DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

3-201
(1/97)

FEDERAL FISH AND WILDLIFE PERMIT

2. AUTHORITY-STATUTES	
16 USC 1539(a)(1)(B)	
REGULATIONS (Attached)	
50 CFR §§ 13, 17, & 21	
3. NUMBER	
TE811813-11	
4. RENEWABLE	5. MAY COPY
[X] YES [ ] NO	[X] YES [ ] NO
6. EFFECTIVE	7. EXPIRES
11/7/2005	12/31/2030

1. PERMITTEE

COUNTY OF VOLUSIA, FLORIDA
123 WEST INDIANA AVENUE
DeLAND, FLORIDA 32720

TELEPHONE: 904/736-5950
FACSIMILE: 904/736-5990

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)

9. TYPE OF PERMIT
THREATENED AND ENDANGERED SPECIES – INCIDENTAL TAKE

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
THE ATLANTIC COASTLINE OF VOLUSIA COUNTY, FLORIDA. THE SPECIFIC GEOGRAPHIC AREA COVERED BY THIS PERMIT IS DEFINED IN CONDITION 11.E, BELOW.

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE, AND AUTHORIZED AGENTS.

D. ACCEPTANCE OF THIS PERMIT SERVES AS EVIDENCE THAT THE PERMITTEE AND ITS AUTHORIZED AGENTS UNDERSTAND AND AGREE TO ABIDE BY THE TERMS OF THIS PERMIT AND ALL SECTIONS OF TITLE 50 CODE OF FEDERAL REGULATIONS, PARTS 13 AND 17, PERTINENT TO ISSUED PERMITS. SECTION 11 OF THE ENDANGERED SPECIES ACT OF 1973, AS AMENDED, PROVIDES FOR CIVIL AND CRIMINAL PENALTIES FOR FAILURE TO COMPLY WITH PERMIT CONDITIONS.

_XX_ BLOCK 11 OF THIS PERMIT CONTAINS CONDITIONS A – T (24 PAGES TOTAL).

12. REPORTING REQUIREMENTS

REPORTS WILL BE PROVIDED TO THE U.S. FISH AND WILDLIFE SERVICE OFFICES APPEARING IN CONDITIONS 11.R AND 11.S OF THIS PERMIT.

ISSUED BY	TITLE	DATE
Cynthia K. Dohner	DEPUTY REGIONAL DIRECTOR, FWS, SOUTHEAST REGION	11/7/05

County of Volusia, Florida
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E. **Geographic Area and Covered Species.** The Permittee has defined the geographic area covered by its February 2005 Habitat Conservation Plan (HCP) in two ways. The first is the "Plan Area," which is described in the HCP as about 51 miles of coastal beaches, and includes the entire length of the coastline within the boundaries of the County of Volusia. The second is the "County Beaches" which refers to those coastline areas within the Plan Area and under the direct jurisdiction, or within the legal access, of the Permittee. The County Beaches encompass about 37 miles of coastline within the Plan Area and extend from the southern boundary of the North Peninsula State Recreation Area to the northern boundary of Canaveral National Seashore, including the inlet shoreline of Ponce de Leon Inlet at Smyrna Dunes and Lighthouse Point Parks. The landward boundary of both the Plan Area and County Beaches is delimited by any seawall or line of permanent dune vegetation, whichever is most seaward if both are present; the seaward limit is delimited by the mean low water line of the Atlantic Ocean.

Status surveys and annual monitoring indicate that the Plan Area provides winter roost and foraging habitat (piping plover) and nesting habitat (sea turtles) for the following covered species:

Common Name	Scientific Name
Piping plover	*Charadrius melodus*
Loggerhead sea turtle	*Caretta caretta*
Green sea turtle	*Chelonia mydas*
Leatherback sea turtle	*Dermochelys coriacea*
Hawksbill sea turtle	*Eretmochelys imbricata*
Kemp's ridley sea turtle	*Lepidochelys kempii.*

F. **Incidental Take Authorized.** The Permittee, and its designated agents, successors, and assigns, are authorized to take, in the form of harassment, harm, or mortality, the covered species incidental to the activities as described in the Permittee's HCP and as conditioned herein. This permit does not authorize take of any covered species resulting from unlawful activities.

This Permit is based upon the Permittee's expected compliance with the provisions and commitments established in the HCP and the Permit's stated terms and conditions identified herein. Where a conflict occurs between the HCP and this Permit, the Permit shall control.

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F. (Continued).

Subject to the continuing validity of this Permit, the following types of incidental take are authorized herein:

Harassment, injury, and/or death of wintering piping plovers resulting from all vehicular activities set forth in the Permittee's HCP and as authorized by this Permit when conducted in conformance with the terms and conditions of this Permit.

2. Harassment, injury, and/or death of sea turtle eggs and/or hatchlings resulting from public vehicles (vehicles operated by the general public) driving over unmarked/unprotected sea turtle nests located in designated traffic lane/driving area(s) or ramp grading area(s) on County Beaches.

3. Harassment, injury, and/or death of sea turtle eggs and/or hatchlings resulting from emergency, safety, wildlife protection, and/or other official vehicles driving over unmarked/unprotected sea turtle nests located within the Plan Area, pursuant to the terms and conditions of this Permit. Official vehicles include those operated by Code Enforcement personnel and other County staff and contractors charged with implementing the HCP.

