



Interoffice Memorandum

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
OCT 20 2015 *JWS*

AGENDA ITEM

September 23, 2015

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director *JVW*
Community, Environmental and Development
Services Department

CONTACT PERSON: **Lori Cunniff, CEP, CHMM, Deputy Director**
Community, Environmental and Development
Services Department
(407) 836-1405 *L Cunniff*

SUBJECT: October 20, 2015 - Consent Item
D.R. Horton, Inc., Escrow Agreement, CAI-15-08-028

On September 17, 2015, the Environmental Protection Division (EPD) approved a Conservation Area Impact (CAI) permit (CAI-15-08-028) to construct a single-family residential subdivision known as Creekstone Reserve (aka Bishop Property). The permit authorizes 4.50 acres of Class II wetland impacts and a mitigation plan that includes onsite wetland enhancement of 9.55 acres of Class I wetlands and the onsite preservation of 0.71 acre of associated uplands.

Condition #14 of CAI-15-08-028 requires the permittee to demonstrate that the permittee has the financial responsibility to conduct the mitigation (preservation, monitoring and maintenance). D.R. Horton, Inc. has deposited cash in the principal amount of \$21,664.78 of Escrow Funds to be held as collateral security for the obligations related to this permit, and has executed the attached Escrow Agreement, which has been approved as to form by the Orange County Attorney's Office.

ACTION REQUESTED: **Approval of Escrow Agreement by and among Orange County, D.R. Horton, Inc., and Martha O. Haynie, Orange County Comptroller for Conservation Area Impact Permit CAI-15-08-028. District 4**

JVW/LC: mg

Attachments

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
OCT 20 2015 *JK/BS*

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Escrow Agreement") made and entered into by and among Orange County, a charter county and political subdivision of the State of Florida ("County") whose mailing address is P.O. Box 1393, Orlando, Florida 32802-1393, and D. R. Horton, Inc., ("Permittee"), a Foreign Profit Corporation, whose mailing address is 6200 Lee Vista Boulevard, Suite 400 Orlando FL 32822, (herein collectively referred to as the "Principals") and Martha O. Haynie, Orange County Comptroller, whose mailing address is P.O. Box 38, Orlando, Florida 32802-0038 ("Escrow Agent").

WITNESSETH:

WHEREAS, County has issued Conservation Area Impact Permit No. 15-08-028 ("Permit") to Permittee, attached hereto as "Exhibit A", for wetlands impacts to property located at Island Property, _____ in Orange County, Florida.

WHEREAS, pursuant to Section 15-419(4), Orange County Code, Permittee is required to provide reasonable financial assurance that the proposed development has the financial and institutional stability to carry out the required mitigation, monitoring, and maintenance requirements; and

WHEREAS, Escrow Agent has agreed to serve as the escrow agent in accordance with the terms and conditions set forth herein.

WHEREAS, the Principals desire that Escrow Agent shall hold and release the escrowed funds subject to the terms and conditions set forth in this Escrow Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements herein set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference.

2. **Establishment of Escrow Relationship; Acceptance by Escrow Agent.** The Principals hereby retain Escrow Agent, at no cost to Permittee, to serve solely as the Escrow Agent (and in no other capacity) with respect to the Escrowed Funds, as later defined herein, and Escrow Agent hereby accepts such retention.

3. **Escrowed Funds.** Within five (5) business days after the Effective Date, Permittee shall deliver funds in the amount of \$ 21,664.78 (representing 110% of the cost estimate of the approved mitigation, maintenance and monitoring plan) (the "Escrowed Funds") to Escrow Agent for the purpose of ensuring that Permittee performs all Permit obligations. Within five (5) business days of receipt, Escrow Agent shall place the Escrowed Funds into an escrow account (the "Escrow Account") to be held, administered and distributed as provided for herein. Escrow Agent shall acknowledge receipt of the Escrowed Funds by providing written notice to each of the

Principals within five (5) business days after receipt of such funds; such notice, at Escrow Agent's election, may be by electronic mail (e-mail) to addresses provided by the respective parties.

