

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

**Meeting Date:** August 18, 2015

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 approve:**

**A)** Amendment No. 1 to Interlocal Agreement (R2009-1523) with the Town of Palm Beach (Town) for cost sharing on 20% of the total eligible construction costs associated with the Phipps Ocean Park Beach Nourishment Project (Project); and

**B)** a Budget Transfer of \$2,432,228 in the Beach Improvement Fund from various projects to the Phipps Ocean Park Beach Nourishment Project.

**Summary:** Amendment No. 1 includes cost sharing on eligible construction costs for the Phipps Ocean Park Beach Nourishment Project (Project) which total \$15,591,200. Currently, seventy-eight percent (78%) of the project area's shoreline is both publicly accessible and critically eroded as defined by Chapter 62B-36 FAC. Therefore, the County's share of construction costs totals \$2,432,228.

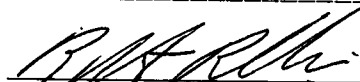
To facilitate inlet maintenance dredging scheduled to commence on November 1, 2015 by the US Army Corps of Engineers (USACE), Amendment 1 authorizes an advance of the County share for the Project to the Town. At the discretion of the Town, these funds may be loaned to the USACE to cover a shortfall in Federal funding for the inlet maintenance dredging. District: 7 (SF)

**Background and Justification:** In 2009, the BCC approved Interlocal Agreement (R2009-1523) which provides for 20% reimbursement of eligible costs associated with shoreline protection within the Town. Eligible costs are limited to expenditures on publicly accessible and critically eroded beaches. Eligible tasks include shoreline protection design, permitting, construction, mitigation, environmental and performance monitoring. In order to incorporate a specific project for cost share, the existing Interlocal Agreement must be amended.


Attachments:

1. Amendment No. 1 to Interlocal Agreement
2. Interlocal Agreement (2009-1523)
3. Budget Transfer (3652)

**Recommended by:**

 7/20/15  
Department Director Date

**Approved by:**

 8/17/15  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

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

<b>Fiscal Years</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>Capital Expenditures</b>	<u>2,432,228</u>	_____	_____	_____	_____
<b>Operating Costs</b>	_____	_____	_____	_____	_____
<b>External Revenues</b>	_____	_____	_____	_____	_____
<b>Program Income (County)</b>	_____	_____	_____	_____	_____
<b>In-Kind Match (County)</b>	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>2,432,228</u>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

**Is Item Included in Current Budget?** Yes \_\_\_\_\_ No X  
**Budget Account No.:** Fund 3652 Department 381 Unit Various Object

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

Beach Improvement Fund:

M044 – S. Palm Beach Dune Restoration:	\$200,000
M051 – Central Boca Shore Protection:	\$357,000
M015 – Ocean Ridge Shore Protection:	\$700,000
M028 – Juno Beach Shore Protection:	\$490,228
M040 – Coral Cove Dune Restoration:	\$266,000
M041 – Delray Beach Shore Protection:	\$419,000

**C. Department Fiscal Review:**

*S. Neary*

**III. REVIEW COMMENTS**

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

<i>Sheryl P...</i>	<i>Dr. J. Jacobson</i>
OFMB <sup>5/0</sup> <sub>7/31</sub> <sup>2/13</sup> <sub>11/31</sub> #23	Contract Development and Control <i>bioheeler 8-15</i>

**B. Legal Sufficiency:**

*Sammy J...*  
 \_\_\_\_\_  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

FIRST AMENDMENT TO  
INTERLOCAL AGREEMENT  
BETWEEN  
PALM BEACH COUNTY  
AND  
TOWN OF PALM BEACH

THIS FIRST AMENDMENT is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (the "COUNTY") and the Town of Palm Beach, a municipal corporation in the State of Florida, (the "TOWN"), 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, on September 15, 2009, the parties entered into an Interlocal Agreement (R2009-1523)(the Agreement)setting forth their desire to cooperatively work with each other on shoreline protection TASKS within the municipal limits of the TOWN; and

