

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

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<b>Meeting Date:</b>	October 16, 2012	(X) Consent	( ) Regular
		( ) Ordinance	( ) Public Hearing

**Department**

**Submitted By:** Environmental Resources Management

**Submitted For:** Environmental Resources Management

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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to:

**A) approve** Interlocal Agreement with the City of Riviera Beach (City) for 20% cost sharing on Singer Island Dune Restoration efforts (Project).

**B) approve** budget amendment of \$200,000 in the Beach Improvement Fund to recognize the estimated revenues for the first year of the Agreement.

**C) authorize** the County Administrator, or his designee, to sign all future time extensions, task assignments, certifications and other forms associated with this Agreement, and necessary minor amendments that do not change the scope of work or terms and conditions of the Agreement.

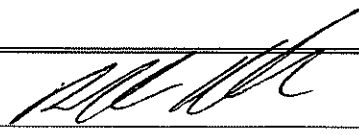
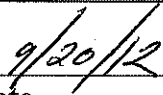
**Summary:** The Interlocal Agreement with the City establishes a twenty percent (20%) cost-share of eligible Project costs not to exceed \$200,000 in any fiscal year, which include project management, design, permitting, purchase and trucking of sand, sand placement, planting of native vegetation and all permit required monitoring and maintenance. The term of the Agreement is from the date of execution through September 30, 2022. District 1 (SF)

**Background and Justification:** The shoreline along the north end of Singer Island between Reference Monuments R-60.5 and R-69 has been designated by FDEP as "critically eroded". Since 2001, eight dune restoration projects have been conducted placing approximately 290,000 cubic yards of sand within the project boundaries. To facilitate these efforts, the City has agreed to a 20% cost share of eligible project costs, not to exceed \$200,000 during any fiscal year.

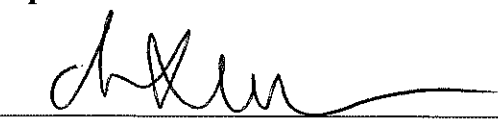
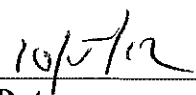
**Attachments:**

1. Interlocal Agreement
2. Budget Amendment
3. Location Map

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<b>Recommended by:</b>			
	Department Director		Date

<b>Approved by:</b>			
	County Administrator		Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	( <u>200,000</u> )	( <u>200,000</u> )	( <u>200,000</u> )	( <u>200,000</u> )	( <u>200,000</u> )
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?	Yes _____ No <u>X</u> _____				
Budget Account No.:	Fund _____	Department _____	Unit _____	Object _____	Program _____

### B. Recommended Sources of Funds/Summary of Fiscal Impact:

City of Riviera Beach – 20% of eligible project costs, not to exceed \$200,000 during any fiscal year

### C. Department Fiscal Review:

Annual fiscal impact to be determined upon completion of project schedule.

## III. REVIEW COMMENTS

### A. OFMB Fiscal and /or Contract Dev. and Control Comments:

OFMB

Contract Development and Control

### B. Legal Sufficiency:

Assistant County Attorney

### C. Other Department Review:

Department Director

**INTERLOCAL AGREEMENT  
BETWEEN  
PALM BEACH COUNTY  
AND  
THE CITY OF RIVIERA BEACH  
FOR  
DUNE RESTORATION**

THIS AGREEMENT is made and entered into on the \_\_\_\_ day of \_\_\_\_\_, 2012, 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 periodic dune restoration at the Singer Island beach within an area located approximately 500 feet north of the Department of Environmental Protection's reference monument R-61 to approximately 400 feet south of the Department of Environmental Protection's reference monument R-65, in Palm Beach County, Florida (the "RESTORATION"); and

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

WHEREAS, the CITY wishes to cost share with the COUNTY, by reimbursing the COUNTY for 20% of the total Eligible RESTORATION Expenses, provided that such amount does not exceed \$200,000 in any fiscal year.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein contained, the parties agree as follows:

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

3. The RESTORATION.

- A. Description. The RESTORATION consists of periodically hauling beach quality sand to the Restoration Area (located approximately 500 feet north of the Department of Environmental Protection's reference monument R-61 to approximately 400 feet south of the Department of Environmental Protection's reference monument R-65, in Palm Beach County, Florida), placing it throughout the eroded dune system and when practicable, planting the restored area with native, salt-tolerant, dune vegetation.
- B. RESTORATION components. RESTORATION components include project management; design; permitting; purchase and trucking of sand; sand placement; planting of native vegetation; and all permit required monitoring and maintenance (Eligible Restoration Expenses).

