

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(250,000)	(950,000)	(250,000)	(250,000)	(250,000)
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	(250,000)	(950,000)	(250,000)	(250,000)	(250,000)
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No X

Does this item include the use of federal funds? Yes _____ No X

Budget Account No.:

Fund 3652 Department 381 Unit ^{M045}M053 Object 6994 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:
Revenue to offset current budgeted project.

C. Department Fiscal Review:

_____ *S. Henry*

III. REVIEW COMMENTS

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

Lisa Monte 6/17/21
OFMB *6/16/21*
for review Jackson 6/16/21

Ann S. Jawband 6/25/21
Contract Development & Control
6-25-21 TD

B. Legal Sufficiency:

_____ *Jean-Adel Williams*
Assistant County Attorney

C. Other Department Review:

_____ Department Director

**INTERLOCAL AGREEMENT
BETWEEN
PALM BEACH COUNTY
AND
TOWN OF JUPITER
FOR
NORTH COUNTY COMPREHENSIVE SHORE PROTECTION PROJECT**

THIS AGREEMENT is made and entered into on the ____ day of _____, 2021, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (the "COUNTY") and the TOWN OF JUPITER, 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, 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 intend to make the most efficient use of their powers by cooperating with each other on periodic dune restoration and beach nourishment within the North County Comprehensive Shore Protection Project area, located between Department of Environmental Protection (DEP) reference monument R-13 and DEP reference monument R-31 (the "PROJECT") as depicted on Exhibit A; and

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

WHEREAS, the TOWN wishes to cost share with the COUNTY, by reimbursing the COUNTY for 10% of the total Eligible Non-Federal Project Expenses for projects as defined on Exhibit B.

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 PROJECT, and to set forth the terms, conditions and obligations of each of the respective parties hereto.
3. The PROJECT.
 - A. Description. The PROJECT consists of multiple periodic beach nourishment and/or dune restoration activities within the Project Area (located from DEP

reference monument R-13 to the DEP reference monument R-31 in the Town of Jupiter, Florida).

- B. Project Components. Each occurrence of a beach nourishment or dune restoration shall represent and be further referenced as a COMPONENT of the PROJECT and consists of dredging or hauling beach quality sand to the beach, placing it throughout the eroded dune and/or beach and, when practicable, planting the restored dune area with native, salt-tolerant, dune vegetation.
 - C. Eligible Project Expenses. PROJECT expenses eligible for cost-share include project management; design; permitting; purchase and trucking of sand; dredging and pumping of sand; sand placement; planting of native vegetation; and all permit required monitoring and maintenance (Eligible Project Expenses).
4. Term. The term of this Agreement shall be from the date of execution by both parties through September 30, 2050, unless otherwise provided herein. Work conducted on the PROJECT by the County and its consultants/contractors beginning on or after October 1, 2020 shall be eligible for reimbursement by the TOWN.
5. Funding. The parties agree that the TOWN will cost share in the Eligible Expenses for the PROJECT area as defined in this agreement. Each party agrees to diligently pursue the approval and procurement of its funding obligation.
6. COUNTY Obligations.
- A. By March 1st of each year, the COUNTY shall notify the TOWN's Representative of anticipated PROJECT costs for the next budget cycle.
 - B. The COUNTY shall pay all expenses of the PROJECT in anticipation of partial reimbursement from the TOWN as defined in paragraph 7.A.
 - C. The COUNTY shall submit invoices for payment to the TOWN not more frequently than quarterly (i.e. March, June, September, December) that include a reference to this Agreement, identify the PROJECT, identify the eligible project activities performed, 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 TOWN.
 - 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 COMPONENT. The TOWN shall have access to all books, records, and documents related to each COMPONENT 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 and Federal funding assistance for the PROJECT, shall provide a copy of any such submittal to the TOWN and shall seek the TOWN's support.
 - F. Upon request, the COUNTY shall provide the TOWN with copies of all contracts, plans and specs related to each COMPONENT. The COUNTY shall invite the TOWN to all pre-construction meetings associated with the PROJECT.
 - G. The COUNTY shall provide the TOWN with a copy of the PROJECT 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 PROJECT and provide a copy thereof to the TOWN.
- I. The COUNTY shall be responsible for management, design, construction and monitoring of the PROJECT.
- J. The COUNTY shall secure 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. TOWN Obligations.