WHEREAS, the COUNTY wishes to cost share with the TOWN, reimbursing 20% of the eligible construction costs associated with the Phipps Ocean Park Beach Nourishment Project ("Project") incurred by the TOWN; and

WHEREAS, the parties agree that total construction costs to complete the Project, as bid by the successful bidder, is \$15,591,200 ("Total Project Cost"); and

WHEREAS, The COUNTY agrees to pay its share of the eligible construction costs in the amount of \$2,432,228; and

WHEREAS, the parties agree that any change orders associated with the successful completion of the Project that propose to increase the Total Project Cost shall be provided to COUNTY for review in a timely manner and will not be eligible for reimbursement from the COUNTY without prior authorization as an amendment to this Agreement; and

WHEREAS, notwithstanding paragraph 5. b) of the Agreement, the COUNTY agrees to advance its \$2,432,228 share (the "COUNTY'S SHARE") of the Total Project Costs to the TOWN with the understanding that the TOWN, in its discretion and at its sole risk, may temporarily loan such funds to the United States Army Corps of Engineers ("USACE") to facilitate inlet maintenance dredging and spoil placement on the beach within the Town limits scheduled to commence following the 2015 sea turtle nesting season as long as such loan does not affect the timely successful completion of the Project.

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

1. The foregoing recitals are true and correct and incorporated herein.
2. The Town will complete the Project in accordance with the Scope of Work attached hereto as **Exhibit A**.
3. Paragraph 14, entitled EQUAL OPPORTUNITY, is hereby deleted in its entirety and replaced with the following:

Non-Discrimination. The parties agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, age, sexual orientation, familial status, 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 this Agreement.

The TOWN has submitted to the County a copy of its non-discrimination policy which is consistent with the above, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the TOWN does not have a written non-discrimination policy, it has acknowledged through a signed statement provided to the County that the TOWN's non-discrimination policy conforms to R-2014-1421, as amended.

4. The following "TOWN Obligations" shall be added to the Agreement as paragraph 24:
  - a) Any PROJECT related scopes of work, contracts, progress reports, schedules, change orders, plans and specs (whether or not they are required by the State or Federal agencies) shall be copied and provided to the COUNTY within 5 days of the TOWN'S receipt.
  - b) The TOWN shall provide the COUNTY with copies of all permits and permit applications, surveys, aerials, reports and studies including pre and post-construction monitoring reports, bid tabulations, and other project related documents.
  - c) To the greatest extent possible, the documents referred to in paragraphs 24. a) and b) above shall be provided to the COUNTY in digital format.
  - d) The TOWN shall invite the COUNTY to pre-construction meetings as well as inform the COUNTY on all construction contract change orders or contract amounts.
5. The following paragraph shall be added to this Agreement as paragraph 25:

Indemnification by Contractors. In the event any party subcontracts to a third party any part or all of the tasks necessary to complete a project pursuant to this Agreement, the party shall require the Contractor to indemnify, defend and hold harmless the COUNTY and TOWN as follows and shall require the following language to be inserted into any agreement with the Contractor:

The Contractor agrees to assume liability for and indemnify, hold harmless, and defend the Town and Palm Beach County, and their commissioners, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor, its agents, officers, contractors, subcontractors, employees, or anyone else utilized by the Contractor in the performance of this Agreement. The Contractor's liability hereunder shall include all attorney's fees and costs incurred by the Town and/or Palm Beach County in the enforcement of this indemnification provision. This includes claims made by the agents or employees of the Contractor against the Town and/or the County and the Contractor hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement.

6. All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

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 Mayor 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 Town of Palm 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.

