

**PARCEL 4**

**RESOLUTION BY THE CITY OF BONITA SPRINGS, FLORIDA**

**RESOLUTION NO. 12 - 13**

**RESOLUTION BY THE CITY OF BONITA SPRINGS, FLORIDA; DIRECTING THE ACQUISITION OF CERTAIN PROPERTY NECESSARY FOR THE CIP PROJECT: THE SHANGRI-LA ROAD REGIONAL DRAINAGE IMPROVEMENTS; DIRECTING THE CITY ATTORNEY OR HER DESIGNEE TO MAKE BINDING OFFERS TO ACQUIRE SAID PROPERTY BY VOLUNTARY TRANSFER; SETTING FORTH THE USE, NECESSITY AND DESCRIPTION OF SAID PROPERTY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, after consideration of the availability of alternatives, including alternative routes, the costs of the project, environmental factors, long range area planning, and safety concerns, the City of Bonita Springs has determined it is in the public interest to construct the Shangri-La Road Regional Drainage Improvements and has determined the property necessary for that use;

WHEREAS, the City of Bonita Springs therefore desires to acquire such property necessary for that use by negotiation, contract, condemnation or otherwise;

WHEREAS, the City of Bonita Springs has caused the property necessary for the Shangri-La Road Regional Drainage Improvements to be located and surveyed; and

WHEREAS, the City of Bonita Springs has caused appraisals to be prepared of the property necessary for the Shangri-La Road Regional Drainage Improvements; and

WHEREAS, based on the aforementioned appraisals, the City of Bonita Springs has determined a good faith estimate of value upon which to base a written offer of compensation to the fee owner as to the value of the property sought to be acquired and, where less than the entire property is sought to be acquired, any damages to the remainder caused by the acquisition; and

WHEREAS, the City of Bonita Springs has appropriated revenue for the Shangri-La Road Regional Drainage Improvements and for the property to be acquired.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA, that:**

## **SECTION ONE: GENERAL PROJECT DESCRIPTION**

The Capital Improvement Project provides for the construction of the Shangri-La Road Regional Drainage Improvements, beginning in the frontage of the property owned by Bonita Lakes, LLC, continuing southwesterly across Old 41 Road along the westerly boundary of the Florida Power and Light parcel to the CSX railroad right of way, southerly along the CSX right of way approximately 2,100 feet to Bonita Drive.

## **SECTION TWO: USE, NECESSITY AND DESCRIPTION OF PROPERTY**

City Council finds that the easement rights to property described in the attached Schedule I and Schedule II (collectively, "Parcel 4 DMAE"), and Schedule III and Schedule IV (collectively, "Parcel 4 TCE"), are necessary for the Shangri-La Road Regional Drainage Improvements and are being acquired for the following specific public use or purpose:

Improve public safety, increase drainage capacity and manage stormwater collection, re-distribution and temporary storage of stormwater to reduce flash flooding, costly erosion and water damage to public and private property.

## **SECTION THREE: AUTHORITY**

By virtue of the authority granted to the City of Bonita Springs by Chapters 73, 74, and 166, Florida Statutes, and by all other statutory or common law which grant to the City Council the power to proceed with acquiring property for a public use or purpose, the City Council hereby authorizes and directs the City Attorney or her designee to acquire Parcel 4 DMAE and Parcel 4 TCE by negotiation, contract, or other voluntary means, for the above-described public use or purposes necessary for the completion of the Shangri-La Road Regional Drainage Improvements.

