

AGENDA ITEM SUMMARY

Department

Environmental Resources Management

Motion and Title: Staff recommends motion to approve: Amendment No. 1 to the Interlocal Agreement with the City of Boynton Beach (City) extending the term from November 30, 2014 to September 1, 2015 and replacing the Equal Opportunity Article 15.

Background and Justification: FIND Project Agreement No. ICW-PB-12-01 reimburses the County for a portion of the Sand Trap and Boynton Boat Club Channel dredging costs. The City of Boynton Beach Interlocal Agreement reimburses the County for the remainder of the Boynton Boat Club Channel dredging costs.

1. Amendment No. 1
2. City of Boynton Beach Interlocal Agreement

Approved by:  11/3/14
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes x No _____
Budget Account No.: Fund 3653 Department 381 Unit M703 Object 4630
Program _____

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

There is no fiscal impact associated with this item.

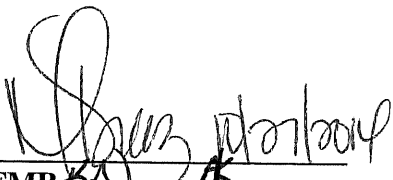
C. Department Fiscal Review:

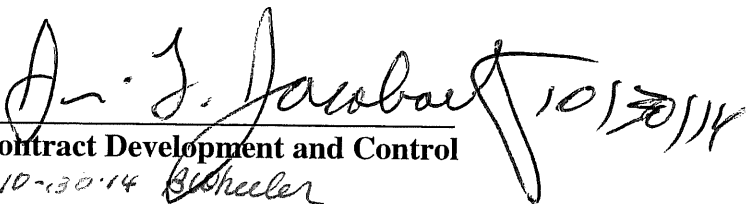
Each partner's share to be determined after dredge volumes are calculated.

JP


III. REVIEW COMMENTS

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


OFMB AK
10/23 10/24/14


Contract Development and Control
10-30-14 *B. Wheeler*

B. Legal Sufficiency:


Assistant County Attorney

**INTERLOCAL AGREEMENT
BETWEEN
PALM BEACH COUNTY AND THE CITY OF BOYNTON BEACH
AGREEMENT #R2013-0166
Boynton Boat Club Access Channel Dredging**

AMENDMENT NO. 1

THIS AGREEMENT, entered into on the 5th day of February, 2013, is hereby amended as follows:

- Article 4 is hereby amended to extend the completion date of the Agreement from November 30, 2014 to September 1, 2015.
- Article 15 is hereby replaced with the following: Equal Opportunity. The COUNTY and the CITY agree that no person shall, on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity, gender expression, *or genetic information* 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.
- This Amendment may be executed in one or more counterparts each of which shall be deemed to be an original and all such counterparts shall constitute one instrument.

All other terms and conditions of the Agreement shall remain unchanged.

The remainder of this page is intentionally left blank.

IN WITNESS WHEREOF, the County of Palm Beach, Florida has caused this Agreement to be signed by the Chairman 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 Boynton 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 BOYNTON BEACH, FLORIDA

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS.

By: _____
Jerry Taylor, Mayor

By: _____
Mayor

ATTEST:

ATTEST:
Sharon R. Bock, Clerk and Comptroller

By: _____
City Clerk

By: _____
Deputy Clerk

DATE: _____

DATE: _____

Seal

Seal

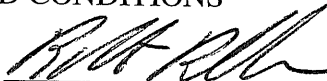
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
City Attorney

By:  _____
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By:  _____
Robert Robbins, Director
Environmental Resources Management

R2013 0166

INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY
AND THE CITY OF BOYNTON BEACH

FEB 05 2013

THIS AGREEMENT is made and entered into on this ____ day of _____, 2013, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (the "COUNTY") and the CITY OF BOYNTON 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 is planning to perform maintenance dredging of the South Lake Worth Inlet Sand Trap (the "Trap") and the South Lake Worth Inlet Intracoastal Waterway ("ICW"); and

WHEREAS, the CITY wishes to have maintenance dredging performed within the Boynton Beach Boat Club Park Navigation Access Channel ("Access Channel"), which is located in the vicinity of the Trap and ICW, and to have beach compatible sand discharged via pipeline below mean low water (MLW) offshore of Ocean Hammock Park and any non-beach compatible material mechanically dredged and disposed of in the Half Moon Bay Hole site via barge (hereinafter referred to as the "PROJECT"); and

