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Department of Environmental Protection

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Secretary

CONSOLIDATED ENVIRONMENTAL RESOURCE PERMIT AND SOVEREIGN SUBMERGED LANDS AUTHORIZATION

PERMITTEE/AUTHORIZED ENTITY:

U.S. Army Corps of Engineers
c/o Ms. Marie Burns
P.O. Box 4970
Jacksonville, Florida
32232-0019

PERMIT INFORMATION:

Permit/Authorization No. 0157891-011-EM
Issuance Date: September 12, 2006
Expiration Date: April 7, 2016
Project Name: Tampa Harbor Comprehensive
Maintenance Dredging Project
Counties: Hillsborough and Pinellas

This major modification to Environmental Resource Permit No. 0157891-009-EI is issued under the authority of Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.). The activity is not exempt from the requirement to obtain an environmental resource permit. Pursuant to Operating Agreements executed between the Florida Department of Environmental Protection (Department) and the water management districts, as referenced in Chapter 62-113, F.A.C., the Department is responsible for reviewing and taking final agency action on this activity. This major modification, hereafter referred to as Permit No. 0157891-011-EM, supersedes Permit No. 0157891-009-EI. Changes to Permit No. 0157891-009-EI are shown as ~~strikethroughs~~ (deletions) or underlines (additions).

ACTIVITY DESCRIPTION:

The project is to conduct maintenance dredging of the federally authorized channels within Tampa Harbor and the berths of the Tampa Port Authority. This project consists of approximately 67 miles of existing channels and berthing areas and the previously approved disposal sites. The channels to be maintained include:

- Egmont Bar Channel, Cuts 1-2 (sheets 2-4).
- Mullet Key Channel (sheet 4).
- Tampa Bay Channel, Cuts A, B, C, D, E, F, G, J, J-2, and K (sheets 5-8).
- Gadsden Point Cut (sheets 7 and 9).
- Big Bend Channel (sheet 9).
- Hillsborough Bay Channel, Cuts A, C and D (sheets 9-10).
- Alafia Channel (sheet 10).
- Port Sutton Channel (Sheet 10).
- East Bay Channel, East Bay Extensions 1 and 2, Lower Sparkman Channel, Upper Sparkman Channel, Sparkman Channel, Ybor Channel and Seddon Channel (sheet 11).

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Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 2 of 18

The authorized dredged material disposal areas include:

- Ocean Dredged Material Disposal Site (ODMDS) #4, (sheet 12).
- Egmont Key shoreline and nearshore disposal sites (beneficial use sites) (sheet 13).
- Ft. DeSoto Park shoreline and nearshore disposal site (beneficial use site) (sheets 18 & 19)
- Rock Disposal Area north of Egmont Key (sheet 18)
- Diked Construction Maintenance Disposal Areas 2D and 3D (sheet 15).
- Upland disposal areas A, B, and C, and Bird Island (sheet 15).
- In-water dredged holes (beneficial use sites).
 - MacDill Runway Extension (sheet 14).
 - McKay Bay (sheet 15).
 - Whiskey Stump Key Holes 1 & 2 (sheet 15).
 - Northshore Beach (sheet 14).
 - Gandy Channel North (sheet 14).

The project also includes replacement of two geotextile tube groin structures on the north end of Egmont Key (sheets 16 & 17).

ACTIVITY LOCATION:

The activity is located in Hillsborough County (not sovereign submerged lands) and Pinellas County, within Tampa Bay, Hillsborough Bay and the Gulf of Mexico, Class III and Class II Waters, Conditionally-approved Shellfish Harvesting area, Pinellas County Aquatic Preserve, Boca Ciega Bay Aquatic Preserve, Outstanding Florida Waters.

The Department acknowledges that the maintenance dredging of navigational channels and specified berths falls within one of the federal powers listed in the Submerged Lands Act under 43 U.S.C. 1311(d) or 43 U.S.C. 1314, and, under those provisions, needs no authorization from the Board of Trustees to utilize sovereignty submerged lands. However, under the provisions of the Coastal Zone Management Act (16 U.S.C. 1451-1465), this activity requires Florida's concurrence with a determination of consistency with the sovereignty submerged lands provisions of Florida's approved Coastal Management program prior to federal approval of the proposed activity. The State has determined that the activity is consistent with the sovereignty submerged lands provisions of Florida's approved Coastal Management program.

This permit constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act. This permit also constitutes certification of compliance with state water quality standards pursuant to Section 401 of the Clean Water Act, 33 U.S.C. 1341.

