



**South Florida Water Management District**  
**Individual Environmental Resource Permit No. 50-103092-P**  
**Date Issued: July 16, 2020**  
**Modified On: September 28, 2020**

**Permittee:** Florida Department Of Transportation - District IV  
3400 West Commercial Blvd  
Fort Lauderdale, FL 33308

**Project:** Replacement Of SR-5/US-1 Bridge Over The Loxahatchee River

**Application No.** 200918-4304

**Location:** Palm Beach County, See Exhibit 1

Your application for an Individual Environmental Resource Permit is approved. This action is taken based on Chapter 373, Part IV, of Florida Statutes (F.S.) and the rules in Chapter 62-330, Florida Administrative Code (F.A.C.). Unless otherwise stated, this permit constitutes certification of compliance with state water quality standards under section 401 of the Clean Water Act, 33 U.S.C. 1341, and a finding of consistency with the Florida Coastal Management Program. Please read this entire agency action thoroughly and understand its contents.

This permit is subject to:

- Not receiving a filed request for a Chapter 120, F.S., administrative hearing.
- The attached General Conditions for Environmental Resource Permits.
- The attached Special Conditions.
- All referenced Exhibits.

All documents are available online through the District's ePermitting site at [www.sfwmd.gov/ePermitting](http://www.sfwmd.gov/ePermitting).

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

The District does not publish notices of action. If you wish to limit the time within which a person may request an administrative hearing regarding this action, you are encouraged to publish, at your own expense, a notice of agency action in the legal advertisement section of a newspaper of general circulation in the county or counties where the activity will occur. Legal requirements and instructions for publishing a notice of agency action, as well as a noticing format that can be used, are available upon request. If you publish a notice of agency action, please send a copy of the affidavit of publication provided by the newspaper to the District's West Palm Beach office for retention in this file.

If you have any questions regarding your permit or need any other information, please call us at 1-800-432-2045 or email [ERP@sfwmd.gov](mailto:ERP@sfwmd.gov).

A handwritten signature in black ink that reads "Barbara Conmy".

Barbara Conmy  
Section Leader

**South Florida Water Management District  
Individual Environmental Resource Permit No. 50-103092-P**

**Date Issued:** July 16, 2020

**Expiration Date:** July 16, 2025

**Modified On:** September 28, 2020

**Project Name:** Replacement Of SR-5/US-1 Bridge Over The Loxahatchee River

**Permittee:** Florida Department Of Transportation - District IV  
3400 West Commercial Blvd  
Fort Lauderdale, FL 33308

**Operating Entity:** Florida Department Of Transportation - District IV  
3400 West Commercial Blvd  
Fort Lauderdale, FL 33308

**Location:** Palm Beach County

**Permit Acres:** 13.43 acres

**Project Land Use:** Government Or Institutional

**Special Drainage District:** N/A

**Water Body Classification:** CLASS III

**FDEP Water Body ID:** 3226

**Wetland and Surface Water Impacts:** 0.918 acres

**Conservation Easement to District:** No

**Sovereign Submerged Lands:** No

**Project Summary**

This Environmental Resource Permit authorizes Construction and Operation of a stormwater management (SWM) system serving 13.43 acres of a bridge replacement project known as Replacement of SR-5/US-1 Bridge Over The Loxahatchee River.

The project includes: 1) the replacement of the existing four-lane, low level bascule bridge which extends over the Loxahatchee River and the Atlantic Intracoastal Waterway (ICWW) with a new wider four-lane bascule bridge which will accommodate a shoulder, sidewalk, and bike lane in each direction; 2) the construction of a new observation deck underneath the new bridge; 3) the construction of roadway intersection improvements from CR-A1A to Beach Road/Alternate A1A; and 4) the construction of a temporary trestle at the north end of the bridge area to create a platform for construction access, in accordance with Exhibits 2.0, 2.2 and 2.3. Following the completion of construction activities, the temporary trestle will be removed from the project area. The new bridge will have a greater vertical clearance over the ICWW to meet U.S. Coast Guard navigational guide clearance requirements.

Issuance of this permit constitutes certification of compliance with state water quality standards in accordance with Rule 62-330.062, F.A.C.