City Council hereby authorizes and directs the City Attorney or her designee to make pre-suit offers pursuant to section 73.015, Florida Statutes, for Parcel 4 DMAE and Parcel 4 TCE, which parcels are sought to be acquired by the City. Having previously obtained an appraisal of Parcel 4 DMAE and Parcel 4 TCE, which appraisal also includes a good faith estimate upon which to base a written offer of compensation to the

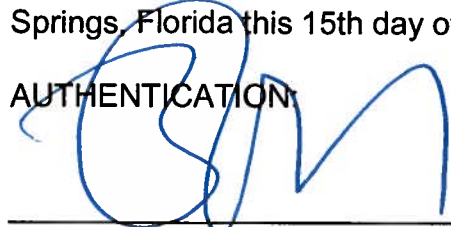
fee owner as to the value of the property sought to be acquired and, where less than the entire property is sought to be acquired, any damages to the remainder caused by the acquisition, the City Council hereby directs the City Attorney or her designee to negotiate in good faith with the fee owner(s) of Parcel 4 DMAE and Parcel 4 TCE, and to provide the fee owner(s) a written offer binding on the City of Bonita Springs in the amount of Fourteen Thousand Dollars (\$14,000). The writing containing the offer binding on the City of Bonita Springs shall include a statement that the binding offer shall be valid for 35 days after either receipt of the offer or the date the offer is returned as undeliverable by the postal authorities.

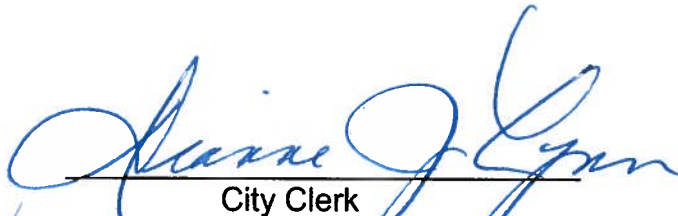
**SECTION FOUR: EFFECTIVE DATE**

This Resolution is effective immediately.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Florida this 15th day of February, 2012.

AUTHENTICATION:

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:   
\_\_\_\_\_  
City Attorney

Vote:

Lonkart	Aye	Simmons	Aye
Martin	Absent	Simons	Aye
McIntosh	Aye	Slachta	Aye
Nelson	Aye		

Date Filed With City Clerk: 2-21-12

## Schedule I

### **TERM SHEET OF INTERESTS AND RIGHTS ACQUIRED AND OBLIGATIONS FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF THE SHANGRI-LA ROAD REGIONAL DRAINAGE IMPROVEMENTS**

The following summarizes the easement interests and rights the City of Bonita Springs (hereinafter "City") shall acquire from the property owners/interest holders (hereinafter "Owner(s)") of certain real property and described in the legal description and sketch ("Schedule II") and the obligations the City has agreed to comply with in connection with such easement interests and rights:

1. The area of the easement interests and rights, to be acquired by the City are described and depicted herein and on Schedule II.

2. Schedule II describes and depicts a Drainage, Maintenance and Access Easement area. The rights acquired to such Drainage, Maintenance and Access Easement area shall be as follows:

- a. The City shall have an exclusive and perpetual easement for drainage, maintenance and access purposes, with full authority to enter upon, to excavate, to construct and to maintain, as the City and its assigns may deem necessary, a drainage system consisting of pipes, ditches, detention areas, percolation areas, disposal areas, or any combination thereof, together with appurtenant drainage facilities, over, under, upon, and through the lands described in Schedule II.
- b. The City shall have permanent and perpetual access over and upon the drainage and maintenance easement area described in Schedule II sufficient only to accomplish the purposes of such easement.
- c. The City shall have the right to use the drainage, maintenance and access easement area described in Schedule II to access other lands over which the City has a drainage, maintenance and access easement.
- d. The City may periodically repair, grade, and maintain the easement area described in Schedule II.
- e. The City and its employees, agents and assigns will have the perpetual right to clear, keep clear, and remove from said easement area all trees, undergrowth, and other obstructions that may interfere with the location,

