PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

	<u>AGENDA IT</u>	EM SUMMARY				
Meeting Date:	December 2, 2008	(X) Consent () Ordinance	() Regular () Public Hearing			
Department Submitted B	Submitted By: Environmental Resources Management					
Submitted For: Environmental Resources Management			<u>1t</u>			
	<u>I. EXECU</u>	TIVE BRIEF				
Motion and Title: S	taff recommends motion	to:				
share up to $$7,020,0$	al Agreement with the Cit 000 on the Singer Island retroactive to May 3, 2005	Erosion Control Project	twenty percent (20%) cost ct with reimbursement of			
B) approve Budge Improvement Fund;	t Amendment of \$7,020 and	0,000 to recognize the	e revenue in the Beach			
assignments, certification	ounty Administrator, or his ations and other forms assonot change the scope of we	ociated with this Agreer	nture time extensions, task ment, and necessary minor ons of the Agreement.			
percent (20%) cost- management, engine and project performa	share of eligible project ering and design, permittence monitoring. The term to 10, 2015, with reimbursem	costs up to \$7,020,00 ting, construction, mitign of the Agreement is for	each establishes a twenty 00 which include project gation, and environmental from the date of execution costs retroactive to May 3,			
Reference Monumen feasibility study cond nourishment, groins alternative. This st protection. The BCC approved a task ordenow complete and the	ts R-60.5 and R-69 has be lucted in 2002 evaluated rand breakwaters) and udy identified offshore be approved a task order for rand for permitting on Februal permitting process is cut d ACOE in July 2006 and	een designated by FDEF multiple engineering alte the associated environ preakwaters as the best r project design on May ary 6, 2007 (R2007-017) arrently underway. The	of Singer Island between P as "critically eroded". A smattives (no action, beach alternative for shoreline 3 2005 (R2005-0898) and 4). The project design is Joint Coastal Permit was litional Information (RAI)			
Attachments: 1. Interlocal Agreem 2. Budget Amendme						
Recommended by:	Department Director	Ciklely Date	/1/17/08			
Approved by:	County Administrator	u (V	10			

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	J:4	2009	2010	2011	2012	2013
Capital Expe		7,100,000	7,000,000	7,000,000	<u>7,000,000</u>	7,000,000
External Rev Program Inc In-Kind Mat	come (County)	(7,020,000) 				
NET FISCA	AL IMPACT	80,000	7,000,000	7,000,000	7,000,000	7,000,000
	ONAL FTE S (Cumulative)					
	ded in Curren ount No.:	t Budget? Fund] Program	Department _	Unit _	No <u>X</u> Obje	ct
В.	Recommende	ed Sources of	Funds/Summa	ry of Fiscal In	ıpact:	
	City of Rivier seven years	a Beach \$7,02	20,000 – 20% o	f eligible proje	ct costs over	a period of
C.	Department Fiscal Review:					
		III. REV	IEW COMME	ENTS		
A.	The buc	lget ame	olget is es	will be me	ade incr	ementally H25/07
В.	Legal Sufficion	11/21	108 for shaken to	This Contract	complies with o	
С.	Other Depart	tment Review	:			
	Department 1	Director				

Attachment 1

INTERLOCAL AGREEMENT FOR THE SINGER ISLAND EROSION CONTROL PROJECT BETWEEN PALM BEACH COUNTY AND THE CITY OF RIVIERA BEACH

THIS AGREEMENT is made and entered into on this _____ day of _______, 2008, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (the "COUNTY") and the CITY OF RIVIERA BEACH, a municipal corporation in the State of Florida, (the "CITY"), each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes, and both being hereinafter referred to collectively as the "parties".