This permit constitutes a determination, pursuant to Section 380.0651(3)(e), F.S., that the activity will not adversely impact Outstanding Florida Waters or Class II waters, and will not contribute to boat traffic in a manner that will adversely impact the West Indian manatee.

As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the disposal activities in Pinellas County qualify for a letter of consent to use sovereign, submerged lands, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein. Therefore, consent is hereby granted to the Tampa Port Authority pursuant to Chapter 253.77, Florida Statutes, to place dredged material in the dredged holes at Northshore Beach and Gandy Channel North, which are on sovereign submerged lands. An individual Letter of Consent to use Sovereign Submerged Lands will also be issued to Pinellas County, as the local sponsor, for the placement of dredged material along the shoreline of Ft. DeSoto Park within the Boca Ciega Bay Aquatic Preserve.

The above named permittee is hereby authorized to construct the work shown on the application and approved drawing, plans, and other documents attached hereto or on file with the Department and made a part hereof. This permit is subject to the limits, conditions, and locations of work shown in the attached drawings, and is also subject to the attached General Conditions and Specific Conditions, which are a binding part of this permit and authorization. The Plans and Specifications are also an enforceable part of this permit. The permittee is advised to read and understand these drawings and conditions prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these drawings and conditions prior to commencing the authorized activities.

GENERAL CONDITIONS:

1. This permit, including its general and specific conditions, must be construed in light of the Interagency Cooperative Agreement for Civil Works Projects (ICA) between the Department and the Corps. As recognized in the ICA, the Department has the authority to include reasonable conditions in this permit. All of the conditions in this permit, both general and specific, are enforceable to the extent sovereign immunity has been waived under 33 U.S.C. §§ 1323 and 1344(t). The ICA is incorporated herein by reference.
2. All activities approved shall be implemented as set forth in the drawings incorporated by reference and in compliance with the conditions and requirements of this document. The Corps shall notify the Department in writing of any anticipated changes in:
 - a. operational plans;
 - b. project dimensions, size or location;
 - c. ability to adhere to permit conditions;
 - d. project description included in the permit;
 - e. monitoring plans.

If the Department determines that a modification to the permit is required then the Corps shall apply for and obtain the modification. Department approval of the modification shall be obtained prior to implementing the change, unless the change is determined by the Department to reduce the scope of work from that authorized under the original

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 4 of 18

permit, and will not effect compliance with permit conditions or monitoring requirements.

3. If, for any reason, the Corps does not comply with any condition or limitation specified herein, the Corps shall immediately provide the Department with a written report containing the following information:
 - a. a description of and cause of noncompliance;
 - b. the period of noncompliance, including dates and times;
 - c. impacts resulting or likely to result from the non-compliance;
 - d. steps being taken to correct the non-compliance; and
 - e. the steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Compliance with the provisions of this condition shall not preclude the Department from taking any enforcement action allowed under state law with respect to any non-compliance.

4. The Corps shall obtain any applicable licenses or permits which may be required by federal, state, local or special district laws and regulations. Nothing herein constitutes a waiver or approval of other Department permits or authorizations that may be required for other aspects of the total project.
5. Nothing herein conveys to the Corps or creates in the Corps any property right, any interest in real property, any title to land or water, constitutes State recognition or acknowledgment of title, or constitutes authority for the use of sovereign land of Florida seaward of the mean high-water line or an established erosion control line, unless herein provided, and the necessary title, lease, easement, or other form of consent authorizing the proposed use has been obtained from the State.
6. Any delineation of the extent of a wetland or other surface water submitted as part of the application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this authorization or a formal determination under Section 373.421(2), F.S., provides otherwise.
7. Nothing herein conveys any entrance upon or activities on property which is not owned or controlled by the Corps or local sponsor, or conveys any vested rights or any exclusive privileges.
8. This document or a copy thereof, complete with all conditions, attachments, modifications, and time extensions shall be kept at the work site on the authorized activity. The Corps shall require the contractor to review this document prior to commencement of the authorized activity.

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 5 of 18

9. The Corps specifically agrees to allow Department personnel with proper identification, at reasonable times and in compliance with Corps specified safety standards access to the premises where the authorized activity is located or conducted for the purpose of ascertaining compliance with the terms of this document and with the rules of the Department and to have access to and copy any records that must be kept; to inspect the facility, equipment, practices, or operations regulated or required; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance. Reasonable time may depend on the nature of the concern being investigated.
10. At least forty-eight (48) hours prior to the commencement of authorized activity, the Corps shall submit to the Department a written notice of commencement of activities indicating the anticipated start date and the anticipated completion date.
11. If historic or archaeological artifacts such as, but not limited to, Indian canoes, arrow heads, pottery or physical remains, are discovered at any time on the project site, the Corps shall immediately stop all activities which disturb the soil and notify the Department and the State Historic Preservation Officer.
12. Within a reasonable time after completion of project construction or a periodic maintenance dredging event, the Corps shall submit to the Department a written statement of completion. This statement shall notify the Department that the work has been completed as authorized and shall include a description of the actual work completed. The Department shall be provided, if requested, a copy of any as-built drawings required of the contractor or survey performed by the Corps.

