

INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT TECHNICAL STAFF REPORT  
 6 Oct 2023  
 APPLICATION #: 103479-2

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**Project Name:** Pioneer Trail / I-95 Interchange  
**Project Acreage:** 74.13  
**County:** Volusia

**STR:**

Section(s):	Township(s):	Range(s):
4,5,8,9	17S	33E

**Receiving Water Body:**

Name	Class
Unnamed canal	III Fresh, OFW

**Authority:** 62-330.020 (2)(d), 62-330.020 (2)(j), 62-330.020 (2)(a), 62-330.020 (2)(i),  
 62-330.020 (2)(g), 62-330.020 (2)(c) , 62-330.020 (2)(b)

**Existing Land Use:** Streams and Waterways(5100), Pine Flatwoods(4110), Cypress(6210),  
 Wet Prairies(6430), Freshwater Marshes(6410), Roads and  
 Highways(8140), Reservoirs(5300), Xeric Oak(4210), Hydric Pine  
 Flatwood(6250), Wetland Forested Mixed(6300)

**Mitigation Drainage Basin:** Halifax River

**Special Regulatory Basin:** Spruce Creek Basin

**Final O&M Entity:** FDOT

**ERP Conservation Easements/Restrictions:** No

**Interested Parties:** Yes

**Objectors:** Yes

**Authorization Statement:**

Construction and operation of a Stormwater Management System for a 74.13 acre project known as Pioneer Trail / I-95 Interchange as per plans received by the District on February 2, 2022 and December 14, 2022.

**Recommendation:** Approval

**Reviewers:** Perry Jennings; Justin Dahl

**Section 1: General Project Information**

**Project Applicant and Sufficient Real Property Interest:**

The permit applicant has demonstrated sufficient real property interest in the land upon which the activities proposed under this application will be conducted in accordance with Section 4.2.3(d)(3), A.H. Vol. I.

**Project Location and Brief Description:**

The project is sited at the present Pioneer Trail overpass at I-95 in parts of Port Orange, New Smyrna Beach, and unincorporated Volusia County. The FDOT proposes to construct a new highway interchange to connect with Pioneer Trail.

**Permitting History:**

Interstate Highway 95 was constructed in the mid-1960s as a four-lane, limited access highway and antedates state water resource criteria. The Pioneer Trail overpass was constructed as part of the 1960s work. Permit No. 103479-1 was issued February 2010 for the re-alignment of Pioneer Trail, east of I-95.

The present project involves an I-95 segment that was expanded to six lanes by District Permit No. 118421-2 (issued May 2011). That work was accomplished at the project site in 2016.

A surface water management basin that was constructed during 2016 to serve an extension of Williamson Boulevard (Permit No. 134174-1; issued April 2015) will be expanded to create Ponds 1 and 2.

**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.

## Section 2: Engineering

### **Description of Surface Water Management System:**

This application is for the construction of a new inter-change with numerous travel corridor improvements, at the intersection of I-95 and Pioneer Trail in Volusia County, a 74.13-acre project.

### **Water Quality:**

Stormwater treatment via wet detention systems is proposed for the runoff from the project site. The project discharges to an unnamed canal, an Outstanding Florida Waterbody (OFW). An additional 50% treatment and permanent pool volume will be provided in accordance with District criteria for systems discharging to an OFW. Due to site constraints a portion of the project will not be conveyed to a stormwater management system. Compensating treatment is proposed to offset the lack of treatment for these areas.

The ultimate receiving waterbody, Spruce Creek, is an impaired waterbody. Spruce Creek is impaired for dissolved oxygen (DO), nutrients, Iron, Copper, and Enterococci. There is an adopted TMDL that requires a reduction of biochemical oxygen demand (BOD) and total phosphorus. The system, as proposed, will result in a net reduction of total phosphorus, BOD, total iron, and total copper to Spruce Creek.