4. Term. The term of this Agreement shall be from the date of execution through September 30, 2022, unless otherwise provided herein. Work conducted on the RESTORATION by the County and its consultants/contractors beginning on or after January 1, 2012 shall be eligible for reimbursement by the CITY.

5. Funding. The parties agree that the CITY will cost share in the Eligible Restoration Expenses for the RESTORATION completed at the Restoration Area. Each party agrees to diligently pursue the approval and procurement of its funding obligation. The parties agree that the COUNTY shall not be obligated to perform RESTORATION unless the CITY notifies the COUNTY in writing that the City Council has appropriated sufficient funds in its annual fiscal budget to reimburse the COUNTY for the CITY'S share of the Eligible Restoration Expenses.

6. COUNTY Obligations.

- A. Prior to commencing restoration as provided in paragraphs 3.A. and B., the COUNTY shall submit to the CITY an estimate of the total cost of the proposed RESTORATION.
- B. The COUNTY shall pay all expenses of the RESTORATION in anticipation of partial reimbursement from the CITY.
- C. The COUNTY shall submit invoices for payment to the CITY not more frequently than quarterly (i.e. March, June, September, December). The COUNTY will submit invoices to the CITY that include a reference to this Agreement, identify the RESTORATION, identify the amount due and payable to the COUNTY and include a statement certifying that the invoice amount includes only eligible expenses and that said eligible expenses have been incurred and paid. Invoices shall be in sufficient detail for pre-audit and post-audit review. The COUNTY shall provide any further documentation deemed necessary by the CITY.
- 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 each periodic RESTORATION project. The CITY shall have access to all books, records, and documents related to the RESTORATION as required in this paragraph for purposes of inspection or audit during normal business hours.
- E. The County shall use best efforts to submit requests for State funding assistance for the RESTORATION, shall provide a copy of any such submittal to the CITY, and shall seek the CITY's support.
- F. Upon request, the COUNTY shall provide the CITY with copies of all contracts, plans and specs related to the RESTORATION. The COUNTY shall invite the CITY to RESTORATION pre-construction meetings.

- G. The COUNTY shall provide the CITY with a copy of the RESTORATION schedule and all revisions thereto.
- H. The COUNTY shall properly prepare and submit any and all applications for State and Federal permits required for the RESTORATION and provide a copy thereof to the CITY.
- I. The COUNTY shall be responsible for management, design, construction and monitoring of the RESTORATION.
- J. The COUNTY shall secure competitive bids for the RESTORATION 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 availability of matching State or Federal funding and an appropriation for its purpose by its Board in its annual fiscal year budget during the term of this Agreement.

7. CITY Obligations.

- A. The CITY shall cost share with the COUNTY on a reimbursement basis. The CITY shall reimburse the COUNTY for twenty percent (20%) of the Eligible RESTORATION Expenses for each periodic RESTORATION completed by the COUNTY pursuant to this Agreement. However, the CITY shall not be responsible for Eligible RESTORATION Expenses exceeding \$200,000 in any fiscal year.
- B. The CITY shall appropriate adequate funds to cover the CITY's share of the Eligible RESTORATION Expenses based upon the estimate provided by the COUNTY pursuant to paragraph 6.A.
- C. By no later than October 31<sup>st</sup> of any fiscal year, the CITY shall notify the COUNTY in writing whether adequate funds have been appropriated by its City Council to cover the CITY's share of Eligible RESTORATION Expenses.
- D. Invoices received from the COUNTY and approved by the CITY shall be paid to the COUNTY within thirty (30) days of receipt. 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 RESTORATION. Payments shall be submitted to the Palm Beach County Department of Environmental Resources Management at the address provided in paragraph 9.
- E. The CITY shall not issue a building permit for any new building construction or the installation of new artificial lighting within the Sea Turtle Protection Zone unless a Sea Turtle Lighting Plan has been approved by the COUNTY pursuant to Article 14, Chapter A of Palm Beach County's Unified Land Development Code (ULDC).
- F. Notwithstanding any other provision herein, the CITY's obligation to perform under this Agreement is contingent upon availability of the funding and an appropriation for its purpose by the City 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.