4. Disbursement of Escrowed Funds. Upon performance of all Permit obligations by the Permittee to the County's satisfaction, County shall provide Escrow Agent with written notice of completion. Upon receipt of notice of completion, Escrow Agent shall disburse the Escrowed Funds to Permittee from the Escrow Account (less any funds disbursed to the County for noncompliance as provided below in this paragraph). Disbursements shall be payable to " _____ " and shall be delivered to the address provided in Section 13 below or such other address as Permittee may direct in writing. In the event the Orange County Environmental Protection Officer determines that Permittee has not fulfilled any or all Permit obligations, the Environmental Protection Officer shall submit written notification to Permittee describing each matter of noncompliance ("Noncompliance Notification"), providing Permittee thirty (30) days (unless a longer period is agreed upon by the Principals) to cure, or cause to be cured, such matter(s) referenced in the Noncompliance Notification. In the event the Environmental Protection Officer determines that Permittee has failed to resolve any matter(s) described in the Noncompliance Notification within the prescribed period of time, the Environmental Protection Officer may request withdrawal of any amount of the Escrowed Funds to cause the correction of the matter(s) of noncompliance in the following manner. The Environmental Protection Officer shall execute and present to the Escrow Agent, with a copy to the Permittee: (1) a statement that the Permittee has failed to comply with one or more Permit obligations, (2) an estimate of the cost of completion of the obligation(s), and (3) a draw request. The Escrow Agent shall promptly transfer to County funds in the amount of the draw request from the Escrowed Funds. At the termination of this Escrow Agreement, funds not transferred to the County shall be disbursed to the Permittee without interest.

5. No Constructive Knowledge. Escrow Agent shall not be deemed to have knowledge of any matter or thing unless and until Escrow Agent has actually received written notice of such matter or thing, and then shall only be required to act on that knowledge in its capacity as Escrow Agent as further described herein. Escrow Agent shall not be charged with any constructive knowledge whatsoever.

6. Indemnification of Escrow Agent. It is agreed that the duties of the Escrow Agent are purely ministerial in nature and shall be expressly limited to the matters herein for which Escrow Agent is expressly obligated. Principals hereby indemnify Escrow Agent and agree to hold Escrow Agent harmless from and against any and all claims, liabilities, damages, costs, penalties, losses, actions, suits, or proceedings at law or in equity, and any other expenses, fees, or charges of any character or nature, which Escrow Agent may incur or with which Escrow Agent may be threatened directly or indirectly arising from or in any way connected with this Escrow Agreement, except in the case of gross negligence or willful misconduct of Escrow Agent, or any claims arising from, or in any way connected with, a breach of this Escrow Agreement by Escrow Agent or Escrow Agent's failure to follow the instructions contained herein. In connection therewith, Permittee and the County indemnify Escrow Agent against any and all reasonable expenses, including reasonable attorney fees (pre-litigation, litigation, and appellate) and the cost of defending or prosecuting any action, suit, or proceeding or resisting any such claim, whether or not litigation is instituted. Nothing contained herein is intended as, nor shall constitute, a waiver

by County of its sovereign immunity protections pursuant to Section 768.28, Florida Statutes (2013).

7. Limitation of Remedies. The Principals expressly agree that the consideration, in part, for each of them entering into this Escrow Agreement is the willingness of the other to limit the remedies for all actions arising out of or in connection with this Escrow Agreement. Upon any failure by any party hereto to perform its obligations under this Escrow Agreement, each party shall be limited strictly to only the following remedies:

- (a) action for specific performance or injunction;
- (b) action for declaratory judgment regarding the rights and obligations of the County;
- (c) any combination of the foregoing.

The Principals expressly waive their respective rights to sue for damages of any type for breach of or default under this Agreement by any party hereto.

8. No Obligation to Overdraw. Notwithstanding any provision of this Escrow Agreement to the contrary, Escrow Agent shall not be required to make payment of an amount in excess of the balance in the Escrow Account.

9. No Obligation to Pay Interest. Notwithstanding any provision of this Escrow Agreement to the contrary, Escrow Agent shall not be required to make any interest payment on any balance in the Escrow Account.

10. Capacity of Escrow Agent. It is expressly understood and agreed by the parties that the Escrow Agent shall not act under this Agreement in any capacity as Clerk of the Board of County Commissioners, but rather in Escrow Agent's capacity as an independent constitutional officer.

11. Term and Termination. Unless terminated earlier as provided for in this Section, the term of this Escrow Agreement shall be for a period of five (5) years, commencing upon the Effective Date, as later defined herein. This Escrow Agreement may be terminated as follows:

A. Upon written notice given by all Principals of cancellation of designation of Escrow Agent to act and serve in said capacity, in which event, cancellation shall take effect no earlier than twenty (20) business days after notice to Escrow Agent of such cancellation; or

B. Upon Escrow Agent's resignation as Escrow Agent, which Escrow Agent may do at anytime upon giving written notice to Principals of its desire to so resign; provided, however, that resignation of Escrow Agent shall take effect no earlier than twenty (20) business days after the giving of notice of resignation; or

C. Upon disbursement of all Escrowed Funds as provided in Section 4.

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hereafter existing at law, in equity or by statute. The exercise of one right, power or remedy by Escrow Agent shall not be construed or considered as a waiver of any other right, power or remedy.

