

**INTERLOCAL AGREEMENT by and between
LEE COUNTY and the CAPTIVA EROSION PREVENTION DISTRICT
(Captiva Beach Nourishment)**

THIS AGREEMENT is made and entered into this ____ day of _____, 2025, by and between the CAPTIVA EROSION PREVENTION DISTRICT, a beach and shore preservation independent special district under the provisions of Section 161.32, Florida Statutes, hereinafter referred to as the “District”, and the Board of County Commissioners of LEE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the “County”.

WHEREAS, the County possesses Home Rule powers as a charter county pursuant to Article VIII, Section 1(g), Florida Constitution, and Section 125.01, Florida Statutes; and,

WHEREAS, the Captiva Erosion Prevention District is a beach and shore preservation district re-created and re-established under Chapter 161, Florida Statutes, and exercise powers and duties of a beach and shore preservation authority and independent special district; and,

WHEREAS, the Board of County Commissioners (“Board”) is the governing body in and for Lee County; and,

WHEREAS, the Board of Commissioners (“District Board”) is the governing body for the District; and,

WHEREAS, section 161.25, Florida Statutes, establishes that the Board of County Commissioners is a beach and shore preservation authority for the County, and in this capacity, may at its own initiative take all necessary steps as soon as practicable and desirable to implement beach and shore preservation projects; and,

WHEREAS, the District has the authority to develop and execute plans for beach and shore preservation; and

WHEREAS, the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes, encourages and empowers local governments to cooperate with one another on matters of mutual interest and advantage, and provide for interlocal agreements between local governments on matters of mutual interest; and,

WHEREAS, beach erosion is a threat to the economy and general welfare of the visitors and citizens of Lee County; and,

WHEREAS, it is a necessary governmental responsibility to properly manage and protect Lee County beaches fronting on the Gulf of America from erosion through beach restoration and nourishment projects; and,

WHEREAS, the beaches of Captiva Island have been designated by the State of Florida as critically eroded; and,

WHEREAS, the District has completed economic and engineering impact studies including analysis of damage from Hurricanes Ian, Helene, and Milton, and entered into an Agreement with Great Lakes Dredge and Dock LLC for the nourishment of the Captiva Island beaches to be completed in 2025; and

WHEREAS, it is in the mutual interest of the District and the County to cooperate in beach maintenance and nourishment of the Captiva Island beaches; and

WHEREAS, the District and the County have successfully completed all obligations from prior Captiva nourishment agreements and believe it is in the interest of the public health, safety and welfare to continue to cooperate in preventing erosion on Captiva Island, which includes the protection of upland development and infrastructure, the tourist economy, recreational interests, and wildlife habitat.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the District and the County agree as follows:

SECTION ONE **INCORPORATION OF RECITALS**

The Recitals as set forth above are incorporated into the terms of this Agreement as if set out herein at length.

SECTION TWO **PURPOSE**

The purpose of this agreement is to define a method for allocation of costs and responsibilities for “The Captiva Island 2025 Beach Nourishment Project”, adopted by Captiva Erosion Prevention District Resolution 2024-12, hereinafter referred to as the “Project”. This Agreement shall supersede and replace all prior Interlocal Agreements between the County and the District for funding of Beach Nourishment, the parties acknowledging that such prior Agreements have been satisfied.

SECTION THREE **PROJECT SCOPE**

The Project includes the necessary design, permitting, engineering, construction, project management, and environmental protection and monitoring required by the permit for the Captiva Island shoreline extending from R84 at the northern end of Captiva to R109 at Blind Pass. The Project includes post-construction maintenance and monitoring for a period up to seven years as required by state and federal permits for the Project. For the purpose of this Agreement, maintenance will be limited to tilling and scarp removal as required by permits for the Project. The Project will be constructed in accordance with applicable local, state and federal rules, regulations,

and permits and generally consists of placement of approximately 800,000 cubic yards of beach fill along 4.85 miles of shoreline and the rehabilitation of dunes along the entire Gulf shoreline of Captiva Island between Redfish Pass and Blind Pass.