SPECIFIC CONDITIONS:

1. At least 30 days prior to the commencement of each maintenance dredging event to be conducted during the term of this permit, the permittee shall submit to the DEP Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000 and to the DEP Southwest Office, Submerged Lands and Environmental Resource Program, 3804 Coconut Palm Drive, Tampa, Florida, 33619, a proposed schedule of dredging for the maintenance dredging event.
2. At least 7 days prior to commencement of the dredging authorized by this permit, the permittee shall conduct a pre-construction conference to review the specific conditions and monitoring requirements of this permit with the permittee's contractors, Contracting Officer Representative, and Department staff representatives. The permittee shall provide written notification, at least 14 days in advance of the meeting, to the following offices advising of the date, time, and location of the pre-construction conference:

DEP Bureau of Beaches &

DEP Southwest District Office

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 6 of 18

Coastal Systems (BBCS)
JCP Compliance Officer
Mail Station 300
3900 Commonwealth Boulevard
Tallahassee, FL 32399-3000
Phone: (850) 414-7716
Fax: (850) 414-7725

Permitting &
Compliance/Enforcement
3804 Coconut Palm Drive
Tampa, FL 33619-8318
Phone: (813) 744-6100

Imperiled Species Management
Section FWC
620 South Meridian Street
Tallahassee, FL 32399-1600
Phone: (850) 922-4330
Fax: (850) 921-4369

DACS Division of Aquiculture
Shellfish Harvesting Management
South Gulf Office
P. O. Box 189
Murdock, FL 33938-0189
Phone: (813) 255-0083

3. Final Plans and Specifications for this permit and subsequent maintenance dredging events under this permit shall be provided to the BBCS before work may begin.
 4. At least 90 days prior to commencement of placement of material in the beneficial use sites at Egmont Key, Ft. DeSoto or at the in-water dredged hole disposal areas, the permittee shall submit for review and approval, a dredged material **QA/QC plan**. The plan shall provide:
 - Assurance that the material to be placed along the shore, or in the nearshore, of Egmont or Mullet Keys during future events, meets the criteria specified in 62B-41.007, F.A.C., for the placement of dredged material.
 - Assurance that material identified for placement sites within any Aquatic Preserve will be free from elevated levels of fines in order to minimize turbidity to the maximum extent practicable.
 - Assurance that any material to be placed within the dredged hole (beneficial use) sites is free from elevated levels of metals or other contaminants and the sediment type is suitable to restore bay bottom contours and provide for re-colonization of estuarine habitat and organisms comparable to that of the neighboring bay bottom environments.
- The QA/QC plan may be submitted in parts to address the individual beneficial use sites.
5. The permittee shall submit project design drawings in advance of implementing each beneficial use dredged material disposal option.

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 7 of 18

6. If seagrasses are found adjacent to the in-water dredged holes or any dredged material placement site, the permittee shall employ protective measures, such as turbidity curtains, to minimize the potential for adverse impacts to the maximum extent practicable.
7. Within 90 days following completion of each dredging event, a final report shall be submitted to the BBCS and DEP Southwest District Office. This report shall include the following information:
 - a. The location of the dredging and disposal sites used;
 - b. A description of the dredging and disposal methods and equipment used;
 - c. The dates on which construction began and the dates of completion;
 - d. Tables of turbidity data collected at the dredging and upland and nearshore disposal areas, including the location, date, and time for each sample collected, values for background samples, values for compliance samples, and the difference between background and compliance samples. Each table shall include a statement identifying any violations of turbidity standards which occurred during dredging or disposal, the probable causes of the violations, and corrective measures taken to reduce turbidity; and
 - e. The quality and quantity of material dredged and the quality and quantity of material placed in each disposal area.
8. State water quality standards shall be met during dredging, loading, transporting, and discharge of dredge material, as well as the discharge of return water from dredged material containment sites.
9. During all maintenance dredging and disposal operations, turbidity levels shall not exceed the standards and mixing zone limits described in the Monitoring Required section of this permit. The maximum mixing zone allowed shall be a circle with a radius of 150 meters originating from the dredge, barge/scow, or discharge pipe, as appropriate. Turbidity shall be monitored as described in the Monitoring Required section of this permit. Water and dredged material shall not be permitted to overflow or spill out of barges/scows during transport to the disposal areas.
10. The following measures shall be taken by the permittee whenever turbidity levels at the limit of the mixing zone exceed the standards described in the Monitoring Required section, pursuant to Rule 62-302, F.A.C.:
 - a. Immediately cease all work contributing to the water quality violation;
 - b. Modify the work procedures that were responsible for the violation; and
 - c. Notify the Bureau of Beaches and Coastal Systems at (850) 414-7716 and the DEP Southwest District Office at (813) 744-6100 within 24 hours of the time the violation is first detected.