19. Entire Agreement. This Escrow Agreement contains the entire understanding between the parties and the parties agree that no representation was made by or on behalf of the other which is not contained in this Escrow Agreement, and that in entering into this Escrow Agreement neither relied upon any representation not especially herein contained.

20. Binding Agreement. This Escrow Agreement shall be binding upon Principals and Escrow Agent and their respective successors and assigns.

21. Typewritten or Handwritten Provisions. Handwritten provisions and/or typewritten provisions inserted in this Escrow Agreement, which are initialed by all parties, shall control over the printed provisions in conflict therewith.

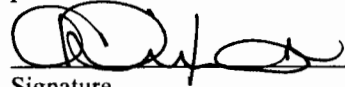
22. Captions; Days. The captions contained in this Escrow Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Escrow Agreement or the intent of any provision contained herein. Each reference to "day" or "days" herein shall mean calendar days unless otherwise stated.

23. Effective Date. Upon execution by the last of the parties hereto, the Escrow Agreement shall be valid and binding retroactively to _____, the date of receipt by Escrow Agent of the Escrowed Funds (the "Effective Date").

24. Counterparts. This Escrow Agreement may be executed in up to three identical counterparts, each of which, when executed, shall be deemed to be an original and all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be duly executed on the dates set forth below.

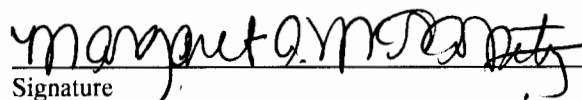
Signed, sealed and delivered in the presence of:



Signature

CATHY DIXON

Print Name



Signature

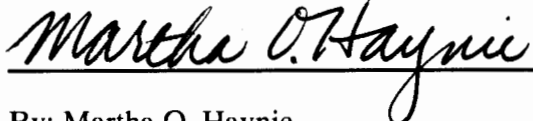
Margaret A. McCarriety

Print Name

ESCROW AGENT:

MARTHA O. HAYNIE,

ORANGE COUNTY COMPTROLLER



Signature

By: Martha O. Haynie,
Orange County Comptroller

Date: 10/21/15

00523 SEP 21 2015 4:10:10

Signed, sealed and delivered
in the presence of:

PERMITTEE:

Chris
Signature

CHRISTOPHER WRENN
Print Name

[Signature]
Signature

ANDRES ARVELO
Print Name

[Signature]

By: BEN SHUMAKER
ASSISTANT SECRETARY

Date: 9/10/15

Accepted and agreed to:

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: [Signature]
Teresa Jacobs
County Mayor

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: [Signature]
for Deputy Clerk



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Environmental Protection Division

**CONSERVATION AREA
IMPACT PERMIT**

Permit No: CAI-15-08-028

Date Issued: September 17, 2015

A Permit Authorizing:

Impacts to 4.50 acres of Class II wetlands in order to construct a single-family residential subdivision known as Creekstone Reserve. Mitigation will include the enhancement and preservation of 9.55 acres of onsite (Class I) wetlands and the preservation of 0.71 acre of uplands.

This permit is issued pursuant to Orange County Code, Chapter 15, Article X, Conservation Ordinance and is subject to the Permit Conditions provided on the following pages:

Activity Location:

14850 Ward Road, Orlando, Florida 32824
Parcel ID#: 33-24-30-0000-00-011
Related CAD #: CAD-14-01-001
Orange County Commission District: 4

Permittee(s) / Authorized Entities:

DR Horton, Inc.
c/o Jay Baker
Bio-Tech Consulting, Inc.
2002 East Robinson Street
Orlando, Florida 32803
E-mail: jay@btc-inc.com

Orange County Environmental Protection Division
800 Mercy Drive, Suite 4
Orlando, Florida 32808-7896.
407-836-1400/ Fax: 407-836-1499
www.OCEPD.org

Approval of this permit is subject to the following conditions:

Specific Conditions

1. This permit shall become final and effective upon expiration of the fifteen (15) calendar day appeal period following the date of issuance, unless an appeal has been filed within this timeframe. Any appeal shall stay the effective date of this permit until any and all appeals are resolved.
2. The wetland impacts must be completed in accordance with sheet 'C-4' of the plans prepared by PE Group, LLC, as dated as received by the Environmental Protection Division (EPD) on October 22, 2014. Construction shall be completed within five (5) years from issuance of this permit unless extended in writing. Requests for permit extension must be submitted to the Environmental Protection Division (EPD) prior to the expiration date.
3. The operational phase of this permit is effective upon the completion of the construction and continues in perpetuity.
4. The mitigation plan must be implemented in accordance with 'Figure 8' as dated as received by EPD on June 16, 2014 and the 'Wetland Enhancement Area Management Plan' dated as received by EPD on November 4, 2014. The preservation area must total at least 10.26 acres in size.
5. **All trees shown on the November 21, 2014 approved PSP Tree Plan for the Bishop project must be protected as described on the tree plan (enclosed). Failure to do so, or loss of any said trees, will result in an unauthorized impact and additional mitigation will be required.**
6. Conservation areas shall be clearly marked with signage that identifies the wetland and upland buffer. These signs shall be installed every fifty (50) feet on any open space and on every other individual lot line. The signage shall conform to the standard EPD. The signs shall be located every fifty (50) feet along open space or every other lot line. The signs shall be installed prior the Certificate of Completion or platting, whichever comes first.
7. The applicant shall provide written notification to property owners that no alteration or encroachment of the platted conservation areas shall occur unless approved by Orange County. These restrictions shall be recorded as covenants and restrictions on the subdivision plat and shall be part of the documents provided to purchasers of lots within the subdivision. A copy of the notification that is to be provided to purchasers shall be submitted to EPD at the time of platting.
8. An environmental berm and swale shall be installed prior to the certificate of completion for any of the subject lots. The berm and swale shall be maintained throughout construction.

9. Prior to initiating any construction within the wetlands, surface waters or upland buffers that require mitigation, this permit requires the recording of a conservation easement in the public records of Orange County, and when applicable, notation of the conservation easement on the corresponding plat. The conservation easement shall be dedicated to Orange County and cannot be recorded unless and until the conservation easement is accepted and approved by the Orange County Board of County Commissioners. The conservation easement shall include restrictions on the real property pursuant to the requirements set forth below:
 - a. The conservation easement shall include restrictions on the real property pursuant to Section 704.06, Florida Statutes. The conservation easement cannot be recorded unless and until the conservation easement is accepted and approved by the Orange County Board of County Commissioners.
 - b. Within thirty (30) days of issuance of this permit, the permit holder shall provide to EPD for review and written approval a copy of the surveyor's sketch and legal description of the area to be encumbered by the conservation easement pursuant to the County-approved mitigation plan. The Orange County Surveyor must approve the sketch of description and legal description. The permit holder shall ensure that the conservation easement identifies and is executed by the correct grantor who must hold sufficient record title to the land encumbered by the conservation easement. Accordingly, when the permit holder submits the surveyor's sketch and legal description, the permit holder shall contemporaneously submit current evidence of title of the proposed easement area to EPD. The evidence of title is subject to review and approval by the Orange County Real Estate Management Division.
 - c. If impacts to an upland defined as River Corridor Protection Zone (Chapter 15, Section 15-443(1), or as required per Chapter 15, Article XI, Section 15-442(f), or to a wetland or surface water for which mitigation is required are authorized to occur in discrete phases, the areas to be preserved to offset such impacts may be placed under a conservation easement in phases, such that impacts are offset immediately prior to the commencement of work within the phase that the impacts are permitted occur. Such phasing of preservation shall only occur if it has been proposed in the mitigation plan and approved by the permit. A surveyor's sketch of description and legal description of the area to be placed under conservation easement immediately prior to commencement of each phase shall be submitted in accordance with paragraph (a) above.
 - d. The conservation easement shall be in a form approved by the Orange County Attorney's Office and the Orange County Real Estate Management Division and provided to the permittee. Pursuant to Section 704.06, Florida Statutes, the conservation easement shall prohibit all construction, including clearing, dredging, or filling, except that which this permit specifically authorize. The conservation easement shall contain the provisions set forth in Florida Statutes section 704.06(1)(a) through (h). The conservation easement shall contain provisions that grant the County the right to access and inspect the conservation easement area, and to enforce the terms and conditions of the conservation easement. Unless specifically prohibited by law, the conservation easement shall include a provision whereby the permit holder shall warrant title and agree to defend the same. The Grantor shall not amend the conservation easement without approval by the Orange County Board of County Commissioners.