Because the project is not expected to be a significant source of Enterococci, District presumptive criteria provides for adequate treatment of the stormwater runoff.

### **Flood Protection:**

The surface water management systems are designed to provide for attenuation of the 25-year 24-hour storm event.

### **Special Basin Criteria:**

The project is located in the Spruce Creek Hydrologic Basin. The applicant has demonstrated that the project, as proposed, meets all conditions for issuance of permits pursuant to Section 13.5 of the Applicant's Handbook Volume II:

- Recharge Standard: The Most Effective Recharge Areas will not be impacted by this project.
- Floodplain Storage Criteria: Six Flood Plain Compensation (FPC) ponds are proposed to off-set impacts by the roadway improvements to the 100-year floodplain.
- Stormwater Management Standard: This standard is met since the project does not propose the use of filtration treatment.
- Riparian Habitat Protection Zone standard: Not applicable: no part of the project occurs in the Spruce Creek Riparian Habitat Protection Zone.

### **Operation and Maintenance:**

The applicant FDOT, proposes to operate and maintain the surface water management system, which meets the requirements of Section 12.3.1, A.H. Vol I.

### **Conditions for Issuance (Engineering):**

**Rule 62-330.301(1), F.A.C., states that an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter:**

**(a) Will not cause adverse water quantity impacts to receiving water and adjacent lands**

**(b) Will not cause adverse flooding to on-site or off-site property**

**(c) Will not cause adverse impacts to existing surface water storage and conveyance capabilities**

Pursuant to 3.1, ERP A.H. Volume II, it is presumed that the conditions for issuance (a) through (c) above are met if the systems are designed to meet the standards in subsections 3.2.1, 3.3.1, 3.3.2, 3.4.1, 3.5.1, and 3.5.2, ERP A.H. Volume II.

Calculations were provided demonstrating that the post-development peak rate of discharge will not exceed the pre-development peak rate of discharge generated by the 25-year 24-hour storm event in accordance with Section 3.2.1, A.H. Vol. II.

This project does not propose to alter an existing conveyance system, therefore the presumptive criteria specified in subsection 3.3.1, ERP A.H. Volume II is not applicable.

This project does not propose to reduce the 10-year floodplain storage, therefore the presumptive criteria specified in subsection 3.3.2, ERP A.H. Volume II is not applicable.

This project does not propose any dams that will be greater than six feet in height, therefore the presumptive criteria specified in subsection 3.4.1, ERP A.H. Volume II is not applicable.

This project does not propose to alter the flow of any streams or water course, therefore the presumptive criteria specified in subsection 3.5.1, ERP A.H. Volume II is not applicable.

This project does not propose to lower the groundwater table. Therefore, subsection 3.5.2, ERP A.H. Volume II is not applicable.

**(d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters**

In evaluating this criterion, District staff considered Section 10.2.2, ERP A.H. Volume I, which states that an applicant must provide reasonable assurances that a regulated activity will not impact the values of wetland and other surface water functions so as to cause adverse impacts to: (a) the abundance and diversity of fish, wildlife, listed species and the bald eagle (*Haliaeetus leucocephalus*); and (b) the habitat of fish, wildlife, and listed species.

In this case, the project with wetland-impact could have resulted in adverse impacts to functions provided by 58.82 wetland acres. However the applicant proposed to offset the impacts by mitigation. A functional analysis, Uniform Mitigation Assessment

Method(UMAM) affirmed that the mitigation is sufficient to offset the loss of wetland/surface water functions. Thus, the project with its mitigation plan will not have adverse impacts on wetland/surface water functions.

***(e) Will not adversely affect the quality of receiving waters such that the state water quality standards set forth in Chapters 62-4, 62-302, 62-520, and 62-550, F.A.C., including the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated.***

Submitted plans and calculations show that the stormwater system is designed to provide water quality treatment in accordance with Sections 4.1 and 8.0, A.H. Volume II for discharge to Class III and Outstanding Florida Waters. This permit also constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341 for the 404 Permit Application SAJ-2017-02279 (SP-VCB).