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 8 of 18

11. During dredging and related activities, any anchoring operations to secure the dredge or equipment shall be conducted within the navigation channel or in areas where there are no seagrass, algal, hardbottom, or coral communities. No direct or secondary impacts are authorized to submerged aquatic vegetation, shellfish beds or hardbottom communities outside of the limits of the federally authorized channels. If any such impacts occur outside of the channel, the permittee shall immediately report the damage to the JCP Compliance Officer and take corrective action to avoid any further damage. Within 30 days of any such damage, the permittee shall propose a remediation/mitigation plan, which shall be implemented upon approval by the Department.

MONITORING REQUIRED:

12. Water Quality Sampling/Compliance

Turbidity - Nephelometric Turbidity Units (NTUs)

Frequency

Background: Equivalent to the corresponding Compliance Site Type.

Compliance Site Type 1 (where the mixing zone does not abut seagrass): Twice daily at least 4 hours apart during all dredging, filling, or disposal operations. If overflow occurs from filling of hopper dredge, disposal barge or scow barge, then monitoring shall occur at least once during each loading event when the turbidity reaches the edge of the mixing zone.

Compliance Site Type 2 (where a shortened mixing zone abuts seagrass): Hourly, when visual observation indicates a turbidity plume extends into areas containing seagrasses. If overflow occurs from filling of hopper dredge, disposal barge or scow barge, then monitoring frequency shall be increased to every 30 minutes during loading and up to 30 minutes after overflow has ceased.

Location

Background: At mid-depth, at least 300 meters upcurrent from the dredge, fill, or disposal site discharge point and clearly outside the influence of any turbidity generated by this project or other obvious turbidity plumes.

Compliance Site Type 1- At mid-depth, at the **mixing zone boundary** (150 meters from the edge of the active construction within waters/wetlands or point of discharge into waters/wetlands, but not beyond the edge of the nearest seagrass bed), downcurrent from the dredge or disposal site discharge point, within the densest portion of any visible turbidity plume.

Compliance Site Type 2- At mid-depth, within the densest portion of any visible turbidity

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 9 of 18

plume, no more than 150 meters downcurrent from the dredge, fill, or disposal site discharge point, or 1 meter within the **edge of seagrass areas** closest to the construction activity (whichever is less).

Compliance Sites at Fort DeSoto Park Disposal Areas – At mid-depth, within the densest portion of any visible turbidity plume, no more than 150 meters offshore and 1,000 meters down-current from the point where runoff from the discharged slurry reenters the Gulf. This expanded mixing zone is authorized by Variance No. 0157891-013-EV, and shall only be in effect as long as the variance is in effect.

Existing ambient water quality within the Boca Ciega Bay Aquatic Preserve (OFW) shall not be lowered as a result of the proposed disposal of dredged material, except on a temporary basis during construction within the restricted mixing zone approved by the Department, for a period of no more than sixty days.

Existing ambient water quality within the Pinellas County Aquatic Preserves (OFW) shall not be lowered as a result of the proposed disposal of dredged material, except on a temporary basis during construction within the 150-meter mixing zone approved by the Department, for a period of no more than thirty days, for each event. However, if the permittee requests an extension of this 30-day period for a given event, and provides written justification that work cannot be completed within 30 days, the Department may grant written permission for continued elevation of turbidity within the 150-meter mixing zone for a specified period.

