

## **RESOLUTION NO. 07-2022**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTH PALM BEACH, FLORIDA, APPROVING AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT FOR DUNE RESTORATION PROJECT – REACH 9 WITH THE TOWN OF PALM BEACH AND AUTHORIZING THE MAYOR TO EXECUTE SUCH AMENDMENT; AND PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town of South Palm Beach, Florida (the “Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town and the Town of Palm Beach entered into the Interlocal Agreement for Dune Restoration Project – Reach 9 on February 9, 2021 (the “Interlocal”); and

**WHEREAS**, the Interlocal expired on June 1, 2021; however, the parties wish to extend the Interlocal through February 23, 2023 (due, in part, to weather delays and Sea Turtle Season) for further dune restoration in the Town of South Palm Beach and the Town of Lantana as set forth in the Temporary Access Easement Agreement – 2022 Dune Restoration Project, dated February 9, 2022 (the “Easement”) (the “Project”); and

**WHEREAS**, the Interlocal allows for the extension of the term by written amendment; and

**WHEREAS**, the Council finds that amending the Interlocal, as described above, serves a public purpose, and is in the best interests of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SOUTH PALM BEACH, FLORIDA:**

**Section 1. Recitals.** The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

**Section 2. Approval.** The Town Council hereby approves Amendment No. 1 to the Interlocal Agreement for Dune Restoration Project – Reach 9 (“Amendment No. 1”) in a form substantially similar to the form attached hereto as **Exhibit A** which is incorporated herein by this reference.

**Section 3. Execution.** The Town Council hereby authorizes the Mayor to execute Amendment No. 1.

**Section 4. Severability.** If any clause, section, or other part or application of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated, and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

**Section 5. Conflicts.** All Resolutions or parts of Resolutions in conflict herewith are to the extent of such conflicts hereby repealed.

**Section 6. Effective Date.** This Resolution shall take effective immediately upon its adoption.

Council Member Gottlieb offered the foregoing Resolution, and moved its adoption. The motion was seconded by Council Member LeRoy, and upon being put to a vote, the vote was as follows:

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>
<b>Bernice Fischer, Mayor</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Robert Gottlieb, Vice-Mayor</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>C.W. (Bill) LeRoy, Council Member</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Raymond McMillan, Council Member</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Monte Berendes, Council Member</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

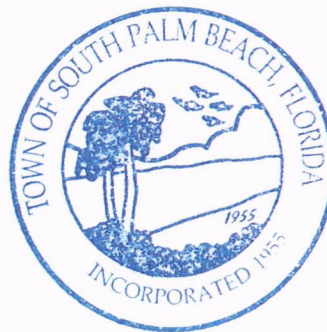
The Mayor thereupon declared this Resolution approved and adopted by the Town Council of the Town of South Palm Beach on this 15<sup>th</sup> day of March, 2022.

**TOWN OF SOUTH PALM BEACH, FLORIDA**

Bernice Fischer  
Bernice Fischer, Mayor

**Attest:**

Yude Davenport  
Yude Davenport, CMC  
Town Clerk/  
Assistant to the Town Manager



**Approved as to Legal Sufficiency:**

Aleksandr Boksner  
Aleksandr Boksner, Town Attorney

Prepared by and Return to:  
**Glen J. Torcivia, Town Attorney**  
**Torcivia, Donlon, Goddeau & Rubin, P.A.**  
701 Northpoint Parkway, Suite 209  
West Palm Beach, FL 33407

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**AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT FOR  
DUNE RESTORATION PROJECT – REACH 9**

**THIS AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT FOR DUNE RESTORATION PROJECT – REACH 9** (this “Amendment”) is made and entered into as of this 15<sup>th</sup> day of March, 2022, by and between the **Town of Palm Beach, a Florida municipal corporation** (hereinafter, referred to as “Palm Beach”), and the **Town of South Palm Beach, a municipal corporation** (hereinafter referred to as “South Palm Beach”).

