

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: January 13, 2009 Consent Regular
 Workshop Public Hearing

Department

Submitted By: Environmental Resources Management
Submitted For: Environmental Resources Management

I. EXECUTIVE BRIEF

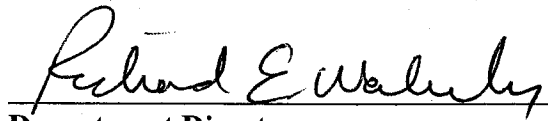
Motion and Title: Staff recommends motion to receive and file: Interlocal Agreement with the Riviera Beach Police Department for \$20,000 for manatee speed zone law enforcement.

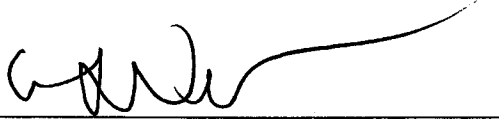
Summary: As part of the Manatee Protection Plan, the County has committed to annually provide \$200,000 of funding for additional on-water law enforcement in the County's waterways. On December 18, 2007, the Board of County Commissioners approved a Resolution (R2007-2277) with a standard form Interlocal Agreement with law enforcement agencies for an increased law enforcement presence in estuarine waters of Palm Beach County. Delegation of the authority to execute these standard form Interlocal Agreements was approved, pursuant to PPM No. CW-O-051, on January 2, 2008 (R2007-2277). District 7 (SF)

Background and Justifications: This is a Receive and File item for the Clerk's Office to note and receive delegated authority items according to County Policy and Procedure PPM No. CW-O-051. On 10/1/08, the City was notified that up to \$20,000 is available in FY 2008-9 under the terms of the Agreement. The Agreement expires 4/30/11.

Attachments:

- 1. Law Enforcement Contract
 - 2. Letter
-
-

Recommended by:  12/18/08
 Department Director **Date**

Approved by:  1/6/09
 County Administrator **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	\$20,000 cap	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	\$20,000 cap	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No
 Budget Account No.: Fund 1226 Department 380 Unit 3252 Object various
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact

Ad Valorem supported. Transfer to the Manatee Protection Program (in Natural Areas fund) dependent on annual appropriation. Countywide Enforcement Program is capped at \$200,000 for FY 2009. (This Interlocal Agreement with Riviera Beach is capped at \$20,000.)

C. Department Fiscal Review:

III. REVIEW COMMENTS

A. OFMB Fiscal and /or Contract Administrator Comments:

The term of this agreement is from November 15, 2008 to April 30, 2011.

Jim Owl 12-31-08
 OFMB 12/31/08 12/29

Jim J. Jacoby 1/2/09
 Contract Administrator

B. Legal Sufficiency:

This item complies with current County policies.

Mark S. J.
 Assistant County Attorney

C. Other Department Review:

 Department Director

**INTERLOCAL AGREEMENT FOR
LAW ENFORCEMENT SERVICES
BETWEEN PALM BEACH COUNTY
AND RIVIERA BEACH POLICE DEPARTMENT**

THIS AGREEMENT is made this 14th day of NOVEMBER, 2008, between Riviera Beach Police Department of Palm Beach County, Florida, hereinafter referred to as "Contractor", and Palm Beach County, a political subdivision of the State of Florida, (hereinafter "County"), 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 of Palm Beach County is empowered to establish and administer programs of conservation 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, in October of 1989, the Florida Governor and Cabinet directed thirteen (13) "key" manatee counties, including Palm Beach County, to prepare a Manatee Protection Plan ("MPP"); and

WHEREAS, on August 21, 2007, the Board of County Commissioners approved a MPP that provides for increased law enforcement presence in the County's waterways, as one means to provide greater manatee protection; and

WHEREAS, studies performed by the Florida Fish and Wildlife Conservation Commission has demonstrated that the increased law enforcement presence is the most effective means to gain compliance with boater speed zones; and

WHEREAS, the County wishes to increase the hours of patrol and enforcement in estuarine waters of Palm Beach County which will improve compliance with boater and manatee protection speed zones, and reduce the risks to manatees and members of the public; and

WHEREAS, the parties wish to enter into an agreement for the provision of an increased level of marine law enforcement services during manatee season, as provided herein.

NOW THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, the Contractor and the County agree as follows:

1) Recitals

The recitals set forth above are true and correct and form a part of this Agreement.

2) Purpose.

The purpose of this Interlocal Agreement (the "Agreement") is to provide for additional marine law enforcement services within estuarine waters of the County during manatee season, which begins November 15th and ends the following March 31st. The law enforcement services provided herein are intended to be in addition to the level of law enforcement services already provided by the Contractor and are not a replacement for said services.

