

CAPTIVA EROSION PREVENTION DISTRICT

RESOLUTION 2021-13

A RESOLUTION OF THE CAPTIVA EROSION PREVENTION DISTRICT APPROVING MUNICIPAL BOND LOAN SELECTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the CEPD Board has published on a duly noticed agenda, reviewed, discussed and taken public comment on Beach Renourishment Bid Selection;

WHEREAS, the CEPD Board desires to approve or approve with conditions the following attachments and course of action

NOW THEREFORE, BE IT RESOLVED by the CAPTIVA EROSION PREVENTION DISTRICT:

Section 1. The CEPD Board resolves and approves the following documents attached to this Resolution:

Approval of Synovus Bank as the bank for the municipal bond loan based upon the proposal pursuant to the attached proposal and contingent upon review from bond counsel.

Section 2. This Resolution shall take effect immediately upon adoption.

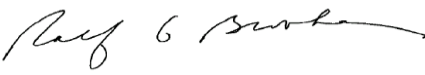
DULY INTRODUCED, PASSED AND ENACTED by the CEPD Board of Commissioners of the CAPTIVA EROSION PREVENTION DISTRICT, on Captiva Island, in Lee County, Florida on May 10th, 2021.

DocuSigned by:

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CEPD Chair, René Miville

ATTEST: DocuSigned by:

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CEPD Executive Director, Jennifer Nelson

Approved as to legal sufficiency:


CEPD Attorney, Ralf Brookes Attorney



SYNOVUS®

Government Banking Solutions

April 29, 2021

Jennifer Nelson
Executive Director
Captiva Erosion Prevention District
11513 Andy Rosse Lane,
3rd Floor, Unit 4
Captiva, FL 33924

RE: Special Assessment Loan/Line of Credit, Series 2021

We truly appreciate the opportunity to be your partner in this endeavor. As you will see, Synovus Bank understands the complex issues encountered by governmental entities. Having an experienced Government Banking Solutions team, coupled with the approach of local community relationships, we are positioned to not only provide the attached proposal, but also to assist in future needs of the Town.

With a history dating back to 1888 based on a single act of kindness, Synovus Bank has grown into a full-service financial services company that's proud to meet the banking needs of families, individuals, businesses, and governmental entities across the Southeast. Through our family of companies spanning commercial and retail banking, mortgage and investments, we're committed to building long-term relationships and providing responsive, caring service. We remain committed to the philosophies that have made us unique and successful in the markets we serve. The key to our success has been, and always will be, our service culture. Our people believe in honesty and treating people right – keeping the customer first. Our goal extends beyond solely offering products. It includes taking an advisory role and collaborating with our clients to achieve higher performance.

Our name, like our company, is unique, a word formation composed of synergy and novus. Synergy means working together – the interaction of separate components in such a way that the total is greater than the sum of the individual efforts. Novus, a Latin word, means new – usually of superior quality and different from others in the same category.

Once again, we look forward to the opportunity to be your partner. If after review, you have any questions or need additional information please feel free to contact either of us at the numbers listed below.

Respectfully,

LeeAnn Kirwin

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April 29, 2021

Jennifer Nelson
Executive Director
Captiva Erosion Prevention District
11513 Andy Rosse Lane,
3rd Floor, Unit 4
Captiva, FL 33924

RE: Special Assessment Loan/Line of Credit, Series 2021

Synovus Bank ("Bank") is pleased to consider a financing arrangement for the Captiva Erosion Prevention District (the "District") the basic terms and conditions of which are set forth below. This financing proposal is not exhaustive, and the credit facility is subject to other terms and conditions for similar transactions.

Borrower: Captiva Erosion Prevention District, (the "District")

Facility: 1) Non-Bank Qualified Tax-Exempt Draw Down Term Note
2) Non-Bank Qualified Tax-Exempt Term Note

Amount: \$18,000,000 (not to exceed)

Purpose: The proceeds of the Note(s) will be used by the District to pay for certain improvements within the boundaries of the District, and to pay the costs of issuance related to the Series 2021 Note.