***(f) Will not cause adverse secondary impacts to the water resource.***

See "Conditions for Issuance (Environmental)", Section 3, below.

***(g) Will not adversely impact the maintenance of surface or ground water levels or surface water flows established pursuant to section 373.042, F.S.***

This project does not propose to impact the surface or groundwater levels, or surface water flows established in section 373.042, F.S.

***(h) Will not cause adverse impacts to a Work of the District established pursuant to section 373.086, F.S.***

This project does not propose to cause an adverse impact to a Work of the District established in section 373.086, F.S.

***(i) Will be capable, based on generally accepted engineering and scientific principles, of performing and functioning as proposed***

The proposed project has been designed and certified by a registered professional engineer of the state of Florida and is reasonably expected to be capable of performing and functioning as designed.

***(j) Will be conducted by a person with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued***

The applicant has confirmed that they have the financial, legal, and administrative capability of completing the project in accordance with the conditions of the permit.

***(k) Will comply with any applicable special basin or geographic area criteria.***

The project occurs within the Spruce Creek Hydrologic Basin and was determined to comply with the basin criteria as described above.

**Section 3: Environmental**

**Habitat Description:**

The project area consists largely of undeveloped parcels surrounding I-95 and Pioneer Trail in New Smyrna Beach. A diversity of habitats are onsite including: pine flatwoods, xeric oak, upland cut ditch, reservoir, cypress, hydric pine flatwoods, wetland forested mixed, freshwater marshes, and wet prairies. The wetlands have been severed by I-95, Pioneer Trail, and the Power Line Easement. Even so, the majority of the wetlands onsite are still of moderate quality.

**Impacts:** *Subsection 10.2.2, ERP A.H. Volume I, states that an applicant must provide reasonable assurances that a regulated activity will not impact the values of wetland and other surface water functions so as to cause adverse impacts to: (a) the abundance and diversity of fish, wildlife and listed species; and (b) the habitat of fish, wildlife and listed species.*

The FDOT proposes to fill 48.80 wetland acres with 10.12 acres of secondary impacts. 58.82 acres of these impacts are considered adverse and will require mitigation as described below. The 0.10 acre impact to W33 meets the criteria of subsection 10.2.2.1, AH. Volume I and is not considered adverse; therefore, no elimination/reduction analysis, cumulative-impacts analysis, or mitigation was required for this impact.

An additional 3.11 acres of surface waters will also be impacted. These include roadside ditches and an artificial pond dug in uplands. The ditch and pond impacts meet 10.2.2.2, ERP A.H. Volume I and are not considered adverse; therefore, no elimination/reduction analysis, cumulative-impacts analysis, or mitigation was required for the impacts proposed within those surface waters.

**Secondary impacts:** *Subsection 10.2.7, ERP A.H. Volume I, contains a four-part criterion that addresses additional impacts that may be caused by a proposed activity: (a) adverse impacts to wetland (and other surface water) functions and water quality violations that may result from the intended or reasonably expected uses of a proposed activity; (b) adverse impacts to the upland nesting habitat of bald eagles and aquatic or wetland dependent listed animal species; (c) impacts to significant historical and archaeological resources that are very closely linked and causally related to any*

*proposed dredging or filling of wetlands or other surface waters; and (d) adverse wetland (and other surface) impacts and water quality violations that may be caused by future phases of the project or by activities that are very closely linked and causally related to the project.*

The project meets the four secondary impact criteria of subsection 10.2.7, A.H., Volume I, because:

- a. The project area is bisected by I-95 running north - south and Pioneer Trail running east - west, and South Williamson Blvd. is just west of the project site. The forested wetlands within the project area are connected to Spruce Creek to the north. However, wildlife habitat and wildlife movement within the area is currently fragmented by these existing roadways, which provides significant barriers. Additionally, based on documentation received by the permittee, FDOT has not identified or been provided a documented, science-based need for a wildlife crossing feature that is supported by USFWS and/or FWC. The USFWS /FWC also determined that there are no documented road kills of wildlife species with high conservation value or within a known area where traversing the roadway creates a potential hazard or motorists and/or wildlife species. FDOT also found that there are no public conservation lands or lands under perpetual conservation or agricultural easement on both sides of the road. This would be needed to achieve successful use of a wildlife crossing feature, as the FDOT would not want to funnel wildlife to private lands that may be developed. Therefore, District staff conclude that there is not a need for an additional wildlife crossing feature.
- b. no evidence was observed that the upland portions of the site are being utilized by bald eagles or aquatic and wetland dependent listed species for nesting and denning; The Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the permit application (FWC comment letter dated August 15, 2022) and determined that the habitat of two upland species (the gopher tortoise and the Florida pine snake) may be affected, however, these species are not listed aquatic or wetland dependent. District staff did not observe any bald eagle nests within the site or in close proximity. Section 3.4.A.2.2 of the Environmental Resource Permitting Document received with the application on February 2, 2022, determined the closest documented eagle nest (VO121) is approximately 2.5 miles to the east of the project boundary and the project will adhere to the U.S. Fish and Wildlife Service National Bald Eagle Management Guidelines. Therefore, District staff conclude that adverse impacts to the upland nesting habitat of bald eagles and aquatic or wetland dependent listed animal species will not occur.
- c. the applicant provided documentation from the Florida Division of Historical Resources (Appendix G of the Environmental Resource Permitting Document received with the application on February 2, 2022) that they concurred with a FDOT Cultural Resource Assessment Survey that showed no adverse impacts to cultural resources will occur; and
- d. there are no known future phases or expansion, or very closely linked and causally related on-site or off-site activities that would result in adverse impacts.

**Elimination/Reduction of Impacts:** Pursuant to Subsection 10.2.1.1, ERP A.H. Volume I, the applicant must implement practicable design modifications to reduce or eliminate adverse impacts to wetlands and other surface waters. A proposed modification that is not technically capable of being completed, is not economically viable, or that adversely affects public safety through endangerment of lives or property is not considered "practicable". Alternatively, an applicant may meet this criterion by demonstrating compliance with subsection 10.2.1.2.a. or 10.2.1.2.b., ERP A.H. Volume I.

The permittee provided alternative design analysis that included three build designs. All three designs had similar wetland and surface water impacts. The design selected, referred to as Partial Cloverleaf 2 Alternative (Alt 3), included minimal involvement with contaminated sites, best traffic operations and highest public support/preference. This alternative provided very similar impacts to wetlands and no impacts to listed wildlife. The impacts proposed here were minimized to the extent practicable to realize a safe, functional interchange on a six-lane interstate highway, and therefore meets Subsection 10.2.1.1, A.H., 10.2.1.2(b), Vol I.

Pursuant to Section 10.2.1.2(b), Vol I., an applicant may propose mitigation that implements all or part of a plan that provides regional ecological value and that provides greater long term ecological value than the area of wetland or other surface water to be adversely affected. The permittee offered to purchase mitigation bank credits from Farnton North Mitigation Bank and Lake Swamp Mitigation Bank. Both of these banks met the criteria for establishing a mitigation bank pursuant to Rule 62-342.400, F.A.C. Both mitigation banks provide regional ecological value and greater long term ecological value (than the wetlands proposed to be impacted by this project) by retaining a connection to an Outstanding Florida Water, plus their on-site wetlands, which serve to treat runoff and remove contaminants, also provide for downstream detrital transport and thus enhance wildlife utilization. Both mitigation banks also have a perpetual management plan, which includes a prescribed burn program. The wetlands to be impacted within the project have been fragmented by I-95, existing Pioneer Trail, Williamson Blvd, an FP&L easement, and FDOT ponds. In addition, the subject wetlands have become increasingly surrounded by development (such as Shell Point Colony, ERP Individual Permit No. 156663-4; Woodhaven, ERP Individual Permit No. 99970-7; Coastal Woods, ERP Conceptual Permit No. 109884-6; Turnbull Crossings, ERP Individual Permit No. 151739-1), which will increase the possible spread of exotic and nuisance vegetation species on the subject wetlands and limit the possibility of beneficial prescribed burns. Therefore, the purchase of mitigation bank credits from Farnton North and Lake Swamp Mitigation Banks will provide regional ecological value and greater long term ecological value within the same drainage basin than the wetlands proposed to be impacted by this project.