WITNESSETH

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority that such agencies share in common and that each might exercise separately; and

WHEREAS, pursuant to Chapter 125.01, Florida Statutes, the Board of County Commissioners is empowered to establish and administer programs of beach erosion control and to enter into agreements with other governmental agencies within or outside the boundaries of the COUNTY for joint performance, or performance of one unit on behalf of the other, of any of either governmental entity's authorized functions; and

WHEREAS, pursuant to Chapter 166, Florida Statutes, the CITY is empowered to exercise any governmental, corporate, and proprietary power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the COUNTY and the CITY intend to make the most efficient use of their powers by cooperating with each other on the Singer Island Erosion Control Project (the "PROJECT") within the municipal limits of the City of Riviera Beach, Florida; and

WHEREAS, the COUNTY and the CITY desire to establish their respective roles in the PROJECT to make the most efficient use of their respective resources; and

WHEREAS, the CITY wishes to cost share with the COUNTY, by reimbursing 20% of the total eligible PROJECT costs (as further described herein) to the COUNTY.

NOW, THEREFORE, in consideration of the mutual covenants, promises and

representations herein, the parties agree as follows:

- 1. Recitals. The above recitals are true and correct and incorporated herein.
- 2. <u>Purpose of the Agreement.</u> The purpose of this Agreement is to provide a mechanism for funding the PROJECT, and to set forth the terms, conditions and obligations of each of the respective parties hereto.

3. The PROJECT.

- A. <u>Description</u>. The PROJECT consists of construction of break water structures as necessary for shoreline protection and erosion control within the boundaries of the City of Riviera Beach as further described in Exhibit A. The PROJECT does not include any dune or beach restoration efforts.
- B. <u>PROJECT components.</u> PROJECT components include project management, engineering, design, permitting, construction, mitigation, and environmental and project performance monitoring.
- 4. Term. The term of this Agreement shall be from the date of execution through September 30, 2015, unless otherwise provided herein. Work conducted on this PROJECT by the COUNTY and its consultants/contractors beginning on or after May 3, 2005, and occurring prior to the expiration or termination of this Agreement shall be eligible for reimbursement by the CITY if said work qualifies as an eligible PROJECT costs as defined herein.
- Funding. The parties agree that the CITY will cost share in the eligible costs for the PROJECT as described in this Agreement. Each party agrees to diligently pursue the approval and procurement of its funding obligation.

6. <u>COUNTY Obligations.</u>

- A. No later than January 15th of each year, the COUNTY shall submit in writing to the CITY a list of the anticipated PROJECT tasks to be undertaken in the succeeding fiscal year, including estimated costs.
- B. The COUNTY shall pay all expenses of the PROJECT in anticipation of reimbursement from the Federal and State governments and the CITY.
- C. Upon the completion of a PROJECT task and payment for said task by the COUNTY, the COUNTY shall submit invoices for reimbursement to the CITY not more frequently than quarterly. For reimbursement to occur, the COUNTY shall submit invoices to the CITY that shall include a reference to this Agreement; identify the task completed under the PROJECT; identify the COUNTY's total expenditure for the task; identify the amount due and payable to the COUNTY; include a copy of each contractor's

invoice; and include a statement certifying that the invoice amount includes only eligible expenses, that said eligible expenses have been incurred by the COUNTY, and that all related contractor(s)' invoices have been paid. Invoices shall be in sufficient detail for pre-audit and post-audit review. The COUNTY shall provide further documentation deemed necessary by the CITY, if requested in writing, within fourteen (14) days of the request.

- D. The COUNTY shall maintain adequate records to justify all charges, expenses and costs represented by the invoice amounts for at least three (3) years after completion of the PROJECT or termination of the Agreement, whichever occurs last. The CITY shall have access to all books, records, and documents related to the PROJECT as required in this paragraph for purposes of inspection or audit during normal business hours.
- E. The COUNTY may submit requests for Federal and State funding assistance, shall provide a copy of any such submittal to the CITY, and shall seek the CITY's support of the COUNTY's requests for said funding assistance.
- F. The COUNTY shall provide the CITY with copies of all contracts, plans and specifications. The COUNTY shall invite the CITY to pre-bid and pre-construction meetings.
- G. The COUNTY shall provide the CITY with a copy of the PROJECT schedule and all revisions thereto.
- H. The COUNTY shall prepare and submit any and all applications for State and Federal permits required for the PROJECT and provide a copy thereof to the CITY.
- I. The COUNTY shall be responsible for management, design, construction and monitoring of the PROJECT.
- J. The COUNTY shall secure competitive bids by advertisement for work to be performed by contractors in accordance with the COUNTY Purchasing Ordinance.
- K. Notwithstanding any other provision herein, the COUNTY's obligation to perform under this Agreement is contingent upon an appropriation for its purpose by its Board in its annual fiscal year budget during the term of this Agreement.