- e. If the grantor of the conservation easement is a partnership, the partnership shall provide to EPD a partnership affidavit stating that the person executing the conservation easement has the legal authority to convey an interest in the partnership land.
 - f. If there exist any mortgages on the land, the permit holder shall also have each mortgagee execute a consent and joinder of mortgagee subordinating the mortgage to the conservation easement which shall be subject to review and approval of the County Attorney's Office and the Real Estate Management Division. The consent and joinder of mortgagee shall be recorded simultaneously with the conservation easement in the public records of Orange County at the permit holder's sole expense.
 - g. Upon approval of the final executed documents by Orange County, the conservation easement shall be scheduled to be heard by the Orange County Board of County Commissioners. Upon approval by the Board of County Commissioners, the easement and its attachments shall be recorded in the public records of Orange County, at the permit holder's sole expense.
 - h. Prior to lot or parcel sales, all changes in direction of the easement area boundaries must be permanently marked by monument above ground on the project site. The location, form, and material of the monuments shall be subject to the review and approval of EPD.
 - i. At least forty-five (45) days prior to (1) dredging, filling, or clearing of any wetland or surface water for which mitigation is required; (2) clearing any upland within the River Corridor Protection Area or as required per Chapter 15, Article XI, Section 15-442(f); (3) the sale of any lot or parcel; (4) the recording of the subdivision plat; or (5) use of the infrastructure for its intended use, whichever first occurs, the permit holder shall submit to EPD a copy of the preliminary plat depicting the area to be encumbered by the conservation easement.
 - j. If during the review of the submitted evidence of title, the Orange County Real Estate Management Division finds any encumbrances or irregularities that will render the proposed mitigation as not adequately offsetting the impact(s), the applicant shall submit a revised mitigation plan for staff review and approval. The approval may also require Orange County Board of County Commissioner's approval.
10. The mitigation enhancement and monitoring shall be conducted in accordance with the narrative from Bio-Tech Consulting, received by EPD on November 4, 2014 (attached).
11. Successful establishment of the wetland mitigation will have occurred when:
- a. At least eighty (80) percent of the planted individuals within each stratum have survived throughout the monitoring period and showing signs of normal growth based upon standard growth parameters such as height and base diameter or canopy circumference, and
 - b. At least eighty-five (85) percent cover by appropriate wetland herbaceous species has been obtained, and
 - c. Hydrologic conditions generally conform to those specified in the mitigation plan, and

- d. The mitigation area comprises less than ten (10) percent nuisance vegetation and less than five (5) percent exotic vegetation, as listed in the Florida Exotic Pest Plant Council's 2015 List of Invasive Species Category I and II, and
 - e. The above criteria have been met at the end of a three (3)-year monitoring period, as determined by EPD.
12. A baseline monitoring report (that clearly shows site conditions prior to enhancement) must be submitted to EPD prior to initiation of any mitigation enhancement activities. This report needs to include, at a minimum the following information (site location, field sampling design, sampling methodology, GPS location of fixed transects, photographic documentation, fish and wildlife observations, hydrology, results and discussion).
 13. The Permittee is required to submit semi-annual monitoring reports that contain the following information (site location, GPS location of fixed transect, field sampling design, sampling methodology, photographic documentation, fish and wildlife observations, hydrology, results and discussion). If at the end of the three (3) year monitoring period, the mitigation area is not meeting the monitoring success criteria, the Permittee is required to provide a restoration plan or modified mitigation plan, and may be required to continue monitoring until success has been demonstrated.
 14. This permit requires reasonable financial assurance, in a form acceptable to EPD, that the proposed development has the financial and institutional stability to carry out the mitigation, monitoring and maintenance requirements in the amount of 110 percent of the cost estimate of the proposed mitigation, maintenance and monitoring plan. If the applicant proposes to provide a cash escrow, an escrow agreement must be approved by the Board of County Commissioners and executed by the County Comptroller prior to initiating any construction within the wetlands, surface waters or upland buffers that require mitigation.
 15. Prior to any filling within the 100-year flood zone a Flood Plain Permit may be required from the Orange County Stormwater Management authorizing the fill.
 16. The permittee shall notify EPD, in writing, within thirty (30) days of any sale, conveyance, or other transfer of ownership or control of the real property subject to this permit. The permittee shall remain liable for all permit conditions and corrective actions that may be required as a result of any permit violations which occur prior to the transfer of the permit by Orange County to a subsequent owner. If applicable, no permit shall be transferred unless and until adequate financial assurance has been provided and approved by Orange County.
 17. For one acre or more of disturbed land, a National Pollutant Discharge Elimination System Notice of Intent to use a Construction General Permit for stormwater discharges shall be completed and sent to EPD and copied to the EPD National Pollutant Discharge Elimination System Administrator prior to start of construction.
 18. All excess lumber, scrap wood, trash, garbage, etc shall be removed from the preservation areas and/or surface water(s) immediately.