3) Location of Law Enforcement Services

The "Contractor" shall provide marine law enforcement services, hereinafter referred to as "services", within the geographical area over which it has jurisdiction to enforce the law, such shall be hereafter referred to as the "Enforcement Area" and is included within the estuarine waters of Palm Beach County which are more specifically described in Exhibit "A".

4) Responsibility of Contractor

A. The Contractor shall enforce State statutes, administrative rules, local and County ordinances related to vessel control, marine resource protection, and manatee protection; assist in the investigation, apprehension, and prosecution of violators of existing boat and manatee protection speed zones; assist in the monitoring of waterway markings and regulatory signs in the Enforcement Area; and, assist in educating boaters about manatee and boater safety issues.

B. During the term of this Agreement, the Contractor shall provide two (2) law enforcement officer(s) to patrol the waters of the Enforcement Area and to enforce all applicable laws. The law enforcement officer(s) shall provide services on Saturday and Sunday for 8 hours per day between the hours of 6 A.M. and 6 P.M. During the term of this Agreement, the Contractor shall provide law enforcement services on any day or times aside from a Saturday or Sunday, at the request of the County. Requests for the provision of law enforcement services on a day or days in addition to the regularly scheduled days or times shall be made at least five business days prior to the date when such services are needed.

C. The Contractor shall furnish and supply all labor, supervision, equipment (including but not limited to a vessel), insurance, and supplies necessary to perform under this Agreement.

D. The Contractor shall provide the following information to the County on a monthly basis: Standard Marine Enforcement Monthly Report Form (form to be provided by the County); documentation of warnings and citations issued to violators by the Contractor; and monthly payroll

documentation for hours worked by any officer who performs services under the terms of this Agreement.

E. In the event that during the term of this Agreement an officer issues a citation, which is challenged in the Palm Beach County Circuit Court, the Contractor shall immediately inform the County. The County will then determine whether the Contractor will be reimbursed under the terms of this Agreement for the time expended to attend such court proceeding.

F. The Contractor shall submit invoices for payment to the County on a monthly basis. Invoices shall include a reference to this Agreement, identify the amount due and payable to the Contractor, and include records sufficient to substantiate the costs incurred. Invoices shall be in sufficient detail for pre-audit and post-audit review.

5) Responsibility of the County

The County will reimburse the Contractor for law enforcement services as provided for herein at the rate of \$82.50 per hour for on-water enforcement activity, which includes the cost of salaries, fringe benefits, and all other services and expenses incurred by the Contractor in the fulfillment of this Agreement. The hourly rate for law enforcement services rendered pursuant to this Agreement will be annually increased on October 1st of each year in accordance with the Revised Consumer Price Index for Urban Wage Earners and Clerical Workers, but in no event more than 3% annually. The County will reimburse the Contractor on a monthly basis at the rate provided herein, provided that a proper invoice detailing such services is received and approved by the County. In no event shall the total amount paid to the Contractor by the County exceed a total amount set annually by the County by October 1st of each year.

6) Effective Date and Term of the Agreement

This Agreement shall take effect November 15th, 2008 and shall terminate on April 30th, 2011.

7) Authorized Representative

A. The County's authorized representative is Richard E. Walesky, Director, Department of Environmental Resources Management, (561) 233-2400, West Palm Beach, Florida, or his designee.

B. The Contractor's authorized representative is Clarence Williams, Chief of Police, (561) 845-4128, or his/her successor.

8) Independent Contractor

A. The parties shall be considered independent contractors, and no party shall be considered an employee or agent of any other party. Nothing in this Agreement shall be interpreted to establish any relationship other than that of independent contractor between the parties and their respective employees, agents, subcontractors, or assigns during or after the performance of this Agreement. 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 or otherwise, except through and against the entity by whom they are employed.

B. All employees and agents of the Contractor who perform any act or service under the terms of this Agreement shall at all times be considered employees of the Contractor and not of the County. The Contractor will be responsible for supervising, disciplining, and setting policies pertaining to terms and conditions of employment for those employees performing Services as provided herein.

9) Payment

For reimbursement to occur, the Contractor shall submit invoices to the County that shall include a reference to this Agreement, identify the amount due and payable to the Contractor, and include records sufficient to substantiate the costs incurred. Invoices shall be itemized in sufficient detail for prepayment audit thereof. The Contractor shall provide additional documentation to support any invoice if requested by the County. Invoices received from the Contractor shall be reviewed by the Department of Environmental Resources Management and upon approval shall be sent to the County's Finance Department for final approval and payment. Invoices will normally be paid within forty-five (45) days of receipt. In the case of a dispute involving the amounts due to the Contractor, payment may be delayed.