7. <u>CITY Obligations.</u>

- A. The CITY shall cost share with the COUNTY on a reimbursement basis. Cost sharing responsibility shall be limited to twenty percent (20%) of the eligible PROJECT costs paid for by the COUNTY. Funding received from Federal, State or other local governments for the PROJECT shall not be utilized to determine the eligible PROJECT costs.
- B. The CITY shall appropriate adequate funds to cover the CITY's share of the eligible PROJECT costs, which are estimated to be Six Million Dollars (\$6,000,000) and which shall not exceed Six Million Dollars (\$6,000,000) plus a 17% contingency without amendment to this Agreement. City staff shall notify City Council if the 17% contingency is necessary. notification is for informational purposes only, as the expenditure of the 17% contingency is hereby approved. Eligible PROJECT costs are limited to: project management, engineering, design, permitting, construction, mitigation, and environmental and project performance monitoring paid for or completed by the COUNTY. The amount of funding by the CITY will depend upon the physical condition of the PROJECT area, which the parties acknowledge will change based on weather events or other events beyond of the control of the parties. Therefore, each year, the CITY shall draft a yearly funding memorandum that corresponds to the PROJECT tasks to be completed by the COUNTY in that fiscal year as provided in paragraph 6.A. above. The yearly funding memorandum shall include a list of the anticipated PROJECT tasks, estimated costs for each task, and a commitment to include the funding request in the proposed budget for that fiscal year. The County shall provide the information needed to complete the funding memorandum at least sixty (60) days prior to the submission of the funding memorandum.
- C. The CITY shall submit to the COUNTY a memorandum of commitment indicating that the CITY has appropriated the required funds that the COUNTY requests in the next year's budget.
- D. Invoices received from the COUNTY will be reviewed and approved by the CITY to insure that expenditures have been made in conformity with this Agreement and will be sent to the CITY's Finance Department for final approval and payment. Invoices will normally be paid by the CITY within thirty (30) days following said approval by the Finance Department. In no event shall the CITY provide advance funding to the COUNTY. All payments made to the COUNTY shall be by check made payable to the Palm Beach County Board of County Commissioners and shall be clearly marked to identify the PROJECT. Payments shall be submitted to the Palm Beach County Department of Environmental Resources Management at the address provided for Notices in Section 9.



E. Notwithstanding any other provision herein, the CITY's obligation to pay under this Agreement is contingent upon an appropriation for its purpose by its Council in its annual fiscal year budget during the term of this Agreement.

8. Party Representatives.

- A. The COUNTY's representative/contract monitor during the term of this Agreement shall be the Director of the Department of Environmental Resources Management whose telephone number is (561) 233-2400.
- B. The CITY'S representative/contract monitor during the term of this Agreement shall be the CITY Manager, whose telephone number is (561) 845-4000.
- Notices. All formal notices, which may be or are required to be given by either the CITY or the COUNTY under this Agreement shall be properly given only if made in writing and sent by hand delivery or certified or registered mail, postage prepaid, return receipt requested, with all delivery charges paid by the sender and addressed to the party's Representative identified above in Section 8, at the below cited address. A copy of all such notice shall also be sent to the following counsel by U.S. Mail. Should any party change its address, written notice of such new address shall promptly be sent to the other party.