General Conditions

19. Subject to the terms and conditions herein, the permittee is hereby authorized to perform or cause to be performed, the impacts shown on the application and approved drawings, plans, and other documents attached hereto or on file with EPD. The permittee binds itself and its

successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities, including without limitation the performance of the required mitigation, are not in accordance with the conditions of the permit, work shall cease and the permit may be revoked immediately by the Environmental Protection Officer. Notice of the revocation shall be provided to the permit holder promptly thereafter.

20. Prior to construction, the permittee shall clearly designate the limits of construction on-site. The permittee shall advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
21. Construction plans shall be submitted to EPD prior to initiating any construction activities for review and approval. The construction plans shall include, but are not limited to, a site plan clearly depicting the location and acreage of the impacts and preservation.
22. The permittee shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications in good condition at the construction site. The permittee shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
23. Issuance of this permit does not warrant in any way that the permittee has riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittee. In the event that any part of the structure(s) permitted herein is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent property owner's riparian or other property rights, permittee agrees to either obtain written consent or to remove the offending structure or encroachment within sixty days from the date of the adjudication. Failure to comply shall constitute a material breach of this permit and shall be grounds for its immediate revocation.
24. This permit does not release the permittee from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities upon property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 15, Article X of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency the permittee shall comply with the most stringent conditions. Permittee shall immediately notify EPD of any conflict between the conditions of this Permit and any other permit or approval.
25. The permittee is hereby advised that Section 253.77, Florida Statutes, states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.

26. Should any other regulatory agency require changes to the property, permitted activities, or approved mitigation, the permittee shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.
27. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
28. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
29. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to either, at a minimum: inspect, sample, or test to ensure conformity with the plans and specifications approved by the permit.
30. The permittee shall hold and save the County harmless from any and all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.
31. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittee.
32. Permittee agrees that any dispute arising from matters relating to this permit shall be governed by the laws of Florida, and initiated only in Orange County.
33. Turbidity and sediments shall be controlled to prevent violations of water quality pursuant to Rule 62-302.500, 62-302.530(70) and 62-4.242 Florida Administrative Code (FAC). Best Management Practices, as specified in the Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual, shall be installed and maintained at all locations where the possibility of transferring suspended solids into wetlands and/or surface waters due to the permitted activity. If site-specific conditions require additional measures, then the permittee shall implement them as necessary to prevent adverse impacts to wetlands and/or surface waters.
34. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.
35. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

If you should have any questions concerning this review, please contact Julee Sims at (407) 836-1494 or Julee.Sims@ocfl.net.

Project Manager:



Julee Sims, Senior Environmental Specialist

Authorized for the Orange County Environmental Protection Division by:



Lori Cunniff, Environmental Protection Officer

JS/~~MS~~/ERJ/LC: gfdjr

Enclosures: "Construction Notice" (form CN-001-04)
National Pollutant Discharge Elimination System (NPDES) Notice of Intent

Attachments: Site plan
PSP 'Tree Plan'
Bio-Tech Consulting, Inc. – 'Mitigation Enhancement and Monitoring Plan'

c: Jennifer Thomson, SFWMD, jthomson@sfwmd.gov
Ben Shoemaker, DR Horton, Inc., bshoemaker@kbhome.com
Chris Wrenn, DR Horton, Inc., cnwrenn@drhorton.com
Edna Y. Bishop Trust, Carol B. Phifer Trust, Judith B. Greenet, c/o Brad Hester, Esq., 1305 E Plant Street, Winter Garden, Florida 34787



Construction Notice

- BEGINNING OF CONSTRUCTION

- COMPLETION OF CONSTRUCTION

Mail to: Orange County Environmental Protection Division
800 Mercy Drive, Suite 4
Orlando, FL 32808-7896
Or Fax to: 407-836-1499, Attn: Elizabeth R. Johnson,
Environmental Programs Administrator

Permit Number and Name: CAI-15-08-028, Creekstone Reserve (aka Bishop Property) - 14850 Ward Road

Permit Type: Conservation Area Impact Permit (CAI)

Approximate Starting date: _____

Approximate Completion Date: _____

Remarks or any additional information:

I certify I am the permittee / Authorized Entity of the above permit issued by the Orange County Environmental Protection Division and in accordance with the terms of such permit will begin or have completed the actual construction of the work described in the permit.

