



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Regulation Division

November 27, 2023

Village of Estero
9401 Corkscrew Palms Circle
Estero, FL 33928

Subject: Correction to Issued Permit
Permit No. 36-108309-P
Project Name: Estero on the River Phase 1
Lee County

This is to notify you that our permit issued on November 20, 2023 has been revised to update the location information. The enclosed permit reflects this change.

We apologize for any inconvenience this may have caused. If you have any questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Lawrence", enclosed in a blue oval.

Melissa M. Lawrence, P.E.
Bureau Chief
South Florida Water Management District

Enclosure: Permit No. 36-108309-P

cc: Cathy Olson, Pennoni Associates, Inc
Justin Hojnacki, Pennoni Associates, Inc
Brian Smith, Ensite, Inc



**South Florida Water Management District
Individual Environmental Resource Permit No. 36-108309-P
Date Issued: November 20, 2023**

Corrected Copy November 27, 2023

Permittee: Village Of Estero
9401 Corkscrew Palms Circle
Estero, FL 33928

Project: Estero on the River Phase 1

Application No. 230116-37195

Location: Lee 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 General Conditions for Authorizations.
- The attached Special Conditions.
- All referenced Exhibits.

All documents are available online through the District's ePermitting site at 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 epermits@sfwmd.gov.

A handwritten signature in blue ink, appearing to read "M. Lawrence", enclosed in a blue oval.

Melissa M. Lawrence, P.E.
Bureau Chief, Environmental Resource Bureau

**South Florida Water Management District
Individual Environmental Resource Permit No. 36-108309-P**

Date Issued: November 20, 2023	Expiration Date: November 20, 2028
Project Name:	Estero on the River Phase 1
Permittee:	Village Of Estero 9401 Corkscrew Palms Circle Estero, FL 33928
Operating Entity:	Village Of Estero 9401 Corkscrew Palms Circle Estero, FL 33928
Location:	Lee County
Permit Acres:	5.66 acres
Project Land Use:	Recreational Including Golf
Special Drainage District:	N/A
Water Body Classification:	CLASS III
FDEP Water Body ID:	3258D1
Wetland and Surface Water Impacts:	0.01 acres
Conservation Easement to District:	No
Sovereign Submerged Lands:	Yes Type: Lease

Project Summary

This Environmental Resource Permit (ERP) authorizes the construction and operation of a stormwater management (SWM) system serving 5.66 acres of a recreational project known as Estero on the River Phase 1. A Sovereign Submerged Land Lease for the existing dock and the proposed bridge crossing is also included in this permit authorization.

The project proposes the construction of a driveway and parking area, walking trails with various surfaces, bathroom facility, underground utility lines, a bridge crossing the Estero River, two wooden bridges along the trail, perimeter fencing, and a dry retention system. The SWM system consists of swales, inlets and storm sewer to collect and convey runoff to a dry pond system with outfall through a control structure to the Estero River. Refer to the Engineering Evaluation and Exhibit No. 2.0 for additional information.

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 site is located in the Village of Estero, Lee County. The property is located along the Estero River, north of Corkscrew Road and east of S Tamiami Trail. Refer to Exhibit No. 1.0 for a location map.

The site consists of mostly vacant and vegetated land with a small portion currently supporting a

recreational/retail use.

For information on wetland and other surface water (OSW) impacts, please see the Wetlands and OSWs section of this permit.

Ownership, Operation and Maintenance

Perpetual operation and maintenance of the stormwater management system will be the responsibility of the Village of Estero. 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:

Land Use

Please refer to the Engineering Evaluation Tables for land use details for land use details.

Water Quality

The project is located within a watershed identified by the Florida Department of Environmental Protection as impaired; therefore, the design includes a site-specific pollutant loading analysis and an additional 50% water quality treatment volume above the amounts required pursuant to Section 4.2.1, ERP Applicant's Handbook (AH) Volume (Vol.) II, as reasonable assurances that the projects discharge will not cause or contribute to violations of State water quality standards. The project provides 0.55 ac-ft of water quality treatment.

The project includes implementation of a Turbidity and Erosion Control Plan, (Exhibit No. 2.0), as additional reasonable assurance of compliance with water quality criteria during construction.

Discharge

As found in the Water Quantity Data Table, the SWM design meets the criteria of Section 3.2(c), ERP AH Vol. II based on the allowable discharge rate of 42 CSM for the Estero River Basin.

Parking Lot Design

As found in the Water Quantity Data Table, the minimum parking lot elevations have been set at or above the peak design storm elevation.

Road Design

As found in the Water Quantity Data Table, the minimum road crown elevations have been set at or above the peak design storm elevation.