Term:

- 1) The term of the Draw Period shall not exceed 12 months from date of closing. Upon expiration of the Draw Period, the draw down line shall convert to an amortizing Note over the remaining 7-year period. The term of the Note will be approximately 8 years fully amortizing.
- 2) Note will be fully funded upon closing. The term of the Note shall not exceed approximately 8 years fully amortizing.

Collateral: The principal of and interest on this Note will be payable from and secured solely by a lien upon and a pledge of the revenues derived or to be derived from the special assessments levied annually upon the properties which shall be specially benefitted by the improvements made as a result of the project.

Repayment: Semi-Annual interest payments and annual principal payments. Specific dates to be determined by District.

Interest Rate:

- 1) The interest rate will be fixed at 2.12 percent. The rate will be held until June 1, 2021. In the event the closing is delayed past that date, the rate will be reset three days prior to the scheduled closing and will include 79 percent of the prevailing Ten (10) Year Treasury Constant Maturity plus 75 basis points with a floor of 2.12 percent.
- 2) The interest rate will be fixed at 2.07 percent. The rate will be held until June 1, 2021. In the event the closing is delayed past that date, the rate will be reset three days prior to the scheduled closing and will include 79 percent of the prevailing Ten (10) Year Treasury Constant Maturity plus 70 basis points with a floor of 2.07 percent. The Treasury Constant Maturity will be as published by the Federal Reserve (<http://www.federalreserve.gov/releases/h15/update/>).

Pre-payment: The District may prepay and redeem the Note, in whole or part, at any time or from time to time, without penalty or premium, by paying to the Bank all or a part of the principal amount of the Note to be repaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. Each prepayment and redemption of such Note shall be made on such date and in such principal amount as shall be specified by the District in a written notice delivered to the Bank not less than ten days prior thereto specifying the principal amount to be prepaid and the date of such prepayment.

Fees: The District's counsel will provide documentation associated with this transaction. Documentation will be subject to the review and approval of the Bank and the Bank's counsel. The District agrees to pay all legal fees and expenses of the Bank associated with the review and closing of this transaction, which costs may be paid with proceeds of the Loan. Legal costs shall be capped at no more than \$8,500. The Bank's legal counsel for proposed transaction will be Greenspoon Marder Law.

*Affirmative
Covenants:*

For so long as any of the principal amount of or interest on the proposed Loan is outstanding or any duty or obligation of the District contemplated under the proposed Loan remains unpaid or unperformed, the District covenants to the Bank as follows:

- a) the District shall pay the principal of and interest on the proposed Note at the time and place and in the manner provided in the Note,
- b) The District shall not be modified or terminated until the Note is repaid in full.
- c) the District shall within ten days after it acquires knowledge thereof, notify the Bank in writing upon the happening, occurrence, or existence of any Event of Default, and any event or condition which with the passing of time or giving of notice, or both, would constitute an Event of Default, and shall provide the Bank with such written notice, a detailed statement by a responsible officer of the District of all relevant facts and the action being taken by the District with respect thereto,
- d) the District agrees that any and all records of the District related to the project shall be open to inspection by the Bank, or its representatives at all reasonable times at the office of the District,
- e) the District will take all reasonable legal action within its control in order to maintain its existence as a political subdivision of the State, and shall not voluntarily dissolve,
- f) the District shall promptly inform the Bank in writing of any actual or potential contingent liabilities or pending or threatened litigation of an amount limited to \$1,000,000 or greater that could reasonably be expected to have a material and adverse effect upon the financial condition of the District or upon the ability of the District to perform its obligation under the proposed Note,
- g) the District shall maintain such liability, casualty, and other insurance as is reasonable and prudent for a similarly situated Districts and shall upon request of the Bank, provide evidence of such coverage to the Bank,
- h) the District is in compliance and shall comply with all applicable federal, state, and local laws and regulatory requirements.
- i) books and records of the District shall be kept in which complete and correct entries shall be made, in accordance with generally accepted accounting principles.

