

**COASTAL BEND BAYS & ESTUARIES PROGRAM  
INTERLOCAL AGREEMENT**

~~JUNE 21, 1999~~  
JANUARY 1, 2019

**PREAMBLE**

This **COASTAL BEND BAYS & ESTUARIES PROGRAM INTERLOCAL AGREEMENT** is based on ~~six~~seven basic principles:

- Governance of the Coastal Bend Bays & Estuaries Program ("CBBEP") will include local governments, based on their financial participation, State and Federal resource agencies, and other diverse stakeholders.
- Local government participation is purely voluntary. A local government can withdraw at any time without penalty, subject only to meeting its obligation as to any financial commitments previously made.
- The CBBEP will have no powers of taxation or regulation, nor formal permit review role. ~~CBBEP activities will only be conducted within the territorial jurisdiction of a local government with the consent of that government.~~
- The CBBEP is authorized to accept funding from Federal, State, local, and private sources to carry out its activities.
- The CBBEP will be housed and administratively supported by the Port of Corpus Christi Authority, with policy decisions made by the CBBEP's ~~Executive Council~~Board of Directors.
- This Interlocal Agreement updates the original.

**AGREEMENT**

This **COASTAL BEND BAYS & ESTUARIES PROGRAM INTERLOCAL AGREEMENT** ("Interlocal Agreement") is ~~made~~updated and entered into effective January 1, ~~1999~~2019 by and between undersigned governmental entities to create the Coastal Bend Bays & Estuaries Program, whose representatives have signed this Agreement with the authorization of their governing bodies. Reference is made to the following facts:

The Corpus Christi Bay National Estuary Program ("CCBNEP") was established in 1993 to develop a comprehensive plan to restore and protect the bays and estuaries in the program area. The CCBNEP was

governed by a management conference comprised of representatives from State and Federal agencies, local government entities, other local groups, and individuals interested in the program area. The CCBNEP is part of a national network of twenty-eight (28) estuary programs established under the Federal Clean Water Act and administered nationally by the EPA.

The management conference of the CCBNEP has developed and unanimously adopted the Coastal Bend Bays Plan (the "Bays Plan") for the program area, which was presented by Governor George W. Bush to the EPA for approval and approved by the EPA on February 26, 1999. The Bays Plan is specifically incorporated herein by reference and made a part of this Interlocal Agreement. The Bays Plan defines the program area as lands and waters within Aransas, Bee, Brooks, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Nueces, Refugio and San Patricio Counties, but focuses primarily upon the coastal counties ~~—of~~ Aransas, Kenedy, Kleberg, Nueces, Refugio, and San Patricio Counties.

The Bays Plan seeks to ensure that the Coastal Bend bays and estuaries remain a vibrant part of the region's environmental and economic landscape by preserving and enhancing their roles as a recreational resource, international seaport, and habitat for fish and wildlife.

The Bays Plan addresses the Coastal Bend Bays Priority Issues, including limited freshwater inflows into bays and estuaries, the condition of living resources, loss of wetlands and estuarine habitats, degradation of water and sediment quality, altered estuarine circulation, bay debris, and public health issues. The Bays Plan encompasses six Action Plans, including human uses, which includes actions related to bay tourism and recreation, bay debris, public health, and shoreline management; maritime commerce and dredging; habitat and living resources; water and sediment quality, which includes issues relating to point sources and nonpoint source runoff from both agriculture and urban sources; freshwater resources; and public education and outreach. In addition, the Bays Plan includes a detailed implementation strategy, governance structure, regional monitoring strategy, and Federal consistency review procedures. The Bays Plan emphasizes regional cooperation and flexibility that allows the Parties and Implementors to select the most cost-effective and environmentally beneficial bay improvement options for their communities to meet the specific goals of the Bays Plan. Promotion of viable and enhanced local economies was established as a key element of the Bays Plan.

The Parties to this Interlocal Agreement desire to adopt an organizational framework to ensure that the Bays Plan is properly and effectively implemented.