SECTION FOUR **COUNTY OBLIGATIONS**

The County agrees to:

- a) Retain the beach accesses, parking areas, and other public use facilities under the County’s control for use during construction and thereafter, as reasonably necessary to assist with completion of the Project. Notwithstanding, this requirement is subject to the County’s right to protect the public, health, safety and welfare.
- b) Cooperate with the District in coordinating overlapping monitoring or maintenance areas to eliminate potential duplication of effort associated with the completion of post-construction maintenance and monitoring for a period up to seven years as required by the state and federal permits for the Project.
- c) The County will not object to the District’s desire to be able to commence construction activities 24 hours a day, every day of the year to maximize construction efficiency and reduce construction costs.
- d) **Allow** the District the use of County owned and City of Sanibel operated Turner Beach Park area adjacent to the Project for project contractors, construction and equipment for the purpose of reasonable staging and beach access in accordance with the terms and conditions incorporated herein as Exhibit B.
- e) Provide funding for the Project based on an allocation of costs in accordance with Section Six of this agreement. The County will not be responsible for providing payment in any form for the following types of expenses: experimental technologies, LiDAR, aerial oblique photography, surveys not required by the Florida Department of Environmental Protection (hereinafter DEP) approved physical monitoring plan, economic studies and benefits analysis, District contracted tasks that are duplicative of United States Army Corps of Engineers (USACE), State, or County conducted work, and interest.

SECTION FIVE **DISTRICT OBLIGATIONS**

The District agrees to:

- a) Monitor the Project area as required by permit and provide the results of the monitoring to the County concurrent with submittal to permitting agencies.
- b) Apply for all necessary permits for the Project.
- c) Prepare, and provide copies to the County, detailed plans and specifications for the Project including provision that any County property used for staging and beach access including use of parking areas for project contractors, construction and equipment is left in conditions equal to or better than before it was used for the Project.

- d) Comply with all applicable DEP Agreements including but not limited to 21LE1, 23LE7, and 25LE1 and requirements thereof to ensure the District or County does not lose any of the state funding that has been approved.
- e) Pursue federal and state appropriations in order to proportionally reduce state and local project costs.
- f) Concurrently with DEP, provide County with copies of submittals required by all applicable DEP Agreements including but not limited to 21LE1, 23LE7, and 25LE1. Submittals are to be used by County as supporting documentation for cost sharing and shall include sufficient detail to distinguish all expenses and cost shares.
- g) Retain the beach accesses, parking areas, and other public use facilities under the District's control for use during construction and thereafter, as reasonably necessary to assist with completion of the Project. Notwithstanding, this requirement is subject to the District's right to protect the public, health, safety and welfare.
- h) Provide copies of all Project related technical reports to the County.
- i) Provide funding for the Project based on an allocation of costs in accordance with Section Six of this agreement.
- j) Keep books, records, documents and other evidence pertaining to costs and expenses incurred for the construction to the extent and in such detail as will properly reflect total Project costs and funding of the Project. The District will make available at its office at reasonable times, such books, records, documents and other evidence for inspection and audit by authorized County representatives for a minimum of three years after completion of construction of the Project.
- k) Act as Project sponsor and manager.
- l) Ensure that Turner Beach Park, and any other County owned properties or facilities impacted by the Project are restored to original pre-construction condition or better than existed prior to the Project.
- m) Notify the County of the final completion of the Project monitoring required by state and federal permits within thirty (30) days of completion.
- n) The District may, at its sole option and discretion, coordinate regionally with other eligible government entities when it is in the best interests of the District and County, particularly in sharing resources for cost savings purposes.