If at any time turbidity in the Pinellas County Aquatic Preserve, Boca Ciega Bay Aquatic Preserve or other OFW exceeds 0 NTU's above background levels at the edge of the designated 150-meter mixing zone, construction activities shall **cease immediately** and not resume until corrective measures have been taken, turbidity has returned to acceptable levels and the Department's JCP Compliance Officer has been notified. For construction activities at the Ft. DeSoto Park Secondary Beach Placement Site (on the southern shoreline of Mullet Key), if turbidity exceedances within the Boca Ciega Bay Aquatic Preserve cause cessation of construction three times for a given placement event, then additional measures shall be taken to protect the seagrass beds located approximately 1 mile east of the fill template. In that case, for the remainder of the ongoing placement event, construction on the southern shoreline shall be restricted to slack and outgoing tides only. Outside of OFWs, if at any time turbidity at the compliance location exceeds 29 NTU's above background at the edge of the 150-meter mixing zone, construction activities shall **cease immediately** and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. Any such occurrence of water quality violation shall be immediately reported to DEP's BBCS in Tallahassee at (850) 414-7716 (att: JCP Compliance Officer) and to the DEP Southwest District Office at (813) 744-6100 within 24 hours of the time the violation is first detected. Turbidity monitoring reports shall be submitted to the BBCS and DEP Southwest District, with reporting requirements as stipulated below.

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 10 of 18

Water Quality monitoring reports shall be submitted to the BBCS and DEP Southwest District Office on a weekly basis within seven days of collection. Reports shall be submitted under a cover letter containing the following statement: "**This information is provided in partial fulfillment of the monitoring requirements in Permit 0157891-011-EM~~009-EI~~ Tampa Harbor Comprehensive Maintenance Dredging Project.**"

The cover letter shall summarize any significant compliance issues. Also, please clearly reference permit number 0157891-011-EM~~009-EI~~ on each page of the report. In addition to analytical results for samples and quality control, the report should also include:

- a. time of day samples were taken
- b. depth of water body
- c. depth of sample
- d. antecedent weather conditions
- e. tidal stage and direction of flow
- f. wind direction and velocity
- g. a statement describing the methods used in collection, handling, storage and analysis of the samples
- h. turbidity meter calibration
- i. a map indicating the location of the current construction activity, the sampling locations (background and compliance), and the visible plume pattern of the 150 meter mixing zone
- j. a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data.

Failure to submit monitoring reports in a timely manner constitutes grounds for revocation of the permit.

13. Berthing Areas. Maintenance dredging of berthing areas for the Port of Tampa must follow the permit held by the Tampa Port Authority, including the water quality monitoring and disposal specified in permit DEP 29-126458-9 and modification 0190711-001.

Protected Species

14. For all berthing areas in Big Bend and Port Sutton and the Big Bend Channel and Port Sutton Channels, the following special conditions shall apply:
 - a. No clamshell dredging and disposal activities are authorized to occur between dusk and dawn.
 - b. Between November 15 and March 31, at least two designated manatee observers shall be present when in-water work is being performed. These observers shall be approved by the Florida Fish and Wildlife Conservation Commission at least two

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 11 of 18

weeks before the beginning of construction, and be equipped with polarized sunglasses to aid in observation. The manatee observer must be on site during all in-water construction activities and will advise personnel to cease operation upon sighting a manatee within 50 feet of any in-water construction activity. Movement of a work barge, other associated vessels, or any in-water work shall not be performed after sunset, when the possibility of spotting manatees is negligible.

- c. The permittee shall ensure that the contractor maintains a log detailing sightings, collisions, or injuries to marine species should they occur during the contract period. Following project completion, a report summarizing incidents and sightings shall be submitted to the Florida Fish and Wildlife Conservation Commission, Imperiled Species Management, MS 6A, 620 South Meridian Street, Tallahassee, Florida 32399-1600.
 - d. No blasting shall occur.
15. For all activities, in order to ensure that manatees and marine turtles are not adversely affected by construction activities, the following conditions shall be followed:
- a. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and marine turtles and the need to avoid collisions with manatees and marine turtles. All construction personnel are responsible for observing water-related activities for the presence of manatee(s) and marine turtles.
 - b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.
 - c. Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exist from essential habitat.
 - d. All vessels associated with the construction project shall operate at “no wake/idle” speeds at all times and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
 - e. If manatee(s) or marine turtles are seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure protection of the manatee or turtle. These

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 12 of 18

precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee or turtle. Operation of any equipment closer than 50 feet to a manatee or turtle shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) or turtle has departed the project area of its own volition.

