

**Lee County Board of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20041391

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approve Interlocal Agreement between Lee County and the City of Sanibel for County's interim funding of the Sanibel Public Library during the time required for establishing the Sanibel Public Library District. The term of the interlocal agreement is for one (1) year with two (2) additional one year renewal periods. Funds will be disbursed from 65% of the .6055 county library millage levied by the County and collected from property lying within the City limits of the City of Sanibel for library purposes. Authorize Chairman's signature on the Interlocal Agreement.

**WHY ACTION IS NECESSARY:** Board of County Commissioners' approval is required to finalize the agreement with the City of Sanibel.

**WHAT ACTION ACCOMPLISHES:** Finalizes the Interlocal Agreement with the City of Sanibel for Lee County's interim funding of the maintenance and operation of the Sanibel Public Library while the City of Sanibel seeks to create and establish a Sanibel Public Library District, an independent special district.

**2. DEPARTMENTAL CATEGORY:**  
COMMISSION DISTRICT #

*C12A*

**3. MEETING DATE:**

*11-02-2004*

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:**

**5. REQUIREMENT/PURPOSE:**  
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER
- Funding Agreement

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT County Manager and County Attorney
- C. DIVISION
- BY: \_\_\_\_\_

**7. BACKGROUND:** The Interlocal Agreement (attached) allows the City of Sanibel to receive 65% of the .6055 county library millage levied by the County (after payments to property appraiser and tax collector) and collected from property lying within the City limits of the City of Sanibel for library purposes. The funds will only be used to maintain and operate the library and not for library capital improvements or expenditures. -continued to next page-

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>[Signature]</i> 10/21/04	OA <i>[Signature]</i> 10/21/04	OM <i>[Signature]</i> 10/21/04	RISK <i>[Signature]</i> 10/21/04	GC <i>[Signature]</i> 10/21/04	<i>[Signature]</i>

**10. COMMISSION ACTION:**

- \_\_\_\_\_ APPROVED
- \_\_\_\_\_ DENIED
- \_\_\_\_\_ DEFERRED
- \_\_\_\_\_ OTHER

RECEIVED BY COUNTY ADMIN <i>[Signature]</i>
10/21/04 9:20 AM
COUNTY ADMIN FORWARDED TO: <i>[Signature]</i>
10/21/04 3/PM

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**Subject:** Sanibel Library Funding

The County's obligations to pay is conditioned upon Sanibel Public Library's good faith and due diligence in establishing an independent district.

The County may cancel the agreement for non-compliance reasons by giving 30 days written notice of its intent to do so and the failure of the City or Sanibel Library to cure the defect.

The term of the Interlocal Agreement is for one (1) year with the possibility of two (2) renewal periods. The agreement may not be extended or renewed if, during the first 12 months of the agreement, the Library has failed to file a bill to create the library district.

Attachment: Interlocal Agreement (4)

**INTERLOCAL AGREEMENT  
BETWEEN LEE COUNTY AND CITY OF SANIBEL  
FOR LIBRARY FUNDING**

This Interlocal Agreement is made and entered into and effective as of this 1st day of October, 2004 by and between LEE COUNTY, a political subdivision and Charter County of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the "County", with a mailing address of P. O. Box 398, Fort Myers, Florida, 33902 and the CITY OF SANIBEL, a municipal corporation of the State of Florida, by and through its City Council (hereinafter referred to as "City").

**WITNESSETH:**

**WHEREAS**, the City Council is the governing body in and for the City of Sanibel; and the Board of County Commissioners is the governing body in and for Lee County; and,

**WHEREAS**, both the County and the City are duly empowered pursuant to Florida Statutes, in particular Section 163.01, Florida Statutes, to enter into Interlocal Agreements for the sharing of certain governmental powers and obligations;

**WHEREAS**, the Parties previously entered into an Interlocal Agreement for the funding and operation of the Sanibel Public Library, which expires on September 30, 2004.

**WHEREAS**, the City of Sanibel, a municipal corporation, and the Sanibel Public Library, a private non-profit 501(C)(3) corporation, seek to create and establish, with the knowledge and consent of the County, a Sanibel Public Library District, an independent special district, with the authority to maintain library facilities, acquire property, and levy an annual tax upon all property within the district for purposes of providing the residents within the district with library facilities;

**WHEREAS**, the City seeks to extend the County's current funding of the Sanibel Public Library during the time required for the creating of the above described independent special district;

**WHEREAS**, the County's interim funding of the library serves a public purpose that will benefit persons residing within and visiting Lee County and the City of Sanibel, which is located within Lee County, Florida; and

**NOW, THEREFORE**, in consideration of the foregoing, and of the mutual covenants and conditions hereinafter set forth, the City and the County, intending to be legally bound, hereby agree as follows:

**SECTION ONE: PURPOSE**

The City and County do hereby agree to enter into this funding agreement to insure interim funding of a library within the City of Sanibel during the creation and establishment of the Sanibel Public Library District. The County has knowledge of and consents to the Library's efforts to create the independent special district. The County's funding obligation to the City will be subject to the provisions and conditions as further set forth in this agreement.