### **Site Description**

The project area is located within the existing US-1 roadway and bridge right-of-way which crosses over the Loxahatchee River in the Town of Jupiter, Palm Beach County. Refer to Exhibit 1.0 for a location map. The project area consists of existing roadway and bridge infrastructure and tidal waters of the Loxahatchee River.

For information on wetlands and other surface waters, please see the Wetlands and Other Surface Water section of this permit.

### **Current Authorization (Application No. 200918-4304)**

This permit modification includes conducting a test pile program within tidal surface waters to gain additional geotechnical data in accordance with Exhibit No. 2.3. No adverse impacts to wetlands or other surface waters resources are anticipated as a result of the geotechnical survey.

### **Ownership, Operation and Maintenance**

Perpetual operation and maintenance of the SWM system will be the responsibility of the Florida Department of Transportation - District IV. Upon conveyance or division of ownership or control of the property or the system, the permittee must notify the Agency in writing within 30 days, and the new owner must request transfer of the permit.

### **Engineering Evaluation:**

#### **Water Quality**

Water quality treatment is provided in existing exfiltration trench and proposed dry detention areas. The project provides 2.36 acre-feet of required water quality treatment volume based on 2.5 inches times the percent impervious over the controlled basin area.

Pursuant to Appendix E of Environmental Resource Permit Applicant's Handbook Volume II, the provided water quality treatment is provided based on an additional 50% treatment volume above the requirements in Section 4.2 of Volume II as reasonable assurance that the project will not have an adverse impact on the downstream waterbody.

To ensure that proposed construction activities do not degrade adjacent wetlands and surface waters, the permittee will install and maintain temporary silt fences and turbidity barriers around the limits of construction in accordance with Exhibits 2.0 and 3.0, and as stipulated in the special conditions of this permit. The silt fences and turbidity barriers will be installed prior to and will be removed upon completion of construction activities, and the turbidity barriers will extend to the bottom of the waterbody. In addition, the permittee will implement a turbidity monitoring plan for turbidity in accordance with Exhibit 3.0 and as stipulated in the special conditions of this permit.

In order to prevent any bridge demolition and construction debris from falling into surrounding surface waters, all debris will be in accordance with the Debris Management Plan included as Exhibit 3.1.

#### **Water Quantity**

The applicant has provided a pre-development vs post-development analysis and demonstrated the project discharge is within the allowable limit for the area.

#### **Road Design**

As found in Water Quantity Data Table, minimum road center line elevations have been set at or above the calculated design storm flood elevation.

#### **Certification, Operation, and Maintenance**

Pursuant to Chapter 62-330.310, F.A.C., Individual Permits will not be converted from the construction phase to the operation phase until construction completion certification of the project

is submitted to and accepted by the District. This includes compliance with all permit conditions, except for any long term maintenance and monitoring requirements. It is suggested that the permittee retain the services of an appropriate professional registered in the State of Florida for periodic observation of construction of the project.

For projects permitted with an operating entity that is different from the permittee, it should be noted that until the construction completion certification is accepted by the District and the permit is transferred to an acceptable operating entity pursuant to Sections 12.1-12.3 of the Applicant's Handbook Volume I and Section 62-330.310, F.A.C., the permittee is liable for operation and maintenance in compliance with the terms and conditions of this permit.

In accordance with Section 373.416(2), F.S., unless revoked or abandoned, all SWM systems and works permitted under Part IV of Chapter 373, F.S., must be operated and maintained in perpetuity.

The efficiency of SWM systems, dams, impoundments, and most other project components will decrease over time without periodic maintenance. The operation and maintenance entity must perform periodic inspections to identify if there are any deficiencies in structural integrity, degradation due to insufficient maintenance, or improper operation of projects that may endanger public health, safety, or welfare, or the water resources. If deficiencies are found, the operation and maintenance entity is responsible for correcting the deficiencies in a timely manner to prevent compromises to flood protection and water quality. See Section 12.4 of the Applicant's Handbook Volume I for Minimum Operation and Maintenance Standards.

