

EXECUTIVE SUMMARY

Share staff recommendations and obtain a finding from the Tourist Development Council that Hideaway Beach is subject to high erosion; Erosion Control Structures or “T-Groins” are appropriate solutions for erosion control in this location; and make a determination as to whether or not funding these structures is in the public interest.

OBJECTIVE: Share staff recommendations and obtain a finding from the Tourist Development Council that Hideaway Beach is subject to high erosion; Erosion Control Structures or “T-Groins” are appropriate solutions for erosion control in this location; and if desired, make a determination as to whether or not funding these structures is in the public interest.

CONSIDERATIONS: In 2005, Hideaway Beach was re-nourished with approximately 240,000 CY of sand and 10 erosion control structures installed. Sand re-nourishment was paid for by the Hideaway Beach District/City of Marco Island and the erosion control structures by Tourist Development Taxes in a one-time agreement by Collier County Board of County Commissioners. With the erosion of Coconut Island, the middle portion of Hideaway Beach that was not protected with erosion control structures experienced significant erosion. The City of Marco Island is concerned that the access road to the condominiums on the northern end of Hideaway Beach is threatened by this erosion and is working with FDEP and the USACE on temporary and permanent solutions. \$1.6M has been requested by the City of Marco Island and the Hideaway Beach District to fund six additional erosion control structures.

Hideaway Beach under Section 4 of the Tourist Development Category “A” funding policy is an “ineligible beach” because it does not meet public accessibility guidelines. The funding policy under Section 5 further allows funding possibilities for ineligible beaches based on findings that: A high erosion beach exists; Erosion control structures being the proper solution; and the project being in the public interest.

Collier County Coastal Zone Management will stipulate that:

1. Hideaway beach is subject to high erosion, and
2. Erosion Control Structures or “T-Groins” are appropriate permanent solutions for erosion control at this location (as demonstrated by the successful performance of the existing structures), and
3. Temporary erosion control should be implemented to abate additional erosion until the permanent erosion control solution can be permitted and installed, and
4. Coastal Zone Management concurs that these erosion control structures are needed, necessary and justified.

The Coastal Advisory Committee and the Coastal Zone Management staff in the past have always been extremely consistent and only recommended projects for Tourist Development Tax that have met FDEP and FEMA public accessibility criteria. This criterion has been used by the state and federal governments for determining eligibility cost share. In consistently adhering to this policy, the Coastal Advisory Committee has made public accessibility for beaches the single most important

factor in determining funding. This has been our evaluation tool for years and deviating from this procedure introduces a level of inconsistency into the program.

Public interest without public accessibility appears inconsistent. Additional points to consider are:

1. There is no public road access to Hideaway Beach. The public can technically access Hideaway Beach by walking from Tigertail Beach or by boat. Practically however, a very small portion of the public is willing or able to gain access through these methods.
2. Some private boating concessionaires use the Hideaway Beach area for shelling and other tourist excursions. If however, Hideaway Beach is not protected or re-nourished sufficient beaches exist in the area of Sand Dollar Island and the other T-Groin protected beaches at Hideaway to allow this commercial/tourist activity to continue.
3. The condominiums on the north end of Hideaway Beach are serviced by a private road network. County policy in the past has not been to use public funds to protect private roads.
4. The Board of County Commissioners authorized a "One-Time" expenditure of funds to provide erosion control structures at Hideaway Beach. That project was completed and closed and this project is not a continuation of the previous project.

For these reasons, Collier County Coastal Zone Management staff is recommending against a determination that this project is in the public interest and eligible for TDC Category "A" funding.

ADVISORY COMMITTEE RECOMMENDATIONS: At the April 10, 2008 CAC meeting the board requested that a legal opinion from the county attorney. This legal opinion is attached.

At the CAC May 8, 2008 meeting the county attorney's legal opinion was reviewed and a recommendation was made to consider Hideaway Beach a high erosion area and the T-Groin System to be used as a permanent solution to this project and this project was considered as being in the Public Interest. **This recommendation carried unanimously 8-0, with 1 abstention.**

COUNTY ATTORNEY OPINION: The county attorney opinion is attached to this executive summary.

FISCAL IMPACT: \$1.6M has been requested by the City of Marco Island and the Hideaway Beach District to fund this project. This project if authorized would be funded from the unallocated reserves that are currently available from the Category "A" Tourist Development 195 Tax Fund. These reserves are approximately \$6.4M after all Board mandated reserves and set asides are satisfied.

GROWTH MANAGEMENT IMPACT: There is no impact to the Growth Management Plan related to this action.

RECOMMENDATION: Collier County Coastal Zone Management staff is recommending against a determination that this project is in the public interest and eligible for TDC Category "A" funding.

PREPARED BY: Gary McAlpin, CZM Director

OFFICE OF THE COUNTY ATTORNEY
MEMORANDUM

DATE: April 28, 2008

TO: Coastal Advisory Committee Members
Gary McAlpin, Director, Coastal Zone Management

FROM: Colleen M. Greene, Assistant County Attorney

SUBJECT: Hideaway Beach Erosion Control

At the Coastal Advisory Committee meeting on April 10, 2008, the Committee was asked to make a recommendation regarding funding erosion control at Hideaway Beach in the City of Marco Island. Several issues were raised including whether it is appropriate to fund this erosion control project with tourist development tax funds. In summary, the Committee may recommend that this erosion control project be funded with tourist development tax funds if certain findings are established.

Authorization of Tourist Development Tax Funds

Section 125.0104, Fla. Stat., provides authorized uses of revenue which include to "finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river." § 125.0104(5)(a)4, Fla. Stat.

Collier County Ordinance No. 92-60, as amended, also provides the authority to fund erosion control with Category "A" funding.

The Tourist Development Category "A" Funding Policy (approved 11/01/05) provides a policy for the legal use of Category "A" Funding. Both eligible and ineligible beach areas are considered.

Section Four defines eligible beaches as those accessible to the public and not more than one half mile from a beach park facility.

Section Five provides a standard for funding ineligible beach areas. Section 5(b) provides that "an area of ineligible beach that is subject to high erosion, with the recommendation of the CAC and determination by the BCC as being in the public interest, may have erosion control structures installed with Category "A" funding."