10) Compliance with Codes and Laws

Each party agrees to abide by all applicable laws, orders, rules, and regulations in the performance of this Agreement.

11) Access to Records and Audits

The parties shall maintain, in accordance with generally accepted governmental auditing standards, all financial and non-financial records and reports directly or indirectly related to the negotiation or performance of this Agreement including supporting documentation. The parties shall have the right to examine in accordance with generally accepted governmental auditing standards all records directly or indirectly related to this Agreement. Such examination may be made only upon reasonable notice, time and place. In the event that the parties should become involved in a legal dispute with a third party arising from performance under this Agreement, the parties shall extend the period of maintenance for all records relating to the Agreement until the final disposition of the legal dispute, and all such records shall be made readily available to the parties.

12) Funding

This Agreement is expressly contingent upon annual appropriations by the Palm Beach County Board of County Commissioners.

13) Notice

Any notice required or permitted to be given under this Agreement shall be in writing and shall be hand delivered, faxed, or mailed (by certified mail, return receipt requested) to the respective addresses/recipients specified below:

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As to the Contractor:

Clarence Williams, Chief of Police
600 West Blue Heron Blvd.
Riviera Beach, FL 33404
Fax: (561) 845-4022

As to County:

Palm Beach County
Department of Environmental Resources Management
2300 N. Jog Road - 4th Floor
West Palm Beach, FL 33411-2743
Fax: (561) 233-2414

Copy to:

Palm Beach County
Attn: County Attorney for ERM
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401

All notices required by this Agreement shall be considered delivered upon receipt. Should any party change its address, written notice of such new address shall promptly be sent to the other party.

14) Default, Termination, Opportunity to Cure

A. The parties expressly covenant and agree that in the event either party is in default of its obligations under this Agreement, the party not in default shall provide to the defaulting party thirty (30) days written notice as an opportunity to cure the deficiency before exercising any of its rights.

B. Either party may terminate this Agreement without cause by giving sixty (60) days prior written notice.

15) Waiver or 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.

16) Indemnification

Each party shall be liable for its own actions and negligence, and to the extent permitted by law, the County shall indemnify, defend, and hold harmless the Contractor against any actions, claims, or damages arising out of the County's negligence in connection with this Agreement, and the Contractor shall indemnify, defend, and hold harmless the County against any actions, claims, or damages arising out of the Contractor'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 be responsible for such other party's negligent, willful or intentional acts or omissions.

17) Insurance

A. Each party warrants and represents that it is self-insured for General Liability, Watercraft Liability, and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature. In the event a Party maintains third-party Commercial General Liability, Watercraft Liability, and Business Auto Liability in lieu of exclusive reliance on self-insurance under Section 768.28, Florida Statutes, that party shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage. The parties agree to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

B. The parties further agree that nothing contained herein shall be construed or interpreted as: (1) denying to any party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida or its agents and agencies to be sued; or (3) a waiver of sovereign immunity of the State of Florida beyond the waiver provided in Section 768.28, Florida Statutes.

C. When requested, each party shall provide any other party with an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which all parties agree to recognize as acceptable for the above mentioned coverages. Compliance with the foregoing requirements shall not relieve any party of its liability and obligations under this Agreement.

18) Applicable Law

Any litigation arising from or relating to this Agreement will be governed by the laws of the State of Florida and the venue in any such proceeding will be exclusively in Palm Beach County, Florida.

19) Severability

In the event that any section, paragraph, sentence, clause, or provision of this Agreement is held to be invalid by a court of competent jurisdiction, such will not affect the remaining portions of this Agreement and the same will remain in full force and effect.

20) Enforcement Costs

Any costs or expenses, including reasonable attorney's fees, associated with the enforcement of the terms or conditions of this Agreement will be borne by the respective parties. This provision pertains only to the parties to the Agreement.

21) Counterparts

This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original, all of which together will constitute one (1) and the same instrument.

22) Captions

The captions and section designations set forth herein are for convenience only and have no substantive meaning.

23) Exhibits

The Exhibits referred to and attached to this Agreement are incorporated herein in full by this reference.

24) Assignment

This Agreement is not assignable by either party.

25) Equal Opportunity

The County and the Contractor agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, age, 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.

26) Construction

This Agreement shall not, solely as a matter of judicial construction, be constructed more severely against one of the parties than the other.

27) Modification and Amendment

Except as expressly permitted herein to the contrary, no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formalities used to execute this Agreement.

28) Entirety of Agreement

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Agreement.

29) Delegation of Authority to Execute this Agreement.