**Engineering Evaluation Tables:  
Land Use**

Basin	Land Type	Area (ac)	% of Total Basin
Site	Impervious	8.93	66.49
	Pervious	4.50	33.51
	<b>Total:</b>	13.43	100%

**Water Quality**

Basin	Treatment Type	Treatment System	Volume Required (ac-ft)	Volume Provided (ac-ft)
Site	Treatment	DRY DETENTION	2.36	2.36

**Water Quantity**

Basin	Elevation Type	Storm Event (Yr/Day)	Precipitation Depth (in)	Peak Stage (ft NAVD88)	Min. EL (ft NAVD88)
Site	Road Crown	3YR1D	5.50	6.30	10.00

**Bleeder**

Basin	Control EL (ft NAVD88)	Structure #	Structure Type	Count	Type	Dia.(in)	Invert EL (ft NAVD88)	Receiving Body
Site	1.00	CS-12	SWM	2	Circular Orifice	3.00	2.00	Creek
		CS-13	SWM	2	Circular Orifice	3.00	2.00	ICW

**Weir**

Basin	Control EL (ft NAVD88)	Structure #	Structure Type	Count	Type	Width (in)	Height (in)	Crest EL (ft NAVD88)	Receiving Body
Site	1.00	CS-12	SWM	1	Rectangular Notch	12.00	10.80	4.10	Creek
		CS-13	SWM	1	Rectangular Notch	21.60	15.00	5.00	ICW

## **Environmental Evaluation:**

### **Wetlands and Other Surface Waters**

Mangrove fringe wetlands and seagrass beds are located along the shoreline and within the tidal surface waters within the project area and directly adjacent to the project area as depicted in Exhibit 3.2. The mangrove fringe wetlands consist primarily of red mangrove (*Rhizophora mangle*), but also include some black mangrove (*Avicennia germinans*) and white mangrove (*Laguncularia racemosa*). Seagrass beds primarily consist of a sparse to moderate coverage of paddle grass (*Halophila decipiens*) and Johnson's seagrass (*Halophila johnsonii*), with a small amount of shoal grass (*Halodule wrightii*) in some areas. Seagrass surveys conducted by the permittee for this project in July 2019, August 2018, and April 2016 indicate relatively consistent occurrence of seagrasses in the same locations, with slight shifts in the location and configuration of the seagrass beds, as depicted in Exhibit 3.3.

Construction of the project will result in approximately 0.048 of an acre of permanent adverse impacts to mangrove fringe wetlands and 0.009 of an acre of permanent adverse impacts to seagrasses as depicted in Exhibit 3.4.

In determining whether there were practicable project modifications to reduce and eliminate wetlands and other surface waters impacts, the District considered that: 1) the new bridge includes maintaining the current bridge centerline; 2) the new bridge will consist of longer spans with fewer piles in the water; and 3) the stormwater discharges from the new bridge will be captured and treated in the stormwater management system prior to discharge to the Loxahatchee River. (currently untreated stormwater discharges through scuppers directly to the Loxahatchee River), and determined that further design modifications were not practicable. Additionally, in order to reduce the potential for secondary impacts to seagrasses, the permittee will limit barge construction activity to the locations depicted on the Barge Siting Plan, included as Exhibit 3.5.

### **Mitigation Plan**

To offset the adverse impacts to the mangrove fringe wetlands the permittee has debited available functional units from the mitigation ledger for the off-site Florida Department of Transportation (FDOT) Snook Islands Advance Mitigation Area, in accordance with District's Environmental Resource Permit No. 50-103533-P, Application No. 200528-3557 which is being processed concurrently with this permit. The FDOT Snook Islands Advance Mitigation Area is located south of the project within Lake Worth Lagoon and is a comprehensive coastal and marine habitats creation/restoration project conducted by FDOT and Palm Beach County. Specifically, the permittee has deducted 0.037 functional mangrove units from the FDOT Snook Islands Advance Mitigation Area mitigation ledger in accordance with Exhibit 3.6. The amount of mitigation was determined by using the Uniform Mitigation Assessment Method (UMAM) in Chapter 62-345, FAC. The final UMAM scores have been included as Exhibit 3.8.

To offset the adverse impacts to the seagrasses the permittee has debited available functional units from the mitigation ledger for the off-site FDOT Fullerton Island Advance Mitigation Area mitigation ledger, in accordance with the Florida Department of Environmental Protection's Environmental Resource Permit No. 50-0308809-007, which has been issued. The FDOT Fullerton Island Advance Mitigation Area is located a short way to the south of the project adjacent to the Intracoastal Waterway and is a comprehensive coastal and marine habitats creation/restoration project conducted by FDOT and Palm Beach County. Specifically, the permittee has deducted 0.007 functional seagrass units from the FDOT Fullerton Island Advance Mitigation Area mitigation ledger in accordance with Exhibit 3.7. The amount of mitigation was determined by using the Uniform Mitigation Assessment Method (UMAM) in Chapter 62-345, FAC. The final UMAM scores have been included as Exhibit 3.8.