By this Interlocal Agreement, the Parties and Implementors hope to create a consensus based organization that seeks mutually agreeable solutions to problems the Parties and Implementors hold

in common. Absolutely nothing in this Interlocal Agreement is to be construed to usurp any prerogative of any unit of local government, political subdivision of the State of Texas, or State agency, nor place any restriction on such a unit. When used herein, the term "local government" shall mean a unit of general local government that is a county governed by a commissioners court, or a city or town governed by a municipal body, under the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

NOW THEREFORE, in consideration of the mutual promises contained in this Interlocal Agreement, the receipt and adequacy acknowledged by them, the Parties agree as follows:

#### ARTICLE ONE Term

1.1 Term. The term of this updated Interlocal Agreement ("Term") is for a twenty (20) year period that commenced on the first day of January, ~~1999~~2019 and shall continue from year to year thereafter, unless terminated by vote of the ~~Executive Council~~Board of Directors. If any Party gives notice of its intent to withdraw from this Interlocal Agreement, this Interlocal Agreement will remain in effect for all of the other Parties.

1.2 Review. This Interlocal Agreement and the Bays Plan shall be subject to review by the ~~Executive Council five (5)~~Board of Directors ten (10) years from the effective date, and every ~~five (5)~~ten (10) years thereafter.

#### ARTICLE TWO Basic Understandings

2.1 Bays Plan. The Bays Plan (which by definition herein includes the implementation strategy, governance structure, regional monitoring strategy, and Federal consistency review procedure) is hereby agreed to and adopted by each of the Parties. The Vision, Principles, Priority Issues, Goals, Objectives, and Action Plans in the Bays Plan are adopted by reference as the visions, principles, priority issues, goals, objectives and action plans for this Coastal Bend Bays & Estuaries Program. During the initial five (5) years of implementation from the effective date, any proposed changes to the Bays Plan shall require the unanimous approval of the ~~Executive Council~~Board of Directors. Each Party's consent is to be decided in their respective sole and absolute discretion.

2.2 Interlocal Agreement. This Interlocal Agreement is made pursuant to Chapter 791 of the Texas Government Code ("Interlocal

Cooperation Act"), to allow the Parties to carry out their commitments under the Bays Plan. This Interlocal Agreement will be used by the Parties to implement the Bays Plan. The entity, now known as the Coastal Bend Bays & Estuaries Program, was created through the Corpus Christi Bay National Estuary Program's Management Conference, and is being implemented and governed by this Interlocal Agreement. Each Party authorizes the Coastal Bend Bays & Estuaries Program, which is created by this Interlocal Agreement, to carry out the governmental functions enumerated in this Interlocal Agreement. Any proposed changes to this Interlocal Agreement shall require the unanimous approval of the ~~Executive Council~~Board of Directors and each of the Parties that are then participants in the Program.

### ARTICLE THREE Structure

3.1 Entity. The Coastal Bend Bays & Estuaries Program is an administrative agency established under this Interlocal Agreement as authorized by Section 791.013(a) of the Interlocal Cooperation Act. The CBBEP is an association of the Parties. The Parties hereby acknowledge that the CBBEP is authorized as the agent of the Parties to implement the Bays Plan, pursuant to the terms of this Interlocal Agreement. The CBBEP shall have all functions and responsibilities authorized by State law. The ~~Executive Council~~Board of Directors is authorized, but not required, to create one or more corporations under the laws of the State of Texas as either public or non-profit corporations, in which event one of the corporations may be known as the Coastal Bend Bays & Estuaries Program, Inc. If incorporated, the articles of incorporation and the by-laws of a corporation will establish an organization and a governance structure substantially as outlined in the Bays Plan and this Interlocal Agreement.

3.2 Parties. The Parties are the units of local governments and political subdivisions of the State of Texas whose representatives have signed this Agreement with the authorization of their governing bodies (the "Parties"). Each Party hereby agrees to make an annual financial contribution to the CBBEP (see Article Eight). Parties that do not have a representative serving as a member of the Estuary Council are advisory members only and assume no liability.

3.3 Implementors. The Implementors shall include: the United States Environmental Protection Agency, an agency of the federal government ("EPA"); the Texas Natural Resources Conservation Commission, an agency of the State of Texas ("TNRCC"); the Texas

General Land Office, an agency of the State of Texas ("TGLO"); the Coastal Bend Bays Foundation, a Texas non-profit corporation organized under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Bays Foundation"); the Port Industries of Corpus Christi, a trade association ("Port Industries"); and other organizations designated from time to time by the ~~Executive Council~~Board of Directors whose representatives sign an Approval or Memorandum of Understanding as evidence of their group's approval of the Bays Plan and concurrence with this Interlocal Agreement (the "Implementors"). The Implementors are other participants in the CBBEP who can not be Parties to this Interlocal Agreement under state law because they are not units of local governments, State agencies, or political subdivisions of the State of Texas, but who have executed an attached Approval or Memorandum of Understanding.