Based on the above areas of law, the CAC may make certain findings to authorize the expenditure of tourist development tax funds for erosion control structures. The CAC must make findings that Hideaway Beach is an area subject to high erosion and that erosion control structures or "T-groins" are the appropriate solution for erosion control. A finding of public access, required by Section Four, is not required by Section Five for "ineligible beach areas." Further, pursuant to the plain language of Section Five, the CAC need not make a finding regarding public interest.

Once the CAC makes its findings, favorable or not, the CAC may forward its recommendations to the BCC. To authorize the expenditure of tourist development tax funds, the BCC must make a determination that funding these erosion control structures is in the public interest.

Accessibility

As discussed above, the CAC need not specifically find that Hideaway Beach is accessible to the public for this expenditure. For future reference please note that the issue of public access has not been specifically defined in case law in terms of interpreting § 125.0104, Fla. Stat. However the Coastal Zone Management Department has followed the Florida Department of Environmental Protection standards to define accessibility. Generally speaking, the FDEP will only fund projects or participate in cost-sharing for beaches that are accessible to the public.

FDEP Beach Access is defined in the Florida Administrative Code as follows:

(11) "Public Beach Access" is an entry zone adjacent to a sandy beach under public ownership or control which is specifically used for providing access to the beach for the general public. The access must be signed, maintained and clearly visible from the adjacent roadway. The types of public beach access sites are:

(a) "Primary Beach Access" is a site with at least 100 public parking spaces and public restrooms.

(b) "Secondary Beach Access" is a site that may have parking and amenities, but does not qualify as a primary beach access.

Although Hideaway Beach is not easily accessible to the public, and does not meet the FDEP standard, the public may gain access to the beach by walking from the public access point at Tigertail Beach or by boat.

Hideaway Beach District

The Hideaway Beach District ("District") was created by City of Marco Island Ordinance No. 04-05. The ordinance provides that the District "shall have all powers as authorized by law, to effectuate its purpose to improve, renourish, preserve, maintain, monitor and provide public access to the beach property located within the boundaries of the district, and such other improvements and appurtenances within the district as may be necessary for the improvement, renourishment, preservation, maintenance, monitoring and providing access to such beach lands."

On April 8, 2008, a member of the District appeared before the CAC to request the use of tourist development tax funds. This person represented that he was authorized by his board to make this request on behalf of the District. Pursuant to ordinance it appears that the District may lawfully request the use of tourist development tax funds. Notwithstanding the District's ordinance, any member of the public may appear before the Coastal Advisory Committee and request the use of tourist development tax funds.

Public Interest

Finally, the BCC must make a finding that funding this erosion control project is in the public interest. The Hideaway Beach representative and the engineers, Humiston & Moore, presented their opinions that the erosion control structures will protect the coastline. The coastline adjacent to Hideaway Beach, including Tigertail Beach, will also benefit from the structures and protect the beach system. This erosion control project may provide an incidental benefit to private property owners; however it is undisputed that County beaches ultimately promote tourism. There was further discussion that the structures may also protect a private road, and more information on this issue may be needed, however as discussed above an incidental benefit to private property owners, may be found to be in the public interest.

cc: Heidi Ashton-Cicko, Assistant County Attorney
Jeffrey A. Klatzkow, County Attorney

2005-001/10

COLLIER COUNTY TOURIST DEVELOPMENT COUNCIL

CATEGORY "A" GRANT APPLICATION

Beach Renourishment and Pass Maintenance
Big Marco/Capri Pass Inlet Sand Bypassing and
Completion of Northern Marco Island T-Groin System
(Project Title)

1. Name and Address of Project Sponsor Organization:

City of Marco Island
50 Bald Eagle Drive
Marco Island, FL 34145

2. Contact Person, Title and Phone Number:

Name: Bill Harrison, Finance Director
Address: 50 Bald Eagle Drive
City Marco Island ST FL ZIP 34145
Phone: (239) 389-5000 FAX: 239 389-4359
Other: _____

3. Organization's Chief Official and Title:

Interim City Manager Marco Island - Tony Shoemaker

4. Details of Project- Description and Location: Pursuant to an Interlocal Agreement between Collier County and the City of Marco Island (copy attached) T-groins were installed under a Tourist Development Council (TDC) grant after the City, through a special taxing district, renourished the City's northern beach area. The T-groins have performed well to maintain the renourished beach in the areas they were installed; however, in an area where T-groins were not installed at the time of the original permitting, significant beach erosion has occurred and is continuing. This erosion in the area where T-groins were not installed now threatens the sole road access to more than 300 homes in the City and is a hazard and threat to the public health, safety and welfare of the

City.

The project proposes that the existing erosion control structures constructed on the City's north beach would be supplemented by six (6) additional T-groins as previously recommended in the Big Marco and Capri Pass Inlet Management Study approved by the County in 1997 (applicable pages are attached), this project will also dredge sand from Big Marco Pass, and deposit it on the abutting northern-beach in the City. This north beach protects the beaches in the City to the south.

The Interlocal Agreement requires prior approval of the County for T-groin costs in excess of the \$2.488 million dollars originally budgeted and approved. This request is a continuation of the project begun under the Interlocal Agreement and the City proposes to implement it on the same cost sharing basis with the City paying for inlet sand bypassing to renourish the eroded areas and the County TDC funds to be utilized for the installation of additional T-groins to complete the project begun in 2004.

5. Estimated project start date: _____
6. Estimated project duration: _____
7. Total TDC Tax Funds Requested: \$1,600,000.00
8. If the full amount requested cannot be awarded, can the program/project be restructured to accommodate a smaller award?