TOWN OF PALM BEACH, FLORIDA

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: Gail L. Coniglio  
Gail L. Coniglio, Mayor

By: \_\_\_\_\_  
Shelley Vana, Mayor

ATTEST:

ATTEST:  
Sharon R. Bock, Clerk and Comptroller

By: Juan P. Puentes  
Town Clerk

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

DATE: 8/11/15

DATE: \_\_\_\_\_

(SEAL)

(SEAL)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: [Signature]  
Town Attorney

By: [Signature]  
Assistant County Attorney

APPROVED AS TO TERMS  
AND CONDITIONS

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



Robert Robbins, Director  
Dept. of Env. Resources Management

EXHIBIT A  
SCOPE OF WORK  
FOR  
AMENDMENT NO. 1  
TO  
INTERLOCAL AGREEMENT (R2009-1523)

The parties agree that the Project includes beach nourishment for the Phipps Ocean Park Beach Nourishment Project which was put out to bid (Bid. No. 2015-32) by the Town and includes total construction costs of \$15,591,200 (Total Project Cost) to complete the Project. The parties agree that the County is to pay its share of the eligible construction costs, as outlined below, in the amount of \$2,432,228.

The parties agree that the eligible shoreline within the Project limits is limited by publicly accessible and critically eroded criteria as defined by Chapter 62B-36 FAC and is currently calculated to be 78% of the project area.

The parties agree that construction of the Project, which also includes demobilization of all equipment from the beach, must be completed by May 1, 2016.

Eligible Construction Costs Include:

LINE	DESCRIPTION	QUANTITY	UNIT	TOTAL
1	Mobilization & Demobilization	1	LS	\$4,300,000
2	General Conditions	1	LS	\$450,000
3	Site Prep/Staging Areas	1	LS	\$120,000
4	Sand Excavation/Placement	1,010,000	CY	\$10,524,200
5	Beach Tiling	1	LS	\$45,000
6	Traffic Maintenance/MOT	1	LS	\$16,500
7	Performance & Payment Bond	1	LS	\$135,000
8	Indemnification	1	LS	\$500
			<b>TOTAL:</b>	<b>\$15,591,200</b>

### Advance of Project Funds

Notwithstanding paragraph 5. b) of the Agreement, the COUNTY agrees to advance the COUNTY'S Share of the Total Project Costs to the TOWN within 30 Days of execution of this Agreement with the understanding that the TOWN, in its discretion and at its sole risk, may temporarily loan such funds to the United States Army Corps of Engineers ("USACE") to facilitate inlet maintenance dredging and spoil placement on the beach ("USACE Inlet Maintenance Project") within the Town limits as long as such loan does not affect the timely successful completion of the Project. The USACE Inlet Maintenance Project is anticipated to commence after November 1, 2015 and to be completed by May 1, 2016.

Should the TOWN in its sole discretion use the COUNTY'S Share of the Total Project Costs to facilitate the USACE Inlet Maintenance Project, the TOWN agrees that regardless of whether such funds are timely repaid by USACE, the TOWN will take whatever steps are necessary to secure funding to complete the Project by May 1, 2016, recognizing that delays may occur due to regulatory conditions, such as delays due to sea turtle nesting season. The Town agrees that it has adequate reserves, which can be utilized if necessary, to timely complete the Project while awaiting reimbursement from USACE.

Should the TOWN provide any of the COUNTY'S Share of the Total Project Funds to USACE for the USACE Dredge Project, the TOWN shall require USACE's contractors to indemnify the COUNTY in accordance with paragraph 5 in this First Amendment to the Interlocal Agreement, entitled INDEMNIFICATION BY CONTRACTORS.

No later than 60 days after completion of the Project, the TOWN shall provide an accounting to the COUNTY to demonstrate that only eligible expenses were incurred and paid to complete the Project and that the Project was completed as budgeted (the "Accounting"). If the Project is completed under budget, the TOWN shall within 45 days of completion of the Accounting reimburse the COUNTY for its proportionate share of the Total Project Costs, which were not incurred.



R 2009 15 23

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH  
COUNTY AND THE TOWN OF PALM BEACH**

THIS AGREEMENT is made and entered into on the Sept 05 2009, 2009, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (the "COUNTY") and the TOWN OF PALM BEACH (the "TOWN"), a municipal corporation in the State of Florida, each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes.