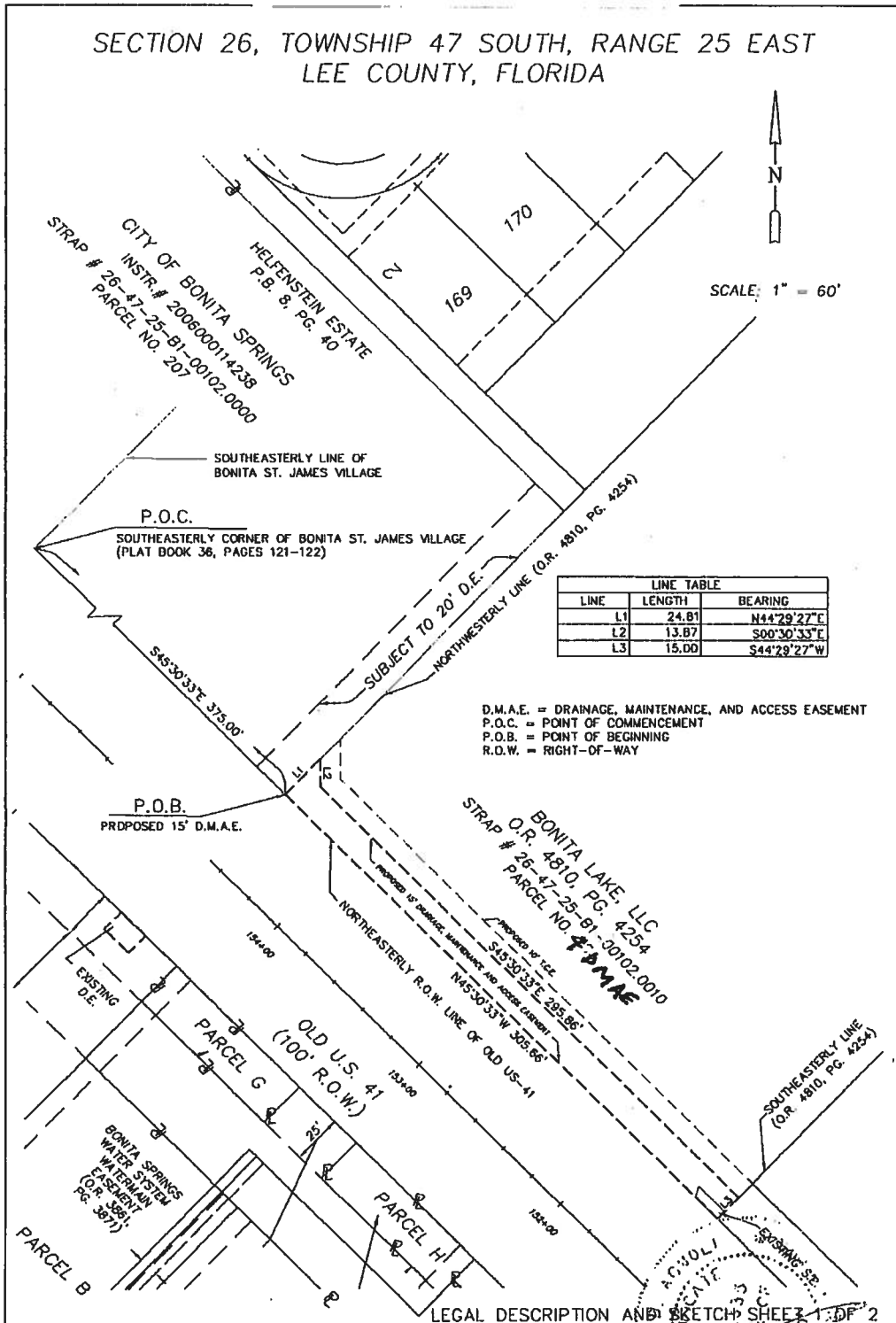
excavation, operation or maintenance of the drainage system, drainage facilities or any structures installed thereon by the City or its assigns.

- f. The City shall have the right and authority to remove and dispose of dirt, rocks and vegetation within the Drainage, Maintenance and Access Easement area.