Yes () No (X)

Collier County Tourist Development Council
Category "A" Grant Application

Big Marco River/Capri Pass Inlet Sand Bypassing
(Project Title)

PROJECT BUDGET

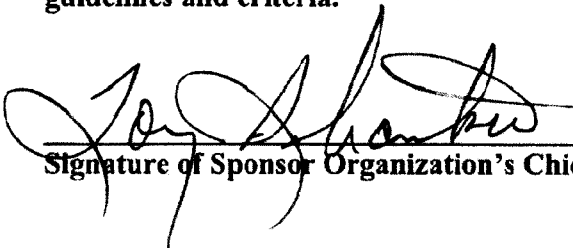
<u>PROGRAM ELEMENT</u>	<u>AMOUNT</u>
TDC Funds Requested	\$ <u>1,500,000.</u>
City/Taxing District Share	\$ <u>1,150,000.</u>
State of Florida Share	\$ _____
Federal Share	\$ _____
TOTAL	\$ <u>2,750,000.00</u>

PROJECT EXPENSES:

(Engineering, Mobilization, Contractor, Monitoring etc)

<u>Engineering</u>	\$ <u>300,000.00</u>
<u>Mobilization</u>	\$ <u>350,000.00</u>
<u>Sand Bypass Dredging</u>	\$ <u>600,000.00</u>
<u>Erosion Control Structures</u>	\$ <u>1,600,000.00</u>
TOTAL	\$ <u>2,750,000.00</u>

I have read the Tourist Development Category "A" Beach Funding Policy covering beach renourishment and pass maintenance and agree that my organization will comply with all guidelines and criteria.


Signature of Sponsor Organization's Chief Official

3/25/08
Date

Big Marco and Capri Pass Inlet Management Study

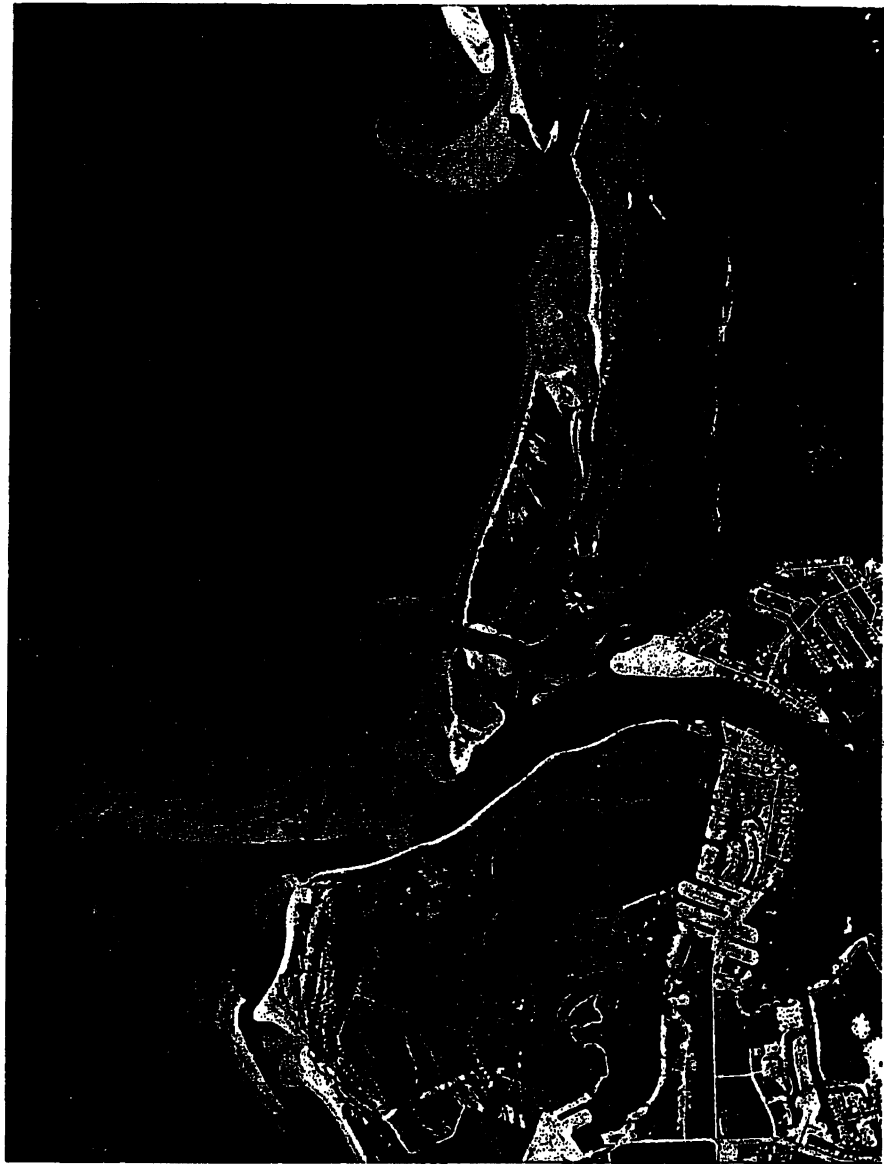
Prepared for:

Collier County Board of
County Commissioners

Prepared by:

Humiston & Moore
Engineers

July 1997



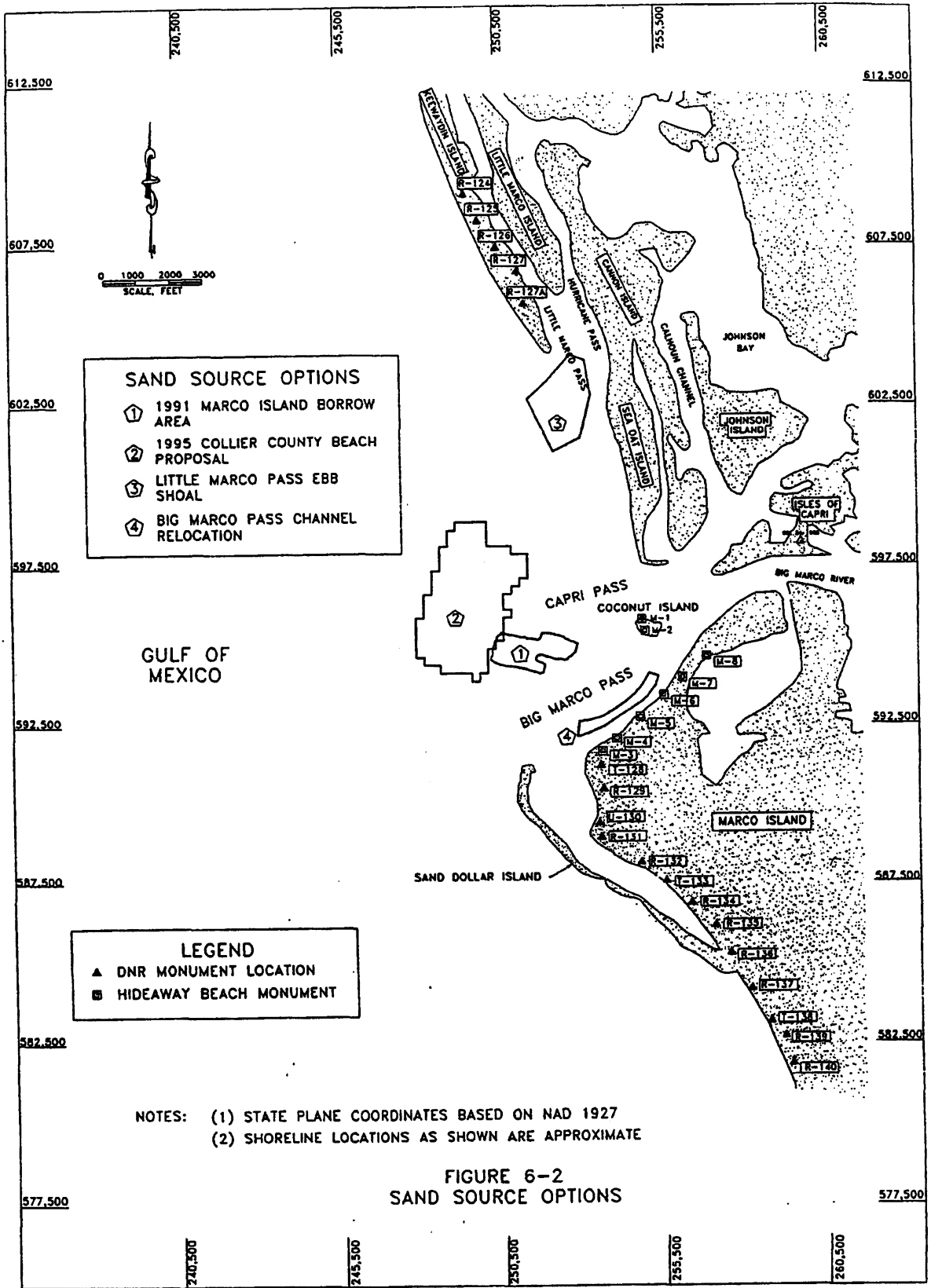
Aerial Photograph: October 13, 1969



**HUMISTON
& MOORE
ENGINEERS**

COASTAL
ENGINEERING DESIGN
AND PERMITTING

10641 AIRPORT ROAD N., SUITE 29
NAPLES, FLORIDA 34109
FAX: 941 594 2025
PHONE: 941 594 2021



BCC approval March 1997

seriously eroding shoreline at a cost of \$500,000. Further investigation is needed to determine the most appropriate course of action which may be some combination of nourishment and structures.

6.3.3 Big Marco Pass

The most significant issue with Big Marco Pass is that the shoaling of the old channel is an indication that the tidal prism for the inlet system is gradually shifting to Capri Pass and the other newer Big Marco Pass channel to the north adjacent to Coconut Island. Within the complex dynamics of this inlet system, the shoaling of the old Big Marco Pass channel and the erosion of Coconut Island are most likely related.

The alternative recommendation for the management of Big Marco Pass is restoration of the channel to an earlier larger cross sectional area and a slightly more northerly position as shown in Figure 6-3. This would improve the hydraulic efficiency of this channel and restore a more even balance between flow through Capri Pass and Big Marco Pass. Additionally, this alternative would require dredging of beach compatible sand which could be used for beach maintenance along Hideaway Beach. This approach would essentially be a bypass operation placing sand on the downdrift beach.

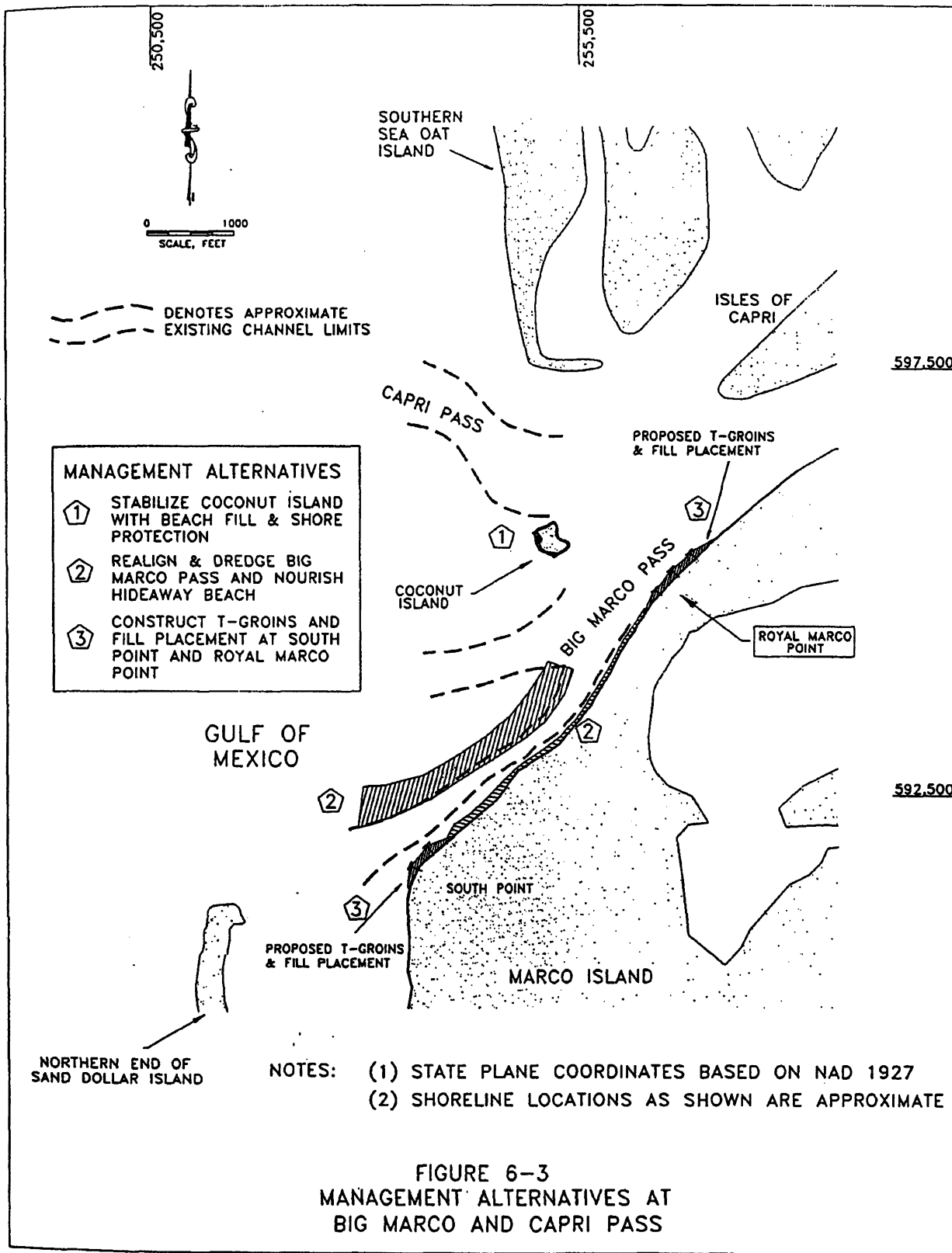
Erosion along Hideaway Beach has been accompanied by shoaling along the north side of the old Big Marco Pass channel. Although there has been erosion of the beach in the two areas discussed above, the inlet channel sections discussed in Section 2.3.2 do not indicate that the erosion on the south side is due to channel migration. However, there has also been over 75,000 cubic yards of sand placed along the beaches on the south side of the channel, which would be expected to have countered any tendency toward southward migration. From an inlet management perspective, this alternative would mitigate downdrift erosion related to inlet tidal currents, sand bypass, and navigation related impacts of boat wakes.