**Mitigation:** *According to 10.3.1.2, ERP A.H. Vol. 1, mitigation can be conducted on-site, off-site, or through the purchase of credits from a mitigation bank, or through a combination of approaches, as long as it offsets anticipated adverse impacts to wetlands and other surface waters and meets all other criteria for permit issuance.*

The FDOT will obtain a total of 35.57 UMAM credits as followed: 31.03 forested freshwater UMAM mitigation credits and 1.35 herbaceous freshwater UMAM mitigation credits have been debited from the Farnton North Mitigation Bank, and 3.19 forested freshwater UMAM mitigation credits from the Lake Swamp Mitigation Bank.

**Financial Assurance Mechanism:**

N/A

**Off-Site Mitigation:**

N/A

**Cumulative Impacts:** *Subsection 10.2.8, ERP A.H. Volume I, requires applicants to provide reasonable assurances that their projects will not cause unacceptable cumulative impacts upon wetlands and other surface waters within the same drainage basin as the project for which a permit is sought. This analysis considers past, present, and likely future similar impacts and assumes that reasonably expected future applications with like impacts will be sought, thus necessitating equitable distribution of acceptable impacts among future applications. Under section 10.2.8, ERP A.H. Volume, when an applicant proposes mitigation that offsets a project's adverse impacts within the same basin as the impacts, the project does not cause unacceptable cumulative impacts.*

The proposed mitigation fully offsets the proposed impacts and is located within the same drainage basin (#17, Halifax River) as the impact wetlands, so no unacceptable cumulative impacts will occur, pursuant to Section 10.2.8, ERP A.H. Vol. I.

**Conditions for Issuance (Environmental):**

**Rule 62-330.301(1), F.A.C., states that an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter:**

**(d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters**

In this case, the project with wetland-impact could have resulted in adverse impacts to functions provided by 58.82 wetland acres. However the applicant proposed to offset the impacts by mitigation as described above. A functional analysis Uniform Mitigation

Assessment Method(UMAM) affirmed that the mitigation is sufficient to offset the loss of wetland/surface water functions. Thus, the project with its mitigation plan will not have adverse impacts on wetland/surface water functions.

***(f) Will not cause adverse secondary impacts to the water resources.***

As noted previously, the project complies with all four parts of 10.2.7, ERP A.H. Vol. 1, i.e., mitigation was provided to compensate for function loss; no protected species use nearby uplands for nesting/denning; no significant historical resources occur on-site; and the project neither requires nor implies future improvements that could adversely affect wetlands/surface waters.

**Additional Conditions for Issuance (Environmental)**

**Rule 62-330.302(1) states that in addition to the conditions in Rule 62-330.301, F.A.C., to obtain an individual permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project:**

**(a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water (OFW), are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7, ERP A.H. Volume I:**

A small portion of the project consisting primarily of approximately 308 feet of the east access road and a small portion of the eastern floodplain compensating pond, FPC-1A, which are located upstream to the southern section line of Section 4, Township 17S, Range 33E pursuant to Rule 62-302.700(9)(i)(33)(a), F.A.C., are within the Spruce Creek OFW, and therefore the project must be clearly in the public interest. In determining whether the proposed project is clearly in the public interest, the District shall consider and balance the following criteria:

**1. Whether the activities will adversely affect the public health, safety, or welfare or the property of others;**

In reviewing and balancing this criterion, the District will evaluate whether the activity located in, on, or over wetlands or other surface waters will cause:

- (a) An environmental hazard to public health, safety, or improvement to public safety with respect to environmental conditions;
- (b) Impacts to areas classified by the Department of Agriculture and Consumer Services as approved, conditionally approved, restricted or conditionally

- restricted for shellfish harvesting;
- (c) Flooding or alleviate existing flooding on the property of others; and
- (d) Environmental impacts to property of others.

The project will result in an improvement to public health and safety by providing alternative routes to evacuate coastal populations facing imminent hurricane impacts. The surface water management system was designed to comply with all criteria necessary to preclude flooding of offsite properties, adverse drainage of surface waters, and degradation of water quality in downstream waters. The project is not located in an area classified by the Department of Agriculture as approved, conditionally approved, restricted or conditionally restricted for shellfish harvesting. The applicant is proposing to increase the roadway crown of Pioneer Trail to provide improved roadway resiliency and reduce the risk of flooding. Finally, the proposed project will result in a net reduction of total phosphorus to Spruce Creek, which is impaired for phosphorus. Therefore, this factor is in favor of the public interest. [10.2.3.1, A.H., Vol. I].

**2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;**

The District's review of this factor is encompassed within the review under section 10.2.2, A.H., Vol. 1, which requires that an applicant provide reasonable assurances that a regulated activity will not impact the values of wetland and other surface water functions so as to cause adverse impacts to: (a) the abundance and diversity of fish, wildlife, listed species and the bald eagle (*Haliaeetus leucocephalus*); and (b) the habitat of fish, wildlife, and listed species. The District determined that mitigation was provided to compensate for permanent loss of ecological functions to valued wildlife habitats within the project. A functional analysis provided by the permittee affirmed that the mitigation is adequate to offset the loss. Therefore, this factor is neutral. [10.2.3.2, A.H., Vol. I].

**3. Whether the activities will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;**

In reviewing and balancing this criterion, the District will evaluate whether the activity located in, on, or over wetlands or other surface waters will:

- (a) Significantly impede navigability. The District will consider the current navigational use of surface waters and will not speculate on uses that may occur in the future.
- (b) Cause or alleviate harmful erosion or shoaling.
- (c) Significantly impact or enhance water flow.

The project is not located in navigational waters and will not impede navigability, and does not propose activities that would cause harmful erosion, shoaling, or significant impacts to water flow. Additionally, the applicant is required to comply with erosion control best management practices and the permit includes a condition requiring the applicant to protect wetland areas and waterbodies outside

the specific limits of construction from erosion, siltation, scouring or excess turbidity, and dewatering. Therefore, this factor is neutral. [10.2.3.3, A.H., Vol. I].

**4. Whether the activities will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;**

In reviewing and balancing this criterion, the District will evaluate whether the activity located in, on, or over wetlands or other surface waters will cause:

- (a) Adverse effects to sport or commercial fisheries or marine productivity.
- (b) Adverse effects or improvements to existing recreational uses of a wetland or other surface waters, which may provide boating, fishing, swimming, waterskiing, hunting and bird watching.

The project area is not navigational and is not used for boating or commercial fishing. Therefore, this factor is neutral. [10.2.3.4, A.H., Vol. I].

**5. Whether the activities will be of a temporary or permanent nature;**

The system is a permanent feature that will be maintained in perpetuity. Additionally, the proposed mitigation bank credits to offset the impacts are from regionally significant mitigation banks that are encumbered by permanent conservation easements and will exist in perpetuity. Therefore, this factor is neutral. [10.2.3.5, A.H., Vol. I].