Palm Beach County Department of
Environmental Resources Management
2300 North Jog Road, 4th Floor
West Palm Beach, FL 33411-2743
City of Riviera Beach, FL 33404
Palm Beach County Attorney's Office
301 North Olive Avenue
6th floor
West Palm Beach, FL 33401

10. Default and Termination.

- A. If a party fails to fulfill its obligations under this Agreement in a timely and proper manner, the party not in default shall have the right to terminate this Agreement by giving written notice of any deficiency and its intent to terminate. The party in default shall then have thirty (30) days from receipt of notice to correct the stated deficiency. If the defaulting party fails to correct the deficiency within this time and unless otherwise agreed by the parties, this Agreement shall terminate at the expiration of the thirty (30) day time period. If the Agreement is terminated before the Project is complete due to a default by the CITY, the CITY shall pay all costs incurred and due under the terms of this Agreement up to and including the date of termination.
- B. Either party may terminate this Agreement at any time for convenience

upon ninety (90) calendar days prior written notice to the other party and upon payment of all costs incurred and due under the terms of this Agreement as up to and including the date of termination.

- 11. <u>Delegation.</u> Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or municipal officers.
- 12. Filed. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
- Amendments. This Agreement may only be amended by written Agreement executed by the parties hereto with the same formality used to execute this Agreement.
- Indemnification. Each party shall be liable for its own actions and negligence, and to the extent permitted under Section 768.28, Florida Statutes, the COUNTY shall indemnify, defend and hold harmless the CITY against any actions, claims, or damages arising out of the COUNTY's negligence in connection with this Agreement, and the CITY shall indemnify, defend and hold harmless the COUNTY against any actions, claims or damages arising out the CITY's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions. This Indemnification provision shall survive the expiration or termination of this Agreement.
- Insurance. The parties shall maintain a fully funded insurance or self-insurance program pursuant to Section 768.28, Florida Statutes. The COUNTY agrees to require any contractor performing work on the PROJECT to maintain adequate insurance coverage, naming both the CITY and COUNTY as additional insured. When requested, either party shall provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which the other party agrees to recognize as acceptable for the above mentioned coverages. Compliance with the foregoing requirements shall not relieve either party of its liability and obligations under the Agreement or any amendments hereto.
- 16. Equal Opportunity. The COUNTY and the CITY agree that no person shall, on the grounds of age, race, color, sex, national origin, disability, religion, ancestry, marital status, or sexual orientation be excluded from the benefits of, or be subjected to any form of discrimination under, any activity carried out by the performance of the Agreement.
- 17. <u>Severability.</u> In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement, and the same shall



remain in full force and effect.

- 18. Waiver of Breach. It is hereby agreed to by the parties that no waiver or breach of any of the covenants or provisions of this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other covenant or provision.
- 19. <u>Disputes.</u> Disputes under this Agreement may be resolved by the parties' Representatives named in Paragraph 8. If the Representatives are unable to reach a resolution, the parties may select a mediator mutually acceptable to both parties to conduct a mediation of the issues involved and make a recommendation to both parties. The parties agree to be responsible for their respective costs and fees incurred during the mediation and that the mediator's fees and costs shall be paid in equal amounts by each party.
- Independent Contractor. The COUNTY recognizes that it is an independent contractor and not an agent or servant of the CITY. No person employed by any party to this Agreement shall, in connection with the performance of this Agreement or any services or functions contemplated hereunder, at any time, be considered the employee of the other party, nor shall an employee claim any right in or entitlement to any pension, worker's compensation benefit, unemployment compensation, civil service, or other employee rights or privileges granted by operation of law, except through and against the entity by whom they are employed.
- 21. <u>Enforcement Costs.</u> Except as otherwise provided herein, any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and/or conditions of this Agreement shall be borne by the respective parties. This provision pertains only to the parties to the Agreement.
- 22. Remedies. This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
- 23. <u>Captions</u>. The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.
- 24. <u>Construction</u>. No party shall be considered the author of this Agreement since the parties hereto have participated in drafting this document to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it.