**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 TOWN 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 TOWN entered into an Interlocal Agreement on September 17, 1996 (3L-1-A), which provided for joint funding of the Midtown Beach Nourishment TASKS and which expired on September 30, 1997; and

WHEREAS, the COUNTY and the TOWN intend to make the most efficient use of their powers by continuing to cooperate with each other on shoreline protection TASKS within the municipal limits of the TOWN; and

WHEREAS, the COUNTY's Comprehensive Plan includes strategies for municipal cost sharing and funding priorities for shoreline protection (Objective 1.2 Policy 1.2-a & h); and

WHEREAS, the COUNTY and the TOWN desire to establish their respective roles

in the TASKS to make the most efficient use of their respective resources; and

WHEREAS, the COUNTY wishes to cost share with the TOWN, reimbursing 20% of the total costs associated with eligible shoreline protection tasks ("TASKS") along the eligible shoreline incurred by the TOWN; and

WHEREAS, the TOWN wishes to cost share with the COUNTY, reimbursing 20% of the total costs associated with TASKS incurred by the COUNTY.

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

1. Purpose of the Agreement. The purpose of this Agreement is to provide a mechanism for funding and to set forth the terms, conditions and obligations of each of the respective parties hereto.
2. The Eligible Shoreline Protection Tasks. The TASKS consist of shoreline protection design, permitting, construction, mitigation, environmental and performance monitoring, which will be mutually agreed to in scope and cost by both parties and set forth in a written Scope of Work(s) to be adopted by the parties when necessary as an amendment to this Agreement. Actions that may, at the sole discretion of either party, result in unreasonable impacts to environmental resources, impair longshore sediment transport, or incur unreasonable costs shall not be eligible for reimbursement.
3. The Eligible Shoreline. The eligible shoreline within the municipal limits of the TOWN is limited by publicly accessible and critically eroded criteria as defined by Chapter 62B-36 FAC
4. Term. The term of this Agreement shall be from the date of execution through December 31, 2034, unless otherwise provided herein.
5. Funding. The parties agree that the COUNTY and the TOWN shall cost share as set forth below.
  - a) The COUNTY and the TOWN, respectively, shall pay all expenses of the TASKS managed by that party in anticipation of a 20% reimbursement from the other party for those TASKS agreed to by the parties in writing and set forth in a Scope of Work.
  - b) Each party shall submit invoices for payment to the other party not more frequently than quarterly, but at least annually. Invoices shall include a reference to this Agreement, identify the TASKS performed, identify the amount due and payable, and include a statement certifying that the invoice amount includes only eligible expenses and said eligible expenses have been incurred and paid. Invoices shall be in sufficient detail for pre audit and post audit review. Invoices received from the

TOWN 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 by the COUNTY within forty-five (45) days of receipt. The TOWN will pay the COUNTY within forty-five (45) days of receipt of an invoice from the COUNTY. All invoices and payments shall be submitted to the other party at address provided in paragraph 7. If a dispute arises concerning any invoice, the party disputing payment shall pay the any amount not in dispute and shall immediately notify the other Party's Representative in writing of the amount of and reason for the disputed payment due.

- c) Each party shall maintain adequate records to justify all charges, expenses and costs represented by the invoice amounts for at least five (5) years after termination of the Agreement. Each party shall have access to all books, records, and documents related to this Agreement for purposes of inspection or audit during normal business hours.
- d) Each party shall submit requests for State and/or Federal funding assistance and provide a copy of any such submittal to the other party. Each party shall provide the other party with a copy of any TASK-related scopes of work, contracts, permits and permit applications, surveys, aerials, photographs, reports and studies including pre- and post-construction monitoring reports, bid tabulations and other TASK-related documents, schedules, change orders, plans and specifications for shoreline protection work within the TOWN related to this Agreement. To the greatest extent possible, the above documents shall be provided in digital format. The parties shall coordinate on all consultant or construction contract changes or contract amounts.
- e) The parties shall cost share on a reimbursement basis. Cost sharing responsibility shall be limited to twenty percent (20%) of eligible expenses for the eligible TASKS described in this Agreement and to be more fully detailed in a Scope of Work. Under no circumstances shall either party advance funds for future work under the terms of this agreement.
- f) Each party shall appropriate adequate funds to cover its share of the eligible expenses associated with this Agreement. Eligible expenses are limited to: engineering, design, permitting, construction, construction oversight, dune planting, environmental monitoring and performance monitoring within the limits of the TOWN.
- g) Notwithstanding any other provision herein, the COUNTY's obligation to pay under this Agreement is contingent upon an appropriation for its purpose by its Board of County Commissioners in its annual fiscal year budget and the TOWN's obligation to pay under this agreement is