*Financial
Reporting*

The District will cause a financial audit to be completed of its books and accounts for each fiscal year, beginning with the fiscal year ending September 30, 2021, and shall furnish such financial audit to the Bank within 270 days of the end of each such fiscal year. The financial audit shall be prepared in accordance with Chapter 10.550 of the Rules of the Florida Auditor General or the provisions of any successor state or rule governing Florida local governmental entity audits. In addition, the District shall adopt an annual budget as required by law and shall provide the Bank with a copy for each fiscal year not later than 45 days after the commencement thereof.

Assessments:

- a) *No Amendments.* The District shall not alter, amend or repeal the Assessment Resolutions or take any action impairing the authority given with respect to the imposition of the Assessments or the payment of the Note, without prior written approval of the Bank.
- b) *Assessment Roll.* Commencing with the tax roll adopted during the year 2021, the District shall provide to the Bank the certified assessment roll detailing the Assessments, if any, to be imposed for each tax year within 30 days of the date such roll becomes available.
- c) *Assessment Records.* The District shall maintain records with respect to the Assessments which shall be updated as Assessments are collected. The records shall detail Assessments (i) levied to date on a parcel-by-parcel basis, and (ii) collected to date. A report setting forth the foregoing information as of May 1 of each year will be provided to the Bank by May 10 of each year, and if there are any delinquent Assessments, the District will provide the Bank with another report, by September 1 of such year, updating the information in said report. Upon the occurrence of any Event of Default, the District will, upon request of the Bank, and at the expense of the District, engage the services of a consultant acceptable to the Bank to assist the District in levying the Assessments until such time as the default is cured.
- d) *Maintenance of Improvements.* All Improvements are and will be owned by the District or another political subdivision of the State of Florida and all Improvements shall be available for use by the general public on the same basis, subject only to conditions imposed by the District or another political subdivision of the State of Florida as may be necessary to protect the health safety and general welfare of the District and its inhabitants, visitors, property owners and workers or to protect such Improvements from damage, misuse, or destruction. The District shall observe and perform all the terms and conditions contained in the Act, and shall comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the Improvements. The District shall levy assessments as shall be necessary to provide for the maintenance of the Improvements.
- e) *No Liens.* The District shall not create or permit any pledge, assignment, mortgage or lien on the Assessments or any of its assets other than pursuant to the Loan Documents.
- f) *Limited Obligation.* The District promises that it will promptly pay the principal of and interest on the Note at the place, on the dates and in the manner provided and that the principal of and interest on the Note is payable from and secured solely by the Assessments, and nothing in the Note or in the Note Resolution shall be construed as pledging any other funds or assets of the District to such payment. The District is not and shall not be liable for the payment of the principal of and interest on the Note or for the performance of any pledge, obligation or agreement for payment undertaken by the District from any property other than the Assessments. The Bank shall not have any right to resort to legal or equitable action to require or compel the District to levy and collect any tax or special assessment or to keep any tax or special assessment in force, except for the Assessments, to pay principal or interest on the Note.
- g) *Pledge of Assessments.* The principal of and interest on the Note shall be payable from and secured by a lien upon the Assessments. The District shall grant a security interest in favor of the Bank in the Assessments.
- h) *Levy of Assessments.* The District will levy and assess Assessments upon the benefited lands within the District in accordance with the Act and the Assessment Resolution that are sufficient to pay the principal of and interest on the Note. Unless the Bank otherwise agrees, the District shall utilize the uniform method for the collection of the Assessments authorized by Section 197.3632, Florida Statutes. The District will take all necessary steps to levy and collect Assessments sufficient to pay the principal and interest of the Note when due.
- i) *Use of Assessments.* The District will use the proceeds of Assessments solely to pay principal of and interest on the Note and Collection Costs.