WHEREAS, the CITY has expressed an interest in utilizing COUNTY staff for permitting and management as well as the COUNTY's construction contract for performing

maintenance dredging, and the COUNTY is agreeable to including the CITY's PROJECT as part of its project to dredge the Trap and ICW; and

WHEREAS, on January 9, 2007 the COUNTY and the CITY entered into an interlocal agreement to dredge the Access Channel, and that agreement expired on January 8, 2010;

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. Purpose of the Agreement. The purpose of this Agreement is to set forth the terms, conditions and obligations of each of the respective parties with respect to the PROJECT.
3. The PROJECT. The PROJECT consists of maintenance dredging of approximately 5,330 cubic yards of sand from the Access Channel, widening the eastern half of the Access Channel by 30 feet on the north side and 30 feet on the south side to -7.00 feet MLW, disposal of dredged beach compatible sand via pipeline below MLW offshore of Ocean Hammock Park, and disposal of any non-beach compatible material in the Half Moon Bay Hole site via barge, as more particularly described in the Scope of Work attached as Exhibit "A" and the location maps attached as Exhibits "B" and "C".
4. Term. The term of this Agreement shall be from the date of execution by both parties through November 30, 2014, unless earlier terminated as provided herein. Notwithstanding the foregoing, work conducted on this PROJECT by the County and its consultants/contractors beginning on or after April 1, 2011 shall be eligible for reimbursement by the CITY. This Agreement may be extended if agreed to in writing by the parties.
5. COUNTY Obligations.

The COUNTY shall be responsible for management, engineering, permitting, design, construction, and monitoring of the PROJECT. The COUNTY will complete the PROJECT in conjunction with its project to dredge the Trap and ICW.

A. The COUNTY shall submit invoices for payment to the CITY not more frequently than quarterly, but at least annually. The COUNTY shall submit invoices to the CITY that include a reference to this Agreement, identify the PROJECT, identify the tasks performed, and identify the amount due and payable to the COUNTY. Invoices shall be in sufficient detail for pre-audit and post-audit review.

B. The COUNTY shall maintain adequate records to justify all charges, expenses

and costs represented by the invoice amounts for at least five (5) years after completion of the PROJECT or termination of the Agreement, whichever occurs last. The COUNTY shall afford the CITY 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.

- C. The COUNTY has submitted a request for and received funding assistance in order to offset the costs to complete the PROJECT and will provide a copy of the funding assistance contract to the CITY. The COUNTY will notify the CITY of the extent to which such funds reduce the CITY's financial obligation to pay for the PROJECT.
- D. Upon request by the CITY, the COUNTY shall provide the CITY with copies of any scopes of work, contracts, permits, surveys, aerials, reports and studies including pre- and post-construction monitoring reports, bid tabulations, schedules, change orders, plans and specifications related to the PROJECT. To the greatest extent possible, the above documents shall be provided in digital format.
- E. If at any time it becomes apparent that the PROJECT COST will exceed \$113,000, the County will immediately notify the CITY in writing.
- F. 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.

6. CITY Obligations.

- A. The CITY shall reimburse the COUNTY for all costs related to the PROJECT, which are estimated to be approximately \$93,000 ("PROJECT COST").
- B. The CITY agrees to pay the COUNTY for the following, which are included in the PROJECT COST: the cubic yard cost associated with dredging of the Access Channel and disposing of beach compatible dredged material via pipeline below MLW offshore of Ocean Hammock Park; the cubic yard cost associated with dredging of any non-beach compatible material and disposal via barge to the Half Moon Bay Hole site; all costs related to design, permitting, easements, bidding, project management (including overseeing mobilization, staging, dredging, disposal, turbidity monitoring, surveying and demobilization), seagrass monitoring and staff time based on the total cubic yards of material dredged compared to the total cubic yards of material dredged from the Access Channel, the Trap and ICW combined; and bathymetric survey costs based on the percentage of related line-miles surveyed compared to total line-miles surveyed for Access Channel, the Trap

and the ICW combined.

- C. The CITY shall appropriate adequate funds to cover the PROJECT COST.
- D. Invoices received from the COUNTY and approved by the CITY shall be paid 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 PROJECT. Payments shall be submitted to the Palm Beach County Department of Environmental Resources Management at the address provided in Section 8.
- 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 CITY Council in its annual fiscal year budget during the term of this Agreement.
7. 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) 742-6010.
8. Notices. All formal notices between the parties shall be hand delivered or sent by certified mail, return receipt requested, to the party's Representative identified below in Section 8, at the below-cited address. All notices required by this Agreement shall be considered delivered *upon receipt*. A copy of all such notice shall also be sent to the following counsel by U.S. Mail.