**6. Whether the activities will adversely affect or will enhance significant historical and archeological resources;**

No adverse impacts to cultural resources are anticipated. The District solicited comments from the Division of Historical Resources, and the permit includes a condition to cease activities and contact the Division of Historical Resources should unexpected artifacts be encountered during ground-breaking activities. Therefore, this factor is neutral. [10.2.3.6, A.H., Vol. I].

**7. The current condition and relative value of functions being performed by the areas affected by the proposed activities.**

Mitigation was provided to compensate for permanent loss of ecological functions to valued wildlife habitats within the project. A functional analysis provided by the permittee affirmed that the mitigation is adequate to offset the loss. Additionally, both mitigation banks provide regional ecological value and greater long term ecological value (than the wetlands proposed to be impacted by this project) by retaining a connection to an Outstanding Florida Water, plus their on-site wetlands, which serve to treat runoff and remove contaminants, also provide for downstream detrital transport and thus enhance wildlife utilization. Both mitigation banks also have a perpetual management plan, which includes a prescribed burn program. The wetlands to be impacted within the project have been fragmented by I-95, existing Pioneer Trail, Williamson Blvd, an FP&L easement, and FDOT ponds. In

addition, the subject wetlands have become increasingly surrounded by development (such as Shell Point Colony, ERP Individual Permit No. 156663-4; Woodhaven, ERP Individual Permit No. 99970-7; Coastal Woods, ERP Conceptual Permit No. 109884-6; Turnbull Crossings, ERP Individual Permit No. 151739-1), which will increase the possible spread of exotic and nuisance vegetation species on the subject wetlands and limit the possibility of beneficial prescribed burns. Therefore, the purchase of mitigation bank credits from Farnton North and Lake Swamp Mitigation Banks will provide regional ecological value and greater long term ecological value within the same drainage basin than the wetlands proposed to be impacted by this project. Therefore, this factor is neutral. [10.2.3.7, A.H., Vol. I].

Therefore, District staff having balanced the above criteria, it has been determined that the project meets the criteria set forth in sections 10.2.3 through 10.2.3.7, ERP A.H. Volume I, and is clearly in the public interest.

**(b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in sections 10.2.8 - 10.2.8.2 of ERP A.H. Volume I.**

In this case, mitigation was proposed in the same drainage basin as the impacts. Therefore, no adverse cumulative impacts are presumed to result by rule 10.2.8 (a), ERP A.H. Volume I.

**(c) Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department of Agriculture and Consumer Services as approved, restricted, conditionally approved, or conditionally restricted for shellfish harvesting will comply with the additional criteria in section 10.2.5 of Volume I, as described in subsection 62-330.010(5), F.A.C.**

The proposed activities do not occur in, adjacent, or close to Class II or Class III waters subject to shellfish regulation as described above.

**(d) Involving vertical seawalls in estuaries or lagoons will comply with the additional criteria provided in section 10.2.6 of Volume I.**

The project does not include any vertical seawalls and is otherwise removed from any estuaries or lagoons.

**Wetland Summary Table**

**Pioneer Trail Interchange (New) Governmental/Institutional, Roadway**

**Acres**

**Total Surface Water, Upland RHPZ and Wetlands in Project**

Wetlands	58.920
OSW	3.110
Upland RHPZ	0.000
<b>Total</b>	<b>62.030</b>

**Impacts that Require Mitigation**

Dredged or Filled	2.800
Dredged or Filled	7.530
Dredged or Filled	0.410
Dredged or Filled	2.540
Dredged or Filled	5.270
Dredged	11.590
Dredged or Filled	0.440
Dredged or Filled	11.510
Dredged or Filled	1.930
Dredged or Filled	2.490
Dredged or Filled	1.620
Dredged or Filled	0.320
Dredged or Filled	0.050
Dredged or Filled	0.200
Secondary	10.120
<b>Total</b>	<b>58.820</b>

