



June 8, 2015

Judie Zimomra, City Manager
City of Sanibel
800 Dunlop Road
Sanibel, Florida 33957

Dear Ms. Zimomra,

I am pleased to let you know that the Board of Commissioners of the Captiva Erosion Prevention District favorably considered your request in your letter to me of May 7, 2015, to piggyback on the CEPD state and federal permits to allow emergency renourishment of a portion of northern Sanibel. The Board asked that I continue the dialogue with the City, agreeing that a cooperative effort to protect the Sanibel Captiva Road is a worthwhile goal. We understand that this cooperative effort will save the City the substantial costs of obtaining its own permits.

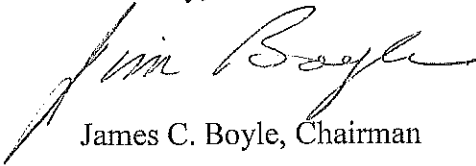
We have started discussions with our CEPD consulting engineers and the CEPD attorney, and briefly with the City staff as well, to identify what issues might be involved and how we might proceed. As Section 13 of its enabling legislation allows the CEPD to enter into contracts to assist a municipality in the county in an erosion prevention program, it is logical that any assistance be conducted through an interlocal agreement. Such an interlocal agreement can ensure that various issues such as compliance with the CEPD's permit requirements as to specifications, conditions, project monitoring responsibilities, and the like can be addressed. The term of the interlocal agreement possibly could extend for the term of our permits, or 15 years. The agreement should also address issues such as necessary indemnities, and reimbursement to the CEPD of any costs for the contract. In that regard, you should be aware that the CEPD enabling legislation prohibits the CEPD from using the funds of the District collected in the County in connection with the performance of such assistance services; however, the CEPD can be reimbursed for those costs. We anticipate that issues such as these can be discussed between the City and CEPD as the next step in a cooperative effort.

Our further initial thoughts are that the interlocal agreement can act as an "umbrella" for the CEPD Board's specific authorization to conduct particular emergency renourishment projects on a case by case basis, such as the City's proposed project that gave rise to our discussions. We have consulted with the FDEP about its requirements for the process to authorize the use of the CEPD permits by the City. At this time, we are advised that an exchange of letters of authorization between the City and the CEPD, copied to the FDEP, should be sufficient. The letters must detail the proposed activity and the necessity for the City to act, and acknowledge

the relevant responsibilities and expectations in the permits and contracts between CEPD and the FDEP. We will be continuing our discussions with the FDEP as well.

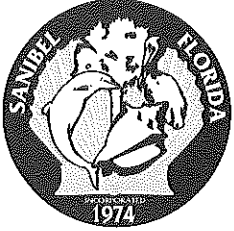
We look forward to working with you and the City representatives as we continue our dialogue. If you agree with our approach, we will direct our attorney to work with the City attorney on the interlocal agreement. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Boyle".

James C. Boyle, Chairman

Cc. David Jensen
Henry A. Kaiser
Doris Holzheimer
Michael Mullins
Kathleen Rooker
Nancy Stroud
Kevin Ruane
James Evans



City of Sanibel

800 Dunlop Road
Sanibel, Florida 33957-4096

www.mysanibel.com

AREA CODE - 239

CITY COUNCIL	472-4135
ADMINISTRATIVE	472-3700
BUILDING	472-4555
EMERGENCY MANAGEMENT	472-3111
FINANCE	472-9615
LEGAL	472-4359
NATURAL RESOURCES	472-3700
RECREATION	472-0345
PLANNING	472-4136
POLICE	472-3111
PUBLIC WORKS	472-6397

November 10, 2015

Mrs. Kathleen Rooker
Post Office Box 365
Captiva, Florida 33924

Re: Interlocal Agreement

Dear Mrs. Rooker:

Please find the original Interlocal Agreement the City Council approved November 03, 2015. This is the Interlocal Agreement that I emailed about earlier today asking that Mr. Boyle execute. I also asked that the original be mailed back to the City so the Legal Department could record as an emailed copy was not acceptable to record.

Thank you again for your help in this matter. Please contact me with any questions at (239) 472-3700.

Respectfully,

Pamela Smith, MMC
City Clerk

PBS/tlj

Enclosures

15-115

**INTERLOCAL AGREEMENT
BETWEEN CAPTIVA EROSION PREVENTION DISTRICT
AND
THE CITY OF SANIBEL**

THIS INTERLOCAL AGREEMENT is made and entered into this 3 day of November, 2015, by and between the **CAPTIVA EROSION PREVENTION DISTRICT**, a political subdivision of the State of Florida, hereinafter referred to as "CEPD," and the **CITY OF SANIBEL**, a municipal corporation, hereinafter referred to as the "City."