Palm Beach County Environmental Resources Mgmt. 2300 North Jog Road, 4 th Floor West Palm Beach, FL 33411-2743	City Manager City of Boynton Beach 100 E. Boynton Beach Blvd. Boynton Beach, FL 33435-3838	Palm Beach County Attorney's Office 301 North Olive Avenue, 6 th floor West Palm Beach, FL 33401
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9. Default and Opportunity to Cure. The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default thirty (30) days written notice to cure said default. If the defaulting party fails to correct the default within this time, unless otherwise agreed by the parties, the party not in default may terminate the Agreement at the expiration of the thirty (30) day time period.
10. Delegation. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or municipal officers.

11. Recording. A copy of this Agreement shall be recorded and filed with the Clerk of the Circuit Court in and for Palm Beach County.
12. 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. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or CITY.
13. 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. Nothing herein shall be construed as a waiver of sovereign immunity by either party, pursuant to Section 768.28, Florida Statutes.
14. Insurance. Each party shall maintain a fully funded program of self-insurance pursuant to Section 768.28 Florida Statutes.
15. Equal Opportunity. The COUNTY and the CITY agree that no person shall, on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity, or gender expression 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.
16. 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.

17. 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 of any other covenant.
18. 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.
19. Independent Contractor. Each party recognizes that it is an independent contractor and not an agent or servant of the other party. 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.
20. 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.
21. Captions. The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.
22. 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.
23. Amendments. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.
24. Palm Beach County Office of the 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 and 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.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the County of Palm Beach, Florida has caused this Agreement to be signed by the Chairman 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 Boynton 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 BOYNTON BEACH, FLORIDA

By: Woodrow Hay
Woodrow Hay, Mayor

R 2013 0166

FEB 05 2013
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS.

By: Steven L. Abrams
Steven L. Abrams, Chairman Mayor

ATTEST:

By: Janet M. Praineto
City Clerk

DATE: 1-15-2013

Seal



APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: [Signature]
City Attorney

ATTEST:

Sharon R. Bock, Clerk and Comptroller

By: Nancy Havel
Deputy Clerk

DATE: FEB 05 2013

Seal



APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: [Signature]
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: [Signature]
Robert Robbins, Director
Environmental Resources Management

**Maintenance Dredging at the Boynton Boat Club Channel
Interlocal Agreement between Palm Beach County
and the City of Boynton Beach
Scope of Work**

I. Introduction

The Management Plan for the South Lake Worth Inlet requires removal of accumulated sand from the interior sand trap (the "Trap") as part of maintaining the down drift beaches and preventing sand from entering the inlet and settling in the navigation channel of the Intracoastal Waterway ("ICW") and the Boynton Boat Club Channel ("BBCC"). The Trap, ICW, and BBCC were dredged in 2001-02 and again in 2008 under one Florida Department of Environmental Protection ("FDEP") permit to make the most efficient use of resources. The current maintenance dredging Project Number 2012ERM04 ("PROJECT") is scheduled to begin in early 2013. Palm Beach County intends to design, permit, advertise, bid, contract, manage, and monitor the BBCC dredging project in conjunction with dredging the Trap and ICW.

II. Design

The results of the 2010 and 2011 bathymetric and seagrass surveys of the Trap and BBCC have been used to design the PROJECT. During the 2008 Project, 4,480 cubic yards of material was dredged from the permitted template of the BBCC, and only the sand in the easternmost section of the BBCC was beach compatible. The permitted design of the BBCC dredge template includes widening the eastern half of the channel by sixty (60) feet, which required a modification to the legal description and the City's submerged lands easement. Beach compatible sand hydraulically dredged from the BBCC will be transported via pipeline and placed below mean low water at Ocean Hammock Park. To avoid nearshore turbidity and water quality issues, the non-beach compatible material mechanically dredged from the BBCC will be transported by barge and discharged into Half Moon Bay Hole, a deep hole located in the Lake Worth Lagoon approximately 1.6 miles north of the BBCC.