### **Monitoring**

In order to demonstrate that permanent adverse secondary impacts to seagrasses within and adjacent to the project area will not occur as a result of the construction and operation of the project, the permittee will conduct a baseline monitoring prior to construction of the project, and will monitor the seagrasses once construction is complete, in accordance with Exhibit 3.9, and in accordance with the special conditions and work schedule contained in this permit.

If after a period of three years the District has determined that seagrasses within and adjacent to the project area are not similar or the same as pre-construction conditions, and no identifiable external factors are determined to be responsible (e.g. hurricane, heavy rain events, etc.), the permittee will propose seagrass mitigation. The final determination of the extent of the mitigation required to offset the seagrasses impacts will be based on the Uniform Mitigation Assessment Method exiting condition scores included in Exhibit 3.8.

### **Fish, Wildlife, and Listed Species**

The project area contains Johnson's seagrass (*Halophila johnsonii*), a federally threatened species, and is located within designated Johnson's seagrass critical habitat. Based upon the off-site mitigation at the nearby FDOT Fullerton Island Advance Mitigation Area the project is not anticipated to adversely affect Johnson's seagrass.

The mangrove wetlands within the project area can be a preferred habitat for wetland-dependent endangered or threatened wildlife species or species of special concern, specifically for wading and aquatic bird species. Based upon the very small amount of mangrove wetlands to be impacted and the mitigation at the FDOT Snook Islands Advance Mitigation Area, it is not anticipated that the project will adversely impact any listed species which utilize mangrove wetlands.

The project area is within an area accessible to and within the known range of: 1) the West Indian manatee (*Trichechus manatus latirostris*), a listed threatened species by the U.S. Fish and Wildlife Service, which has been adopted by the Florida Fish and Wildlife Conservation Commission (FWC); 2) loggerhead sea turtles (*Caretta caretta*), green sea turtles (*Chelonia mydas*), leatherback sea turtles (*Dermochelys coriacea*) and hawksbill sea turtles (*Eremochelys imbricate*), which are listed as either endangered or threatened by the FWC; and 3) the smalltooth sawfish (*Pristis pectinata*), a listed endangered species by the FWC. The permittee will implement standard manatee, sea turtle and smalltooth sawfish protection provisions, as well as some specific construction provisions, during all in-water project construction activities as stipulated in the special conditions of this permit. It is not anticipated that the project will adversely impact the manatee or its preferred habitat, or sea turtles and the smalltooth sawfish and their preferred habitats, associated with the construction or operation of the project.

To ensure that manatees cannot become entrapped in the new 30-inch diameter and 36-inch diameter stormwater outfall pipes the permittee will install manatee exclusion grates in accordance with Exhibit 2.0 and as stipulated in the special conditions of this permit. The manatee exclusion grates will be installed at the downstream end of the new discharge pipes between the end of the pipes and receiving waters.

The project site is located within close proximity to sea turtle nesting habitat beaches. Therefore, the permittee will be required to develop a sea turtle lighting plan, and have it approved by the Florida Fish and Wildlife Conservation Commission, as stipulated in the special conditions of this permit.

This permit does not relieve the permittee from complying with all applicable rules and any other agencies' requirements if, in the future, endangered/threatened species or species of special concern are discovered on the site.

### **Sovereignty Submerged Lands**

According to the title determination by the Florida Department of Environmental Protection (FDEP), the submerged lands within the project area are state-owned sovereign submerged lands (SSL). However, use of these submerged lands were granted to the State Road Department of

Florida by the Board of Trustees of the Internal Improvement Trust Fund to the permittee in 1956 under Easement 21121. Therefore, no additional SSL authorizations are required for construction and operation of the project. A copy of the title determination can be found in the permit file.