- f. Any collision with and/or injury to a manatee or marine turtle shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-772-562-3909 dial 0) in south Florida.
 - g. Temporary signs concerning manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the permittee upon completion of the project. A sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* will be posted in a location prominently visible to water-related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8 ½” by 11” which reads *Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Any collision with and/or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. The U.S. Fish and Wildlife Service should also be contacted in Jacksonville (1-904-232-2580) for north Florida or in Vero Beach (1-772-562-3909 dial 0) for south Florida.*
16. In order to ensure that migratory birds are not adversely affected by construction activities, the Migratory Bird Protection Plan (MBPP) for disposal sites 2-D and 3-D shall remain in effect and be implemented by the permittee when sites 2-D or 3-D are utilized during bird nesting season (April 1st through August 31st). This plan requires that no activities occur between April 1st through August 31st. If any activity must occur during that window (including mobilization or removal of equipment from the site), specific migratory bird nesting habitat protection measures must be approved by the Migratory Bird Protection Interagency Committee (MBPC) as established by the U.S. Army Corps of Engineers’ Migratory Bird Protection Policy or one of the Florida Fish and Wildlife Conservation Commission’s Committee members before the activity can proceed. Prior to each use of these sites, the permittee must submit these approved, specific migratory bird nesting habitat protection measures to the Florida Department of Environmental Protection. At a minimum, the following conditions shall be followed:
- a. The Contractor shall keep construction activities under surveillance, management, and control to prevent impacts to migratory birds and their nests. All construction personnel shall be advised that migratory birds are

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 13 of 18

protected by the Florida Endangered and Threatened Species Act of 1977, Title XXVIII, Chapter 372.072, and the U.S. Fish and Wildlife Service pursuant to the Migratory Bird Treaty Act of 1918 and the Endangered and Threatened Species Act of 1982, as amended. The Contractor may be held responsible for harming or harassing the birds, their eggs or their nests as a result of the construction.

- b. **Monitoring of Construction Area:** In order to meet these responsibilities, the Contractor shall conduct monitoring of the construction area beginning April 1 through August 31, if construction activities occur during that period. Prior to any work being initiated within potential nesting habitat, daily monitoring using the Daily Bird Monitoring Report shall be conducted by a bird monitor approved by the MBPC or the Florida Fish and Wildlife Conservation Commission's Regional Nongame Biologist (caution shall be taken by the monitor to avoid disturbance to the nesting birds.) The Contractor shall maintain a daily log detailing monitoring and nesting activity (not all bird species are listed). Within 30 days after completion of construction, a summary of monitoring shall be submitted to the U.S. Army Corps of Engineers, the BBSC and the Florida Fish and Wildlife Conservation Commission detailing nesting and nesting success/failure including species, number of nests created, location, number of eggs, number of offspring generated during the project and reasons for nesting success or failure, if known.
- c. **Nesting Activity Notification:** Any nesting activity observed by the Contractor shall be entered into the Florida Fish and Wildlife Conservation Commission's Beach-Nesting Bird Website (<http://myfwc.com/shorebirds/>) within 24 hours and reported immediately to the Contracting Officer who shall have sole authority for any work stoppages, creation of the buffer area, or restart of construction activities.
- d. **Nesting Within Construction Area:**
 - (1) Should nesting begin within the construction area, a temporary, 300-foot buffer shall be created around the nests and marked to avoid entry. The area shall be left undisturbed until nesting is completed or terminated, and the chicks fledge. Once the Florida Fish and Wildlife Conservation Commission Regional Nongame Biologist, U.S. Fish and Wildlife Service, and/or MBPC have determined that nesting has concluded, the decision to allow construction in a former nesting site will be determined by the Contracting Officer. Access to the nesting sites by humans (except limited access when accompanied by the bird monitor), equipment or pets under control of the permittee is prohibited.

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 14 of 18

(2) If nesting occurs within the construction area, a bulletin board shall be placed and maintained by the Contractor in the contracting shed with the location map of the construction site showing the bird nesting areas and a warning, clearly visible, stating that "BIRD NESTING AREAS ARE PROTECTED BY THE FLORIDA THREATENED AND ENDANGERED SPECIES ACT AND THE FEDERAL MIGRATORY BIRD TREATY ACT".

- e. Bird Monitoring Qualifications: The Contractor's Environmental Protection Plan shall contain the qualifications of the bird monitor and the steps to be taken to construct the project in such a manner as not to impact migratory birds or induce their nesting. The qualifications of the bird monitor are a demonstrated ability to identify bird species, general and nesting behavior characteristics, nests and eggs, and a knowledge of habitat requirements. In addition, references must be provided to verify non-educational experience. The qualifications shall be submitted on the Bird Monitoring Qualification Sheet.
- f. Work Delay: Delays in work due to the fault of negligence of the Contractor or the Contractor's failure to comply with this specification shall not be compensable. Any adjustments to the contract performance period or price that are required as a result of compliance with this section shall be made in accordance with the clause *SUSPENSION OF WORK of Section 00700 CONTRACT CLAUSES*.