4. Harassment, injury, and/or death of sea turtle eggs and/or hatchlings resulting from emergency and/or safety vehicles driving over marked sea turtle nests located within the Plan Area.

5. Harassment, injury, and/or death of hatchling sea turtles emerging from unmarked/unprotected nests in the Plan Area who subsequently encounter vehicle ruts.

6. Harassment, injury, and/or death of hatchling sea turtles emerging from marked nests in the Plan Area that subsequently encounter vehicle ruts in areas where rut removal was not performed due to circumstances beyond the control of the Applicant, including but not limited to dangerous weather conditions, extreme high tides, equipment failure, vandalism of nest barriers, and hatchling emergence prior to the scheduled date for initiation of rut removal activities, pursuant to the terms and conditions of this Permit.

7. Harassment, injury, and/or death of hatchling sea turtles emerging from marked nests in the Plan Area that subsequently encounter vehicle ruts

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in areas where rut removal was performed in conformance with the terms and conditions of this Permit.

8. Harassment, injury, and/or death of adult, hatchling, stranded, or post-hatchling washback sea turtles resulting from collisions with emergency, safety, wildlife protection, and/or other official vehicles operating within the Plan Area, pursuant to the terms and conditions of this Permit.

9. Harassment, injury, and/or death of adult female sea turtles attempting to nest in the Transitional and/or Urban Areas of the County Beaches between 8:00 a.m. and 7:00 p.m., resulting from collisions with vehicles operated by the general public.

10. Harassment, injury, and/or death of hatchling sea turtles emerging from the nest and/or crawling from the Transitional and/or Urban Areas of County Beaches to the ocean between 8:00 a.m. and 7:00 p.m., resulting from collisions with vehicles operated by the general public pursuant to the terms and conditions of this Permit.

11. Harassment, injury, and/or death of post-hatchling washback sea turtles resulting from collisions with vehicles operated by the general public pursuant to the terms and conditions of this Permit; post-hatchling washback sea turtles are hatchling sea turtles that have left nesting beaches and spent some time at sea before being washed back ashore by winds and waves.

12. Harassment, injury, and/or death of adult female sea turtles attempting to nest in the Plan Area related to physical changes in beach conditions resulting from vehicles operating in the Plan Area in accordance with the terms and conditions of this Permit. Changes to beach conditions include, but are not limited to, increased sand compaction and the presence of ruts, both of which may result in physiological stress to nesting turtles through reduced nesting success (percentage of crawls resulting in nests), increased digging attempts, and/or increased energy expenditure during nest construction.

13. Harassment, injury, and/or death of sea turtle eggs and/or hatchlings in unmarked/unprotected nests in the Plan Area due to physical crushing, presence of ruts, and/or sand compaction by activities associated with (1) marking the established Conservation Zone in the Transitional and Urban

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Areas of the County Beaches; (2) placement of trash receptacles on County Beaches; (3) placement and maintenance of portable toilets as outlined in the HCP; and (4) beach maintenance activities, including ramp grading.

Harassment, injury, and/or death of sea turtle eggs and/or hatchlings in unmarked/unprotected nests in the Plan Area due to physical crushing, presence of ruts, and/or sand compaction from vehicular activities associated with (1) emergency shoreline protection projects authorized by local, State and/or Federal agencies; (2) removal of material, debris, and/or obstacles from the beach that pose a public health or safety risk; and/or (3) scientific monitoring and research, pursuant to the terms and conditions of this Permit.

15. Harassment, injury, and/or death of sea turtles resulting from physical interaction with lifeguard towers, Conservation Zone boundary markers, traffic signs, Protected Species Beach Management Area markers, and other devices and structures used for traffic management, public safety, conservation measures, or public awareness pursuant to the terms and conditions of this Permit.

16. Harassment, injury, and/or death of sea turtle eggs deposited November 1 through April 30, when a nest monitoring/marking program is not in place

17. Harassment, injury, and/or death of wintering piping plovers, sea turtles and their eggs resulting from all vehicular activities not specifically cited above, but otherwise authorized by this Permit, when such activities are conducted in conformance with the terms and conditions of this Permit.

Incidental take authorized in Conditions 11.F.1 through 11.F.17, above, includes all direct and indirect impacts to covered species and their habitat resulting from implementation of the Permittee's HCP in accordance with the terms and conditions of this Permit.

G. **Mitigation/Minimization Measures.** The Permittee shall employ the following measures to ensure that take of the covered species is minimized and mitigated. The Permittee is responsible for meeting the terms and conditions of the ITP and implementing the HCP.

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1. **Protected Species Beach Management Areas.** Natural Beach Areas, Transitional Areas, and Urban Areas, as described and defined in Chapter 7 of the HCP, shall be maintained and regulated as follows. The Permittee shall enforce the following performance standards to ensure the conservation goals of the HCP are met.

i. **Performance Standards in Natural Beach Areas:**

a. **Public Driving.** The Permittee shall enforce year-round driving prohibitions.

b. **Emergency and Public Safety Vehicles.** Emergency and public safety vehicle access is not limited.

c. **Sea Turtle Monitoring.** Vehicle access for properly permitted sea turtle monitoring is not limited.

d. **HCP Management Activities.** Official vehicle access necessary to monitor and enforce the terms of this Permit and implementation of the conditions of the HCP is not limited.

e. **Scientific Studies.** The Permittee may authorize vehicle access by local, state, or Federal governments; non-governmental conservation groups; or institutions of higher learning to conduct surveys, research, or scientific data collection related to the conservation of the coastal environment. Such activities must be approved in writing by the HCP Coordinator in consultation with the Protected Species Specialist (PSS).

f. **Motorized Rental Vehicles.** The Permittee shall enforce year-round driving prohibitions.

g. **Commercial Fishermen.** The Permittee shall enforce year-round driving prohibitions.

h. **Concessionaires.** The Permittee shall enforce year-round driving prohibitions.