**WITNESSETH:**

**WHEREAS**, Palm Beach and South Palm Beach entered into the Interlocal Agreement for Dune Restoration Project – Reach 9 on February 9, 2021 (the “Interlocal”); and

**WHEREAS**, the Interlocal expired on June 1, 2021; however, the parties wish to extend the Interlocal through February 28, 2023 (due, in part, to weather delays and Sea Turtle Season) for further dune restoration in the Town of South Palm Beach and the Town of Lantana as set forth in the Temporary Access Easement Agreement – 2022 Dune Restoration Project, dated February 9, 2022 (the “Easement”) (the “Project”); and

**WHEREAS**, the Interlocal allows for the extension of the term by written amendment.

**NOW THEREFORE** in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged by each party hereto, Palm Beach and South Palm Beach agree to amend the Interlocal as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.
2. **Term.** The Interlocal Term is hereby extended through February 28, 2023.
3. **Funding.** The funding for the Project as set forth in the Easement (incorporated herein as if set forth in full) shall be paid as follows:



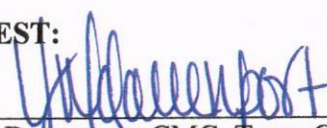
- a. Not to Exceed Amounts. South Palm Beach shall pay Palm Beach for the total costs of the Project a not to exceed amount of THREE HUNDRED SEVENTY-EIGHT THOUSAND NINE HUNDRED SEVENTY-SEVEN & 27/100 Dollars (\$378,977.27). Further, South Palm Beach shall pay Palm Beach for the Project costs of the sand to be deposited in the Town of Lantana a not to exceed amount of EIGHTY-FIVE THOUSAND TWO HUNDRED SIXTY-NINE & 89/100 Dollars (\$85,269.89).
- b. Invoicing. Palm Beach shall provide an invoice to South Palm Beach that indicates the number of cubic yards of sand deposited in South Palm Beach and, separately, in the Town of Lantana, when those cubic yards were deposited, all associated costs, and applicable unit prices.

4. **Entire Agreement.** Palm Beach and South Palm Beach agree that the Interlocal and this Amendment set 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 and conditions contained in this Amendment may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. All other terms and conditions of the Interlocal remain in full force and effect.

**IN WITNESS WHEREOF,** Palm Beach and South Palm Beach have made and executed this Amendment as of the date first above written.

**THE TOWN OF SOUTH PALM BEACH**

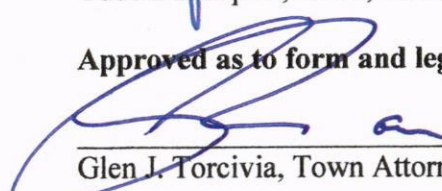
**ATTEST:**

  
Yude Davenport, CMC, Town Clerk

By:

  
Bernice Fischer, Mayor

**Approved as to form and legal sufficiency:**

  
Glen I. Torcivia, Town Attorney

**STATE OF FLORIDA  
COUNTY OF PALM BEACH**



The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 17 day of March, 2022, by Bernice Fischer, Mayor and Yude Davenport, Town Clerk, on behalf of the Town of South Palm Beach, Florida.



(SEAL)

NOTARY PUBLIC

*Sandra Fein*

Signature of Notary Public

Personally Known ☒ OR Produced Identification \_\_\_\_\_.  
Type of Identification Produced \_\_\_\_\_.

**THE TOWN OF PALM BEACH**

ATTEST:

By: \_\_\_\_\_  
Danielle H. Moore, Mayor

\_\_\_\_\_  
Pat Gayle-Gordon, Acting Town Clerk

Approved as to form and legal sufficiency:

\_\_\_\_\_  
John C. Randolph, Town Attorney

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Danielle H. Moore, Mayor and Pat Gayle-Gordon, Acting Town Clerk, on behalf of the Town of Palm Beach, Florida.

NOTARY PUBLIC

(SEAL)

\_\_\_\_\_  
Signature of Notary Public

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_.  
Type of Identification Produced \_\_\_\_\_.