WHEREAS, Part 1 of Chapter 163, Florida Statutes, authorizes public agencies as defined therein to enter into Interlocal Agreements in order to jointly exercise any power, privilege or authority that such agencies share in common and that each might exercise separately; and

WHEREAS, Ch. 2000-399, Laws of Florida authorizes the CEPD to enter into agreements with municipalities and other political subdivisions; and

WHEREAS, CEPD is a beach and shore preservation district with statutory authority to develop and execute plans for beach and shore preservation; and

WHEREAS, City is a municipal corporation with statutory and home rule authority to develop and execute plans for beach and shore preservation; and

WHEREAS, CEPD has applied for and received a state permit and has applied for and is anticipating approval of a federal permit to allow beach re-nourishment for areas including Captiva, in the unincorporated area of Lee County, and a portion of northern Sanibel within the City of Sanibel; and

WHEREAS, the City has requested that CEPD allow the City of Sanibel to "piggyback" or conduct necessary emergency beach re-nourishment in the area of northern Sanibel under the authority of, and in accordance with, the CEPD state and federal permits and under the terms and conditions of this Interlocal Agreement; and

WHEREAS, CEPD is willing to grant such authority under the terms and conditions of this Interlocal Agreement;

NOW THEREFORE, in consideration of the foregoing and the mutual covenants contained herein and other good and valuable consideration, acknowledged by CEPD and the City to be sufficient and received, CEPD and the City hereby agree as follows:

SECTION 1. The Recitals as set forth above are true and correct and are hereby incorporated into the terms of this Agreement as if fully set forth below.

SECTION 2. CEPD applied for a Florida Department of Environmental Protection (DEP) permit to periodically restore and nourish the beach of Captiva Island and to nourish the beach at the northern portion of Sanibel Island. Pursuant to such application, CEPD has received a Consolidated Joint Coastal Permit and Sovereign Submerged Lands Authorization as DEP Permit Number 0200269-009-JC (hereinafter the "DEP Permit") (attached as Attachment 1 to this Agreement). CEPD has applied for an Army Corps of Engineers permit for the same Captiva Island and northern Sanibel Island beach re-nourishment authorization and such permit application is currently being processed (hereinafter the "Army Corps Permit") (the DEP permit and

Army Corps permit are hereinafter referred to collectively as the "Agency Permits").

SECTION 3. Upon final approval and issuance of the Army Corps permit, CEPD hereby agrees to and authorizes the City to conduct work and engage in beach re-nourishment activities pursuant to the authority of the Agency Permits issued to CEPD in accordance with the terms and conditions of the Agency Permits and the procedures, terms, requirements and conditions set forth in this Interlocal Agreement.

SECTION 4. For each project where the City determines that it is necessary to conduct emergency beach re-nourishment within the City and within the geographical area encompassed by the Agency Permits, the City shall prepare and submit to CEPD a written description of the proposed City project which shall include, at a minimum, the following:

- a) A description of the purpose of the proposed project;
- b) A description of the geographical area within which the proposed project shall occur;
- c) The timeframe within which the proposed project is intended to be commenced, conducted and finalized;
- d) An estimate of the cost of the proposed project, if available;
- e) A copy of any supporting documents which have been prepared for the City by its contractors, agents or consultants which describe the proposed project or support the need for the proposed project; and
- f) Any additional information or supporting documents which the City determines may be of use to CEPD in evaluating the proposed project.

SECTION 5. Upon receipt of the information on the proposed City project described in Section 4 above, CEPD shall have a period of thirty (30) days to review the information and provide a written decision as to whether the City is authorized to proceed with the proposed project under the authority of CEPD's Agency Permits. CEPD shall use its best efforts to provide such authorization for proposed City projects provided, however, the City understands that each project shall be submitted by the City and reviewed by CEPD on a case by case basis and CEPD is not required to provide authorization for the City to conduct its project under the authority of CEPD's Agency Permits unless specifically approved, in writing, by CEPD for the proposed project.

SECTION 6. Upon approval, in writing, by CEPD of the specific City beach re-nourishment project proposed, the City shall comply with all permit conditions and reporting requirements required by CEPD's Agency Permits. The City shall copy CEPD, through its designated contact person as set forth in this Interlocal Agreement, on all correspondence and written communications relating to the City project and relating to any matter which would or may relate to the CEPD's Agency Permits, the conditions thereof or the status or progress of the City project. Such communications or correspondence copied to CEPD shall specifically include communications with any state or federal agency, the City's contractors or consultants or the general public with respect to the City's project. The City shall provide adequate and continuous engineering inspection and progress reports showing the work completed throughout the construction of the project and make such reports available for inspection at the reasonable request of the CEPD. Additionally, the City shall notify CEPD, in writing, upon the completion of each City beach re-nourishment project as determined by the City.