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Sanitation Collection. From May 1 to October 31, each year, trash collection shall be authorized only after completion of daily sea turtle nest surveys and until 7:00 p.m., or sunset, whichever is earlier. From November 1 through April 30, each year, trash collection may occur between sunrise and sunset. All sanitation collection vehicles must operate only below the most recent high tide line unless lightweight vehicles (e.g., all terrain vehicles) equipped with wide, low-pressure tires are used. These properly equipped vehicles may access soft sand areas to collect trash but must operate in wetted sand when moving between trash receptacles. Prior to any driver operating a sanitation collection vehicle, the Permittee must ensure that any driver is trained pursuant to Condition 11.H.5, below

j. **Special Events.** Prior coordination with and approval from the Protected Species Specialist is required for any Special Events within Natural Beach Areas.

k. **Ramp Grading.** From May 1 to October 31, each year, the Permittee may authorize access for ramp grading equipment only after completion of daily nesting surveys. From November 1 through April 30, each year, the Permittee may authorize access for ramp grading equipment between sunrise and sunset.

l. **Tram Service.** A tram, if operated, shall be restricted to seaward of the previous high tide line. The U.S. Fish and Wildlife Service will review and approve any operational plan prior to implementation of a tram program.

m. **Coastal Construction.** Between November 1 or the date on which the last sea turtle nest has hatched and April 30 or the date on which the first sea turtle nest has been laid, the Permittee may authorize vehicle access for the purpose of non-emergency coastal construction projects approved by local, State, and/or Federal regulatory agencies. The Permittee may authorize vehicle access for emergency coastal construction projects throughout the year. Authorization of vehicle access for non-emergency and

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emergency coastal construction must comply with Conditions 11.G.11 and 11.G.12 below, respectively.

n. **Non-Routine Vehicle Access.** The Permittee may authorize vehicle access throughout the year to undertake activities necessary to protect the health and safety of the public, including, but not limited to, storm cleanup, removal of hazardous or dangerous materials, removal of downed aircraft and grounded boats and any other public safety or health threat reviewed, approved, and deemed appropriate by the Service. Authorization of vehicle access for public health and safety must comply with Condition 11.G.13 below.

ii. **Performance Standards in Transitional Areas:**

a. **Conservation Zone.** The Permittee shall implement, maintain, and enforce driving and parking prohibitions within a 30-foot Conservation Zone as described and defined in the HCP, except as authorized below.

b. **Public Driving.** The Permittee may authorize public access, except within the Conservation Zone unless tides and/or other naturally-occurring events preclude sufficient hard sand areas to accommodate traffic, or upon a determination by the Protected Species Specialist that unacceptable risks to protected species nests and/or protected species may occur. The establishment of driving and parking lanes seaward of the Conservation Zone and regulation of traffic flow shall be in accordance with Appendix G of the HCP and any amendments, approved by the U.S. Fish and Wildlife Service, thereto. From May 1 to October 31, each year, the Permittee may authorize public driving between the hours of 8:00 a.m. and 7:00 p.m., or sunset, whichever is earlier. From November 1 through April 30, each year, the Permittee may authorize public driving between sunrise and sunset.

c. **Emergency and Public Safety Vehicles.** Emergency and public safety vehicle access is not limited, including access

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within the Conservation Zone.

d. **Sea Turtle Monitoring.** Vehicle access for properly permitted sea turtle monitoring is not limited, including access within the Conservation Zone.

e. **HCP Management Activities.** Official vehicle access necessary to monitor and enforce the terms of this Permit and implementation of the conditions of the HCP is not limited, including access within the Conservation Zone.

f. **Scientific Studies.** The Permittee may authorize vehicle access by local, state, or Federal governments; non-governmental conservation groups; or institutions of higher learning to conduct surveys, research, or scientific data collection related to the conservation of the coastal environment. Such activities must be approved in writing by the HCP Coordinator in consultation with the PSS.

Motorized Rental Vehicles. The Permittee may authorize access outside of the Conservation Zone for motorized rental vehicles.

h. **Commercial Fishermen.** The Permittee may authorize eligible commercial fishermen vehicle access outside of the Conservation Zone from May 1 to October 31, each year, only after completion of daily sea turtle nest surveys and until 7:00 p.m. Between November 1 and April 30, each year, such access may be authorized between 6:00 a.m. and 10:00 p.m. Prior to any commercial fisherman access, the Permittee must ensure that individual fishermen comply with training requirements identified in Condition 11.H.5.

i. **Concessionaires.** The Permittee may authorize concessionaires access outside of the Conservation Zone from May 1 through October 31, each year only after completion of daily sea turtle nest surveys and until 7:00 p.m., or sunset, whichever is earlier. Between November 1 and April 30, each year, such access may be authorized between sunrise and sunset. Prior to authorizing access, the