Perimeter Berm

As found in the Water Quantity Data Table, the minimum perimeter berm elevations have been set at or above the peak design storm elevation.

Finished Floors

As found in the Water Quantity Data Table, the minimum finished floor elevation has been set at or above the peak design storm elevation.

Flood Plain/Compensating Storage

The permittee submitted calculations demonstrating the proposed project is consistent with the net encroachment requirements of the floodplain which will not adversely affect the existing rights of others.

Offsite Flows

To accommodate onsite and offsite flows directed to the Estero River, drainage pipes have been included under the trails and under the main driveway.

Certification and O&M

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 (CCC) 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 CCC is accepted by the District and the permit is transferred to an acceptable operating entity pursuant to Sections 12.1 - 12.3, ERP AH Vol. I and Section 62-330.310, F.A.C., the permittee is liable for O&M 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 O&M 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 O&M entity is responsible for correcting the deficiencies in a timely manner to prevent compromises to flood protection and water quality. See Section 12.4, ERP AH Vol. I for Minimum Operation and Maintenance Standards.

Notable project components requiring routine inspection and maintenance include but are not limited to:

- Side slopes for stormwater lakes and ponds – maintain side slopes no steeper than 4:1 (horizontal:vertical) to a depth of 2.0 feet below the control elevation and nurtured or planted from 2.0 feet below to 1.0 feet above the control elevation pursuant to Section 5.4.2, ERP AH Vol. II.
- Conveyance pipes, conveyance structures and discharge structures – all pipes and structures must be inspected for structural integrity and be maintained clear of trash, sediment and vegetative debris.
- Exfiltration trenches – all pipes and structures must be inspected for structural integrity and be maintained clear of trash, sediment and vegetative debris.
- Swales – maintain the permitted cross-section and vegetative cover.
- Underground storage facilities – all facilities must be inspected for structural integrity and be maintained clear of trash, sediment and vegetative debris.
- Pumps – float switches should be inspected and any obstructions removed to ensure proper operation; intake and discharge pipes should be maintained clear of trash, sediment and vegetative debris; motors should be maintained to ensure proper operation.

Engineering Evaluation Tables:

Land Use

Basin	Land Type	Area (ac)	% of Total Basin
Basin	Building Coverage	0.01	0.49
	Dry Retention Bottom	0.39	19.21
	Impervious	0.88	43.35
	Pervious	0.75	36.95
	Total:	2.03	100%

Water Quality

Basin	Treatment Type	Treatment System	Volume Required (ac-ft)	Volume Provided (ac-ft)
Basin	Treatment	DRY RETENTION	0.40	0.55

Water Quantity

Basin	Elevation Type	Storm Event (Yr/Day)	Precipitation Depth (in)	Peak Stage (ft NAVD88)	Min. EL (ft NAVD88)	Peak Discharge Rate (cfs)	Allowable Discharge Rate (cfs)
Basin	Finished Floor	100Y3D	14.00	12.02	14.00	N/A	N/A
	Perimeter Berm/ Discharge	25YR3D	11.00	10.94	12.50	0.09	0.13
	Road Crown	5YR1D	5.50	9.93	12.50	N/A	N/A
	Parking Lot	5YR1D	5.50	9.93	12.50	N/A	N/A

Inlets

Basin	Structure #	Structure Type	Count	Type	Crest EL (ft NAVD88)	Receiving Body
Basin	CS-1	Emergency	1	FDOT MOD C DROP INLET	11.50	Existing swale

Weir

Basin	Structure #	Structure Type	Count	Type	Dia (in)	Width (in)	Height (in)	Crest EL (ft NAVD88)	Receiving Body
Basin	CS-1	Water Quality	1	Rectangular		3.00	9.60	10.70	Existing swale

Culvert

Basin	Structure #	Structure Type	Count	Dia.(in)	Material	Receiving Body
Basin	CS-1	Discharge	1	18.00	Reinforced Concrete Pipe	Existing swale

Environmental Evaluation:

Wetland and OSW Description

The project site contains wetlands (2.83 acres) and other surface waters (OSW) (2.12 acres) totaling 4.95 acres. Please see Exhibit No. 3.0 for a FLUCFCS map and wetland/OSW map. The wetlands can generally be described as cypress forest with less than 25% of exotic species. Additional wetland descriptions are available in the ePermitting file. OSWs consist of a portion of the Estero River, borrow ponds and ditches.

Wetland and OSW Impacts

The project will result in 0.01 acres of direct wetland impacts, as described in Environmental Data Table. Exhibit No. 3.1 identifies the locations of the wetlands being impacted.

Secondary Impacts

Secondary impacts (0.02 acres) were considered in the wetland area adjacent to the area of direct wetland impacts. It was determined during the review process that the pedestrian bridge over the Estero River would not result in secondary impacts. The height and width of the bridge were considered in this determination.