## Environmental Evaluation Tables: Summary

Wetlands and Other Surface Waters: 0.918 acres  
 Direct Impacts: 0.918 acres  
 Secondary impacts: 0 acres  
 Net UMAM Functional Loss/ Gain: -0.044 units  
 Total Onsite Mitigation Area: 0 acres  
 Total Offsite Mitigation Area: 0 acres  
 Mitigation Provided in Permit No.:

### Seagrasses Impacts

#### Activities in Wetlands or Other Surface Waters, Not Including Mitigation at a Bank

ID	Acres	Action	Community Description	Current Score	With Project Score	UMAM Loss
WL1	0.009	Direct Impact	Sea Grasses	0.8	0	-0.007
WL3	0	Direct Impact	Sea Grasses	0.8	0	0.000
<b>Total: 0.009</b>						<b>-0.007</b>

### Mangrove Impacts

#### Activities in Wetlands or Other Surface Waters, Not Including Mitigation at a Bank

ID	Acres	Action	Community Description	Current Score	With Project Score	UMAM Loss
WL2	0.018	Direct Impact	Mangrove Fringe	0.77	0	-0.014
WL13	0.03	Direct Impact	Mangrove Fringe	0.77	0	-0.023
<b>Total: 0.048</b>						<b>-0.037</b>

### Other Surface Water Impacts

#### Activities in Wetlands or Other Surface Waters, Not Including Mitigation at a Bank

ID	Acres	Action	Community Description	Current Score	With Project Score	UMAM Loss
SW1	0.151	Direct Impact	Bays and Estuaries			0.000
SW2	0.71	Direct Impact	Bays and Estuaries			0.000
<b>Total: 0.861</b>						<b>0.000</b>

**Related Concerns:****Historical/ Archeological Resources**

The District received correspondence from the Florida Department of State, Division of Historical Resources (DHR) indicating that the project has previously been evaluated by the DHR and a Memorandum of Agreement (MOA) for the permittee to mitigate adverse effects to historic resources was signed by the permittee and DHR in December 2018. Based on the previous consultation on the project and the execution of the MOA, the DHR has determined that impacts to eligible historic resources are sufficiently mitigated. A copy of the DHR correspondence can be found in the permit file.

This permit does not release the permittee from complying with any other agencies' requirements in the event that historical and/or archaeological resources are found on the site.

**Water Use Permit Status**

The permittee has indicated that no consumptive water uses are anticipated for the construction and operation of the project.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation.

**Water and Wastewater Service**

N/A

## General Conditions for Individual Environmental Resource Permits, 62-330.350, F.A.C.

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), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), incorporated by reference herein, 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., and shall be submitted electronically or by mail to the Agency. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction under this chapter and, in such a case, submittal of Form 62-330.350(1) is not required.
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 12.3.4 of Volume I) as filed with the Florida 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 and Maintenance 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 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. For project activities subject to prior consultation with the DHR and as an alternative to the above requirements, the permittee may follow procedures for unanticipated discoveries as set forth within a cultural resources assessment survey determined complete and sufficient by DHR and included as a specific permit condition herein.

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 Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

## **Special Conditions for Individual Environmental Resource Permits, 62-330.350, F.A.C.**

1. The construction authorization for this permit shall expire on the date shown on page 2.
2. Operation and maintenance of the stormwater management system shall be the responsibility of Florida Department of Transportation - District IV. The permittee shall notify the Agency in writing within 30 days of any conveyance or division of ownership or control of the property or the system, and the new owner must request transfer of the permit in accordance with Rule 62-330.340, F.A.C.
3. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
4. Any fill material around newly installed structures shall be fully compacted with permittee being responsible for correction of any erosion problems.
5. Grass seed, sod or mulch shall be installed and maintained on exposed areas within 48 hours of completing final grade, and at other times as necessary, to prevent erosion, sedimentation or turbid discharge into adjacent waters and /or wetlands.
6. Prior to any future construction, the permittee shall apply for and receive an Individual ERP. As part of the permit application, the applicant for that phase shall provide documentation verifying that the proposed construction is consistent with the design of the master stormwater management system, including the land use and site grading assumptions.
7. Prior to initiating construction activities associated with this Environmental Resource Permit (ERP), the permittee is required to hold a pre-construction meeting with field representatives, consultants, contractors, District Environmental Resource Bureau (ERB) staff, and any other local government entities as necessary. The purpose of the pre-construction meeting is to discuss construction methods, sequencing, best management practices, identify work areas, staking and roping of preserves where applicable, and to facilitate coordination and assistance amongst relevant parties. To schedule a pre-construction meeting, please contact ERB staff from the West Palm Beach Office at (561) 686-8800 or via e-mail at: [pre-con@sfwmd.gov](mailto:pre-con@sfwmd.gov). When sending a request for a pre-construction meeting, please include the application number, permit number, and contact name and phone number.
8. All contractors must be provided with a copy of the permit and permit conditions prior to the commencement of construction. The permittee is responsible for ensuring that all contractors adhere to the project construction details and methods indicated on the attached permit Exhibits and described herein.
9. The permittee shall comply with applicable state water quality standards including: a)62-302.500 - Minimum criteria for all surface waters at all places and all times; b)62-302.510 - Surface waters: general criteria c)62-302.560 - Class III waters; recreation, propagation and maintenance of a healthy, well balanced population of fish and wildlife; d)62-302.600 - Classified waters.
10. The permittee shall prevent any demolition or construction debris from entering into surrounding