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Permittee must ensure that individual concessionaires have complied with the training requirements in Condition 11.H.5. The Permittee must require that concessionaires clean up and properly dispose of trash within 100 (one hundred) feet of their location each day.

j. **Sanitation Collection.** From May 1 to October 31, each year, trash collection shall be authorized only after completion of daily sea turtle nest surveys and until 7:00 p.m., or sunset, whichever is earlier. Between November and April 30, each year, access may be authorized between sunrise and sunset. All sanitation collection vehicles must operate only below the most recent high tide line unless lightweight vehicles (e.g., all terrain vehicles) equipped with wide, low-pressure tires are used. These properly equipped vehicles may access soft sand areas to collect trash. Prior to any driver operating a sanitation collection vehicle, the Permittee must ensure that any driver is trained pursuant to Condition 11.H.5.

k. **Special Events.** Prior coordination with and approval from the Protected Species Specialist is required for any Special Events in Transitional Areas from May 1 through October 31, each year. Vehicle access limitations associated with Special Events are the same as described in Condition 11.G.1.ii.b.

l. **Ramp Grading.** From May 1 to October 31, each year, the Permittee may authorize access for ramp grading equipment only after completion of daily nesting surveys and until 7:00 p.m. From November 1 through April 30, each year, the Permittee may authorize access for ramp grading equipment between sunrise and sunset.

m. **Coastal Construction.** Between November 1 or the date on which the last sea turtle nest has hatched and April 30 or the date on which the first sea turtle nest is laid, the Permittee may authorize vehicle access, including within the Conservation Zone, for the purpose of non-emergency coastal construction projects approved by local, State,

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and/or Federal regulatory agencies. The Permittee may authorize vehicle access, including within the Conservation Zone, for emergency coastal construction projects throughout the year. Authorization of vehicle access for non-emergency and emergency coastal construction must comply with Conditions 11.G.11 and 11.G.12, respectively.

n. **Non-Routine Vehicle Access.** The Permittee may authorize vehicle access, including within the Conservation Zone, throughout the year to undertake activities necessary to protect the health and safety of the public, including, but not limited to, storm cleanup, removal of hazardous or dangerous materials, removal of downed aircraft and grounded boats and any other public safety or health threat reviewed, approved, and deemed appropriate by the Service. Authorization of vehicle access for public health and safety must comply with Condition 11.G.13.

iii. **Performance Standards in Urban Areas:**

a. **Conservation Zone.** The Permittee shall implement, maintain, and enforce driving and parking prohibitions within a 15-foot Conservation Zone as described and defined in the HCP, except as authorized below

b. **Public Driving.** The Permittee may authorize public access, except within the Conservation Zone unless tides and/or other naturally-occurring events preclude sufficient hard sand areas to accommodate traffic, or upon a determination by the Protected Species Specialist that unacceptable risks to protected species nests and/or protected species may occur. The establishment of driving and parking lanes seaward of the Conservation Zone and regulation of traffic flow shall be in accordance with Appendix G of the HCP and any amendments, approved by the U.S. Fish and Wildlife Service, thereto. From May 1 to October 31, each year, the Permittee may authorize public driving between the hours of 8:00 a.m. and 7:00 p.m., or sunset, whichever is earlier. From November 1 through April 30, each year, the Permittee may authorize public

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driving between sunrise and sunset.

c. **Emergency and Public Safety Vehicles.** Emergency and public safety vehicle access is not limited, including access within the Conservation Zone.

d. **Sea Turtle Monitoring.** Vehicle access for properly permitted sea turtle monitoring is not limited, including access within the Conservation Zone.

e. **HCP Management Activities.** Official vehicle access necessary to monitor and enforce the terms of this Permit and implementation of the conditions of the HCP is not limited, including access within the Conservation Zone

f **Scientific Studies.** The Permittee may authorize vehicle access by local, state, or Federal governments; non-governmental conservation groups; or institutions of higher learning to conduct surveys, research, or scientific data collection related to the conservation of the coastal environment. Such activities must be approved in writing by the HCP Coordinator in consultation with the PSS

g. **Motorized Rental Vehicles.** The Permittee may authorize access for motorized rental vehicles outside of the Conservation Zone, subject to the terms of this Permit.

h. **Commercial Fishermen.** The Permittee may authorize eligible commercial fishermen vehicle access outside of the Conservation Zone from May 1 to October 31, each year, only after completion of daily sea turtle nest surveys and until 7:00 p.m. Between November 1 and April 30, each year, such access may be authorized between 6:00 a.m. and 10:00 p.m. Prior to any commercial fisherman access, the Permittee must ensure that individual fishermen comply with training requirements identified in Condition 11.H.5.