- A. The TOWN shall cost share with the COUNTY on a reimbursement basis for ten percent (10%) of all Eligible Non-Federal Expenses for each COMPONENT pursuant to this Agreement. To the extent applicable, it is understood and agreed the Town's 10% cost share represents an estimated 30 year annualized participation for 20% municipal contributions toward eligible expenses that occur only on shorelines that are not owned or managed by Palm Beach County. A Map of land ownership within the PROJECT area is provided in Exhibit A. Estimated PROJECT costs and calculations for each party's cost-share percentage are defined in Exhibit B, which calculates an annual TOWN appropriation cap of \$250,000. A TOWN appropriation cap for fiscal year 2022 shall be \$950,000 to cover municipal contributions of eligible PROJECT expenses for the first beach nourishment. Annualized PROJECT cost increases of 15% or more shall trigger renegotiation of Agreement funding caps.
- B. The TOWN shall appropriate adequate funds to cover the TOWN's share of the Eligible PROJECT Expenses based upon the estimate provided by the COUNTY pursuant to paragraph 6.A.
- C. By no later than October 31st of any fiscal year, the TOWN shall notify the COUNTY in writing if adequate funds have not been appropriated by its Council to cover the TOWN's share of Eligible PROJECT Expenses.
- D. Invoices received from the COUNTY and approved by the TOWN 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 PROJECT. Payments shall be submitted to the Palm Beach County Department of Environmental Resources Management at the address provided in paragraph 9.
- E. The TOWN 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 Protection 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. The TOWN shall exempt the COUNTY and contractors performing on the PROJECT from any TOWN regulations that restrict or limit work hours or noise volumes. The TOWN shall permit the COUNTY and contractors to conduct activities relating to the PROJECT 24 hours a day, seven days a week, and such activities shall not be subject to a maximum noise volume. The COUNTY shall make all reasonable efforts to minimize noise disturbances from activities associated with the PROJECT which do not

adversely impact public safety or construction schedule.

8. Party Representatives.

- A. The COUNTY's representative/contract manager 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 manager during the term of this Agreement shall be the TOWN Manager, whose telephone number is (561) 741-2214.

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 paragraph 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. Should any party change its address, written notice of such new address shall promptly be sent to the other party and shall be effective upon receipt.

Department Director Palm Beach County Department of Environmental Resources Management 2300 North Jog Road, 4 th Floor West Palm Beach, FL 33411-2743	Town Manager Town of Jupiter 210 Military Trail Jupiter, FL 33458	Palm Beach County Attorney's Office 301 North Olive Avenue 6 th 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 either party, the TOWN 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 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. If the TOWN terminates pursuant to this section, TOWN shall be responsible for reimbursing the COUNTY for the TOWN's share of eligible project expenditures prior to 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 recorded 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.

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 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.

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 PROJECT to maintain adequate insurance coverage, naming both the TOWN and COUNTY as additional insured.
16. Nondiscrimination. The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the TOWN warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

The TOWN has submitted to COUNTY a copy of its non-discrimination policy which is consistent with the above, as contained in Resolution R2017-1770, 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 COUNTY that the TOWN's non-discrimination policy conforms to R2017-1770, as amended.
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 TOWN. 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. 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 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. No Third Party Beneficiaries. 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 or the TOWN.
27. 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.

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SIGNATURE PAGE FOLLOWS

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 Jupiter 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.