SECTION SIX

COST ALLOCATIONS

The Parties agree to share in the eligible costs for the Project in accordance with the following:

- a) The cost allocation between the District and County will be based on total eligible Project scope as defined herein and costs documented by the District pursuant to Section Five (f) above.
- b) Operational expenses of the District and County, including but not limited to all personnel costs, are not considered project expenses for the purposes of this Agreement.
- c) The County will pay a share of eligible Project costs including those incurred on or after January 1, 2025, and listed on Exhibit A. The schedule for payments will be as follows:

- i. For eligible expenses incurred prior to the date of execution of this Agreement, payment will be made by the County within thirty (30) days of receiving a detailed invoice from the District including adequate documentation of the scope of work and proof of payment for eligible Project costs. Completed DEP reports as described in Section Five (f) above and including copies of supporting documentation will satisfy this requirement.
 - ii. The County will advance a sum to the District equal to ninety percent (90%) of the County share estimated from the bid documents for sand placement. The County will make payment to the District within thirty (30) days of receiving a detailed invoice from the District including their approved bid and date of notice to proceed.
 - iii. Upon receipt of a detailed invoice, notification from the District that the sand placement has been certified complete, and final accounting documentation including proof of payment, the County will pay the balance of the County share due for completed sand placement within thirty (30) days.
 - iv. For eligible expenses other than the sand placement incurred after the date of execution of this Agreement, payment will be made by the County within thirty (30) days of receiving a detailed invoice from the District including adequate documentation of the scope of work and proof of payment. This includes costs for permit required post-construction monitoring and maintenance.
- d) The payment amounts will be calculated using the cost sharing methods described as follows:
 - i. The state funding, provided through the DEP is based in part on the limits of designated critically eroded shoreline, the presence of public access points, and the proximity and number of parking spaces and other access units available to the general public on an equal basis. The details of the funding eligibility are described in Chapter 62B-36, Florida Administrative Code, and specified for this Project in DEP Agreements including but not limited to 21LE1, 23LE7, and 25LE1. The total eligible state funding is known as the State Share.
 - ii. Federal funding may be provided through the USACE based on the Congressionally authorized Captiva Segment of the Lee County, Florida, Beach Erosion Control Project. The total federal funding shall be known as the Federal Share.
 - iii. Project funding provided by entities other than the DEP, USACE, County or District, including but not limited to awards from the Federal Emergency Management Agency (FEMA), or Florida Division of Emergency Management (FDEM) shall collectively be referred to as Grant Funding.
 - iv. The costs remaining after deduction of the Federal Share, State Share, and Grant Funding shall be known as the Local Share.
 - v. The distribution of the Captiva Local Share has been determined based on recreational and storm protection benefits documented as part of the 2025 beach nourishment apportionment process. It was determined that 44.1% of the Project benefits are for storm protection, and 55.9% of the benefits are for recreation.
 - vi. Forty-four and one tenth percent (44.1%) of the local share is attributable to storm protection. The County owns approximately 1.82% of the Captiva Island

Project shoreline primarily at Turner Beach and Alison Hagerup Parks and will pay the proportional storm protection cost for those properties. Storm protection paid by the County is therefore calculated as **0.80%** (1.82% x 44.1%) of the local share.

- vii. The Project shoreline is 42.13% publicly accessible as determined by DEP. Accordingly, a portion of the Local Share attributable to recreation will be paid by the County equal to **23.55%** of the Local Share (i.e. 42.13% x 55.9%).
- viii. The total County Share will be the sum of the County recreation share (Section 6(d)vii) and the County storm protection share (Section 6(d)vi).

SECTION SEVEN **HOLD HARMLESS**

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, District shall indemnify, defend and hold harmless the County against any actions, claims for damages arising out of District's negligence in connection with this Agreement, and County shall indemnify, defend and hold harmless the District against any actions, claims for damages arising out of County'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.