Concessionaires. The Permittee may authorize concessionaires access outside of the Conservation Zone from May 1 through October 31, each year, only after

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completion of daily sea turtle nest surveys and until 7:00 p.m., or sunset, whichever is earlier. Between November 1 and April 30, each year, such access may be authorized between sunrise and sunset. Prior to authorizing access, the Permittee must ensure that individual concessionaires have complied with the training requirements in Condition 11.H.5. The Permittee must require that concessionaires clean up and properly dispose of trash within 100 (one hundred) feet of their location each day.

j. **Sanitation Collection.** From May 1 to October 31, year, trash collection shall be authorized only after completion of daily sea turtle nest surveys and until 7:00 p.m., or sunset, whichever is earlier. Between November 1 and April 30, each year, access may be authorized between sunrise and sunset. All sanitation collection vehicles must operate only below the most recent high tide line unless lightweight vehicles (e.g., all terrain vehicles) equipped with wide, low-pressure tires are used. These properly equipped vehicles may access soft sand areas to collect trash. Prior to any driver operating a sanitation collection vehicle, the Permittee must ensure that any driver is trained pursuant to Condition 11.H.5.

k. **Special Events.** Prior coordination with and approval from the Protected Species Specialist is required for any Special Events in Urban Areas from May 1 through October 31, each year. Vehicle access limitations associated with Special Events are the same as described in Condition 11.G.1.iii.b.

l. **Ramp Grading.** From May 1 to October 31, each year, the Permittee may authorize access for ramp grading equipment only after completion of daily nesting surveys and until 7:00 p.m. From November 1 through April 30, each year, the Permittee may authorize access for ramp grading equipment between sunrise and sunset.

m. **Coastal Construction.** Between November 1 or the date on which the last sea turtle nest has hatched and April 30 or

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the date on which the first sea turtle nest is laid, the Permittee may authorize vehicle access, including within the Conservation Zone, for the purpose of non-emergency coastal construction projects authorized by applicable local, State, and/or Federal regulatory agencies. The Permittee may authorize vehicle access, including within the Conservation Zone, for emergency coastal construction projects throughout the year. Authorization of vehicle access for non-emergency and emergency coastal construction must comply with Conditions 11.G.11 and 11.G.12, respectively.

n. **Non-Routine Vehicle Access**. The Permittee may authorize vehicle access, including within the Conservation Zone, throughout the year to undertake activities necessary to protect the health and safety of the public, including, but not limited to, storm cleanup, removal of hazardous or dangerous materials, removal of downed aircraft and grounded boats and any other public safety or health threat reviewed, approved, and deemed appropriate by the Service. Authorization of vehicle access for public health and safety must comply with Condition 11.G.13.

2. **Tire Tracks/Rut Removal Program**. The Permittee shall implement the standard operating procedures of the Tire Track/Rut Removal Program previously approved by the U.S. Fish and Wildlife Service. The Tire Track/Rut Removal Program will be evaluated annually to ensure it effectively minimizes impacts to sea turtle hatchlings caused by vehicle tire ruts and other obstructions. Any needed changes to the standard operating procedures shall be reviewed and approved by the U.S. Fish and Wildlife Service prior to their implementation.

3. **Driving Zone Delineation.** The Permittee shall ensure that driving zones within the County Beaches are clearly delineated and maintained. The Permittee shall make available to drivers accessing the Plan Area information regarding applicable HCP provisions and County regulations governing vehicle access and vehicle access-activities.

4. **Placement and Maintenance of Portable Restroom Facilities.** The Permittee is authorized to place portable restroom facilities within the Plan

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Area in accordance with its U.S. Fish and Wildlife Service-approved Portable Restroom Placement Policy. Any changes to the Portable Restroom Placement Policy must be reviewed and approved by the U.S Fish and Wildlife Service prior to their implementation.

5. **Maintenance and Placement of the Conservation Zone Markers**. The Permittee shall clearly delineate and maintain a Conservation Zone in accordance with its U.S. Fish and Wildlife Service-approved Conservation Zone Boundary Management Plan. Any changes to the Conservation Zone Boundary Management Plan must be reviewed and approved by the U.S. Fish and Wildlife Service prior to their implementation.

6. **Nighttime Operation of Vehicles**. All vehicle access authorized by this Permit must comply with the U.S. Fish and Wildlife Service-approved Volusia County Beaches HCP Nighttime Vehicle Operation Guidelines for County and Municipal Public Safety Vehicles. Any changes to the Volusia County Beaches HCP Nighttime Vehicle Operation Guidelines for County and Municipal Public Safety Vehicles must be reviewed and approved by the U.S. Fish and Wildlife Service prior to their implementation.

7 **Special Beach Events**. The Permittee's Protected Species Specialist must review and approve special beach events from May 1 through October 31, each year, in Urban and Transitional Areas and throughout the year in Natural Areas. Prior to initiation of any such event, written authorization for the event must be provided to the event's organizer. Such authorization shall contain specific conditions to ensure that the planned activities are designed in such a way as to have no impacts on sea turtle eggs and/or hatchlings in the affected beach area and are consistent with the terms of this Permit.

8. **Lifeguard Station Management**. Official vehicle access to lifeguard facilities shall be restricted to hard-packed, wet sand areas, except in emergency situations or when beach conditions make it necessary for routine public safety patrols to be conducted in dry sand areas. Official vehicle access to permanent lifeguard facilities is also authorized within a 30 (thirty)-foot wide driving corridor from wet sand areas to each permanent lifeguard station and within a 20 (twenty)-foot radius around permanent lifeguard stations. To allow for vehicular access through soft sand at any permanent lifeguard station, driving corridors may be

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expanded to encompass a cone-shaped area that widens in a seaward direction from the lifeguard station. The corridor cannot exceed 100 feet at the high tide line. Official vehicles may drive and park at the base of the permanent lifeguard towers. All lifeguards must participate in sea turtle training programs and certify their participation before they are permitted to drive on the beach as outlined in Condition 11.H.5

9. **Commercial Fishermen.** The Permittee must ensure that each commercial fisherman authorized to drive in Urban and Transitional Areas of the County Beaches obtain a U.S. Fish and Wildlife Service-approved Commercial Fisherman license pursuant to Chapter 6 of the HCP. Any changes to the Commercial Fisherman license in Appendix C of the HCP must be reviewed and approved by the U.S. Fish and Wildlife Service prior to implementation of such changes and issuance of such licenses.