III. Permitting

FDEP issued a 25-year maintenance dredging permit to the County on February 8, 2001, to conduct maintenance dredging at the Trap. A major modification to the permit was issued on November 16, 2012.

IV. Bidding

The County has advertised for competitive bids through an established, competitive, sealed-bid process.

V. Construction/Project Management

The County will oversee the mobilization, staging, dredging, disposal, turbidity monitoring, surveying, and demobilization of the PROJECT. The County shall receive daily progress reports and process invoices from the dredge contractor.

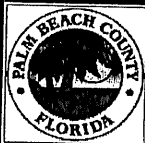
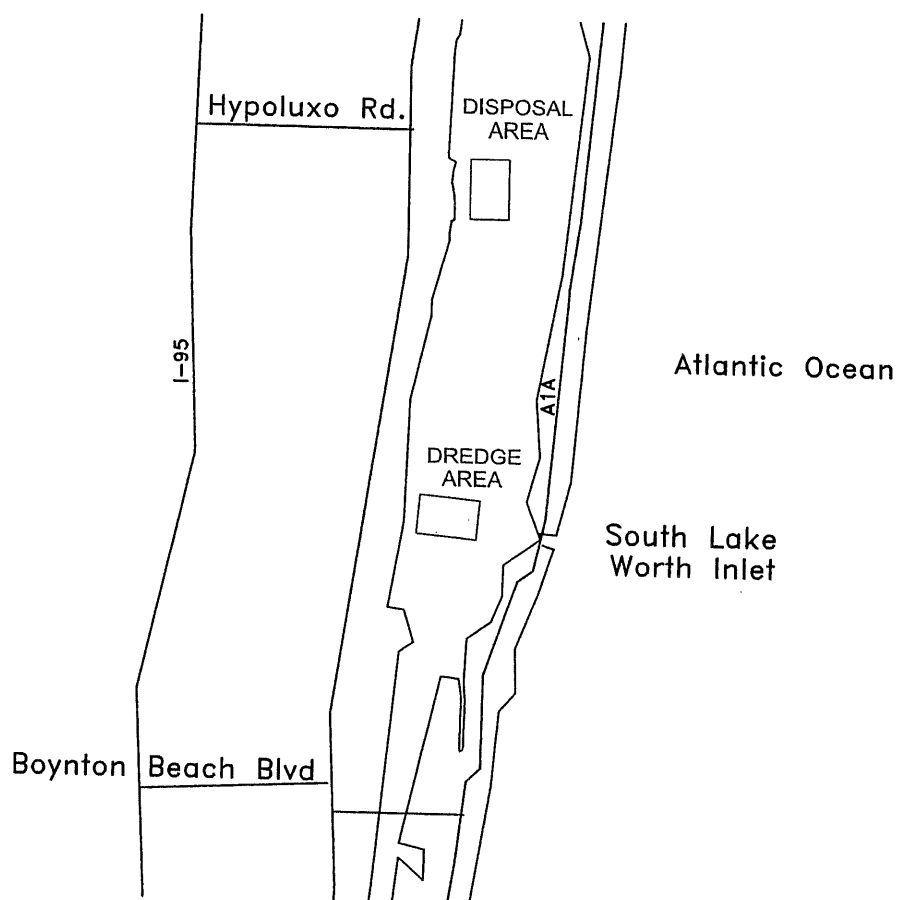
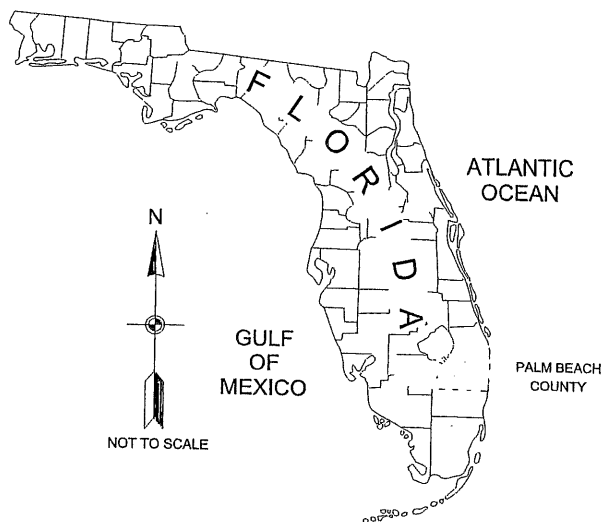
VI. Monitoring

- A. Physical monitoring. The County will complete all necessary bathymetric surveys.
- B. Environmental monitoring. The County will perform all necessary seagrass monitoring.