wetlands and other surface waters by implementing the Debris Management Plan included as Exhibit 3.1 in this permit. Any debris which does fall into wetlands and other surface waters shall be removed immediately.

11. Silt fences and weighted turbidity barriers which extend to the bottom of the waterway shall be utilized during construction, in accordance with Exhibits 2.0 and 3.0. The silt fences and turbidity barriers shall be installed prior to commencement of construction in or adjacent to wetlands and other surface waters and shall remain in place until all adjacent construction is completed. All disturbed areas shall be stabilized and vegetated immediately after construction to prevent erosion into wetlands and other surface waters.
12. The permittee shall implement a turbidity monitoring plan in accordance with Exhibit 3.0 during all in-water construction activities. Monitoring records shall be maintained and available for inspection by the Agency for the period of in-water construction and an additional 90 days beyond in-water construction.
13. Baseline seagrass monitoring shall be implemented prior to the commencement of removal of the existing bridge structure and a report provided to the District, in accordance with Exhibit 3.9 and the work schedule contained in this permit.
14. Post-construction annual seagrass monitoring shall be implemented in accordance with Exhibit 3.9 and the work schedule included in this permit. The annual monitoring shall extend for a period of 3 years with annual reports submitted to the District.

If monitoring reveals that seagrasses are not similar or the same to pre-construction conditions within three years of the completion of project construction, the permittee shall modify this permit to provide mitigation to offset the seagrasses impacts.

15. Endangered species, threatened species and/or species of special concern have been observed onsite and/or the project contains suitable habitat for these species. It shall be the permittee's responsibility to coordinate with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Fish and Wildlife Service for appropriate guidance, recommendations and/or necessary permits to avoid impacts to listed species.
16. 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](mailto:FWCConservationPlanningServices@MyFWC.com).
17. 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 8½" 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.

18. Turbidity barriers shall be monitored at least twice a day, once in the a.m. and again in the p.m. for manatee entanglement or entrapment. If a manatee becomes entrapped within the construction area, the barrier shall be opened so the manatee is able to leave the construction area on its own volition. If a manatee becomes entangled, the Florida Fish and Wildlife Conservation Commission should be notified immediately at 1-888-404-3922 (FWCC).
19. Manatee exclusion grates shall be installed and maintained over the two new 30-inch diameter and 36-inch diameter stormwater outfalls to the Loxahatchee River, in accordance with Exhibit 2.0. The grates shall be in place at the accessible end(s) during all phases of the construction process and as a final design element to restrict manatee access.
20. When pile-driving activities are proposed for large concrete piles, the following measures shall be followed:
  - a. At least one observer shall be onsite at all times and dedicated to the task of watching for manatees during the in-water construction work. Observers must have prior on-the-job experience as a dedicated manatee observer, observing for manatees during similar in-water work and shall perform no other duties that may interfere with their ability to observe for protected marine species. All pile-driving activity shall be confined to daylight hours.
  - b. The pile driving activities will use a ramp-up measure. At the start of pile driving, hammers would initially be operated at low levels, then gradually increase to minimum necessary power required for pile installation. Monitoring for protected marine species will occur for 30 minutes prior to pile driving, during pile driving, and for 30 minutes after pile driving ends.
  - c. If the activities appear to harass or injure a protected marine species, then work shall cease immediately and not resume until after consultation with the Florida Fish and Wildlife Conservation Commission (FWC) at ImperiledSpecies@myfwc.com or 850-922-4330. Any additional conservation measures deemed necessary by the FWC must be implemented to minimize the risks to protected species.