10. **Beach/Access Ramp Maintenance and Routine Cleaning.** No mechanical sand raking (with the exception of that associated with tire rut removal, as outlined in Condition 11.G.2) will be permitted from May 1 through October 31, or in bird nesting areas as defined in Condition 11.G.16.i. All raking and collecting of trash and debris will be done by hand during this period. Mechanical raking may occur from November 1 through April 30, each year. No mechanical sand raking will be conducted inside a sea turtle nest barrier at any time. Mechanical sand raking outside the sea turtle nesting season will avoid any early-laid or late-emerging nests that have been marked and post-hatchling washbacks, and the Permittee's Protected Species Specialist must approve and provide oversight of this activity. Beach access ramps may be graded daily, as needed, to permit vehicle access. Beach maintenance vehicles entering Protected Species Beach Management Areas must travel below the last high tide line. Grading must be performed in accordance with Florida Department of Environmental Protection permits and guidelines, as applicable. All individuals operating beach maintenance vehicles must comply with Condition 11.H.5.

1. **Access for Coastal Construction.** The Permittee may authorize vehicle access onto County Beaches and within the Conservation Zones, where applicable, as described and further defined in Chapters 7 and 8 of the HCP and in Conditions 11.G.1.i.m., 11.G.1.ii.m., and 11.G.1.iii.m., provided any related construction activity, the resulting structure, and any environmental impacts, including potential incidental take of listed

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species, have been properly authorized by appropriate local, State, and/or Federal regulatory agencies.

12. **Access for Emergency Coastal Construction**. The Permittee may authorize vehicle access onto the Plan Area and within the Conservation Zones, where applicable, as described and further defined in Chapters 7 and 8 of the HCP and Conditions 11.G.1.i.m., 11.G.1.ii.m., and 11.G.1.iii.m.

13. **Access for Non-Routine Activities**. The Permittee may authorize vehicle access onto the Plan Area and within the Conservation Zones, where applicable, as described and further defined in Chapters 7 and 8 of the HCP.

14. **Standards for Beach Closure**. During periods of high tides that encroach into driving lanes, the Permittee shall limit public vehicle access to County Beaches in accordance with its U.S. Fish and Wildlife Service-approved Beach Closure Policy. Any change to the Beach Closure Policy must be reviewed and approved by the U.S. Fish and Wildlife Service prior to its implementation.

15. **Off-Beach Parking Plan**. The Permittee will continue efforts to increase off-beach parking capacity, particularly adjacent to Natural Beach Areas.

16. **Species Management Program**

    i. **Protection of Bird Nesting Areas.** Within the Plan Area, the Permittee shall conduct migratory shorebird nest surveys in April of each year. Any nesting areas used by State or Federally protected birds shall be protected according to prescribed State or Federal guidelines, if available. If no such guidelines exist, nesting sites will be delineated using stakes, signs, or other similar visual methods. The Permittee shall prohibit vehicle and pedestrian access into any protected nesting areas, and establish a sufficient buffer to limit disturbance to nesting birds. The Protected Species Specialist, or a designee, will monitor the nesting area to determine numbers of nests and nest success. Following fledging of all young from any nesting area, any visual barriers delineating the nesting area may be removed. Nesting areas used in consecutive years shall be protected prior to the following nesting season to

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prevent disruption of nesting attempts.

ii. **Piping Plover Sightings on the County Beaches**. The Permittee shall conduct monthly surveys between December and February, each year, within federally designated critical habitat of the piping plover. The Permittee shall also record opportunistic sightings of piping plovers by County staff at any other time of the year. Survey and opportunistic sightings shall include information about the date of survey or sighting, general location of sighting, type of habitat used by plovers, number of plovers observed, behavior (e.g., foraging, resting), and numbers/color of any leg bands observed.

iii. **Sea Turtle Monitoring Program**. Each year, the Permittee shall implement its Sea Turtle Monitoring Program as defined and described in Chapter 9 of the Permittee's HCP.

17. **Other Mitigation Measures.** The Permittee shall implement all other mitigation measures defined and described in chapter 12 of the HCP.

H. **Implementation Measures**. The following measures will be employed by the Permittee to ensure that the terms of this Permit and conditions of the HCP are implemented.

1. **Staffing**. The Permittee shall maintain staffing, including a Protected Species Specialist and HCP Coordinator, as defined and described in Chapter 6 of the Permittee's HCP to ensure enforcement of the terms of this Permit and effective administration of the HCP. The Permittee will also provide staffing for the position of HCP Field Manager, as needed.