**SECTION TWO: TERM**

2.1 The term of this agreement shall commence from the recited date of the agreement above and shall continue for one (1) year. This agreement may be renewed and extended for two (2) additional one (1) year periods upon written agreement of both parties, and only if the Sanibel Public Library (hereinafter "Library") has secured the following at a minimum:

- (a) during the first year of this agreement, the bill to create the library district has been filed with the Florida Legislature and sent to the applicable Legislative Committees for its passage;
- (b) if not passed during the first year, during the second year of this agreement (first extension), the Library District bill is passed by both Legislative Chambers and the library district is created;
- (c) during the third year of this agreement (second extension), the library district complies with the special district provisions contained in Chapter 189, Florida Statutes (2004), also known as the Uniform Special District Accountability

Act of 1989, by registering, within 30 days after the district's creation date, with the Special District Information program and with all other laws relating to a special district with taxing authority.

2.2 The City and Sanibel Library will proceed in good faith and due diligence to satisfactorily complete the conditions set forth in Section 2.1(a)-(c) above.

2.3 The City will keep all such records and will document to the County, as requested by the County, the City's and Sanibel Public Library's fulfillment of the requirements above by providing the County with a written progress report in August of each year the agreement is in effect.

2.4 If either the City or Sanibel Public Library are unable to comply with any of the conditions set forth in Section 2.1(a)-(c) above, then the City, Library and County will meet no later than sixty (60) days prior the expiration of this agreement to discuss any amendment to, extension of, or cancellation of this funding agreement.

2.5 In addition to the requirements and obligations of the City provided above, the City shall, upon the Sanibel Public Library's (1) creation as a special independent district, and (2) registration with the Special District Information Program, notify the County in writing within ten (10) days of such events.

2.6 The County will not provide any further funding hereunder and will no longer levy County ad valorem taxes for library purposes upon property located within the new library district as of the beginning of the calendar year in which the district levies ad valorem taxes.

**SECTION THREE: COUNTY'S CONDITION ON PAYMENT OBLIGATIONS**

3.1 The County will disburse to the City 65% of the .6055 county library millage levied by the County (after payments to Property Appraiser and Tax Collector) and collected from property lying within the City limits of the City of Sanibel for library purposes contingent upon the Sanibel Public Library's compliance with the conditions set forth in Section Two above. In no event shall County authorize said funds if such conditions are not fully met. The County's obligations to pay to the City 65% of the net

property taxes is thus expressly subject to and conditioned upon Sanibel Public Library's good faith and due diligence in satisfactorily completing the conditions as set forth above.

3.2 The City shall use said funds only to maintain and operate the library within the City of Sanibel. Such funds shall not be used for library capital projects or for a sinking fund for capital improvements except the lending collection, furniture and equipment needed for library operations, repairs and landscaping. The City shall not, in addition, receive or share in any State or Federal library funds granted to the County Library System.

**SECTION FOUR: DISBURSEMENT**

4.1 Disbursement of County funds to the City hereunder will be made subsequent to the actual collections of property taxes. No funds will be disbursed unless and until the appropriate collection has been made by the County. Disbursements, if any, by the County to the City will be made no later than January 1, May 1, and September 15 of each year that this agreement is in effect.

4.2 Both parties agree to be strictly accountable for all revenues collected and/or disbursed. The City will provide a separate accounting for the disbursements by the County for the Library, which will be available to the County for audit and other purposes.

**SECTION FIVE: FILING**

This Interlocal Agreement and any subsequent amendments hereto shall be filed with the Lee County Clerk of the Circuit Court, Minutes Department, and the Clerk of the City.

**SECTION SIX: NOTICES**

Any notices or other documents permitted or required to be delivered pursuant to this Interlocal Agreement, shall be delivered to the County at the Office of the County Manager and to the City, at the Office of the City Manager.

**SECTION SEVEN: HOLD HARMLESS**

7.1 The City shall be responsible to the County for all liability insurance, property insurance, for the building and its contents, disability, workers' compensation, pensions and relief and any other coverage necessary to protect the health, safety and welfare of persons in and about the Library and the County's interest therein. Each party (City and County) shall be liable for its own actions and negligence and, to the extent permitted by law, City shall indemnify, defend and hold harmless the County against any actions, claims or damages arising out of City's negligence in connection with this agreement. County shall indemnify, defend and hold harmless the City against any actions, claims, or damages arising out of County's negligence in connection with this Agreement. The City agrees to indemnify the County against any and all claims, demands, and judgments arising from the subject matter of this Agreement or by Sanibel Public Library's operation or maintenance of said library.