3.4 ~~Executive Council~~Board of Directors. The CBBEP ~~Executive Council~~ ("~~Executive Council~~Board of Directors") shall be comprised of the ~~ten (10) members of the Bays Council~~ as set forth in Article Four, ~~and shall function as the board of directors of the corporation, if incorporated.~~ The ~~Executive Council~~Board of Directors shall manage the property and business of the CBBEP, and shall have the policy making powers of the CBBEP, in addition to those powers explicitly set forth in this Interlocal Agreement. The ~~Executive Council shall replace~~Board of Directors has replaced the existing CCBNEP Policy Committee.

3.5 Bays Council. The CBBEP Bays Council ("Bays Council") shall be comprised of a designated representative of each of the Parties and Implementors of the CBBEP, and such additional persons designated by the ~~Executive Council~~Board of Directors from time to time. The Bays Council shall oversee the programs, projects and research of the CBBEP, with final approval of the ~~Executive Council~~Board of Directors. The Bays Council shall replace the existing CCBNEP Management Committee.

3.6 Estuary Council. The Board of Directors, Bays Council and ~~Executive Council~~other committees are jointly referred to herein and in the Bays Plan~~+~~ as the Estuary Council.

3.7 Officers. The ~~Executive Council~~Board of Directors shall elect a chair, or co-chairs, and such other officers it deems appropriate. The Bays Council shall elect a chair, or co-chairs, and such other officers as it deems appropriate. The chair of the Bays Council shall serve on the ~~Executive Council~~Board of Directors. In the event the chair of the Bays Council is already a representative on the ~~Executive Council~~Board of Directors, or if the Bays Council has co-chairs, the Bays Council shall elect a

representative to serve on the ~~Executive Council~~Board of Directors. The officers of ~~Executive Council~~Board of Directors shall serve as the officers of the Estuary Council.

3.8 Committees. The ~~Executive Council~~Board of Directors, or the Bays Council at the direction of the ~~Executive Council~~Board of Directors, may continue such existing CCBNEP advisory committees as they deem necessary, including the Scientific Technical Advisory Committee (the "STAC") and the Citizens Advisory Committee (the "CAC"), or create any standing or ad hoc committees needed to carry out the business of the CBBEP.

3.9 CBBEP Issues. The ~~Executive Council~~Board of Directors shall hire an Executive Director to administer the CBBEP, develop specific projects to implement the Bays Plan, and assist participating parties in achieving their commitments to the CBBEP. The Bays Plan describes the role of the staff in greater detail. The ~~Executive Council~~Board of Directors may delegate to the Executive Director, subject to ensuring compliance with any applicable State law, authority over personal matters, approval of purchase orders for the acquisition of personal property pursuant to the budgets approved by the ~~Executive Council~~Board of Directors, execution of procurement contracts to acquire goods and services for administration and overhead within the limits prescribed by the ~~Executive Council~~Board of Directors from time to time, and such other authority as delegated by specific resolution of the ~~Executive Council~~Board of Directors from time to time. All other power to bind the CBBEP shall vest in the ~~Executive Council~~Board of Directors to be executed by the Chair of the ~~Executive Council~~Board of Directors after appropriate resolution<sup>7</sup>.

#### 3.10 Limitations of Powers.

- a. The CBBEP, the ~~Executive Council~~Board of Directors, and the Bays Council shall have no powers of taxation or regulation, nor formal permit review role.
- b. The CBBEP shall not authorize or undertake any project within the jurisdiction of a local government, including its extra-territorial jurisdiction, ~~without~~ the consent of that government. Consent will be assumed unless written objection is specifically issued by the local government to the ~~Executive Committee~~Board of Directors.
- c. Any Party or Implementor can withdraw at any time without penalty, subject only to meeting its obligations as to any financial commitment previously made.

3.11 Bylaws. The ~~Executive Council~~Board of Directors by unanimous vote may create, adopt and amend by-laws for the governance of the CBBEP.

3.12 Open Meetings. All meetings of the ~~Executive Council~~Board of Directors, Bays Council and the Estuary Council will comply with the requirements of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, as amended, except to the extent this Agreement and the by-laws allow voting by electronic means.