d. If there is any unusual manatee behavior in the vicinity of the pile driving, but the behavior does not appear to be a result of injury or harassment (such as if manatees are attracted to the activity, or if they appear spooked or otherwise appear unnatural), a final report shall be sent to the Florida Fish and Wildlife Conservation Commission at [ImperiledSpecies@myfwc.com](mailto:ImperiledSpecies@myfwc.com), no later than 30 days after final project completion. The report shall describe the animal's behavior, distance from activity, and any measures taken if needed. Please include the project name and permit number, names of observers and contact information, and summaries of all protected marine species sightings.

21. Blasting is not authorized for this project. If the construction methodology changes in the future to include blasting, a modification to the permit is needed. Specific conditions must address impacts to protected marine species if blasting is proposed. Such conditions shall be in the form of an appropriate Blast and Watch Plan, approved by the Florida Fish and Wildlife Conservation Commission, which can be contacted at [ImperiledSpecies@myfwc.com](mailto:ImperiledSpecies@myfwc.com).

22. No nighttime mechanical dredging, such as clamshell, shall occur.

23. The permittee shall comply with the following protected species construction conditions: a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species. b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973. c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida. d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible. e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition. f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.

24. Prior to electrical installation, the permittee shall submit and receive approval from the Florida Fish and Wildlife Conservation Commission (FWC) for all proposed exterior lighting. Plans can be sent to [MarineTurtle@MyFWC.com](mailto:MarineTurtle@MyFWC.com) for review. All permanent exterior lighting shall be installed and maintained as depicted on the approved lighting schematic and cut sheets stamped "FISH AND WILDLIFE CONSERVATION COMMISSION APPROVED LIGHTING PLAN". No additional exterior lighting is authorized.

25. The permit holder shall arrange for a site inspection by the FWC representatives within 30 days of the completion of all construction activities, including the installation of all exterior lights, by sending notification to [MarineTurtle@MyFWC.com](mailto:MarineTurtle@MyFWC.com). The permit holder agrees to allow access

to the site for the FWC representatives to conduct day or night time exterior light site inspections upon 48 hour notice of the intent to inspect. If any of the lights become visible from the beach at any time during the duration of this permit, they may be required to be modified.

## Project Work Schedule for Permit No. 50-103092-P

The following activities are requirements of this Permit and shall be completed in accordance with the Project Work Schedule below. Please refer to both General and Special Conditions for more information. Any deviation from these time frames will require prior approval from the District's Environmental Resources Bureau and may require a minor modification to this permit. Such requests must be made in writing and shall include: (1) reason for the change, (2) proposed start/finish and/or completion dates, and (3) progress report on the status of the project.

Condition No.	Date Added	Description (Application Number)	Due Date	Date Satisfied
GC 0	07/17/2020	Construction Commencement Notice (191002-1941)	48 hours prior to Construction	
GC 2	07/17/2020	Certification (191002-1941)	30 Days After Construction Completion	
GC 7	09/28/2020	Submit Operation Transfer Request	Within 30 days of Certification	
SC 7	09/28/2020	Pre-Construction Meeting	Prior to Construction	
SC 13	08/15/2020	Submit Baseline Seagrass Monitoring Report	08/31/2021	
SC 14	09/28/2020	Submit Seagrass Mitigation Monitoring Report 1	08/31/2025	
SC 14	09/28/2020	Submit Seagrass Mitigation Monitoring Report 2	08/31/2026	
SC 14	09/28/2020	Submit Seagrass Mitigation Monitoring Report 3	08/31/2027	
SC 19	09/28/2020	Install Manatee Exclusion Grates	30 Days After Construction Completion Date	

GC = General Condition

SC = Special Condition

## **Distribution List**

Tom Fucigna, Kimley-Horn and Associates, Inc

Div of Recreation and Park - District 5

US Army Corps of Engineers - Permit Section

Lake Worth Drainage District

Palm Beach County - Environmental Resource Management

Palm Beach County Engineer

City Of Greenacres

## Exhibits

The following exhibits to this permit are incorporated by reference. The exhibits can be viewed by clicking on the links below or by visiting the District's ePermitting website at <http://my.sfwmd.gov/ePermitting> and searching under this application number 200918-4304 .