7.2 The Parties agree that by execution of this Agreement, no Party will be deemed to have waived its statutory defense of sovereign immunity, or increased its limits of liability as provided for by Florida Statutes 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: LIBRARY STAFF**

The City agrees to be responsible for the training, hiring and providing of sufficient qualified personnel to operate and maintain the Library. Said personnel shall not be considered employees or agents of the County.

**SECTION NINE: AUDITABLE RECORDS**

9.1 The County, its various Departments and all parties entering into agreements with the County that involve public funds, are subject to audit by the Lee County Clerk of Courts as the Ex Officio Clerk to the Board of County Commissioners. As such, if public funds are provided to the Sanibel Public Library, they are also subject to audit by the Clerk of the Courts. The Sanibel Public Library intends to, and will use its best

efforts to, comply with all local, state and federal laws, rules and regulations governing the payment of any applicable taxes, general accounting principles and charitable corporations. The City will comply with all reasonable requests made by the Lee County Clerk of Courts to examine the Sanibel Public Library's books and records that are kept relative to this agreement in order to verify the payment of any taxes, as applicable, or fees and compliance with the terms and obligations of this Agreement.

9.2 The County, at all reasonable times, may examine the Sanibel Public Library's business records in order to among other matters, monitor and verify the continuation of the Library's I.R.S. Code § 501(c)(3) status with the Internal Revenue Service, or any pending application thereof. The County may immediately terminate this Agreement if the City or Sanibel Public Library refuses to permit access to County representatives for such examinations.

9.3 The Library intends to have its own annual audits performed, at its own expense, and will furnish a copy of such audits to the County upon request by the County. In addition, should the Clerk of Courts perform an annual audit of the Library, such audit will be at the sole expense of the County.

#### **SECTION TEN: CANCELLATION AND TERMINATION**

10.1 This agreement and the County's obligation to provide any funding or payments to the City per Section Three above is subject to cancellation by the County upon the County providing 30-days prior written notice of the City's or Sanibel Library's failure to timely comply and complete the items in Section Two per the time lines provided therein and the failure of the Library to cure within thirty (30) days thereafter. County's exercise of its cancellation rights in this section will not waive or preclude County from exercising its termination rights in Section 10.2, below.

10.2 Failure of City or Sanibel Library to materially comply with any of the provisions of this agreement, including any misuse or improper usage of the funds shall be deemed a material breach hereof and, upon notice of such material breach to the City by the County, this contract may be immediately terminated, at the sole discretion of the County. City shall be obligated to repay all such misused or improperly used



sums to the County. Any breach of this agreement will be provided in writing to the City by the County via certified U. S. Mail.

10.3 Either City or County may terminate or cancel this agreement by providing ninety (90) days prior written notice to the non-terminating Party upon the occurrence of the events set forth in Section 2.5 above and the Library's ability to levy such taxes for library purposes.

**SECTION ELEVEN: WAIVER OR MODIFICATION**

There shall be no waiver or modification of this agreement or of any covenant, condition, or limitation herein contained unless mutually agreed upon by the County and the City and reduced to written amendments to this agreement.

**SECTION TWELVE: SEVERABILITY**

If any provision, or any portion thereof contained in this agreement is held unconstitutional, invalid or unenforceable by a court of competent jurisdiction, the remainder of this agreement, or portion(s) thereof, shall be deemed severable, and shall not be affected by such determination and shall remain in full force and effect.

IN WITNESS WHEREOF, the City and the County have executed this Interlocal Agreement on the day, month and year first written above.

ATTESTED:

CHARLIE GREEN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

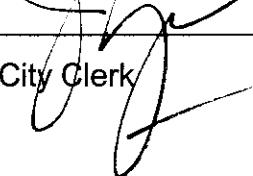
BOARD OF COUNTY  
COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Chairman

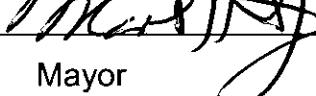
APPROVED AS TO FORM:

By: \_\_\_\_\_  
County Attorney's Office

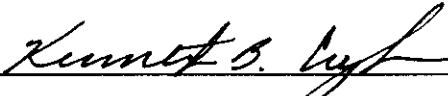
ATTESTED:

By:  \_\_\_\_\_  
City Clerk

CITY OF SANIBEL, FLORIDA

By:  \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

By:  \_\_\_\_\_  
City Attorney's Office