The Board of County Commissioners of Palm Beach County, Florida delegated the authority to execute this Agreement to the County Administrator or his designee on December 18th, 2007 in Resolution R2007-2277.

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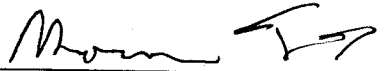
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

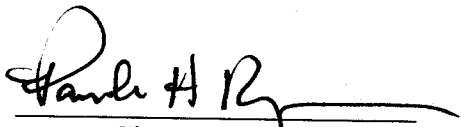
Signed in the presence of witnesses:

PALM BEACH COUNTY, FLORIDA:

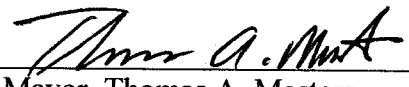

Richard E. Walesky, Director

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY


County Attorney


City Attorney

CITY OF RIVIERA BEACH

By: 
Mayor, Thomas A. Masters

Date: November 5, 2008


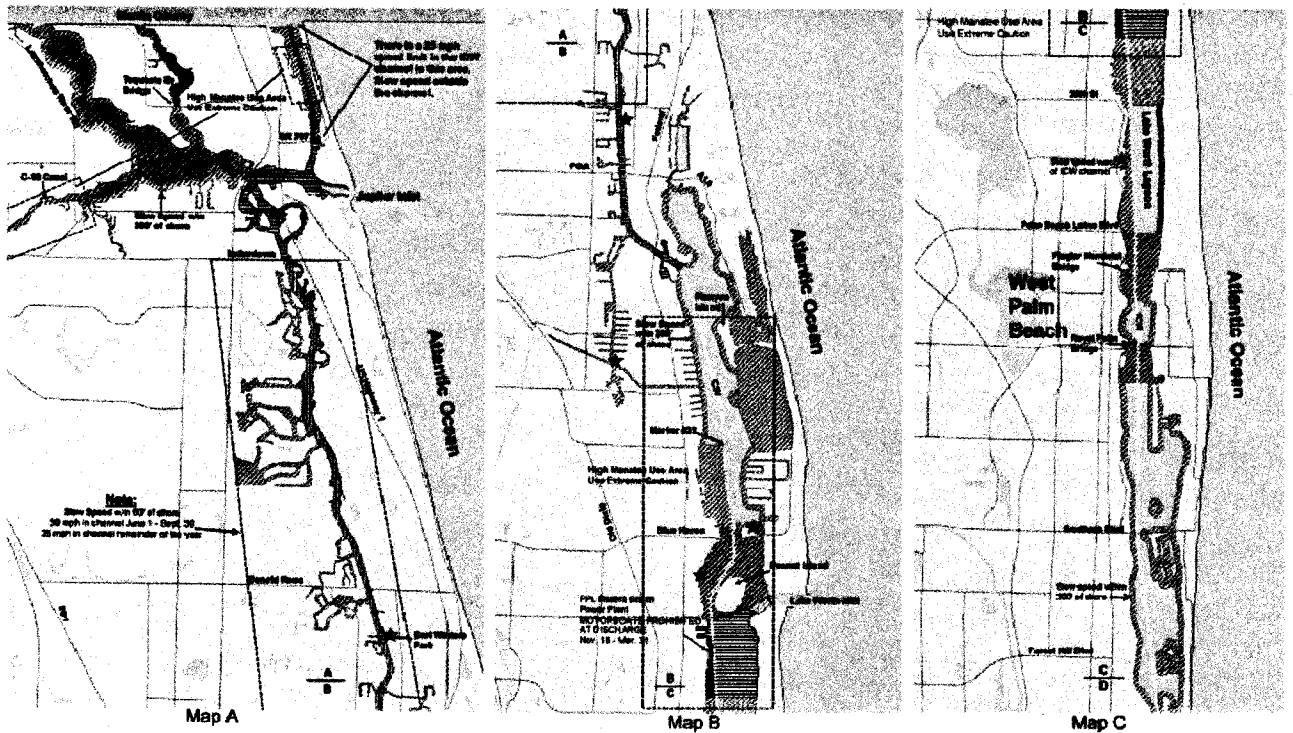
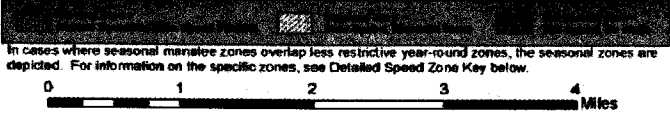
Attest:
By: 
City Clerk, Carrie E. Ward, MMC