contingent upon an appropriation for its purpose by its Town Council in its annual fiscal year budget

6. Design, Construction and Monitoring.

- a) The parties shall establish the schedule for implementing the various TASKS as part of the Scope of Work.
- b) Each party shall properly prepare and submit in a timely manner any and all applications for State and Federal permits required for the TASKS it manages and provide a copy thereof to the other party.
- c) The parties shall endeavor to modify all relevant permits and contracts to conform to TASKS which may include a financial advantage for work on a regional scale, including but not limited to:
  1. Bathymetric and Topographic Surveys
  2. Aerial Photography and digitization
  3. Geotechnical surveys and analysis
  4. Sediment Analysis
  5. Sediment Compaction
  6. Reef Monitoring
  7. Turtle Monitoring
- d) Each party shall secure competitive bids by advertisement for all TASKS to be performed by contractors, except as provided for in previously executed agreements. The parties shall endeavor to coordinate the bidding and construction of the TASKS with similar work outside of the TOWN for the purpose of securing a more competitive bid from contractors.
- e) Each party shall submit to the other party a tabulation of all bids received, and a copy of the contract of the lowest, responsible, responsive bidder as well as any amendments or modifications thereof for all contracts associated with the TASKS.

6. 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 TOWN's representative/contract monitor during the term of this Agreement shall be the TOWN Manager, whose telephone number is (561)838-5400.

7. Notices. All notices required under this Agreement shall be forwarded, in



writing, to:

Director  
Palm Beach County Department of  
Environmental Resources Management  
2300 North Jog Road 4<sup>th</sup> floor  
West Palm Beach, FL 33411  
Facsimile: 561-233-2414

Town Manager  
Town of Palm Beach  
360 South County Road  
Palm Beach, FL 33480  
Facsimile: 561-838-5411

Any notice, request, demand or other communication required or permitted to be given under this Agreement shall be in writing and shall be hand delivered, sent by certified mail, return receipt requested, or sent by facsimile with confirmation of receipt to the respective addresses specified herein. 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.

8. 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.
9. Delegation. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or municipal officers.
10. Recording. A copy of this Agreement shall be recorded and filed with the Clerk of the Circuit Court in and for Palm Beach County.
11. 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.
12. 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 TOWN against any actions, claims, or damages arising out of the

COUNTY's negligence in connection with this Agreement, and the TOWN shall indemnify, defend and hold harmless the COUNTY against any actions, claims or damages arising out the TOWN'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.

13. Insurance. Each party shall maintain a fully funded program of self-insurance pursuant to Section 768.28 Florida Statutes. Each party agrees to require any contractor performing pursuant to this Agreement to maintain insurance coverage approved by the COUNTY and the TOWN, naming both the TOWN and COUNTY as additional insured and providing that the contractor shall save, defend and hold harmless the County or the Town, depending on the entity which is a party to the contract, for any and all suits, actions, claims, demands, liabilities, interests, attorneys' fees, costs and expenses of whatsoever kind or nature arising or occasioned or contributed to in whole or in part by reason of any act, omission, fault or negligence of the contractor. Each party agrees to have any contractor performing work pursuant to this Agreement to supply the other party with a certificate of insurance naming that party as an additional insured. Each party expressly understands and agrees that any insurance protection furnished shall in no way limit its responsibilities to indemnify and save harmless the other party under the provisions of paragraph 12 of this Agreement.
14. Equal Opportunity. The COUNTY and the TOWN agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital 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.
15. Severability. In the event that any section, paragraph, sentence, clause, or provisions 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.
16. 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 of any other covenant.
17. Termination. Either party may terminate this Agreement by giving thirty (30)

days prior written notice and shall pay for all costs incurred and due under terms of this Agreement as of the date of termination.