17. For all activities, in order to ensure that marine turtles are not adversely affected, the following conditions shall be followed:
- a. Placement of sand on a sea turtle nesting beach shall only proceed if the U.S. Fish and Wildlife Service has issued an Incidental Take Authorization for each individual placement. If necessary, this permit shall then be modified to incorporate appropriate conditions for tilling and scarp remediation once incidental take has been authorized for beach placement. Fill placement may also occur under a separate permit, which would include appropriate marine turtle protection conditions.
 - b. All fill material placed shall be sand that is similar to that already existing at the beach site in both coloration and grain size distribution and suitable for marine turtle nesting. All such fill material shall be free of construction debris, rocks, or other foreign matter, and shall not contain, on average, greater than 10 percent fines (i.e., silt and clay) (passing the #200 sieve) and shall be free of gravel or cobbles.

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 15 of 18

- c. From May 1 through November 1, all project lighting shall be limited to the immediate area of active construction only and shall be the minimal lighting necessary to comply with U.S. Coast Guard and/or OSHA requirements. Stationary lighting on the beach and all lighting on the dredge shall be minimized through reduction, shielding, lowering, and appropriate placement of lights to minimize illumination of the nesting beach and water.
- d. From May 1 through November 1, staging areas for construction equipment shall be located off the beach to the maximum extent possible. Nighttime storage of construction equipment not in use shall be off the beach to minimize disturbance to sea turtle nesting and hatching activities.
- e. In the event a hopper dredge is utilized for sand excavation, all conditions in the U.S. Fish and Wildlife Service Biological Opinion for hopper dredging and relocation trawling in the Gulf of Mexico must be met, including the following:
 - i. Prior to initiating hopper, the permittee shall notify Dr. Allen Foley, Florida's Sea Turtle Stranding and Salvage Network (STSSN) state representative, of the start-up and completion of hopper dredging operations (allen.foley@myfwc.com).
 - ii. The permittee shall fax (850-921-6988) or e-mail (Meghan.Conti@MyFWC.com) weekly reports to the Florida Fish and Wildlife Conservation Commission Imperiled Species Management Section on Friday each week that relocation trawling is conducted in Florida waters. These reports shall include: the species and number of turtles captured in Florida waters, general health, and release information. A summary of all turtles captured in Florida waters, including all measurements, the latitude and longitude (in decimal degrees) of captures and tow start-stop points, and times for the start-stop points of the tows, including those tows on which no turtles are captured shall be submitted to the Imperiled Species Management Section by January 15 of each year.
 - iii. Turtles collected within Florida waters must be released in Florida waters.
 - iv. Copies of all reports submitted to the U.S. Fish and Wildlife Service as required by the Biological Opinion and Incidental Take Statement shall also be submitted to the Florida Fish and Wildlife Conservation Commission. The final report shall include a description of the index of abundance, identify all parameters included in the index, and include a discussion of the accuracy and precision of this index.

Permit No. 0157891-011-EM
U.S. Army Corps of Engineers
Tampa Harbor Comprehensive Maintenance Dredging
Page 16 of 18

- v. Any turtles incidentally taken during dredging activities must be reported to the Sea Turtle Stranding and Salvage Network. Three photographs of each turtle (dorsal, ventral, close-up of head) should be submitted with each stranding report.

- f. Upon locating a dead, injured, or sick endangered or threatened sea turtle specimen, initial notification must be made to the Florida Fish and Wildlife Conservation Commission at 1-888-404-FWCC. Care should be taken in handling sick or injured specimens to ensure effective treatment and care and in handling dead specimens to preserve biological materials in the best possible state for later analysis of cause of death. In conjunction with the care of sick or injured endangered or threatened species or preservation of biological materials from a dead animal, the finder has the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.

- g. All fill material placed must be sand that is similar to a native beach in the vicinity of the site that has not been affected by prior nourishment activities. The fill material must be similar in both coloration and grain size distribution to the native beach. All such fill material must be free of construction debris, rocks, or other foreign matter and must not contain a high percentage of silt and clay (passing the #230 sieve) and must not contain, on average, greater than 5 percent coarse gravel or cobbles, exclusive of shell material (retained by the #4 sieve).

- h. From April 1 through November 30, staging areas for construction equipment must be located off the beach to the maximum extent practicable. Nighttime storage of construction equipment not in use must be off the beach to minimize disturbance to sea turtle nesting and hatching activities. In addition, all construction pipes that are placed on the beach must be located as far landward as possible without compromising the integrity of the existing or reconstructed dune system. Temporary storage of pipes must be off the beach to the maximum extent possible. Temporary storage of pipes on the beach must be in such a manner so as to impact the least amount of nesting habitat and must likewise not compromise the integrity of the dune systems (placement of pipes perpendicular to the shoreline is recommended as the method of storage).