Signature of Permittee: _____

Printed name of Permittee: _____

Date: _____



NOTICE OF INTENT TO USE GENERIC PERMIT FOR STORMWATER DISCHARGE FROM LARGE AND SMALL CONSTRUCTION ACTIVITIES (RULE 62-621.300(4), F.A.C.)

This Notice of Intent (NOI) form is to be completed and submitted to the Department before use of the Generic Permit for Stormwater Discharge From Large and Small Construction Activities provided in Rule 62-621.300(4), F.A.C. The type of project or activity that qualifies for use of the generic permit, the conditions of the permit, and additional requirements to request coverage are specified in the generic permit document [DEP Document 62-621.300(4)(a)]. **The appropriate generic permit fee, as specified in Rule 62-4.050(4)(d), F.A.C., shall be submitted with this NOI in order to obtain permit coverage. Permit coverage will not be granted without submittal of the appropriate generic permit fee.** You should familiarize yourself with the generic permit document and the attached instructions before completing this NOI form. **Please print or type information in the appropriate areas below.**

I. IDENTIFICATION NUMBER: Project ID _____

II. APPLICANT INFORMATION:

A. Operator Name:		
B. Address:		
C. City:	D. State:	E. Zip Code:
F. Operator Status:	G. Responsible Authority:	
	H. Phone No.:	

III. PROJECT/SITE LOCATION INFORMATION:

A. Project Name:		
B. Project Address/Location:		
C. City:	D. State:	E. Zip Code:
F. County:	G. Latitude: ° ' "	Longitude: ° ' "
H. Is the site located on Indian lands? No <input type="checkbox"/> Yes <input type="checkbox"/>		I. Water Management District:
J. Project Contact:		K. Phone No.:

IV. PROJECT/SITE ACTIVITY INFORMATION:

A. Indicate whether Large or Small Construction (check only one):	<input type="checkbox"/> Large Construction (Project will disturb five or more acres of land.)
	<input type="checkbox"/> Small Construction (Project will disturb one or more acres but less than five acres of land.)
B. Approximate total area of land disturbance from commencement through completion of construction: _____ Acres	
C. SWPPP Location	<input type="checkbox"/> Address in Part II above <input type="checkbox"/> Address in Part III above <input type="checkbox"/> Other address (specify below)
D. SWPPP Address: _____	
E. City: _____	F. State: _____
G. Zip Code: _____	
H. Construction Period	Start Date: _____ Completion Date: _____

V. DISCHARGE INFORMATION

A. MS4 Operator Name (if applicable): _____
B. Receiving Water Name: _____

VI. CERTIFICATION¹:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name and Official Title (Type or Print): _____

Signature: _____

Date Signed: _____

¹ Signatory requirements are contained in Rule 62-620.305, F.A.C.

INSTRUCTIONS – DEP FORM 62-621.300(4)(b)
NOTICE OF INTENT (NOI) TO USE GENERIC PERMIT FOR STORMWATER
DISCHARGE FROM LARGE AND SMALL CONSTRUCTION ACTIVITIES

Who Must File an NOI:

Federal law at 40 CFR Part 122 prohibits the point source discharge of pollutants, including the discharge of stormwater associated with large construction activities as defined at 40 CFR 122.26(b)(14)(x) or small construction activities as defined at 40 CFR 122.26(b)(15), to waters of the United States without a National Pollutant Discharge Elimination System (NPDES) permit. Under the State of Florida's authority to administer the NPDES stormwater program at 403.0885, F.S., operators that have stormwater discharge associated with large or small construction activities to surface waters of the State, including through a Municipal Separate Storm Sewer System (MS4), must obtain coverage either under a generic permit issued pursuant to Chapter 62-621, F.A.C., or an individual permit issued pursuant to Chapter 62-620, F.A.C.

Where to File NOI:

NOIs for coverage under this generic permit must be sent to the following address:

NPDES Stormwater Notices Center, MS #2510
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Permit Fee:

Permit fees for large and small construction activities to be covered under the generic permit are specified in Rule 62-4.050(4)(d), F.A.C. The appropriate generic permit fee (either for large or small construction activities) must be submitted along with the completed NOI in order to obtain coverage under the generic permit. **Generic permit coverage will not be granted without payment of the appropriate permit fee.**

The permit fee shall be paid by either check or money order made payable to: "Florida Department of Environmental Protection"

Part I – Identification Number

Enter the project's DEP identification number (generic permit coverage number) if known. If an ID number has not yet been assigned to this project (i.e., if this is a new project), leave this item blank.