SECTION EIGHT **CANCELLATION**

The breach of a material obligation of this Agreement shall be grounds for immediate cancellation of this Agreement by the non-breaching party. The non-breaching party must provide the party in default with 30 days, from the date of notice of the default, to cure said default. If the breach is not curable, the non-breaching party may terminate the Agreement without waiting 30-days and seek any remedies available under Florida law.

SECTION NINE **AMENDMENT TO AGREEMENT**

This Interlocal Agreement may only be amended as provided for herein, with the express written consent of both Parties and executed with the same formality and dignities as this original Agreement.

SECTION TEN **INTERPRETATION OF AGREEMENT**

This Interlocal Agreement shall be construed and interpreted pursuant to Florida law. Venue for

any disputes between the Parties arising under this Interlocal Agreement shall be the Twentieth Judicial Circuit Court, in and for Lee County, Florida.

SECTION ELEVEN **INTEGRATION OF DOCUMENT**

This Interlocal Agreement, including any incorporated exhibits or amendments, constitutes the entire Agreement between the Parties and shall supersede and control over any or all prior Agreements or understandings, either written or oral, relating to the matters herein.

SECTION TWELVE **NOTICE PROVISIONS**

All notices or demands are deemed to have been given or made when delivered in person or delivered by certified or registered mail, return receipt requested, postage prepaid, United States mail, and addressed to the respective Parties as follows:

Board of Commissioners
Captiva Erosion Prevention District
Post Office 365
Captiva Island, FL 33924

Chair, Board of County Commissioners
Lee County
Post Office Box 398
Fort Myers, Florida 33902

SECTION THIRTEEN **EFFECTIVE DATE**

This Agreement will be effective on the last date signed by the Chair or Vice-Chair of the Board of County Commissioners of Lee County, Florida, or Chair or Vice-Chair of the District Board.

SECTION FOURTEEN **TERM**

This Agreement shall commence upon execution and continue from year to year uninterrupted and shall terminate upon reimbursement of eligible costs associated with the last date of the monitoring required for the Project under the Project's state and federal permits. The rights and obligations of each party that arise prior to the expiration of the term shall survive any expiration of the term of this Agreement.

SECTION FIFTEEN **SEVERABILITY**

Should any portion of this Agreement be found invalid by a court of law, the remaining portions of this Agreement shall remain in effect insofar as they can reasonably be severed from the invalid portion.

SECTION SIXTEEN **ATTORNEY’S FEES AND COSTS**

If either Party brings or commences legal action or proceeding to enforce the terms of this Agreement, the prevailing party shall be entitled to recover the costs and expenses of litigation, including reasonable attorneys’ fees.

SECTION SEVENTEEN **MISCELLANEOUS**

- a) The Parties represent that they have full authority to enter into and execute this Interlocal Agreement.
- b) The terms and conditions of this Interlocal Agreement shall extend to and bind the successors and assigns of the County and the District.
- c) The drafting of this Interlocal Agreement has been a joint endeavor between the Parties and shall not, solely as a matter of judicial construction, be interpreted more strictly against one Party than the other.
- d) In no case shall either Party be liable to the other for either consequential or special damages of any kind whatsoever, including, but not limited to, lost revenues, or any other damages of any kind relating to this Agreement.

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EXHIBIT A

Eligible Project Expenses incurred since January 1, 2025, but prior to this Agreement total approximately \$150,000 for activities including:

- Updated Design Survey - APTIM updated design survey was conducted to capture current topographic and bathymetric conditions within the project area. This data ensures accurate alignment with the renourishment template, identifies any morphological changes since the previous survey, and supports final design adjustments for optimized sand placement and project performance.
- Beach Nourishment Design Updates - Design updates by APTIM have been completed to refine the beach nourishment plan based on recent survey data, updated shoreline conditions, and regulatory requirements. Revisions included adjustments to the fill template, sand volume estimates, and construction limits to ensure alignment with project goals and maximize coastal resilience.
- Development of Plans and Specifications - Comprehensive construction plans and technical specifications were developed by APTIM to guide the beach nourishment project. These documents detail project layout, sand placement guidelines, construction methods, environmental protections, and quality control measures to ensure compliance with regulatory standards and successful project execution.
- Pre-Construction Activities including:
 - Bidding Assistance - APTIM provided bidding assistance by preparing bid documents, responding to contractor inquiries, and supporting the solicitation process. Services included issuing addenda, attending the pre-bid meeting, and reviewing bids for conformance with project requirements to help the client select a qualified and responsive contractor.
 - Pre-construction conference - APTIM facilitated the pre-construction conference to review project scope, schedule, roles, and responsibilities with the selected contractor and relevant stakeholders. This meeting ensured alignment on construction procedures, communication protocols, and regulatory compliance prior to the start of field activities.
 - Permitting Agency Coordination - APTIM coordinated with local, state, and federal permitting agencies to ensure compliance with all regulatory requirements. Activities included facilitating agency communications, addressing permit conditions, submitting required documentation, and supporting any necessary modifications to maintain project approvals and timelines.

- Contractor Coordination - APTIM provided ongoing coordination with Great Lakes Dredge & Dock Company to support efficient project execution. This included regular communication to review schedules, address technical questions, clarify design intent, and ensure adherence to project specifications and environmental requirements throughout construction.

EXHIBIT B

Turner Beach Park Use Terms and Conditions:

The following conditions must be met by the CEPD in order to obtain and maintain authorization to use Turner Beach Park as a staging site for the 2025 Project.

1. Pre-Construction Requirements

- **Pre-Construction Meeting:**

A mandatory pre-construction meeting shall be held between CEPD, its contractors, and designated representatives from the County, and City prior to any mobilization or site activity.

- The meeting must be scheduled by CEPD at least 10 business days prior to the commencement of site use.
- The meeting shall include review and approval of:
 - Site access and staging plans.
 - Proposed equipment and material storage locations.
 - Erosion and sediment control measures.
 - Protection plans for existing vegetation, infrastructure, and public access.
 - Hurricane preparedness plans
- The City will document pre-construction conditions at Turner Beach Park by taking time-stamped photographs of the site during the pre-construction meeting. Only photographs taken by the City shall be used as documentation of pre-construction conditions.

- **Permit Compliance:**

CEPD must obtain all relevant federal, state, and local permits as required in the Agreement.

2. Site Protection During Construction

- **Public Safety:**

The staging area must be clearly marked and secured to prevent public access within the staging area and ensure the area remains secured for public safety purposes throughout the duration of the project.

- **Environmental Protection:**

Measures must be implemented to minimize impacts to dune vegetation, wildlife, and adjacent natural resources. The site must be kept in good order and free of debris.

- **Damage Prevention:**

CEPD must take appropriate measures to prevent damage to fences, utilities, landscaping, or other City or County assets or amenities during construction. Any damage to fences, utilities, landscaping, or other City or County assets or amenities resulting from construction activity shall be documented and fully restored by CEPD to equal or better condition as solely determined by the City.

3. Post-Construction Site Restoration

- Restoration Standards:
CEPD is responsible for restoring the staging area to its original pre-construction condition or better, including:
 - Removal of all equipment, materials, temporary fencing, and debris.
 - Regrading and stabilization of disturbed areas.
 - Replanting of any vegetation removed or damaged, using native dune species.
 - Repair or replacement of any damaged infrastructure or amenities.
- Post-Construction Inspection:
Upon completion of demobilization and restoration activities, the City shall conduct a post-construction inspection.
 - CEPD must notify the City in writing when the site is ready for final inspection.
 - The City shall have sole authority to approve or require additional restoration measures as deemed necessary.
 - Approval of the post-construction inspection is a condition of project closeout.

4. Additional Conditions

- Communication:
A designated point of contact from CEPD must be available to respond to City concerns throughout the staging period.
- CEPD is solely responsible for issuing news releases and managing public complaints related to its use of Turner Beach Park.