This recommendation includes the qualification that any dredging along the north side of the old Big Marco Pass channel be selective and limited to avoid adverse impacts to the shoal system which provides protection to Hideaway Beach from wave energy out of the northwest and west.

The conceptual plan for this channel relocation is a dredge cut 100 feet wide, 12 feet deep along a 3,000 foot long section of the north side of the old Big Marco Pass channel. This would require dredging approximately 100,000 cubic yards of sand. Assuming this material would be placed along Hideaway Beach, the cost of this alternative would be approximately \$750,000.

6.3.4 Hideaway Beach

a) **T-groin Project.** A recommended alternative of this Inlet Management Study is being implemented concurrently with preparation of this Study document. This project is being accomplished as a modification to the original Study scope of work because of an identified urgent need to address an ongoing erosion problem. Regulatory approvals for this project were obtained after it was demonstrated to the



agencies that the proposed activity was consistent with sound inlet management principles and consistent with the Study under preparation. The following is a discussion of those circumstances and the approach to addressing the problem.

The 1991 nourishment of Hideaway Beach was intended to address an immediate need so that additional monitoring data could be gathered to determine future needs and, as appropriate, design a more long term solution. The monitoring of the 1991 nourishment and subsequent re-nourishment has identified a need to address two areas which continue to experience high erosion stress; one area within the original nourishment project limits and one further to the east. The two areas are referred to as South Point and Royal Marco Point, respectively.

Several site specific characteristics of these eroding areas indicate the use of erosion control structures to be an appropriate alternative. Although continued renourishment is a good technical solution, it has not proven to be cost effective by itself. The fill quantities are small due to the relatively limited extent of the areas in need of nourishment. This precludes a hydraulic fill operation due to the high cost of mobilizing a hydraulic dredge to pump a small quantity of material. Hauling material from an upland site, as has been done for the renourishment projects, is also expensive and logistically difficult because of the long haul distances from known upland sources of suitable material and the number of truckloads required. Furthermore, the site is in close proximity to a deep channel, which means large quantities of fill would be required to construct a beach of sufficient width to achieve an adequate project life.

It was determined that a combination of erosion control structures and beach fill would be the most appropriate means of addressing this erosion problem. The design incorporates a short field of T-groins in each of the eroding areas. The T-section of the groin is situated parallel to the beach approximately 100 feet offshore where it will function as a sill to prevent losses of material to the proximate inlet channel, as well as to provide limited protection from wave action as a breakwater. The T-section is connected to the shoreline by a trunk section which will laterally stabilize the beach in the immediate vicinity of the structure, yet it has a low profile to allow frequent overtopping that will permit longshore transport to continue. The design is illustrated in Figure 6-3.

Due to the lack of an approved Inlet Management Plan, the DEP required that the erosion control structures be constructed as temporary features until their performance could be evaluated through a minimum of three years of monitoring. As temporary structures, the T-groins are constructed with sand filled geotextile bags.

This erosion control project is being constructed at a cost of \$341,185.

b) Channel Relocation.

Another alternative to address the erosion problem along Hideaway Beach would involve relocation of the old Big Marco Pass channel further north. This would allow for a wider beach and a longer project life. This alternative is discussed under Section 6.3.3 which presents the recommendations for Big Marco Pass.

c) No Wake Zone

The Big Marco River no wake zone should be extended to include the area from the tip of the Isles of Capri out to Capri Pass, between Sea Oat Island and Coconut Island. This would reduce the erosion from boat wakes which has contributed to erosion of Royal Marco Point, and it would provide additional protection for the endangered Florida manatee.

6.3.5 Sand Dollar Island

As discussed in Section 5, the Sand Dollar Island shoals represent one of Collier County's most important wildlife resources as an area with characteristics uniquely suited as habitat for a variety of shorebirds, including threatened and endangered species. It is also the source of the natural supply of littoral drift to Marco Island's beach.

Protection of this area for the preservation of these wildlife species may be accomplished unilaterally by the Florida Game and Freshwater Fish Commission through their authority to establish Critical Wildlife Areas, with the approval of the Florida Board of Trustees of the Internal Improvement Trust Fund as the owner of the land. Alternatively this could be accomplished through a cooperative interlocal agreement with Collier County. It is recommended that Collier County pursue an interlocal agreement which will resolve differences over how this area should be managed. This approach will allow Collier County's Natural Resources staff to be involved in the wildlife protection issues and also provide a means to insure that Collier County's interests regarding beach maintenance and recreational concerns for adjacent areas are met.