- i. From April 1 through November 30, direct lighting of the beach and nearshore waters must be limited to the immediate construction area and must comply with safety requirements. Lighting on offshore or onshore equipment must be minimized through reduction, shielding, lowering, and appropriate placement to avoid excessive illumination of the waters surface and nesting beach while meeting all Coast Guard, EM 385-1 -1, and OSHA requirements. Light intensity of lighting plants must be reduced to the minimum standard required by OSHA for General Construction areas, in order not to misdirect sea turtles. Shields must

be affixed to the light housing and be large enough to block light from all lamps from being transmitted outside the construction area (see Figure 1 below).

- j. If the construction will be conducted during the period from March 1 through April 30, construction activities must be conducted during daylight hours only.

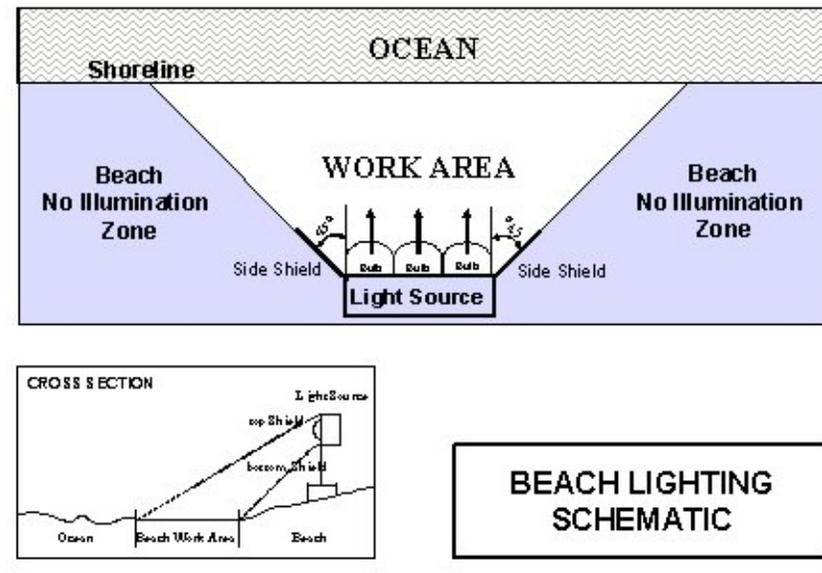


Figure 1

18. The existing geotextile tube groins shall be surveyed prior to removal in order to identify the precise locations, elevations and azimuths for construction of the replacement geotextile tube groins in the approved permitted position represented in the attached permit drawing.
19. The existing remnant geotextile tube groins shall be emptied of all fill material, completely removed and properly disposed of in an offsite, upland location.
20. Fill ports of the replacement geotextile tube groins shall be sealed with a bolted or epoxy-sealed plate or equivalent.
21. If rock and/or gravel deposits are encountered during dredging operations, the Corps contracting representative will visually assess the material to ensure it is free from excessive silt or organic materials prior to placement into the deep scour hole north of Egmont Key. If the material is found to be unsuitable for disposal in the scour hole, the Corps will place the material in one of the other approved disposal areas such as the ODMDS.

Executed in Tallahassee, Florida.

STATE OF FLORIDA, DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Michael R. Barnett, P.E., Chief
Bureau of Beaches and Coastal Systems

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to 120.52(7),
Florida Statutes, with the designated Department Clerk,
receipt of which is hereby acknowledged.

 9/12/06
Clerk Date

Attachments:

- Project Drawings (20 pages)
- TPA Berth Drawings (41 pages)

Copies furnished to:

- | | |
|--|---|
| Cece McKiernan, DEP, Southwest District | Steve West, BBCS, Field Representative |
| Tim Murphy, Corps, Jacksonville | Pat Hanson, Corps, Jacksonville |
| Paul Karch, Corps, Jacksonville | David Parsche', Tampa Port Authority |
| Nicole Elko, Pinellas County DEM | FWC Florida Marine Patrol |
| George Henderson, FWCC, FWRI | Bryan Pridgeon, USFWS, St. Petersburg |
| Suzanne Cooper, TBRPC, ABM | Holly Greening, TBEP |
| Bob Stetler, EPCHC | Tom Reese |
| Mary Duncan, FWC, ISMS | Randy Runnels, Aquatic Preserve Manager |
| Corps of Engineers, Regulatory Office, Tampa | |
| BBCS Permit Information Center | |