TOWN OF JUPITER,
FLORIDA

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: *T. Wodraska*
Todd Wodraska, Mayor

By: _____
Dave Kerner, Mayor

ATTEST:

ATTEST:
Joseph Abruzzo, Clerk of the
Circuit Court & Comptroller

By: *Laura Cahill*
Town Clerk, Laura Cahill

By: _____
Deputy Clerk

DATE: 5/5/21

DATE: _____

(Seal)

(Seal)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

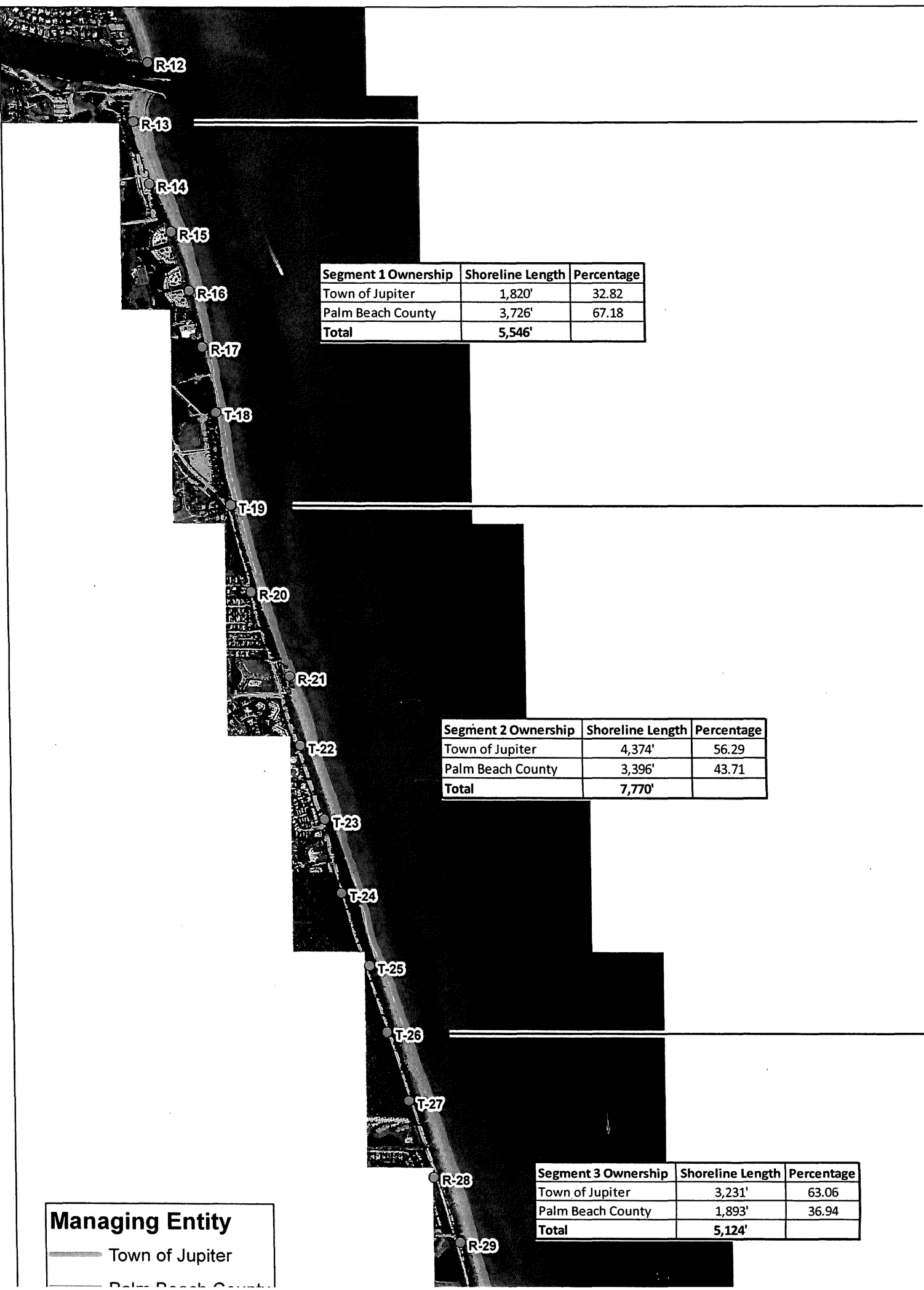
By: *Thomas J. Bacc*
Town Attorney
Thomas J. Bacc