Part II – Applicant Information

Item A.: Provide the legal name of the person, firm, contractor, public organization, or other legal entity that owns or operates the construction activity described in this NOI. The operator is the legal

entity that has authority to control those activities at the project necessary to ensure compliance with the terms and conditions of the generic permit.

Items B. – E.: Provide the complete mailing address of the operator, including city, state, and zip code.

Item F.: Enter the appropriate one letter code from the list below to indicate the legal status of the operator:

F = Federal; S = State; P = Private; M = Public (other than federal or state); O = Other

Items G. – H.: Provide the name and telephone number (including area code) of the person authorized to submit this NOI on behalf of the operator (e.g., Jane Smith, President of Smith Construction Company on behalf of the operator, Smith Construction Company; John Doe, Public Works Director on behalf of the operator, City of Townsville; etc.). This should be the same person as indicated in the certification in Part VI.

Part III – Project/Site Location Information

Items A. – E.: Enter the official or legal name and complete street address, including city, state, and zip code of the project. Do not provide a P.O. Box number as the street address. If it lacks a street address, describe the project site location (e.g., intersection of State Road 1 and Smith Street).

Item F.: Enter the county in which the project is located.

Item G.: Enter the latitude and longitude, **in degrees-minutes-seconds format**, of the approximate center of the project.

Item H.: Indicate whether the project is located on Indian lands.

Item I.: Enter the appropriate five or six letter code from the list below to indicate the Water Management District the project is located within:

NFWWMD= Northwest Florida Water Management District
SRWMD = Suwannee River Water Management District
SFWMD = South Florida Water Management District
SWFWMD =Southwest Florida Water Management District
SJRWMD =St. John’s River Water Management District

Items J. – K.: Give the name, title, and telephone number (including area code) of the project contact person. The project contact is the person who is thoroughly familiar with the project, with the facts reported in this NOI, and who can be contacted by the Department if necessary.

Part IV – Project/Site Activity Information:

Item A.: Check the appropriate box to indicate whether the project involves large construction activity or small construction activity. **Check one box only.**

“Large Construction Activity” means construction activity that results in the disturbance of five (5) or more acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.

“Small Construction Activity” means construction activity that results in the disturbance of equal to or greater than one (1) acre and less than five (5) acres of total land area. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre and less than five acres.

Item B.: Provide the approximate total area of land disturbance in acres that the project will involve from commencement of construction through completion.

Items C. - G.: Indicate the location where the Stormwater Pollution Prevention Plan (SWPPP) can be viewed. Provide the address where the SWPPP can be viewed if other than as provided in Parts II or III of the NOI. **Note that to be eligible for coverage under the generic permit, the SWPPP must have been prepared prior to filing this NOI.**

Item H.: Enter the estimated construction start and completion dates in the MM/DD/YY format.

Part V – Discharge Information

Item A.: If stormwater from the project discharges to a municipal separate storm sewer system (MS4), enter the name of the operator of the MS4 (e.g., City of Tallahassee MS4, Orange County MS4, FDOT MS4, etc.). If stormwater from the project does not discharge to an MS4 but rather discharges to surface waters of the State, leave this item blank or indicate “N/A” and skip to Item B of this part. **Please note that if the project discharges stormwater to an MS4, you must provide the MS4 operator with a copy of the completed NOI.**

Item B.: If the project discharges stormwater to surface waters of the State, and not to an MS4, enter the name of the receiving water body to which the stormwater is discharged. Please provide the first named water body to which the stormwater from the project is discharged (e.g., Cypress Creek, Tampa Bay, unnamed ditch to St. Johns River, Tate’s Hell Swamp, etc.).

Part VI – Certification

Type or print the name and official title of the person signing the certification. Please note that this should be the same person as indicated in Item II.G. as the Responsible Authority. Sign and date the certification.

Section 403.161, F.S., provides severe penalties for submitting false information on this application (NOI) or any reports or records required by a permit. There are both civil and criminal penalties, in addition to the revocation of permit coverage for submitting false information.

Rule 62-620.305, F.A.C., requires that the NOI and any reports required by the permit to be signed as follows:

- A. For a corporation, by a responsible corporate officer as described in Rule 62-620.305, F.A.C.;
- B. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or,
- C. For a municipality, state, federal or other public facility, by a principal executive officer or elected official.