18. Entirety of Agreement. The TOWN 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.

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 Town of Palm 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 Town Clerk, the date and year first above written.

R200911523

TOWN OF PALM BEACH, FLORIDA

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

By: [Signature]  
Jack McDonald, Mayor

By: [Signature]  
John F. Koons, Chairman

ATTEST:

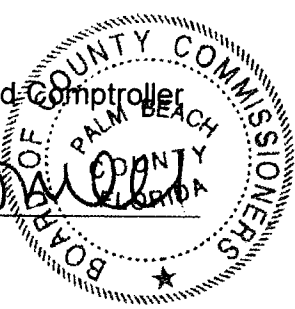
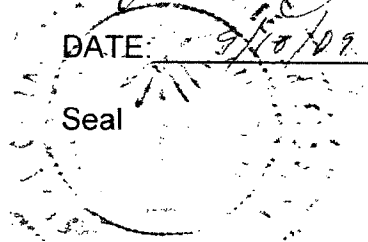
ATTEST:  
Sharon R. Bock, Clerk and Comptroller

By: [Signature]  
TOWN Clerk

By: [Signature]  
Deputy Clerk

DATE: 9/15/09

DATE: SEP 15 2009



Seal

Seal

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: [Signature]  
TOWN Attorney

By: [Signature]  
Assistant County Attorney

APPROVED AS TO TERMS  
AND CONDITIONS

By: [Signature]  
Richard E. Walesky, Director  
Dept. of Env. Resources Management



2015 - 1012

BGEX 380 073015-1578

BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY, FLORIDA

BUDGET TRANSFER  
FUND 3652 Beach Improvement Fund

ACCOUNT NAME AND NUMBER	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	ENC/EXP	REMAINING BALANCE
<b>Appropriations</b>							
381-M035-Phipps Park Shore Protection	8101 Contributions Othr Govtl Agency	0	0	2,432,228	0	2,432,228	2,432,228
381-M015-Ocean Ridge Shore Protection	4630 Beach/Dune Restore/Renourish	734,075	1,484,467	0	700,000	784,467	4,045
381-M028-JunoBeach Shore Protection	4630 Beach/Dune Restore/Renourish	1,427,606	1,223,767	0	490,228	733,539	0
381-M040-Coral Cove Dune Restoration	3120 Engineering Services	156,638	149,777	0	49,500	100,277	99,811
381-M040-Coral Cove Dune Restoration	4630 Beach/Dune Restore/Renourish	216,873	216,873	0	216,500	373	0
381-M041 -Delray Beach Shore Protection	4630 Beach/Dune Restore/Renourish	216,404	186,117	0	186,000	117	0
381-M041 -Delray Beach Shore Protection	8101 Contributions Othr Govtl Agency	204,813	233,813	0	233,000	813	0
381-M044 -S Palm Beach Dune Restoration	3120 Engineering Services	376,625	370,113	0	200,000	170,113	148,016
381-M051 -Central Boca Shore Protection	3120 Engineering Services	12,994	12,013	0	9,000	3,013	2,482
381-M051 -Central Boca Shore Protection	4630 Beach/Dune Restore/Renourish	348,001	48,001	0	48,000	1	0
381-M051 -Central Boca Shore Protection	8101 Contributions Othr Govtl Agency	42,132	342,132	0	300,000	42,132	0
				2,432,228	2,432,228		

Attachment 3

Environmental Resources  
Management

Signatures & Dates

BY BOARD OF COUNTY COMMISSIONERS

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

*Bob R. Miller*  
*Sheryl Ann* 8/4/15

AT MEETING OF  
August 18, 2015  
Deputy Clerk to the  
Board of County Commissioners