Another possibility which should be considered is creation of additional shorebird habitat in appropriate areas where there will not be any conflict between wildlife preservation and recreational use. This could be accomplished through hydraulic fill placement in that same manner that beaches are nourished to create recreational areas and sea turtle nesting habitat. To accomplish this, fill would be placed on natural shoals to create emergent areas of the proper elevation for shorebirds. If this were done in the Sand Dollar Island shoal area, it would assure a natural supply of sand for Marco Islands beaches in the future because it should be expected to eventually attach to the beach as other shoals in this area have done in the past.

Data on bird species using this shoal area has been compiled by the Audubon Society and by local naturalist Ted Below who also did a study for Collier County as part of the monitoring for the 1991 Marco Island Beach Restoration Project. It is recommended that Collier County assume sponsorship of evaluation of existing data and establish an ongoing monitoring program to quantify issues relevant to the proposed interlocal agreement with the Florida Game and Fresh Water Fish Commission. Information gained through implementation of this recommendation would be useful in making future management decisions, including evaluation of the concept of creating additional shore bird habitat.

The cost of the monitoring program would be dependent upon a scope of work to be developed by the Collier County Natural Resources staff. Alternatively, this could be done by the Audubon Society under sponsorship by Collier County. The cost of

creating additional shorebird habitat would be approximately \$35,000 per acre, assuming that the areas were created on shoals with an existing elevation of -1 foot below NGVD and the elevation was raised to +3 feet above NGVD, and the project was done in conjunction with beach renourishment at the dredging unit cost.

6.3.6 Marco Island Central Beach Area

It has been demonstrated that this area has in the past experienced erosion as the consequences of changes that have occurred in the Big Marco and Capri Pass inlet system, principally the opening of Capri Pass and the subsequent evolution of Sand Dollar Island. Although the present configuration of the inlet shoal system is providing an ample supply of sand to this area, it should be anticipated that erosional trends will occur from time to time in the future. It is recommended that tentative sources of sand be identified to address future nourishment needs, and that borrow sources discussed in Sections 6.3.1 and 6.3.3 above be considered. Additional considerations for the use of the Big Marco and Capri Pass shoal system are discussed below. Comparative costs are included at the end of Section 6.3.1.

6.3.7 Potential Sand Source for Beach Restoration

Section 2.3.4 discusses the monitoring of the borrow area dredged in 1991 and Section 3.1 provides a technical analysis of a proposal for the expansion of this area to fulfill the needs of beach restoration in other areas of Collier County. Due to the slow rate of recovery of the 1991 borrow area, and potential changes to sand transport that would occur from additional dredging in this area, it is recommended that the use of this area as a source of sand be limited to projects downdrift of the inlet system, on Marco Island. With the exception of selective dredging of specific shoal areas discussed in Section 6.3.1 and Section 6.3.3, dredging of the general inlet system shoal area should be in water depths greater than 12 feet below NGVD to minimize the impacts to the active transport zone, unless specific site information demonstrates the appropriateness of selective dredging in shallower areas. Figure 6-3 shows the location of areas recommended for consideration and further investigation as borrow sources. Comparative costs for the use of these areas are included at the end of Sections 6.3.1 and 6.3.3.

6.4 Implementation

The following recommendations should be implemented immediately. The Inlet Management Study Section which discusses each recommendation is cross referenced.

1. Continue ongoing monitoring programs and supplement with additional monitoring of Little Marco Pass migration and Coconut Island (Section 6.3.1), the Hideaway Beach T-groin project (Section 6.3.4), and additional environmental monitoring to include documentation of wildlife usage of the Sand Dollar Island emergent shoals (Section 6.3.5).
2. Work with the Florida Game and Fresh Water Fish Commission to establish an interlocal agreement to resolve remaining issues regarding the

management of the Sand Dollar Island shoals as a wildlife habitat and recreation area. (Section 6.3.5)

3. Pursue expansion of the Big Marco River no wake zone to include Capri Pass. (Sections 6.3.4)

The following recommendations should be implemented upon completion of DEP review of this study and adoption of a state approved Inlet Management Plan.

4. Evaluate potential sand sources for beach nourishment with vibracore borings. (Sections 6.3.1, 6.3.3, 6.3.4, and 6.3.7)

5. Preliminary design for stabilization of Coconut Island. (Section 6.3.2)

6. Investigate wildlife habitat creation issue. (Section 6.3.5)

7. Renourishment of project areas as needed. (Sections 6.3.4 and 6.3.6)

8. Refinement of Hideaway Beach erosion control project based upon monitoring data and replace sand filled geotextile bags with permanent structures. (Section 6.3.4)

6.5 Responsibility

It is recommended that Collier County assume responsibility as the local sponsor for implementation of the recommendations of this Inlet Management Study. Implementation should be coordinated through an advisory committee made up of individuals from local affected groups, such as Marco Island, the Rookery Bay National Estuarine Research Reserve, the Florida Game and Fresh Water Fish Commission, and technical representatives of Collier County Natural Resources and Capital Projects staff.

The preparation of this Study is eligible for state funding under the state's beach management program. Once the Study is accepted by the state and an Inlet Management Plan is adopted, implementation of the Plan is also eligible for funding assistance from the state.

The recommendations and costs should be added to the County's updated annual request for funding from the Florida Department of Environmental Protection, and the local share of the funding provided by the tourist development tax funds designated for use on beach maintenance and inlet management.

**INTERLOCAL AGREEMENT FOR THE PROVISION OF
BEACH RENOURISHMENT, MAINTENANCE, AND
STABILIZATION SERVICES IN THE HIDEAWAY BEACH
SECTION OF MARCO ISLAND.**

THIS INTERLOCAL AGREEMENT ("Agreement"), is made and entered into this 21
day of September, 2004 by and between the Board of County Commissioners, the
governing body of Collier County, a political subdivision of the State of Florida, hereinafter
referred to as "County" and the City of Marco Island, a Florida municipal corporation,
hereinafter referred to as "City".