**Impacts that Require No Mitigation**

Wetlands	0.100
Ponds	0.770
Ditches	2.340
<b>Total</b>	<b>3.210</b>

**Mitigation  
On-Site**

**Total 0.000**

**Off-Site**

**Total 0.000**

**Mitigation Bank UMAM Credits**

**Reserved  
Credits 35.57**

**Lake Swamp Mitg Bank -**

**3.19**

**UMAM,17,Forested Freshwater**

**Farmton North - UMAM,17,Forested**

**31.03**

**Freshwater**

**Farmton North - UMAM,17,Herbaceous**

**1.35**

**Freshwater**

#### **Section 4: Conclusion**

The applicant has provided reasonable assurance that the proposed project meets the conditions for issuance of permits specified in rules 62-330.301 and 62-330.302, F.A.C.

#### **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 District 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 District 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 District, 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 Operation 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 District in writing of changes required by any other regulatory District 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 District 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 District 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, District 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 District 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.
19. This permit for construction will expire five years from the date of issuance.

20. At a minimum, all retention and detention storage areas must be excavated to rough grade prior to building construction or placement of impervious surface within the area to be served by those facilities. To prevent reduction in storage volume and percolation rates, all accumulated sediment must be removed from the storage area prior to final grading and stabilization.
21. All wetland areas or water bodies that are outside the specific limits of construction authorized by this permit must be protected from erosion, siltation, scouring or excess turbidity, and dewatering.
22. The operation and maintenance entity shall inspect the stormwater or surface water management system once within two years after the completion of construction and every two years thereafter to determine if the system is functioning as designed and permitted. The operation and maintenance entity must maintain a record of each required inspection, including the date of the inspection, the name and contact information of the inspector, and whether the system was functioning as designed and permitted, and make such record available for inspection upon request by the District during normal business hours. If at any time the system is not functioning as designed and permitted, then within 30 days the entity shall submit a report electronically or in writing to the District using Form 62-330.311(1), "Operation and Maintenance Inspection Certification," describing the remedial actions taken to resolve the failure or deviation.
23. 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).
24. Before the start of any construction, the permittee must provide the District with documentation demonstrating that 31.03 forested freshwater UMAM mitigation credits and 1.35 herbaceous freshwater UMAM mitigation credits have been debited from the Farnton North UMAM Mitigation Bank. If the permittee does not successfully complete the transaction to obtain the mitigation credits from the Mitigation Bank, the permittee must obtain a permit modification to provide alternative mitigation.

25. Before the start of any construction, the permittee must provide the District with documentation demonstrating that 3.19 forested freshwater UMAM mitigation credits have been debited from the Lake Swamp Mitigation Bank. If the permittee does not successfully complete the transaction to obtain the mitigation credits from the Mitigation Bank, the permittee must obtain a permit modification to provide alternative mitigation.
26. The proposed project must be constructed and operated as per plans received by the District on February 2, 2022, and December 14, 2022.
27. In accordance with Section 4.2.3.(d), ERP Applicant's Handbook, Volume I, work cannot begin until proof of sufficient real property interest is provided to the Agency.
28. Thirty days prior to initiation of construction, the permittee shall submit a detailed erosion and sediment control plan to the District for written approval. The plan shall detail all erosion and sediment control measures to be implemented both during and after construction. At a minimum the plan shall include:
  - a. Identification of any areas where any dewatering will be performed during construction;
  - b. Details of specific erosion and sediment control measures to be implemented to control the discharge of turbid water due to any dewatering activities; and
  - c. Construction sequencing and location of all areas of material stockpiling and equipment staging; and
  - d. Details of all erosion and sediment control measures to be implemented during each sequence of construction.

Construction shall not commence until the permittee receives written approval of the plan from the District.
29. Before the start of any construction, the permittee must schedule a pre-construction meeting on site with District staff the environmental consultant, and the contractor to review the permit conditions, plans and environmental concerns.