Mitigation Plan

To mitigate for the direct and secondary wetland impacts, the applicant will purchase 0.02 mitigation bank credits from Corkscrew Regional Mitigation Bank, as depicted in Exhibit 3.2. The amount of required mitigation was determined using the Uniform Mitigation Assessment Method in Chapter 62-345, F.A.C. The final scores can be found in the ePermitting file.

Cumulative Impact Analysis

The proposed mitigation is located within the same basin as the impacts, therefore pursuant to Section 10.2.8 of ERP AH Vol. I, the project will not result in unacceptable cumulative impacts to the Estero Bay Basin.

Monitoring and Maintenance

N/A

Legal Issues

The project's permit area includes a recently recorded 0.04-acre conservation easement that was authorized as an amendment to a previously recorded conservation easement area that was located further upstream of the project. Permit No. 36-108677-P (Application No. 230120-37252) authorized this conservation easement amendment and the details can be found in the ePermitting file. This area is not proposed for impacts and will be monitored and maintained per the requirements outlined in Permit No. 36-108677-P.

Fish, Wildlife, and Listed Species

The wetlands to be impacted have the potential to provide habitat for wetland-dependent species. The proposed mitigation will provide or improve habitat for wetland-dependent and aquatic species. Listed Species Surveys were conducted in December of 2021 and January of 2022. No aquatic or wetland-dependent listed species or species having special protection were observed to be using the uplands within the project for nesting or denning. No wetland-dependent endangered or threatened species or species of special concern were observed onsite during the surveys.

Subsequent to the Listed Species Survey, a new bald eagle nest was discovered on the western side of the park, near the wetland area. The Applicant will abide by USFWS guidelines with respect to the nest. During breeding season, no construction will be allowed within 330 feet of the nest and sections of the trail system within 660 feet of the bald eagle nest will be closed to the public during this time. The nest location and buffers are shown on Exhibit No. 2.0 (Sheet No. C-07).

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

Sovereignty Submerged Lands

The construction of the pedestrian bridge and the existing dock are located on SSLs - lands owned by the State of Florida; therefore, it requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.77, F.S. The District is delegated the authority to take final agency action for this application on behalf of the Board of Trustees, pursuant to Rule 18-21.0051(2), F.A.C. See Exhibit No. 3.3 for State Lands Title Determination.

The existing dock was authorized under Lease 360353555 (DMID 381986), however, the lease expired on October 9, 2023. The District has determined, through coordination with FDEP, that the existing dock and the proposed bridge activity qualifies for and requires a new lease, as long as the work performed is located within the boundaries as described and is consistent with Exhibit No. 3.4, and conditions herein. The final documents required to execute the lease will be sent to the permittee by the Department of Environmental Protection's Division of State Lands (DSL) for execution. Upon satisfactory execution of those documents, including payment of required fees and compliance with any conditions herein, the final document will be issued by DSL. The Delegation of Authority for the Lease is included as Exhibit No. 3.4. It should be noted that Public Noticing was not required for the project due to the lack of surrounding property owners within the 500' radius, other than the Permittee. A map of the noticing radius is included in Exhibit No. 3.4.

Public Interest Test

The proposed project will be clearly in the public interest with regard to the conservation of fish and wildlife, including endangered or threatened species or their habitats. The proposed public park will offer educational opportunities for the public as visitors can walk trails through varying habitats and see wildlife endemic to Southwest Florida. In addition, the existing docks and proposed pedestrian bridge over the Estero River will allow visitors to observe other water-dependent endemic fauna species, again at a safe distance. The park will allow fish and wildlife, including endangered or threatened species, to thrive in an area without being impacted, while still providing park visitors with an educational experience.

Environmental Evaluation Tables:

Summary

Wetlands and Other Surface Waters: 0.03 acres
 Direct Impacts: 0.01 acres
 Secondary impacts: 0.02 acres
 Net UMAM Functional Loss/Gain: 0 units
 Total Onsite Mitigation Area: 0 acres
 Total Offsite Mitigation Area: 0 acres

Total Mitigation Bank Credits Provided

Mitigation Bank	Type	Total Credits
Corkscrew Regional	FF	0.02
Total:		0.02

Wetland and Other Surface Waters Impact

Activities in Wetlands or Other Surface Waters, With Mitigation at a Bank

ID	Acres	Community Description	Bank Name	Method	Current Score	With Score	Ratio or Add'l factor	Minimum Credits Needed
1	0.01	Cypress	Corkscrew Regional	UMAM	0.667	0	1	0.01
2	0.02	Cypress	Corkscrew Regional	UMAM	0.667	0.467	1	0.01
Total: 0.03								