3.13 Notice of Meetings. Meetings of the Board of Directors may be called by the Chair, by the Executive Director, ~~by the chair or a co-chair of a Council or Committee,~~ or by any three (3) members of ~~a Council or Committee.~~the Board of Directors. Notices shall be sent at least ~~ten (10)~~three (3) days prior to a meeting of ~~a Council~~the Board of Directors. Notices of meetings shall be in writing transmitted by electronic facsimile machine, electronic mail or sent by U.S. mail to the addresses provided in writing.

3.14 Waiver. Subject to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, as amended, any member of ~~a Council~~the Board of Directors may waive notice in writing of any meeting of such ~~Council~~Board of Directors and consent to the actions taken therein.

#### ARTICLE FOUR

~~Executive Council~~

Board of Directors

4.1 ~~Executive Council~~Board of Directors Membership. The ~~Executive Council~~Board of Directors of the Coastal Bend Bays & Estuaries Program shall consist of ~~ten (10) members of the Bays Council,~~representatives of the then participated cities, counties, entities, foundations, charities, etc., as follows:

~~a.~~

A representative of the Bays Council;

~~b.~~ A representative of Nueces County;

~~c.~~ ~~On a rotating basis, a~~ representative from ~~Aransas,~~  
~~Kleberg,~~ or San Patricio ~~Counties~~County;

~~d.~~ A representative of the City of Corpus Christi;

~~e.~~ A representative of the Port of Corpus Christi;

~~f.~~ ~~A member of the Texas Legislature chosen by a caucus of the state legislators representing the Coastal Bend Bays & Estuaries program area;~~

~~g.~~ ~~A representative of the Environmental Protection Agency;~~

~~h.~~ ~~A representative of the Texas General Land Office;~~



- ~~i.~~—A representative of the Coastal Bend Bays Foundation; and
- ~~j.~~—A representative of the Port Industries of Corpus Christi.

If chosen by the Board of Directors, additional members of the Board of Directors can be representatives of additional cities or counties, two representatives of other foundations or charities, two representatives of local universities, or four other individuals chosen by the Board of Directors.

4.2 Designated Proxy. Each member of the ~~Executive Council~~Board of Directors may designate, in writing, one or more alternate representatives (listed in the order of priority in which they shall serve) and such alternate representative so designated may vote in behalf of the regular member in the absence of the regular member.

4.3 Quorum. A quorum of the ~~Executive Council~~Board of Directors shall consist of a majority of no less than six (6) of the total membership present in person. The by-laws may allow voting by electronic means.

4.4 Majority. Unless otherwise set forth herein, any action of the ~~Executive Council~~Board of Directors, including termination of this Interlocal Agreement before the expiration of its term, shall require the approval of at least eighty-three (83%) percent of the members present and voting and at least a majority of the members of the ~~Executive Council~~Board of Directors.

4.5 Issues Reserved to ~~Executive Council~~Board of Directors. The ~~Executive Council~~Board of Directors shall exercise those powers granted in Article Three.

4.6 Non-voting Representatives. The representative of the TNRCC shall be noticed and invited to attend all meetings of the ~~Executive Council~~Board of Directors. Such invited representative shall not be considered a member of the ~~Executive Council~~Board of Directors, shall have no voting rights, but is invited to participate in discussions and provide recommendations. From time to time, the EPA or the TGLO may also elect in their sole discretion to have their representative become a non-voting representative under this Section 4.6, rather than a voting member under Section 4.1.

## ARTICLE FIVE Bays Council

5.1 Bays Council Membership. The Bays Council of the Coastal Bend Bays & Estuaries Program shall initially consist of one designated representative of each of the Parties and each of the Implementors of the CBBEP, and such other persons or representatives as are chosen by the ~~Executive Council~~Board of Directors from time to time.

5.2 Designated Proxy. Each member of the Bays Council may designate, in writing, one or more alternate representatives (listed in order of priority in which they shall serve) and such alternate representative so designated shall vote in behalf of such member in the absence of the regular member.

5.3 Quorum. A quorum of the Bays Council shall consist of a majority of the total membership present in person. The by-laws may allow voting by electronic means.

5.4 Majority. Any action of the Bays Council shall require the approval of a simple majority of those present.

5.5 Referral to the ~~Executive Council~~Board of Directors. Any member of the Bays Council may cause an item to be referred to the ~~Executive Council~~Board of Directors for final action.

#### ARTICLE SIX Functions of Coastal Bend Bays & Estuaries Program

6.1 Purpose. On behalf of, and only with the concurrence of, the Estuary Council, the CBBEP will coordinate and develop plans and programs that will protect and enhance the local environment to facilitate achievement of the Goals of the Bays Plan, produce net environmental benefits, promote efficiency, and lower costs of implementation.