2. **Interagency Protected Species Coordination Committee. The Permittee will maintain an Interagency Protected Species Coordination Committee that is composed of the Protected Species Specialist and affected Volusia County governmental units involved in implementation and enforcement of this Permit and the HCP. The Interagency Protected Species Coordination Committee will meet prior to the beginning of each sea turtle nesting season, and periodically thereafter, as needed, to ensure that the Permittee is carrying out its responsibilities under the terms of this Permit and conditions of the HCP.**

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3. **Data and Records Management.** The Permittee shall ensure that appropriate staff collect, analyze, maintain, and report data and records as defined and described in Chapter 11 of the Permittee's HCP.

4. **Enforcement and Coordination of Enforcement.** The Permittee, by accepting this Permit, agrees to abide by its terms and conditions and agrees to provide sufficient and adequate enforcement to ensure that the performance standards listed in this Permit are implemented and the biological goals of the HCP are achieved.

5. **Training Program and Public Education.** The Permittee shall ensure that the Permit/HCP training program and public education efforts described and defined in Chapter 12 of the HCP are implemented in accordance with the HCP and applicable provisions of this Permit.

I. **Enforcement.** At least annually, the U.S. Fish and Wildlife Service will consider available information in determining whether the Permittee has responsibly fulfilled conditions of this Permit, and progressed towards meeting the biological goals of the HCP. In making this determination, the U.S. Fish and Wildlife Service may make unannounced visits to County Beaches to evaluate effectiveness of the Permittee's implementation of the terms of this Permit and conditions of the HCP. The U.S. Fish and Wildlife Service will also review enforcement issues reported by the Permittee pursuant to Condition P and any other information requested or obtained by the U.S. Fish and Wildlife Service. Upon receipt of written documentation or knowledge of a substantive enforcement issue, the U.S. Fish and Wildlife Service will notify the Permittee in a timely manner and request corrective action be taken or to provide a written summary of any action already taken to resolve the enforcement issue. In the event the U.S. Fish and Wildlife Service determines that the Permittee has not acted responsibly in the effective implementation the conditions of this Permit or measures specified in the HCP, or has not undertaken requested corrective actions, the U.S. Fish and Wildlife Service may suspend or revoke this Permit pursuant to 50 CFR 13.27 and 13.28, respectively.

J. **Piping Plover.** This permit also constitutes a Special Purpose Permit under 50 C.F.R. §21.27 for the take of *Charadrius melodus* in the amount and/or number and subject to the terms and conditions specified herein. Any such take of *Charadrius melodus* will not be in violation of the Migratory Bird Treaty Act of 1918 as amended (16 U.S.C. §§ 703.12).

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K. **Unforeseen Circumstances.** Unforeseen and/or changed circumstances may become apparent either to the Permittee, authorized agents, or to personnel of the U.S. Fish and Wildlife Service. For purposes of implementation of this condition, unforeseen circumstances are defined as changes in circumstances affecting a species or geographic area covered by the HCP that could not reasonably have been anticipated by the HCP developers and the U.S. Fish and Wildlife Service at the time of the HCP's negotiation and development, and that result in a substantial and adverse change in the status of the covered species. Changed circumstances are defined as changes in circumstances affecting a species or geographic area covered by the HCP that can reasonably be anticipated by HCP developers and the U.S. Fish and Wildlife Service, and that can be planned for.

The Permittee and the U.S. Fish and Wildlife Service acknowledge that even with the above detailed provisions for mitigating and/or minimizing impacts, circumstances could arise which were not fully anticipated by this Permit and which are considered unforeseen. Such circumstances may become apparent either to the Permittee or to personnel of the U.S. Fish and Wildlife Service. For purposes of implementation of this condition, unforeseen circumstances are defined as any significant, unanticipated adverse change in the status of species; any significant, unanticipated adverse change in impacts of the Activity or in other factors upon which the HCP and Permit are based; or any other significant new information relevant to the Permit and Activity that was unforeseen by the Permittee and the U.S. Fish and Wildlife Service that could give rise to the need to review the Permittee's conservation program.

If, during the implementation of the HCP and adherence to this Permit, a significant unanticipated situation occurs that would have a serious effect on species covered by this Permit or the ability of the Permittee to continue the effective implementation of the HCP and/or adherence to this Permit, the Permittee shall undertake actions described in Chapter 10 (Unforseseen Circumstances) of the HCP

L. **HCP and Permit Amendment Criteria.** The Permittee and the U.S. Fish and Wildlife Service agree that modification and amendments to the Permittee's HCP and this Permit may occur through its effective term. The following procedures shall govern the modification and amendment process:

1 Either the Permittee or the U.S. Fish and Wildlife Service may propose modifications and/or amendments to the HCP or this Permit by providing written notice. Such notice shall include a statement of the reason for the proposed modification and an analysis of its environmental effects, including its effects on operations under the HCP and on the covered

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species. This analysis shall be conducted jointly between the Permittee and the contact office of the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife Service or the Permittee will use best efforts to respond to a proposed modification or amendment within sixty (60) days of receipt of such notice. Absent any objection from the U.S. Fish and Wildlife Service or the Permittee, and provided such proposed modification or amendment does not fall within the limits of Condition 11.L.2., the proposed modification and/or amendment will be determined as minor and shall become effective upon written approval by the U.S. Fish and Wildlife Service or the Permittee. If the Service determines that a proposed modification or amendment would exceed the limits of Condition 11.L.2., such proposed modification or amendment must be processed in accordance with Condition 11.L.3.