3. Owner(s), their heirs, successors and assigns may continue to use the Drainage, Maintenance and Access Easement area for any lawful purposes that do not directly interfere with the City's acquired rights; provided, however, that Owner(s), their heirs, successors and assigns shall not construct nor permit to be constructed any building, structure, excavation or other improvement or obstruction, on, over, under, above, across, within or through the Drainage, Maintenance and Access Easement or which may interfere with the location, excavation, operation or maintenance of the drainage system, drainage facilities or any structures installed thereon or would otherwise directly interfere with the exercise by the City of its acquired easement rights, including ingress to and egress from the Drainage, Maintenance and Access Easement.

**PARCEL 4  
SCHEDULE II  
Page 1 of 2**

SECTION 26, TOWNSHIP 47 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA



LINE TABLE		
LINE	LENGTH	BEARING
L1	24.81	N44°29'27"E
L2	13.87	S00°30'33"E
L3	15.00	S44°29'27"W

D.M.A.E. = DRAINAGE, MAINTENANCE, AND ACCESS EASEMENT  
P.O.C. = POINT OF COMMENCEMENT  
P.O.B. = POINT OF BEGINNING  
R.O.W. = RIGHT-OF-WAY

THIS LEGAL DESCRIPTION AND SKETCH IS NOT A SURVEY AND IS PREPARED BY:

**AGNOLI**  
**BARBER &**  
**BRUNDAGE, INC.**  
Professional engineers, planners, & land surveyors Fax (239)544-8703  
Lee County Suite 204, 7466 Tamiami Trail, North Naples, FL 34108 (239)587-8111  
Certificate of Authorization Nos. LB 2864 and LB 2864

DESCRIPTION: 15' D.M.A.E. OF BONITA LAKE, LLC  
CLIENT: CITY OF BONITA SPRINGS, FLORIDA

REVISION:  
30 JAN 2012  
CHANGED D.E. TO  
D.M.A.E.

BY: WAYNE D. AGNOLI R.S.M.S. NO. 5335  
SCALE: 1" = 60' DATE: 18 AUG 2011  
DRAWN BY: VA PROJECT NO.: 07-0021-WM  
ACAD NO.: 10606 SD-1 FILE NO.: 10606

**PARCEL 4  
SCHEDULE II  
Page 2 of 2**

SECTION 26, TOWNSHIP 47 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

LEGAL DESCRIPTION OF A 15' DRAINAGE, MAINTENANCE AND ACCESS EASEMENT

A 15' FOOT WIDE DRAINAGE, MAINTENANCE, AND ACCESS EASEMENT OVER, UNDER AND ACROSS ALL THAT PART OF A PARCEL OF LAND LYING IN SECTION 26, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF BONITA ST. JAMES VILLAGE PHASE 1 AS RECORDED IN PLAT BOOK 36, PAGES 121-122, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT BEING ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF OLD U.S. 41; THENCE SOUTH 45°30'33" EAST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 375.00 FEET TO AN INTERSECTION WITH THE NORTHWESTERLY LINE OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORD BOOK 4810, PAGE 4254, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID INTERSECTION BEING THE POINT OF BEGINNING OF THE EASEMENT HEREIN BEING DESCRIBED;

THENCE NORTH 44°29'27" EAST ALONG SAID NORTHWESTERLY LINE OF SAID LANDS 24.81 FEET;  
 THENCE LEAVING SAID NORTHWESTERLY LINE OF SAID LANDS SOUTH 00°30'33" EAST 13.87 FEET;  
 THENCE SOUTH 45°30'33" EAST 295.88 FEET TO AN INTERSECTION WITH THE SOUTHEASTERLY LINE OF SAID LANDS;  
 THENCE SOUTH 44°29'27" WEST ALONG SAID SOUTHEASTERLY LINE OF SAID LANDS 15.00 FEET TO AN INTERSECTION WITH SAID NORTHEASTERLY RIGHT-OF-WAY LINE OF SAID OLD U.S.41;  
 THENCE NORTH 45°30'33" WEST ALONG SAID RIGHT-OF-WAY LINE 305.66 FEET TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED;

CONTAINING 4,633 SQUARE FEET OF LAND MORE OR LESS.