RECITALS:

WHEREAS, the Board of County Commissioners adopted a Tourist Development Tax
Category "A" Funding Policy for beach renourishment and beach park facilities on December 16,
2003; and

WHEREAS, the Board of County Commissioners reviewed a Grant Application from the
City of Marco Island on April 13, 2004 for a proposed project to renourish Hideaway Beach
based on that approved policy; and

WHEREAS, the goal of the BCC adopted policy is to maintain and enhance the shoreline
beaches and provide visitors and residents convenient public beach access and quality beach
amenities; and

WHEREAS, the County has hired a consultant to design and permit a project to renourish
Hideaway Beach and replace the temporary T-groins on Hideaway Beach with permanent
erosion control structures ("Project"); and

WHEREAS, the County has funded and will continue to fund the engineering services
required for Project approval in the form of state and federal permits; and

61.00
7.00

BCC FEE
COPIES

3482297 OR: 3651 PG: 0367

RECORDED IN THE OFFICIAL RECORDS OF COLLIER COUNTY, FL
09/29/2004 at 09:57AM DWIGHT E. BROCK, CLERK

Retn:
CLERK TO THE BOARD
INTEROFFICE
EXT 7240

WHEREAS, the County desires to fund the portion of the Project related to the construction of permanent erosion control structures on Hideaway Beach, and the City desires to fund the portion of the Project related to the placement of sand on Hideaway Beach; and

WHEREAS, the County and City desire to equally share the costs of the annual monitoring anticipated to be required by the permit for the Project to be issued by State of Florida, Department of Environmental Protection (FDEP), and

WHEREAS, under the policy, there must be a Project sponsor; and

WHEREAS, the City of Marco Island desires to extend its commitment to sponsor the proposed Project as sponsor for the beach renourishment and stabilization project at Hideaway Beach, contingent upon the residents of Hideaway Beach voting to tax themselves to pay for the cost of construction and maintaining the Project at an August 31, 2004 election.

NOW, THEREFORE, BASED UPON THE MUTUAL COVENANTS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. RECITALS. The above recitals are true and correct and incorporated herein.
2. ELIGIBILITY FOR FUNDING. The Hideaway Beach portion of the northern beach area of Marco Island is not eligible for TDC funding under the current Board adopted policy. However, in recognition of prior County commitments to beach restoration efforts on Hideaway Beach, i.e. construction of temporary T-groins to stabilize the beach, the Board of County Commissioners decided on April 13, 2004 to fund on a one-time basis the removal of temporary T-groins and the construction of permanent erosion control structures. The estimated costs, including both construction and engineering services during construction, for the structures portion of the project is \$2.488 million dollars and will be funded by the County with Tourist Development funds. Any costs for the removal of the temporary T-groins and construction of permanent erosion control structures, which is over \$2.488 million dollars, must be approved by the Board of County Commissioners before the cost is incurred. The funding for the

OR: 3651 PG: 0368

renourishment portion of the project, estimated to be \$1.969 million dollars, will be provided by the City to the County within three business days of the completion of bond financing for the Project by the district but in no case later than the time the County Commission approves the construction contract for that portion of the project. The costs of the annual monitoring anticipated to be required by the permit for the Project to be issued by State of Florida, Department of Environmental Protection (FDEP), will be equally shared between the County and the City up to a maximum of \$50,000 per year of County funds. Any costs over \$50,000 must be approved by the Board of County Commissioners before the cost is incurred if the County is expected to help pay such excess costs.

3. SPONSORSHIP. The City agrees to sponsor the Project and to secure funding to supplement the Tourist Development Tax funds for completion of the renourishment and stabilization Project. The City agrees to be named as the agency requesting the FDEP and federal permits. The City agrees to obtain easements from the beachfront property owners in the area of the Project. The City agrees to exercise ownership of the permanent structures installed under this project. The City's agreement to act as sponsor for the project is conditional upon the residents of Hideaway Beach voting to agree to tax themselves for the cost of constructing and maintaining the project improvements at the August 31, 2004 election for this matter. In the event the residents of Hideaway Beach do not agree to fund the cost of constructing and maintaining the project, this Agreement shall terminate.

4. COUNTY AS AGENT OF CITY. The County agrees to act as the agent of City to pursue all necessary grant applications, engineering, environmental and technical work and to seek the appropriate environmental permits on behalf of the City. All applications and permits will be in the name of the City. The County shall select, and the City, may participate in the selection, of vendors and contractors for the work to be completed under this Section in accordance with County's purchasing policy. No construction or engineering services contracts

OR: 3651 PG: 0369

for monitoring the construction will be awarded until the County receives the funding.

5. PRIVATE PROPERTY EASEMENTS. The City agrees to process the necessary easements from the property owners fronting on the Project area and to grant the same rights under those easements to the County and selected vendors and contractors for purposes of completing the project. If the County does not have easement rights over private property in the beach areas to be renourished, then the County will renourish only the public beach area from the erosion control line or mean high water line seaward.

6. CITY TO COMPLETE PERMIT CONDITIONS. The City agrees to be responsible to fulfill the ongoing obligation of the permits and all conditions of the permits such as annual monitoring and continued maintenance of the beach area.

7. PROJECT PERIOD. The County and City agree that the estimated date for commencement of construction of the beach renourishment and stabilization Project is November 1, 2004 and that the duration of construction is not expected to last beyond six months (sea turtle nesting season typically precludes construction from May 1st through October 31st). If the necessary permitting and construction financing is not received in time for the project to be completed in this time- frame, then it will be postponed until November 1, 2005. This agreement would remain in effect in the event the Project is delayed and the expiration date extended accordingly. The placement of sand on Hideaway Beach (with funding provided by the City) must be completed before the erosion control structure portion of the project (with funding provided by the County) as the sand forms the base into which the sheet piles are to be placed. Should permitting or the placement of sand be delayed, or if the County does not receive funding from the City pursuant to Paragraph 2 of this Agreement in time to complete the project prior to turtle nesting season, some or all of the project may have to be constructed the following construction season.

OR: 3651 PG: 0370

8. TERMINATION. This Agreement shall terminate upon completion of the original permit-required monitoring period, anticipated to be up to five years from construction completion, unless an extension is mutually agreed upon in writing.