6.2 Duties. The CBBEP shall:

- a. Develop and administer research and projects to carry out the Bays Plan.
- b. Develop and administer a cost-sharing monitoring program. Special emphasis should be placed on developing a cost effective method of developing data that can serve the largest possible range of program needs. Where testing or monitoring activities are contractually undertaken by the CBBEP for a State agency or a local government, the CBBEP's employees and contractors will be working on behalf of the State agency or local government requesting the services.
- c. Develop and administer programs to protect, conserve, and

- restore the rich and diverse habitats in the program area, so local residents and visitors can appreciate the natural wonders of the region.
- d. Develop funding mechanisms to achieve the Goals of the Bays Plan.
  - e. Receive and administer funds received from State and Federal agencies and grants and gifts from non-government entities and individuals.
  - f. Develop recommendations on how local governments can exercise their powers, under the existing laws and constitution of the State of Texas and the United States, in a manner that promotes the enhancement of the local environment and the development of the local economy, within real world constraints on funding.
  - g. Ensure its activities are consistent with the Texas Coastal Management Program.

6.3 Elements. In addition to the elements normally involved in weighing environmental issues, while fulfilling its purpose and performing its duties, the CBBEP shall consider as elements in the decision making process the following elements of concern to local governments and citizens:

- a. Assisting local governments in their efforts to improve the health, safety, and general welfare of the local residents and visitors and improve the regional transportation infrastructure; drainage systems; sanitary sewers and treatment systems, including on-site treatment systems; recreational facilities; growth and development of local industries and agriculture; standard of living of local residents; and local economies.
- b. The development of practical, cost-effective solutions to allowing continued residential, commercial, industrial, and agricultural development in the region, while limiting the adverse impacts of such development on the local environment.
- c. The needs of the participating State agencies and local governments, including assisting them achieve their required monitoring and testing through contract assistance and administration.

6.4 Permitted Activities. The CBBEP may:

- a. When approved by the ~~Executive Council~~Board of Directors, the CBBEP may comment on proposed permits and consistency determinations. Comments on Federal consistency shall be consistent with the Bays Plan's Federal project review procedure and strategy, as provided in the Federal Project Review Report submitted by the CCBNEP.

- b. Coordinate its activities with the Coastal Coordination Council, and take actions to ensure that the Texas Coastal Management Program advances the implementation of the Bays Plan.

## ARTICLE SEVEN Responsibilities of the Parties

7.1 Interpretation of Agreement and Bays Plan. The Parties agree that this Interlocal Agreement is intended to make the Bays Plan a guide by which regulatory actions may be taken within the framework of existing rules and regulations. Thus, if a Goal of the Bays Plan is being furthered by an Action Plan, the local governments and State agencies will attempt to allow such suggested actions to occur so long as they are within the parameters of existing rules and regulations. By participation in this Interlocal Agreement, the local governments, State agencies and political subdivisions of State of Texas do not subordinate or relinquish any of their regulatory authority or the power to act independent and apart from this Interlocal Agreement.

7.2 Responsibilities of all Parties. By entering into this Interlocal Agreement, the intent of the Parties is to assure effective and timely implementation of recommended actions and to adjust strategies as needed in the future to protect the Coastal Bend bays and estuaries. To that end, each of the Parties hereby agrees to:

- a. Determine how they will contribute toward the attainment of the Goals, including their individual goals and time frames for achieving those goals~~+~~.
- b. Where they deem appropriate, submit their conceptual action plans outlining the projects, initiatives, and strategies that it will undertake to achieve the Goals for the ~~Coastal Bend~~Texas bays~~—and,~~ estuaries~~+~~ and related properties.
- c. Upon execution of this Interlocal Agreement, each Party and Implementor shall appoint an individual, and alternate, to serve as its liaison with the CBBEP on tracking and coordination the Bays Plan implementation and submit their name(s) in writing to the CBBEP.

7.3 Additional Responsibilities of the Agencies Where They Deem Appropriate.

- a. The State and Federal agencies that are Implementors herein (an "Agency" or "Agencies") endorse the goals of regulatory flexibility incorporated in the Bays Plan. The flexibility contemplated is sometimes referred to as

regulatory reinvention and is intended to facilitate achievement of the Goals of the Bays Plan to produce a net environmental benefit. The regulatory flexibility contemplated herein is an expression of intention to cooperate and to seek innovative solutions for the implementation of the Bays Plan.