Events of Default:

An "Event of Default" shall be deemed to have occurred under this Loan Document if:

- a) the District shall fail to make any payment of the principal of or interest on the Note after the same shall become due and payable, whether by maturity, by acceleration at the discretion of the Bank, or otherwise; or
- b) the District shall default in the performance of or compliance with any term or covenant contained in the Loan Documents, which default or noncompliance shall continue and not be cured within thirty (30) days after (i) notice thereof to the District by the Bank; or (ii) the Bank is notified of such noncompliance or should have been so notified, whichever is earlier; or
- c) any representation or warranty made in writing by or on behalf of the District in any Loan Document shall prove to have been false or incorrect in any material respect on the date made or reaffirmed; or
- d) the District admits in writing its inability to pay its debts generally as they become due or files a petition in bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of a receiver or trustee for itself; or
- e) the District is adjudged insolvent by a court of competent jurisdiction, or it is adjudged a bankrupt on a petition in bankruptcy filed by or against the District, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, without the consent of the District, a receiver or trustee of the District or of the whole or any part of its property, and if the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within 90 days from the date of entry thereof; or
- f) the District shall file a petition or answer seeking reorganization or any arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or the State of Florida; or
- g) the District shall default in the due and punctual payment or performance of covenants under any obligation for the payment of money to the Bank or any other subsidiary or affiliate of the Bank; or
- h) a judgment or order shall be rendered against the District for the payment of money in excess of \$1,000,000 and such judgment or order shall continue unsatisfied or unstayed for a period of more than 30 days.

Default Rate: The "default rate of interest" shall be the lesser of five percentage points in excess of the Bank's Prime Rate of interest charged at the time of the Monetary Default or the maximum legal interest rate. The default rate of interest shall only apply for interest during the period between when the Monetary Default occurs and when it is cured by the District.

Interest Rate Adjustments: In the event the interest on the Loans become subject to federal income tax in any period **due to action or inactions of the District**, the interest rate will convert to the taxable rate during that period. The taxable rate will be calculated by dividing the then current non-bank qualified tax-exempt rate by 1 minus the effective federal tax rate. In addition, the City shall make the Bank whole for any interest, penalties, and additions to tax suffered by the Bank.

Conditions of Lending: The obligations of the Bank to lend hereunder are subject to the following conditions precedent:

- a) Documents are and shall be true and correct to the best of the District's knowledge at the time of closing.
- b) On the closing date the District shall be in compliance with all the terms and provisions set forth in the Loan Documents on its part to be observed or performed, and no Event of Default nor any event that, upon notice or lapse of time or both, would constitute such an Event of Default, shall have occurred and be continuing at such time.
- c) On or prior to the closing date, the Bank shall have received the following supporting documents, all of which shall be satisfactory in form and substance to the Bank (such satisfaction to be evidenced by the purchase of the Note by the Bank): (i) the opinion of counsel and/or bond counsel to the District, regarding the due authorization, execution, delivery, validity and enforceability of the Agreement and the Note, the District's power to incur the debt evidenced by the Note, the due adoption and enforceability of the Note Resolution and Assessment Resolutions and the due creation and existence of the District and to the effect that the Note is excluded from gross

- d) income for federal income tax purposes, and (ii) such additional supporting documents as the Bank may reasonably request.
- e) No material and adverse changes shall have occurred in the financial condition of the District.
- e) The Bank shall not be required to enter the proposed Credit Accommodation until the completion of all due diligence inquiries, receipt of approvals from all requisite parties and the execution and receipt of all necessary documentation reasonably acceptable to the Bank and its counsel. The Bank complies with the US Patriot Act of 2001 (the "Act"), including, but not limited to; those sections relating to customer identification, monitoring and reporting of suspicious activities, and the prevention of money laundering. This Act mandates that we verify certain information about the borrower and any guarantor while processing the Credit Accommodation request. Furthermore, certain assumptions are made for this proposal which, if altered, could affect the overall credit approval and or the terms of the proposed Credit Accommodation.

Waiver of Jury Trial

District and Bank knowingly, intentionally, and voluntarily waive any right which any of them may have to a trial by jury in connection with any matter directly or indirectly relating to any loan document executed in connection herewith or any other matter arising from the relationship between Bank and District.

Synovus Bank appreciates the opportunity to submit this Proposal and looks forward to your favorable response. If you have any questions or need additional information, please do not hesitate contacting either of us at the numbers below.

Respectfully,

LeeAnn Kirwin

Jim Mitchell

LeeAnn Kirwin
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Jim Mitchell
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jimmitchell@synovus.com

Agreed to and accepted this ____ day of _____, 2021.

BORROWER: Captiva Erosion Prevention District

Signature: _____

Name: _____

Title: _____