LEGAL DESCRIPTION AND SKETCH SHEET 2 OF 2

THIS LEGAL DESCRIPTION AND SKETCH IS NOT A SURVEY AND IS PREPARED BY:



Professional engineers, planners, & land surveyors Phone (239)396-2233  
 Collier County: Suite 230, 7400 Transcend Trail, Naples, FL 34108 (239)397-8111  
 Certificate of Authorization No. LB 3964 and ES 3884

DESCRIPTION: 15' D.E. IN BONITA LAKE, LLC

CLIENT: CITY OF BONITA SPRINGS, FLORIDA

REVISION:  
 30 JAN. 2012  
 CHANGED D.E. TO  
 D.M.A.E.

BY: *[Signature]*  
 WAYNE D. AGNOLI, R.S.M. NO. 5335

SCALE: 1" = 60' DATE: 18AUG. 2011  
 DRAWN BY: VA PROJECT NO.: 07-0021-WM  
 ACAD NO: 10606 SD-1 FILE NO: 10606

### Schedule III

#### **TERM SHEET OF INTERESTS AND RIGHTS ACQUIRED AND OBLIGATIONS FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF THE SHANGRI-LA ROAD REGIONAL DRAINAGE IMPROVEMENTS**

The following summarizes the easement interests and rights the City of Bonita Springs (hereinafter "City") shall acquire from the property owners/interest holders (hereinafter "Owner(s)") of certain real property and described in the legal description and sketch ("Schedule IV") and the obligations the City has agreed to comply with in connection with such easement interests and rights:

1. The area of the easement interests and rights, to be acquired by the City are described and depicted herein and on Schedule IV.