- b. The Agencies agree that, to the extent that they deem appropriate and at their sole discretion, they may extend as much flexibility as is legally permissible to further the implementation of the Bays Plan.
- c. The responsibilities and roles of the implementing partners reflected in the Bays Plan are adopted herein.
- d. Each Agency shall appoint a representative to any Project Action Committee created under the Bays Plan that may fall within the scope of the Agency's regulatory authority, for the purpose of assisting the CHEEP with the implementation of the proposed project.
- e. The Agencies will consider any comments received from the Estuary Council during that Agency's regulatory review process that would facilitate the implementation of the Bays Plan.
- f. The provisions of this Section 7.3 are the expressions of the intention of the Agencies to facilitate actions contemplated by the Bays Plan, and in no manner shall it provide any right of action by any of the Parties claiming that the provisions; of this Section 7.3 have been breached.

#### 7.4 Additional Responsibilities of the Local Governments Where They Deem Appropriate.

- a. Include the goals contained in its applicable Action Plans (as they may be amended from time to time) into its comprehensive plan and needed actions in its capital improvement plans as such are further amended from time to time.
- b. Identify regulatory flexibility to be exercised by local governments in attaining Goals of the Bays Plan.
- c. The provisions of this section 7.4 are the expressions of the intention of the local governments to facilitate actions contemplated by the Bays Plan, and in no manner shall it provide any right of action by any of the Parties claiming that the provisions of this section 7.4 have been breached.

#### 7.5 Responsibilities of the CBBEP. The CBBEP shall:

- a. Serve as the coordinating body for the Action Plans and assist the Parties in gathering information necessary for

- the development of Action Plans and the subsequent implementation thereof~~+~~.
- b. Report annually to the ~~Executive Committee~~Board of Directors on the status of the implementation of Action Plans~~+~~.
  - c. Prepare, every two (2) years, an environmental monitoring report on conditions and trends in the CBBEP program area~~+~~.
  - d. Assist the Parties in locating grants and other funds to aid in implementation of the projects set forth in the individual Action Plans~~+~~.
  - e. Coordinate outreach programs to promote public participation and facilitate restoration activities that support the Goals of the Bays Plan~~+~~.
  - f. Coordinate the re-examination and updating of the Bays Plan every five (5) years~~+~~.
  - g. Promote cooperation and build consensus among the Parties~~+~~.
  - h. Track research projects~~+~~.
  - i. Develop proposed action plans to address goals not being addressed through other Action Plans~~+~~ and.
  - j. Participate through the Coastal Coordination Council in the Texas Coastal Management Program (CMP) Federal consistency review process to ensure that relevant Federally funded or permitted projects are consistent with the Goals of the Bays Plan.

Specific action to accomplish such goals must be approved by the ~~Executive Council~~Board of Directors.

## ARTICLE EIGHT

### Budgeting and Funding

8.1 Program Budget. The ~~Executive Council~~Board of Directors is responsible for establishing the budgets of the CBBEP, and shall annually review and approve the budget.

8.2 Fiscal Year. The fiscal year of the CBBEP shall be chosen by the ~~Executive Council~~Board of Directors. The CBBEP's first fiscal year will begin January 1, 1999.

8.3 Current Funding. The CCBNEP is currently funded by the EPA and the TNRCC, with some funding assistance from local governments. The TNRCC funding of the CCBNEP shall remain unchanged through August 31, 1999, at which time the Parties to this Interlocal Agreement will be responsible for the funding as set forth below. The EPA has agreed to continue its funding through September 30, 1999. It is anticipated that annual funding will continue from the EPA and the

State of Texas. It is understood that during calendar year 1999 there will be overlaps in funding and efforts that will be provided in parallel between the CCBNEP and the CBBEP.

8.4 Initial Budget. For the period commencing on January 1, 1999, and continuing through ~~December~~August 31, 1999, the initial budget is attached to this agreement as Exhibit A. Each Party agrees to the annual payment as specified in Section 8.5, payable in equal monthly payments due on or before the 10th day of each month of each year. Accelerated annual or quarterly payments are requested.

8.5 Annual Funding. In order to remain a Party to this Interlocal Agreement each Party shall make its annual cash payment, subject to appropriation by the Party, in the amount specified on the line for that Party on Exhibit B. Failure to make such payment shall automatically terminate such Party's rights and obligations under this Agreement, unless the ~~Executive Council~~Board of Directors votes to the contrary.