- 25. <u>Incorporation by Reference</u>. Exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Agreement by reference.
- 26. <u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement.
- Entirety of Agreement. The CITY and COUNTY agree that this Agreement, together with any attached exhibits, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms or obligations in the Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

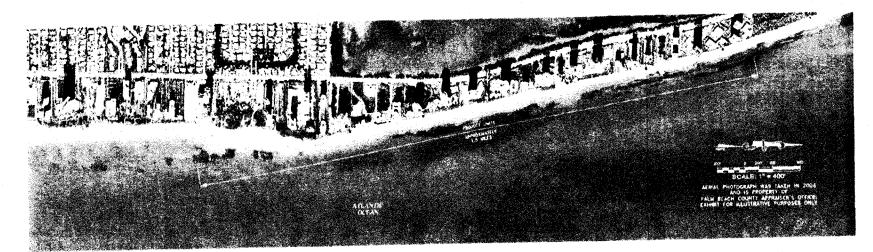
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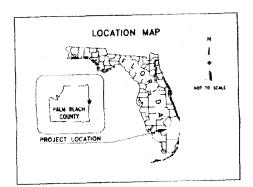
IN WITNESS WHEREOF, the County of Palm Beach, Florida has caused this Agreement to be signed by the Chairperson of the Board of County Commissioners and the seal of said Board to be affixed hereto and attested by the Clerk of said Board, pursuant to authority granted by said Board, and the City of Riviera Beach has caused this Agreement to be signed in its corporate name by its mayor and its corporate seal to be affixed hereto, attested by its City Clerk, the date and year first above written.

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS
By: Addiedx Greenex Chairpersons Chair
ATTEST: Sharon R. Bock, Clerk & Comptroller
By:
Date:
(Seal)
APPROVED AS TO FORM AND LEGAL SUFFICIENCY
By:Assistant County Attorney
APPROVED AS TO TERMS AND CONDITIONS By: Fellow E-Wallely Richard E. Walesky, Director

Dept. of Env. Resources Management

SINGER ISLAND, PALM BEACH COUNTY, FLORIDA EROSION CONTROL PROJECT





SHEET INDEX

- COVER SHEET AND LOCATION MAP
 PROJECT SITE PLAN
 SEGMENTED BREAKWATER PLAN VIEW
 W/ TYPICAL SECTION & DETAILS
 VESSEL CORRIDOR



- THESE CONSTRUCTION DRAWINGS SHALL NOT BE CONSIDERED VALID FOR CONSTRUCTION PURPOSES LINLESS SIGNED AND SEALED BY EITHER:

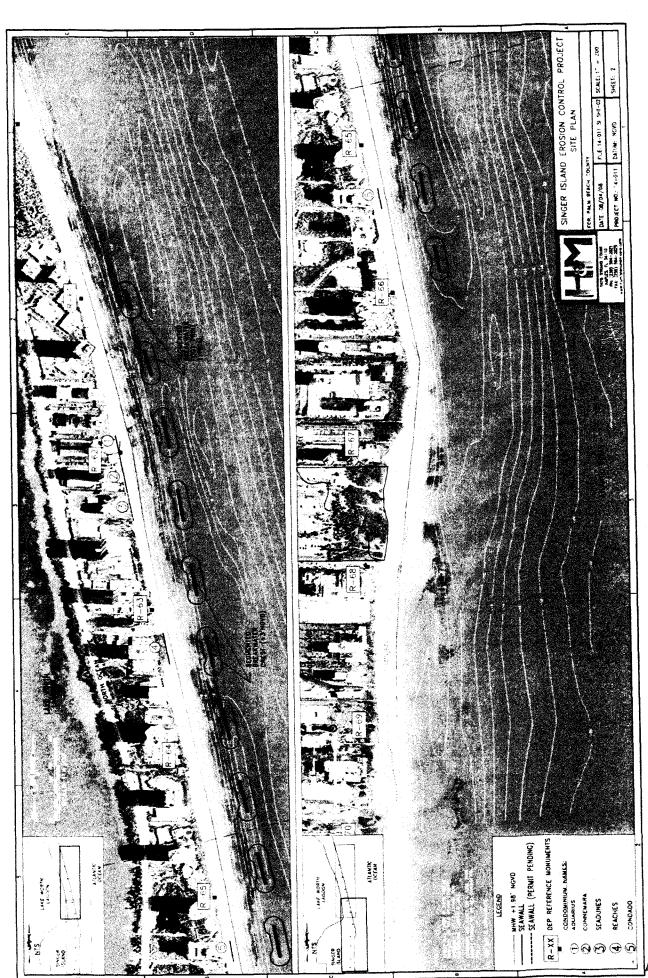
BRETT D. MOORE, P.E. #37326 KENNETH K. HUMISTON, P.E. #25326