2. Schedule IV describes and depicts a Temporary Construction Easement ("TCE") area as follows:

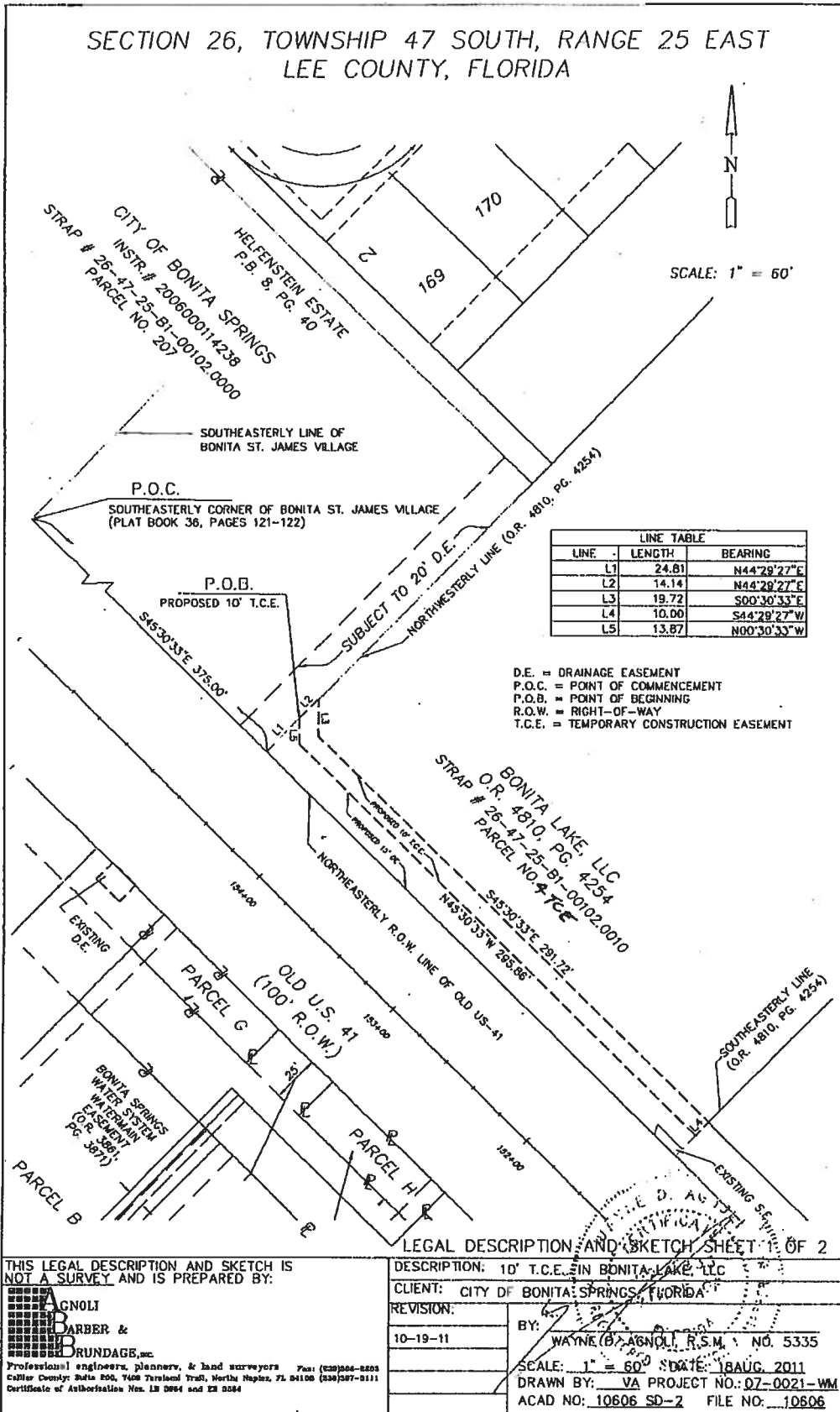
- a. The City shall have the temporary right and privilege to enter upon the lands described in Schedule IV as a temporary construction easement area for workspace, the movement, storage and staging of personnel, materials, supplies and equipment, and for the purpose of ingress and egress by such workmen, machinery and vehicles as is necessary for the construction of the drainage system, any improvements depicted in Schedule IV, and for restoring the temporary construction easement area.
- b. All the Temporary Construction Easement rights and privileges granted herein start as of the date such rights are acquired and terminate on the project completion date or eighteen months from the date such rights are acquired, whichever occurs first.
- c. Throughout the duration of the Temporary Construction Easement, the City has the right and authority to remove and dispose of dirt, rocks and vegetation within the temporary construction easement area. To the extent damage results from use by the City, its agents or contractors, the City will repair or replace with the same, like or better quality any pre-existing fences, roads, driveways, mailboxes, sidewalks, parking areas, sprinkler or irrigation systems, wells, septic tanks and septic drain fields located on the temporary construction easement area and at their original locations or as near thereto as is reasonably practicable, unless the City and the Owner(s) have previously agreed the City will pay Owner(s) for such items

instead. In addition, the City shall plant grass seed or sod on all non-paved temporary construction easement land surfaces disturbed during construction unless prohibited to do so by applicable law, regulation or permit.

3. Owner(s), their heirs, successors and assigns may continue to use the temporary construction easement area for any lawful purposes that do not directly interfere with the City's acquired rights; provided, however, that Owner(s), their heirs, successors and assigns shall not construct nor permit to be constructed any building, structure, excavation or other improvement or obstruction, on, over, under, above, across, within or through the temporary construction easement area (for as long as it shall exist) which may interfere with the location, excavation, operation or maintenance of the drainage system, drainage facilities or any structures installed thereon or would otherwise directly interfere with the exercise by the City of its acquired easement rights, including ingress to and egress from the temporary construction easement area (for as long as it shall exist).