8.6 Financial Obligations of Parties. Each Party's financial obligations under this Agreement are limited to appropriations made by each Party in its sole discretion.

#### 8.7 Budgets.

- a. During the month of June, following preparation of a tentative budget, the ~~Executive Council~~Board of Directors shall publish a notice of its intention to adopt a tentative budget. Following an appropriate hearing, the ~~Executive Council~~Board of Directors shall adopt a tentative budget during the month of June of each year for the CBBEP covering its proposed operation and requirements for the next ensuing fiscal year.
- b. The ~~Executive Council~~Board of Directors shall give consideration to objections filed against the budget and in its discretion, may amend, modify or change the tentative budget. The ~~Executive Council~~Board of Directors, before the first day of each fiscal year, following appropriate notice and hearing, shall adopt the final budget for the CBBEP, which shall thereupon be the operating and fiscal budget for the CBBEP for the ensuing fiscal year.
- c. The ~~Executive; Council~~Board of Directors shall provide copies of the tentative budget to the Parties, as well as the Implementors, and such tentative budget shall be accompanied by the estimated annual contribution of each of the Parties.

8.8 Contract for Support Services. The ~~Executive Council~~Board of Directors may enter into a contract, or contracts, with the Port of Corpus Christi Authority, or other political subdivision or local government, to serve as the CBBEP's fiscal agent and to provide administrative support, including providing necessary office space and utilities.

#### ARTICLE NINE Miscellaneous

9.1 Default. In the event any Party or Implementor fails to make its annual cash payment pursuant to Section 8.5, such Party or Implementor's rights shall be terminated, unless the ~~Executive Council~~Board of Directors votes to the contrary, and the ~~Executive Council~~Board of Directors shall remove such non-complying Party or Implementor from this Agreement. Prior to any such vote by the ~~Executive Council~~Board of Directors, the non-complying Party or Implementor shall be given a notice of its non-compliance and an opportunity to remedy the problem within a reasonable period or to have a public hearing before the ~~Executive Council~~Board of Directors, if there is a dispute whether a default exists. If any Party or Implementor is discharged under this Section 9.1, then: a. all monies previously paid hereunder shall be conclusively deemed earned and not subject to return to such Party or Implementor; b. any future funding responsibility of such Party shall terminate; and c. this Agreement shall continue as to the remaining Parties. Provided, however, any funds paid before termination but not expended shall only be used by the CBBEP in accordance with the approved budget for which such contribution was made.

9.2 Notices. Any and all notices required or permitted to be given hereunder shall be in writing, and shall be provided if either personally delivered to the Party at the addresses set forth on its signature page, transmitted by electronic mail to the address listed, or sent by U .S. certified or registered mail, postage prepaid, return receipt requested, to the mailing address listed, all such notices being effective upon delivery to and receipt by the Parties, unless the respective Party or Parties notify all other Parties in writing in accordance herewith of a change of address and/ or representative at such address authorized to receive any and all such notices, in which case any and all such notices shall be delivered and/or mailed as aforesaid to said Party or Parties at such new address with respect to such Party.

9.3 Withdrawal of a Party. Notwithstanding anything contained in this Agreement to the contrary, any Party or Implementor hereto



shall have the right to withdraw as a Party or Implementor to this Agreement by providing thirty (30) days prior written notice to the Executive Director and the Chair or Co-Chairs of the ~~Executive Council~~Board of Directors as set forth in section 9.2, above. On the day following the end of such thirty (30) day period, the withdrawing Party or Implementor shall no longer be considered a Party or Implementor to this Agreement and its representatives will no longer be members of any council under this Agreement. If a Party or Implementor withdraws under this Section 9.3: (a) all monies previously paid hereunder shall be conclusively deemed earned and not subject to return to such Party or Implementor; (b) any future funding responsibility of such Party or Implementor for the longer of the period of such thirty (30) days or until the next fiscal year shall be required; (c) this Agreement shall continue as to the remaining Parties and Implementors; and (d) the withdrawing Party or Implementor is no longer entitled to the benefits of being a Party to this Agreement, except to the extent Paragraph 3.10b, as amended from time to time, provides all local governments with certain benefits.

