u>	<u></u>
Name and Title:	<u>Erica Brookman, Environmental Permits Coordinator</u>	<u>Lyle Seigler Executive Director</u>
Executed:	<u>10-5-2022</u>	<u>10/4/2022</u>