VII. Staff Time

County staff will manage the PROJECT, provide engineering services, and perform monitoring of the PROJECT.

PROJECT LOCATION MAP



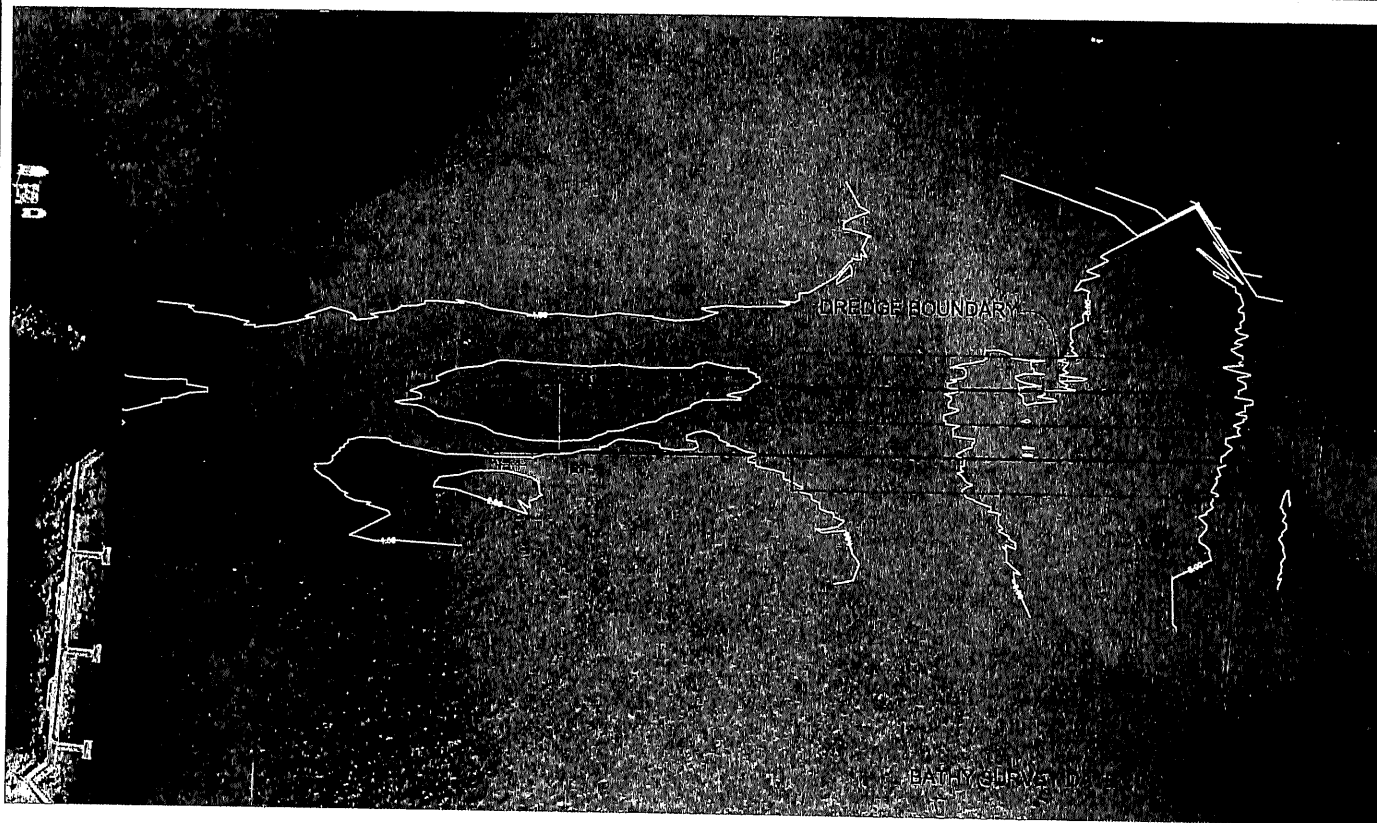
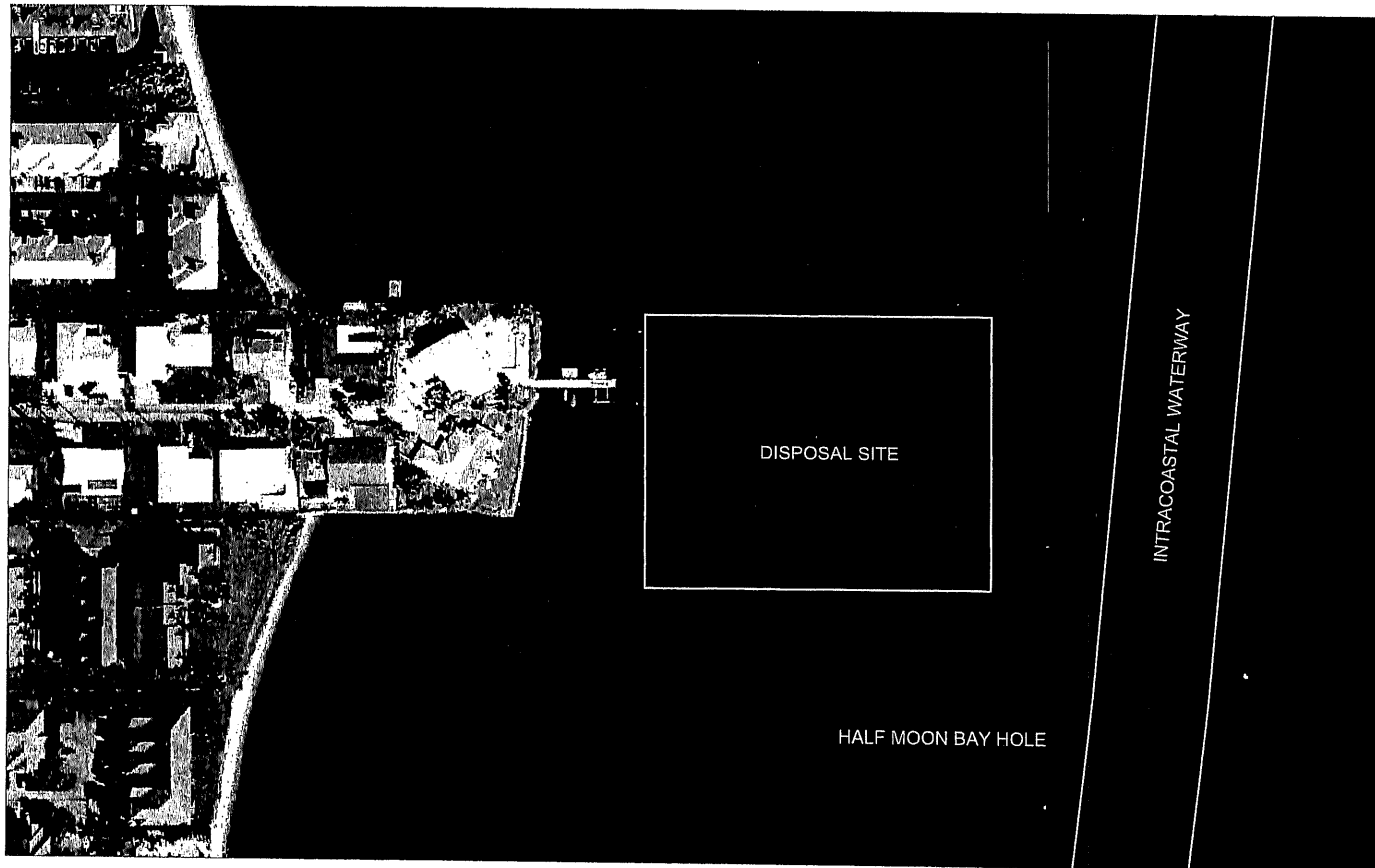
PALM BEACH COUNTY
ENVIRONMENTAL
RESOURCES
MANAGEMENT

PROPOSED 2012
BOYNTON BOAT CLUB CHANNEL
MAINTENANCE DREDGING AND DISPOSAL
VICINITY MAP

SCALE: NTS

12/12

Exhibit B



PALM BEACH COUNTY
ENVIRONMENTAL
RESOURCES
MANAGEMENT

PROPOSED 2012
BOYNTON BOAT CLUB CHANNEL
MAINTENANCE DREDGING AND DISPOSAL

SCALE: NTS

12/12

Exhibit C

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk and Comptroller,
certify this to be a true and correct copy of the original
filed in my office on FEB 05 2013
dated at West Palm Beach, FL on 10-14-12
By: [Signature] Deputy Clerk