2. The U.S. Fish and Wildlife Service will not propose or approve minor modifications or amendments to the HCP or this Permit if the U.S. Fish and Wildlife Service determines that such modifications or amendments would result in operations under the HCP and Permit that are significantly different from those analyzed in connection with the HCP, adverse effects on the environment that are new or significantly different from those analyzed in connection with the HCP or additional take of the covered species not analyzed in connection with the HCP.

3. Any amendment or modification shall conform with all applicable legal requirements, including but not limited to the Endangered Species Act, the National Environmental Policy Act, and the U.S. Fish and Wildlife Service's permit regulations at 50 C.F.R. §13 and §17

M. **Emergencies.** The Permittee may act to relieve immediate threats to human safety in an emergency whenever a conflict between human safety needs and the Permit or HCP is unexpectedly encountered. In such an event, the Permittee may act as it believes is most consistent with this Permit, and shall notify the U.S. Fish and Wildlife Service by close of the next business day to initiate evaluation of any desirable modifications and/or amendments to the HCP or this Permit, in accordance with Conditions 11.L.1 through 11.L.3.

N. **Performance Review**. The HCP will be reviewed formally by the Protected Species Specialist and the U.S. Fish and Wildlife Service at five-year intervals. The first formal review will follow submittal of the annual report by the Permittee in 2010. Intermediate reviews may be conducted informally any time when either

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the U.S. Fish and Wildlife Service or the Permittee find it necessary.

O. **Funding and Financial Commitment.** Volusia County shall commit the funds necessary to implement the terms of this Permit and conditions of the HCP. By March 31 of each year this Permit is in effect, the Permittee will submit an HCP Operational Budget to the U.S. Fish and Wildlife Service for review and approval. The HCP Operational Budget shall provide an itemized financial commitment sufficient to fund all terms of this Permit and conditions of the HCP.

P. **Reporting Requirements.** By March 31 of each year this Permit is in effect, the Permittee shall submit an annual report to the U.S. Fish and Wildlife Service and other offices listed in Conditions 11.R, S, and T. The annual report shall describe implementation of the terms of this Permit and HCP. The Permittee shall identify non-compliance and measures employed to resolve such non-compliance. The annual report shall also include the following certification from a responsible official who supervised or directed the preparation of the report:

> Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

The annual report also shall address the following:

1. Status and evaluation of the effectiveness of the Protected Species Beach Management Areas.
2. Status and evaluation of the effectiveness of the Tire Track/Rut Removal Program.
3. Status and evaluation of the effectiveness of the Conservation Zone Boundary Management Plan.
4. Status and evaluation of the effectiveness of the Beach Closure Plan, including a log of any events that caused beach closure(s) during periods when the toll booths were in operation.
5. Status and evaluation of the effectiveness of the Species Management Program in minimizing impacts to species covered by this Permit.
6. Status and evaluation of the effectiveness of the implementation measures as outlined in Condition 11.H, above.
7. Identification and explanation of the previous year's Unforeseen Circumstance event(s) and any status of the amendments, changes, and/or additions to this Permit or the HCP, as needed.

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8. Identification of the financial commitment, including the approved HCP Operational Budget.
9. Identification and evaluation of any enforcement actions taken by the Permittee to enforce the terms this Permit or conditions of the HCP during the reporting period, and an assessment of the effectiveness of such enforcement actions in resolving any problems in fulfilling the terms of this Permit and implementation of the HCP.

Q. **Disposition of Covered and Other Listed Species Specimens.** Upon locating a dead, injured, or sick specimen of any covered species or any other threatened or endangered species whose death, injury, or illness is causally related to the activities authorized by this Permit, initial notification must be made immediately to the U.S. Fish and Wildlife Service Law Enforcement Office, 9721 Executive Center Drive, Suite 206, St. Petersburg, Florida 33702 (813/570-5398). Notification should also be made, by the next work day, to the contact office of the U.S. Fish and Wildlife Service noted in Condition 11.R. Care should be taken in handling sick, injured, or dead specimens to ensure effective treatment or to preserve biological materials for later analysis. In conjunction with the care of sick or injured threatened or endangered species or preservation of biological materials from a dead animal, the finder should take responsible steps to ensure that the site is not unnecessarily disturbed.

R. **U.S. Fish and Wildlife Service Coordination Office.** For purposes of monitoring compliance of the terms and conditions of this Permit, including review of annual reports, and coordination on unforeseen circumstances, the contact, address, and phone number of local U.S. Fish and Wildlife Service office is:

U.S. Fish and Wildlife Service
Attn: HCP Program
6620 Southpoint Drive, South, Suite 310
Jacksonville, Florida 33216-0912
Telephone: 904/232-2580
Facsimile: 904/232-2404.

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S. **Other Fish and Wildlife Service Coordination.** Copies of annual reports and any other documentation submitted in response to the operation and management of this Permit shall also be provided to:

U.S. Fish and Wildlife Service
HCP Coordinator
1875 Century Boulevard, Suite 200
Atlanta, Georgia 30345
Telephone: 404/679-7313
Facsimile: 404/679-7081

T. **Other Coordination.** Copies of annual reports and any other documentation submitted in response to the operation and management of this Permit shall also be provided to:

Florida Fish and Wildlife Conservation Commission
Division of Habitat and Species Conservation
Imperiled Species Management Section
620 South Meridian Street, 6A
Tallahassee, Florida 32399
Telephone: 850/922-4330
Facsimile: 850/921-6988

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