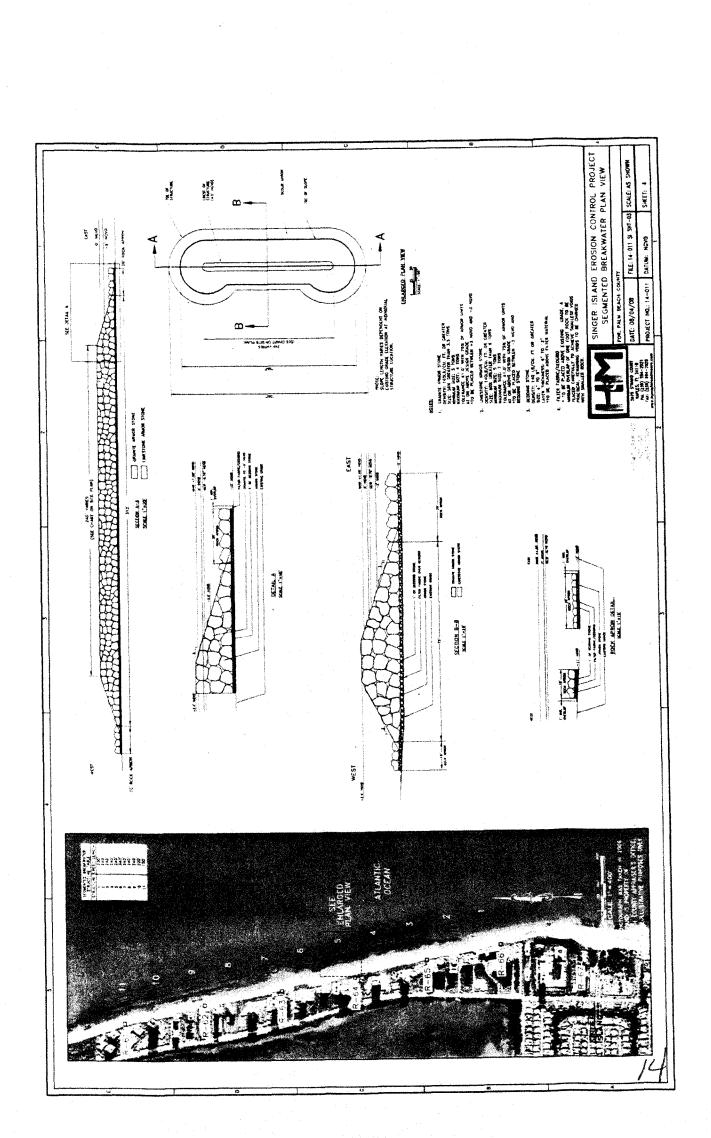


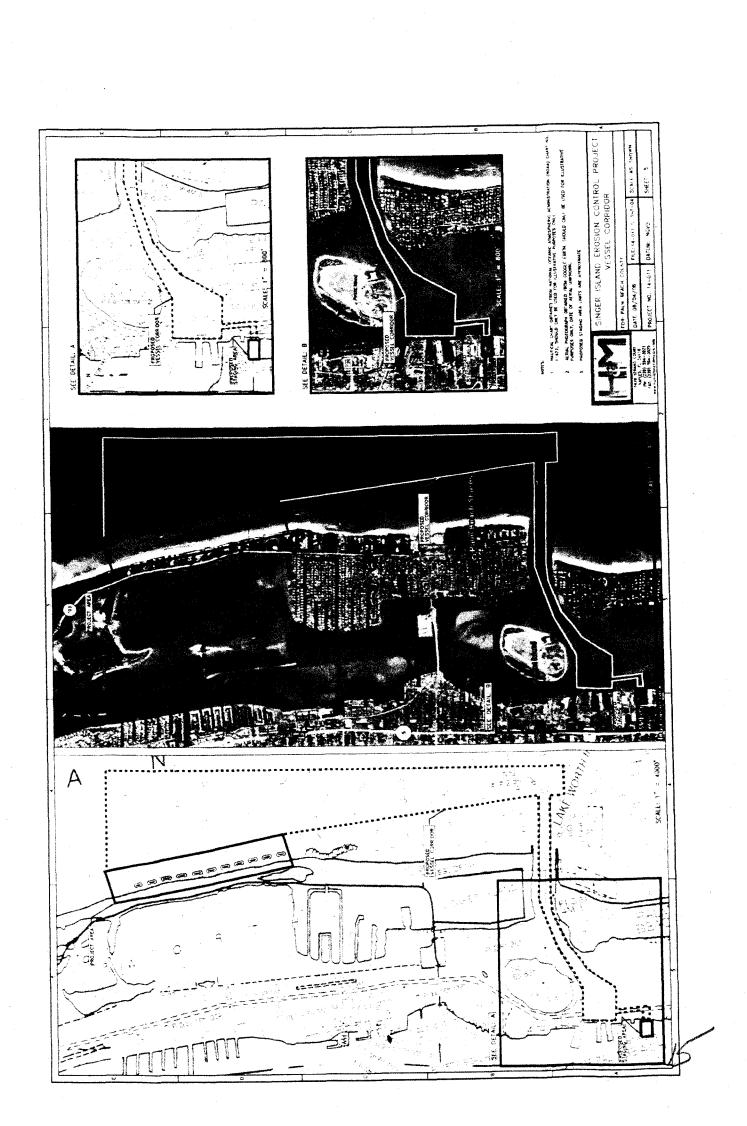
SINGER ISLAND EROSION CONTROL PROJECT COVER SHEET AND LOCATION MAP

	FOR: PALE BEALTH COCK			
STRAIGHT COURT	DATE: 08/04/08	FILE: 14-011 SI SHT-01	SCALE: 1" a 4	
(239) 594-3021 (239) 594-3021	PROJECT NO.: 14-011	DATUM: NGVD	SHEET: 1	









BOARD OF COUNTY COMMISSIONERS PALM BEACH COUNTY, FLORIDA

BUDGET AMENDMENT Fund 3652 Beach Improvement

ACCOUNT NAME AND NUMBER	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED I BUDGET	ENCUMBERED / Expended 11/10/2008	REMAINING BALANCE
REVENUES .							
381-M037 Singer Island Dune Restoration 3739-Other Local Govt Phys Envir	0	0	7,020,000	0	7,020,000		
TOTAL RECEIPTS & BALANCES	25,130,517	24,701,369	7,020,000	0	31,721,369		
<u>EXPENDITURES</u>							
381-M037 Singer Island Dune Restoration 4620 - Beach Dune Restoration	7,975,756	7,804,252	7,020,000	0	14,824,252	378,940	14,445,312
TOTAL APPROPRIATIONS & EXPENDITURES	25,130,517	24,701,369	7,020,000	0	31,721,369		
Environmental Resources Management	Signatures & Dates Ferlind Ewalthy 11/17/08		BY BOARD OF COUNTY COMMISSIONERS AT MEETING OF				
INITIATING DEPARTMENT/DIVISION			December 2, 2008				
Administration/Budget Department Approval OFMB Department - Posted					Boa	Deputy Clerk to the ard of County Commi	