9.4 No Third Party Beneficiaries. This Interlocal Agreement shall inure to the benefit of the Parties and the Implementors. This Interlocal Agreement is for the exclusive benefit of the Parties and the Implementors and shall not be deemed to be made for the benefit of any other persons not so specified.

9.5 Modification. This Interlocal Agreement may be modified, altered or amended only by a written instrument executed by the Parties to this Agreement from time to time.

9.6 Complete Agreement. This Interlocal Agreement constitutes the full, complete and wholly independent agreement among the Parties with regard to the matters addressed herein. This Interlocal Agreement also supersedes all prior agreements, understandings, representations, and statements among the Parties with respect to the matters addressed herein, either written or oral.

9.7 Severability Clause. If any clause, provision or section of this Agreement shall be held to be illegal or invalid by any court, the invalidity of such clause, provision or section shall not effect any of the remaining clauses, provisions or sections hereof, and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained herein.

9.8 Governing Law. Existing and future laws, rules and regulations

of the United States and its agencies, the State of Texas and its agencies, and the other Parties to this Agreement shall take precedence over the terms and provisions of this Agreement in case of conflict or inconsistencies between them. The laws of the United States or State of Texas appropriate and applicable, shall govern the validity, performance and enforcement of this Agreement, regardless of the state in which this Agreement is being executed.

9.9 Venue. Venue for any cause of action brought under or in relation to this Interlocal Agreement or the Bays Plan shall be in a court of competent jurisdiction in the county in the CBBEP program area in which the cause of action arose. Venue for any other cause of action brought under or in relation to this Interlocal Agreement or the Bays Plan shall be in Nueces County, Texas. Despite the other provisions of this paragraph relating to venue, a State agency may bring a cause of action under or in relation to this Interlocal Agreement or the Bays Plan in Travis County, Texas.

9.10 Public Purpose. This Agreement satisfies, fulfills and is pursuant to and for a public and municipal purpose, is in the public interest, and is a proper exercise of each Party's power and authority under each Party's individual municipal or governmental authority.

9.11 Performance Standards. None of the provisions in this Agreement shall be deemed in any manner to amend, modify or otherwise change any of the provisions or regulations or ordinances of any municipality, subdivisions of State government or governmental agency which is a Party to this Agreement to allow a performance standard less than is otherwise required under the terms of those provisions or regulations or ordinances, except as specifically provided herein.

9.12 Survival. All of the representations and warranties set forth in this Agreement shall survive the consummation of any and all of the transactions described in the Agreement and the termination of this Agreement, and shall not be deemed to be merged in the Agreement or any other instrument which may be executed and delivered pursuant to this Agreement.

9.13 Authority. None of the Parties or the Implementors has any authority to bind or make any oral or written representations on behalf of the other Parties or the Implementors with differing interests hereunder, and nothing contained in this Agreement shall constitute anyone or more of the Parties as partners with or agents for anyone or more of the other Parties.

9.14 Counterparts. This Agreement may be executed in one or more counterparts, or separate signature pages, each of which may be executed by less than all of the parties but all of which shall be construed together as a single instrument.

9.15 Binding Effect. This Agreement shall bind the successors and assigns of the Parties.

IN WITNESS WHEREOF, the Parties hereto cause this Interlocal Agreement to be executed under seal, and shall be deemed to have executed such, on the date and year first above written.

~~ACCEPTANCE OF INTERLOCAL AGREEMENT BY  
CITY OF ARANSAS PASS~~

~~The City of Aransas Pass, a Party to this Interlocal Agreement, hereby affirms the City's approval of the Coastal Bend Bays Plan, hereby agrees to the terms of the foregoing Interlocal Agreement, and pledges its support and commitment toward the realization of the Goals and Objectives of the Coastal Bend Bays Plan.~~

~~ATTEST: \_\_\_\_\_ THE CITY OF ARANSAS PASS~~

~~by: \_\_\_\_\_ by: \_\_\_\_\_  
City Secretary City Manager~~

~~Approved as to form on this the \_\_\_\_ day of \_\_\_\_\_, 2001:~~

~~By: \_\_\_\_\_  
City Attorney~~

~~City of Aransas Pass~~

~~Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
E-Mail: \_\_\_\_\_~~

~~ACKNOWLEDGMENT~~

~~STATE OF TEXAS  
COUNTY OF SAN PATRICIO~~

~~This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2001, by \_\_\_\_\_, City Manager of the City of Aransas Pass, on behalf of the City.~~

~~\_\_\_\_\_  
Notary Public, State of Texas~~