By: *Sean Adel Williams*
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: *Deborah Drum*
Deborah Drum, Director
Dept. of Env. Resources Management





Segment 1 Ownership	Shoreline Length	Percentage
Town of Jupiter	1,820'	32.82
Palm Beach County	3,726'	67.18
Total	5,546'	

Segment 2 Ownership	Shoreline Length	Percentage
Town of Jupiter	4,374'	56.29
Palm Beach County	3,396'	43.71
Total	7,770'	

Segment 3 Ownership	Shoreline Length	Percentage
Town of Jupiter	3,231'	63.06
Palm Beach County	1,893'	36.94
Total	5,124'	

Managing Entity

—— Town of Jupiter

- - - - Palm Beach County

Exhibit B
Estimated Costs - Town of Jupiter

NCCSPP - Estimated Beach Nourishment Costs							
Segment	CY	Cost per CY	Total Cost	Federal	Non Federal	% in Town	Adjusted Non-Fed Cost
1	800000	\$18.00	\$14,400,000.00	\$7,920,000.00	\$6,480,000.00	100.00%	\$6,480,000.00
2	300000	\$18.00	\$5,400,000.00	\$0.00	\$5,400,000.00	100.00%	\$5,400,000.00
3	800000	\$18.00	\$14,400,000.00	\$0.00	\$14,400,000.00	40.00%	\$5,760,000.00
NCCSPP - Dune Restoration Costs							
Segment	CY	Cost per CY	Total Cost	Federal	Non Federal	% in Town	Adjusted Non-Fed Cost
Any	36,600	\$42.85	\$1,568,310.00	\$0.00	\$1,568,310	100.00%	\$1,568,310

Note: Project cubic yardage and unit costs are estimates for planning purposes. Both are subject to change based on project modifications and changing market conditions.

Segment 1: R-13 to R-19 Total Length - 5,546ft, Total Non-Federal Cost - \$6,480,000				
Entity	Managed Length (ft)	% Managed	Weighted Non-Federal Cost ¹	Final Non-Federal Cost Share ²
Town of Jupiter	1820	32.82%	\$2,126,505.59	\$425,301.12
Palm Beach County	3726	67.18%	\$4,353,494.41	\$6,054,698.88

1- Weighted Non-Federal Cost = Total Non-Federal Costs * % Managed

Segment 2: R-19 to T-26 Total Length - 7,770ft, Total Non-Federal Costs - \$5,400,000				
Entity	Managed Length (ft)	% Managed	Weighted Non-Federal Cost ¹	Final Non-Federal Cost Share ²
Town of Jupiter	4374	56.29%	\$3,039,845.56	\$607,969.11
Palm Beach County	3396	43.71%	\$2,360,154.44	\$4,792,030.89

2- Final Non-Federal Cost Share for Town = Weighted Non-Federal Costs * 20%

Segment 3: T-26 to R-31 Total Length within Town- 5,124ft, Total Non-Federal Costs - \$5,760,000				
Entity	Managed Length (ft)	% Managed	Weighted Non-Federal Cost ¹	Final Non-Federal Cost Share ²
Town of Jupiter	3231	63.06%	\$3,632,037.47	\$726,407.49
Palm Beach County	1893	36.94%	\$2,127,962.53	\$5,033,592.51

Dune Restoration: R-13 to R-31 36,600 CY - Total Non-Federal Cost - \$1,568,310				
Entity	Managed Length (ft)	% Managed	Weighted Non-Federal Cost ¹	Final Non-Federal Cost Share ²
Town of Jupiter	9425	51.11%	\$801,590.12	\$160,318.02
Palm Beach County	9015	48.89%	\$766,719.88	\$1,407,991.98

Estimated 30 yr annualized costs (assuming 4 renourishment projects and 2 dune restorations)				
Entity	Non-Federal Cost Share	30 year Total Share	30 Year % of Total Costs	Annualized Allocation
Town of Jupiter	\$1,919,995.75	\$7,359,346.94	10%	\$245,311.56
Palm Beach County	\$17,288,314.25	\$66,337,273.06	90%	\$2,211,242.44