9. Notices. All formal notices between the parties shall be deemed received if sent by certified mail, return receipt requested, 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, 4 <sup>th</sup> Floor West Palm Beach, FL 33411-2743	City Manager City of Riviera Beach 600 W. Blue Heron Blvd. Riviera Beach, FL 33404	Palm Beach County Attorney's Office 301 North Olive Avenue 6 <sup>th</sup> floor West Palm Beach, FL 33401
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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. In the event of termination due to a default by the CITY, the CITY shall promptly pay the COUNTY all costs incurred and due under the terms of this Agreement as of 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 of the date of termination.

11. Delegation. 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.

13. Amendments. This Agreement may only be amended by written Agreement executed by the parties hereto with the same formality used to execute this Agreement.

14. 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 Florida Statutes, Section 768.28, 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.

15. 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 RESTORATION to maintain adequate insurance coverage, naming both the CITY and COUNTY as additional insured.

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, sexual orientation, or gender identity or expression be excluded from the benefits of, or be subjected to any form of discrimination under, any activity carried out by the performance of this Agreement.
17. Severability. 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 of 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. Disputes. 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.
20. 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. Enforcement Costs. 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. Captions. The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.
24. Construction. 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. Inspector General. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of any party contracting with the County, its officers, agents, employees, and lobbyists in order to ensure compliance with contract

requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

26. 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.

IN WITNESS WHEREOF, the County of Palm Beach, Florida has caused this Agreement to be signed by the Chair 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.

CITY OF RIVIERA BEACH,  
FLORIDA

By: Thomas A. Masters  
Thomas Masters, Mayor

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Shelley Vana, Chair

ATTEST:

By: Carrie E. Ward  
City Clerk **CARRIE E. WARD, MMC**

DATE: Sept 21, 2012  
(Seal)

ATTEST:

Sharon R. Bock, Clerk & Comptroller

By: \_\_\_\_\_  
Deputy Clerk

DATE: \_\_\_\_\_  
(Seal)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: Paul H. B.  
City Attorney

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: Michael J. [Signature]  
Assistant County Attorney

APPROVED AS TO TERMS  
AND CONDITIONS

By: Robert Robbins  
Robert Robbins, Director  
Dept. of Env. Resources Management



2013 - 0101

BGEX - 380 - 09201200000000002060

BGRV - 380 - 09201200000000000658

BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY, FLORIDA

BUDGET AMENDMENT


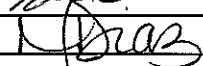
Fund 3652 Beach Improvement Fund

ACCOUNT NAME AND NUMBER	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	ENCUMBERED / Expended	REMAINING BALANCE
<u>REVENUES</u>							
381-M037 Singer Island Sp/Dune Rstrtion      6994-Municipal Participation Prot	6,721,618	6,721,618	200,000	0	6,921,618		
<b>TOTAL RECEIPTS &amp; BALANCES</b>	33,157,726	33,157,726	200,000	0	33,357,726		
<u>EXPENDITURES</u>							
381-M037 Singer Island Sp/Dune Rstrtion      4630-Beach/Dune Restore/Renourish	16,346,123	16,346,123	200,000	0	16,546,123	0	16,546,123
<b>TOTAL APPROPRIATIONS &amp; EXPENDITURES</b>	33,157,726	33,157,726	200,000	0	33,357,726		

Environmental Resources  
Management

INITIATING DEPARTMENT/DIVISION  
Administration/Budget Department Approval  
OFMB Department - Posted

Signatures & Dates

  
 9/20/2012  
9/25/12  
ce

BY BOARD OF COUNTY COMMISSIONERS  
AT MEETING OF

October 16, 2012

Deputy Clerk to the  
Board of County Commissioners

# 2012 Singer Island Dune Restoration Plan View