SECTION 7. City shall be responsible for all costs and expenses associated with every beach re-nourishment project conducted by the City and such costs shall include, but shall not be limited to, the costs of consultants, experts, contractors, materialmen and materials, transportation and hauling costs, traffic control, safety notifications and barriers, and any costs associated with any claim that the City has failed to adhere to the

applicable Agency Permit requirements, including any remediation or other activities that may be required by DEP or the Army Corps of Engineers.

SECTION 8. In the event that any differences or disputes arise as a result of the terms or conditions of this Agreement, CEPD and the City shall attempt to resolve such matters in the following manner and order:

- a) As expeditiously as possible through the CEPD Executive Director and the City's Director of Natural Resources;
- b) As expeditiously as possible through the CEPD Executive Director and the Sanibel City Manager;
- c) As expeditiously as possible through the CEPD Board and the Sanibel City Council;
- d) Through any legal remedy available to the parties.

SECTION 9. The City agrees to pay to CEPD, within thirty (30) days of a written invoice, for costs and expenses paid by CEPD for the following:

- a) The CEPD approved cost and expenses of engineers, environmental consultants, attorneys or other consultants or professionals deemed necessary by CEPD to review or evaluate any beach re-nourishment project proposed by the City, up to a maximum of \$10,000 per City project;
- b) Attorney's fees incurred by CEPD and directly related to the preparation or review of this Interlocal Agreement up to a maximum of \$5,000;
- c) At the time CEPD authorizes, in writing, the City to operate under the authority of CEPD's Agency Permits for a specific City project, CEPD shall notify the City, in writing, if any costs as described above can be reasonably anticipated to exceed the amounts set forth above. The City, in its sole discretion, shall decide whether or not to proceed with or continue with any proposed City beach re-nourishment project provided, however, any CEPD costs already incurred for review and evaluation of a proposed City project shall be due and payable in accordance with the terms of this Agreement whether or not the proposed City project is undertaken by the City.

SECTION 10. The term of this Agreement shall be from the date of execution by both parties through the current expiration date of the DEP permit which is December 11, 2029.

SECTION 11. The designated contact persons for CEPD and for the City are listed below and any communication, correspondence, notice or other contact of any type sent to the persons designated below shall constitute communication, correspondence, notice or contact for purposes of CEPD and the City, as applicable.

CONTACT FOR CEPD:

Name: Kathleen Rooker
Administrator
Captiva Erosion Prevention District
Address: 11513 Andy Rosse Lane #4
Captiva, Fl. 33924
Email: Kathleen@mycepd.com

CONTACT FOR CITY:

Name: Judith A. Zimomra
City Manager
City of Sanibel
800 Dunlop Road
Sanibel, Florida 33957
Email: judie.zimomra@mysanibel.com

SECTION 12. This Agreement, and the rights and obligations of CEPD and the City, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida.

SECTION 13. Nothing contained in this Agreement shall be construed to provide, nor is intended to give, any rights or benefits to any person, entity or third party of any type, other than to CEPD and the City. All rights, benefits, duties and responsibilities set forth and/or undertaken pursuant to this Agreement are for the sole and exclusive benefit of CEPD and the City and for no other person or entity.

SECTION 14. Subject to the limitations as set forth in Section 768.28, Florida Statutes, City shall defend, hold harmless and indemnify CEPD from and against any and all claims, actions, damages, liability, cost and expense, including those arising from bodily injury, death and/or property damage or any other lawful expense, including, but not limited to, attorney's fees and court costs, brought by third parties arising from the act or omission of the City, its agents, employees or contractors during the performance of this Agreement. The provisions of this paragraph are not intended to abrogate the sovereign immunity of the City beyond that set forth in Section 768.28, Florida Statutes.

SECTION 15. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements among the parties in connection with the subject matter hereof, except as specifically set forth in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed on the day and year first written above.

**CITY OF SANIBEL
City Council**

ATTEST:
City Clerk
City of Sanibel
By: Pamela Smith
Pamela Smith
OFFICIAL
CITY OF SANIBEL
INCORPORATED NOV. 5, 1974
SEAL

By: [Signature]
Kevin Ruane, Mayor

Approved As To Form:

By: [Signature]
Kenneth B. Cuyler, City Attorney

ATTEST:

By: [Signature]
Name: Kathleen Booker
Title: Administrator

CAPTIVA EROSION PREVENTION DISTRICT

By: [Signature]
Name: Jim Boyle
Title: Chairman