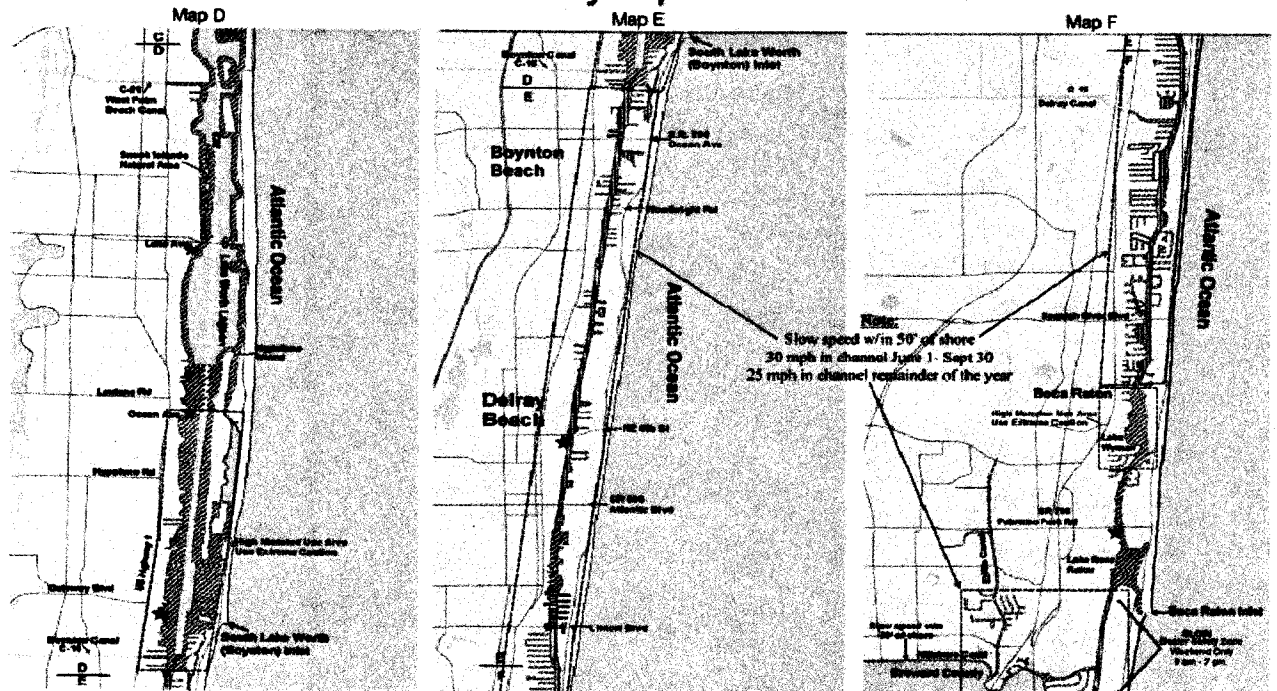
EXHIBIT A



Quick Reference Guide



Palm Beach County Waterway Speed Zones



Note: Waterway speed zones were established by FWC and defined in FAC 68D-24.017 (Boater Safety Zones) and FAC 68C-22.009 (Maroon Zones). For more information contact FWC @ 1-800-955-8771.

Attachment 2

12-4-08
File - AM



Department of Environmental
Resources Management
2300 North Jog Road, 4th Floor
West Palm Beach, FL 33411-2743
(561) 233-2400
FAX: (561) 233-2414
www.co.palm-beach.fl.us/erm



Palm Beach County
Board of County
Commissioners

Jeff Koons, Chairman

Burt Aaronson, Vice Chairman

Karen T. Marcus

Shelley Vanna

Mary McCarty

Jess R. Santamaria

Addie L. Greene

County Administrator
Robert Weisman

December 3, 2008

City of Riviera Beach Police Department
ATT: Commander L. Mitchell
600 West Blue Heron Blvd.
Riviera Beach, FL 33404

Dear Commander Mitchell:

SUBJECT: LAW ENFORCEMENT CONTRACT

The Palm Beach County Manatee Protection Plan (MPP) approved by the Board on August 21, 2007, provides two-hundred thousand dollars (\$200,000) of funding for additional on-water law enforcement in the County's waterways.

I am pleased to announce that the Riviera Beach Police Department will be reimbursed up to twenty-thousand dollars (\$20,000) for this effort. Included with this letter, you will find two executed Law Enforcement contracts.

Thank you for your commitment and dedication to protect the Manatees. If you have questions, please call me at 233-2400 or Ms. Alessandra Medri at 233-2512.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard E. Walesky".

Richard E. Walesky, Director
Environmental Resources Management

REW:AM:dab
Enclosures

An Equal Opportunity
Affirmative Action Employer

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