9. AVAILABILITY OF FUNDS. This Agreement is subject to budget and collection of Tourism Development Tax funds and the receipt from the City of the funds necessary to complete the beach renourishment project. Except as expressly provided herein, this Agreement does not commit the County to future renourishment of Hideaway Beach.

10. MISCELLANEOUS PROVISIONS.

A. Any and all notices, designations, consents, offers, acceptances, or other communications provided for herein shall be given to the City, attention City Manager, City of Marco Island, 50 Bald Eagle Drive, Marco Island, FL 34145. Notice to the County, attention County Manager, Collier County Government Complex, 3301 Tamiami Trail East, Naples, FL 34112.

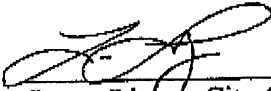
B. This writing embodies the entire agreement and understandings between the parties and there are no other agreements or understandings, oral or written, with reference to the subject matter herein, no alteration change or modification to the terms of this Agreement shall have any force or effect unless made in writing and signed by the parties hereto. This Agreement shall be governed and construed in accordance with the laws of the State of Florida. This Agreement may be executed in each of several copies, each of which may be considered an original.

C. The City may not sell, transfer, or assign this Agreement, or any part hereof, without the written consent of the County.

IN WITNESS WHEREOF, the parties have caused this Interlocal Agreement to be executed the day and year aforesaid in counterparts, each counterpart to be considered an original.

OR: 3651 PG: 0371

ATTEST:



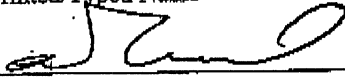
Laura Litzan, City Clerk

By: Terri DiSciullo
TERRI DISCIULLO, Chairwoman

WITNESSES:


(1) Michael D. Murphy
Signature

Michael Murphy
Printed/Typed Name

(2) 
Signature

A. Tony Joel
Printed/Typed Name

Approved as to form and
legal sufficiency:


Richard D. Yovanovich
City Attorney

OR: 3651 PG: 0372

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

DATED: 9/28/04
ATTEST:
DWIGHT E. BROCK, Clerk

by: Donna Fiala D.C.
Deputy Clerk
Attest as to Chairman's
Signature Only.

By: Donna Fiala
DONNA FIALA, Chairman.

*** OR: 3651 PG: 0373 ***

Approved as to form and
legal sufficiency:

Heidi F. Ashton
Heidi F. Ashton
Assistant County Attorney

Item #	1674
Agenda Date	9-28-04
Date Rec'd	9-28-04
Deputy Clerk	<u>Donna Fiala</u>

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA TO SUPPORT APPLICATION TO COLLIER COUNTY FOR ADDITIONAL T-GROINS FOR HIDEAWAY BEACH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 21, 2004 the City of Marco Island entered into an Interlocal Agreement (the "Agreement"), with the Board of County Commissioner of Collier County Florida, (the "County"), whereby the County agreed to fund, using Tourist Development Taxes, construction of permanent erosion control structures known as T-groins to prevent beach erosion along the northern boundary of the City, and

WHEREAS, the Agreement requires prior approval of the County for T-groin costs in excess of \$2.488 million dollars; and

WHEREAS, by Ordinance 2004-05 the City created the Hideaway Beach District, a dependent special taxing district of the City, ("the District"), and the qualified voters of the District subsequently approved a tax levy for the purpose of funding the replacement of sand on the northern tip of the City on the beach area at Hideaway Beach following construction of the T-groins; and

WHEREAS, protection of the beach at northern tip of the City protects all of the other beaches of the City to the south; and

WHEREAS, a number of tourism-related businesses located in the City as well as individual boaters rely on and use the beaches at Hideaway Beach on a regular basis with boat tours for shelling, wildlife, and other recreational pursuits; and

WHEREAS, the T-groins constructed by the County have had a beneficial effect on portions of the beach at Hideaway Beach, however severe erosion has occurred where no T-groins were constructed by the County in areas once protected by the now disintegrated Coconut Island; and

WHEREAS, the County's consulting coastal engineers have recommended construction of additional T-groins at an estimated cost of \$2,350,000; and

WHEREAS, the severe erosion on the beach at Hideaway Beach now threatens to erode away Royal Marco Way, a private roadway, that is the only access to more than three hundred (300) homes on the northern tip of the City; and

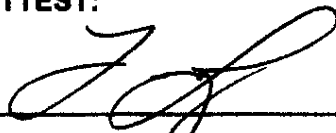
WHEREAS, the potential for a breach and failure of Royal Marco Way poses a hazard and an emergency threat to the public health, safety and welfare of the City.

1. A valid public safety emergency is hereby certified and declared regarding the severe erosion threatening Royal Marco Way and those persons who are dependent upon this roadway for their sole access and sole access for police, fire and other emergency services to more than three hundred (300) homes.
2. The City finds that the beaches of Hideaway Beach on the northern tip of the City are public beaches that are available, accessible and used by the public including tourists staying in hotels and renting dwelling units for less than six (6) months periods who pay Tourist Development Taxes to the County.
3. The City authorizes, an application to the County and requests the County to utilize Tourist Development Taxes, in the approximate amount of \$2,350,000 to fund the installation of additional T-groins to protect the beaches on the northern tip of the City, which protect the rest of the beaches in the City south of the Hideaway Beach area, all of which beaches are essential to tourism and the economy of the City.
4. The City requests that the County file any required applications for modifications to the existing permit, to authorize construction of additional T-groins and placement of additional sand on the northern tip of the City at Hideaway Beach.

Effective Date. This resolution shall take effect immediately upon approval.

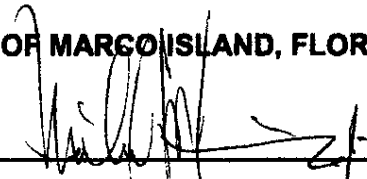
Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida this 3rd day of December, 2007.

ATTEST:



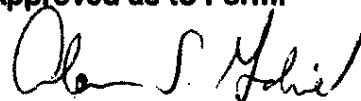
Laura Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Michael F. Minozzi, Jr., Chairman

Approved as to Form:



Alan L. Gabriel, City Attorney