[Exhibit No. 1.0 Location Map](#)

[Exhibit No. 2.0 Project Plans](#)

[Exhibit No. 2.1 Observation Platform Plans](#)

[Exhibit No. 2.2 Temporary Trestle Plans](#)

[Exhibit No. 2.3 Geotechnical Survey Plan](#)

[Exhibit No. 3.0 Turbidity Control & Monitoring Plan](#)

[Exhibit No. 3.1 Debris Management Plan](#)

[Exhibit No. 3.2 Florida Land Use, Cover and Forms Classification System Map](#)

[Exhibit No. 3.3 Seagrass Habitat Map](#)

[Exhibit No. 3.4 Seagrass & Mangrove Impacts Sketch](#)

[Exhibit No. 3.5 Barge Siting Plan](#)

[Exhibit No. 3.6 Snook Islands Mitigation](#)

[Exhibit No. 3.7 Fullerton Island Mitigation](#)

[Exhibit No. 3.8 Uniform Mitigation Assessment Method Scores](#)

[Exhibit No. 3.9 Seagrass Monitoring Plan](#)

## **NOTICE OF RIGHTS**

As required by Chapter 120, Florida Statutes, the following provides notice of the opportunities which may be available for administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, or judicial review pursuant to Section 120.68, Florida Statutes, when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Some of the legal proceedings detailed below may not be applicable or appropriate for your situation. You may wish to consult an attorney regarding your legal rights.

### **RIGHT TO REQUEST ADMINISTRATIVE HEARING**

A person whose substantial interests are or may be affected by the South Florida Water Management District's (District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Florida Statutes. Persons seeking a hearing on a District decision which affects or may affect their substantial interests shall file a petition for hearing in accordance with the filing instructions set forth herein within 21 days of receipt of written notice of the decision unless one of the following shorter time periods apply: (1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Florida Statutes; or (2) within 14 days of service of an Administrative Order pursuant to Section 373.119(1), Florida Statutes. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, posting, or publication that the District has taken or intends to take final agency action. Any person who receives written notice of a District decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

If the District takes final agency action that materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional point of entry pursuant to Rule 28-106.111, Florida Administrative Code.

Any person to whom an emergency order is directed pursuant to Section 373.119(2), Florida Statutes, shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

A person may file a request for an extension of time for filing a petition. The District may grant the request for good cause. Requests for extension of time must be filed with the District prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and whether the District and any other parties agree to or oppose the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

### **FILING INSTRUCTIONS**

A petition for administrative hearing must be filed with the Office of the District Clerk. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the Office of the District Clerk at the District's headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day.

Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33406.
- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the District's security desk does not constitute filing. It will be necessary to request that the District's security officer contact the Office of the District Clerk. An employee of the District's Clerk's office will receive and process the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at [clerk@sfwmd.gov](mailto:clerk@sfwmd.gov). The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document.

### **INITIATION OF ADMINISTRATIVE HEARING**

Pursuant to Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes, and Rules 28-106.201 and 28-106.301, Florida Administrative Code, initiation of an administrative hearing shall be made by written petition to the District in legible form and on 8 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, District file number or any other District identification number, if known.
2. The name, address, any email address, any facsimile number, and telephone number of the petitioner, petitioner's attorney or qualified representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the District's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the District's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the District's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the District to take with respect to the District's proposed action.

### **MEDIATION**

The procedures for pursuing mediation are set forth in Section 120.573, Florida Statutes, and Rules 28-106.111 and 28-106.401-.405, Florida Administrative Code. The District is not proposing mediation for this agency action under Section 120.573, Florida Statutes, at this time.

### **RIGHT TO SEEK JUDICIAL REVIEW**

Pursuant to Section 120.68, Florida Statutes, and in accordance with Florida Rule of Appellate Procedure 9.110, a party who is adversely affected by final District action may seek judicial review of the District's final decision by filing a notice of appeal with the Office of the District Clerk in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the appropriate district court of appeals via the Florida Courts E-Filing Portal.