Related Concerns:**Water Use Permit Status**

Neither irrigation nor dewatering are required for this 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

Lee County Utilities

Historical/ Archaeological Resources

On September 5, 2023, the District received correspondence from the Florida Department of State, Division of Historical Resources requesting the applicant allow the agency an additional 30 days to review the submitted Cultural Resource Assessment Survey. The 30 day timeframe has expired and no further correspondence has been received by the District. No information has been received that indicates the presence of archaeological or historical resources on the project site or indicating that the project will have any effect upon significant historic properties listed, or eligible for listing in the National Register of Historic Places. The correspondence can be found in the ePermitting 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.

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.

General Conditions for Authorizations for Use of Sovereign Submerged Lands, Rule 18-21.004(7), F.A.C.

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

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

(b) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.

(c) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.

(d) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.

(e) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.

(f) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.

(g) Structures or activities shall not create a navigational hazard.

(h) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.

(i) Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(g), F.A.C., or any other applicable law.

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 the Village of Estero. The permittee shall notify the Agency in writing within 30 days of any conveyance or division of ownership or control of the property of 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. 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.
5. 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 Fort Myers Service Center at (239) 338-2929 or via e-mail at: precon@sfwmd.gov. When sending a request for a pre-construction meeting, please include the application number, permit number, and contact name and phone number.
6. 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.
7. The permittee shall comply with the local, state and federal guidelines for the site regarding the active eagle nest, as shown on Exhibit No. 2.0 (Sheet No. C-07). Potential nuisance activities such as land clearing, blasting, excavation and burning shall be conducted from May 16 - September 30 in order to avoid the critical bald eagle nesting periods which take place from October 1 - May 15. No clearing or major grading shall be conducted during the nesting season and all construction activities shall be coordinated with the U.S Fish & Wildlife Service and/or the Florida Fish and Wildlife Conservation Commission.
8. The District reserves the right to require remedial measures to be taken by the permittee if monitoring or other information demonstrates that adverse impacts to onsite or offsite wetlands, upland conservation areas or buffers, or OSWs have occurred due to project related activities.

9. Prior to commencement of construction, and in accordance with the work schedule herein, the permittee shall submit documentation from Corkscrew Regional Mitigation Bank that 0.02 freshwater forested credits for this project have been paid for in full and deducted from the Mitigation Bank's ledger. See Exhibit No. 3.2 for the Letter of Reservation.

10. Any in-water work must follow BMPs and meet Water Quality standards. Siltation or turbidity barriers, if used, shall be made of material in which manatees and sea turtles cannot become entangled, shall be properly secured and shall be regularly monitored to avoid entanglement or entrapment. Barriers must not impede manatee or sea turtle movement. Turbidity levels in the project area shall be within 0 NTUs of background levels. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order so that there are no violations of state water quality standards outside of the turbidity screens.

11. No construction associated with the proposed over-water work described by this permit may commence until a sovereign submerged lands lease has been issued by the Florida Department of Environmental Protection. However, construction of the upland facilities may commence upon issuance of this permit by the District. See Exhibit No. 3.4 for the Delegation of Authority for the SSL Lease.

Project Work Schedule for Permit No. 36-108309-P

The following activities are requirements of this Permit and shall be completed in accordance with the Project Work Schedule below. Please refer to General Conditions, Special Conditions and/or Specific 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 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 4	11/27/2023	Construction Commencement Notice	Prior to Construction	
GC 6	11/27/2023	Submit Certification	30 Days After Construction Completion	
GC 7	11/27/2023	Submit Operation Transfer Request	Within 30 days of Certification	
SC 5	11/27/2023	Pre-Construction Meeting	Prior to Construction	
SC 9	11/27/2023	Submit Mitigation Bank Ledger Documentation	12/20/2023	
SC 11	11/27/2023	Submit Executed FDEP SSL Lease	Prior to Construction	

GC = General Condition

SC = Special Condition

Distribution List

Cathy Olson, Pennoni Associates, Inc

Brian Smith, Ensite, Inc

Audubon of Florida

Div of Recreation and Park - District 4

US Army Corps of Engineers - Permit Section

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 230116-37195.

[Exhibit No. 1.0 Location Map](#)

[Exhibit No. 2.0 Plans](#)

[Exhibit No. 3.0 FLUCFCS & Wetland Map](#)

[Exhibit No. 3.1 Wetland/OSW Impact Map](#)

[Exhibit No. 3.2 Letter of Reservation](#)

[Exhibit No. 3.3 State Lands Title Determination](#)

[Exhibit No. 3.4 SSL Lease Delegation of Authority](#)

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. 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.