**PARCEL 4  
SCHEDULE IV  
Page 1 of 2**

SECTION 26, TOWNSHIP 47 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA



LEGAL DESCRIPTION AND SKETCH SHEET 1 OF 2

THIS LEGAL DESCRIPTION AND SKETCH IS NOT A SURVEY AND IS PREPARED BY:

**AGNOLI BARBER & BRUNDAGE, INC.**  
 Professional engineers, planners, & land surveyors  
 Office: Suite 200, 7408 Tarzwell Trail, North Naples, FL 34108 (813)297-0111  
 Certificate of Authorization Nos. LB 0064 and EB 0064

DESCRIPTION: 10' T.C.E. IN BONITA LAKE, LLC  
 CLIENT: CITY OF BONITA SPRINGS, FLORIDA  
 REVISION: 10-19-11  
 BY: WAYNE (B) AGNOLI, R.S.M., NO. 5335  
 SCALE: 1" = 60' DATE: 18 AUG. 2011  
 DRAWN BY: VA PROJECT NO.: 07-0021-WM  
 ACAD NO.: 10606 SD-2 FILE NO.: 10606

**PARCEL 4  
SCHEDULE IV  
Page 2 of 2**

SECTION 26, TOWNSHIP 47 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

LEGAL DESCRIPTION OF A 10' TEMPORARY CONSTRUCTION EASEMENT

A 10' WIDE TEMPORARY CONSTRUCTION EASEMENT OVER, UNDER AND ACROSS ALL THAT PART OF A PARCEL OF LAND LYING IN SECTION 26, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF BONITA ST. JAMES VILLAGE PHASE 1 AS RECORDED IN PLAT BOOK 36, PAGES 121-122, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT BEING ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF OLD U.S. 91; THENCE SOUTH 45°30'33" EAST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 375.00 FEET TO AN INTERSECTION WITH THE NORTHWESTERLY LINE OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORD BOOK 4810, PAGE 4254, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THENCE NORTH 44°29'27" EAST ALONG SAID NORTHWESTERLY LINE OF SAID LANDS 24.81 FEET TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN BEING DESCRIBED;

THENCE CONTINUE NORTH 44°29'27" EAST ALONG SAID NORTHWESTERLY LINE OF SAID LANDS 14.14 FEET;  
 THENCE LEAVING SAID NORTHWESTERLY LINE OF SAID LANDS SOUTH 00°30'33" EAST 19.72 FEET;  
 THENCE SOUTH 45°30'33" EAST 291.72 FEET TO AN INTERSECTION WITH THE SOUTHEASTERLY LINE OF SAID LANDS;  
 THENCE SOUTH 44°29'27" WEST ALONG SAID LANDS 10.00 FEET;  
 THENCE LEAVING SAID SOUTHEASTERLY LINE OF SAID LANDS NORTH 45°30'33" WEST 295.86 FEET;  
 THENCE NORTH 00°30'33" WEST 13.87 FEET TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED;

CONTAINING 3,106 SQUARE FEET OF LAND MORE OR LESS;

LEGAL DESCRIPTION AND SKETCH SHEET 2 OF 2

THIS LEGAL DESCRIPTION AND SKETCH IS NOT A SURVEY AND IS PREPARED BY:

**AGNOJ  
BARDER &  
BRUNDAGE, INC.**  
 Professional engineers, planners, & land surveyors Phone (238)288-2250  
 Office County Suite 228, 7400 Tamiami Trail, North Naples, FL 34108 (239)597-9111  
 Certificate of Authorization Nos. LB 8284 and LB 2664

DESCRIPTION: 10' T.C.E. IN BONITA LAKE, LLC-335	
CLIENT: CITY OF BONITA SPRINGS, FLORIDA	
REVISION:	BY: WAYNE D. AGNOJ, P.E., No. 5335
10-19-11	SCALE: 1" = 60' DATE: 18 AUG 2011
	DRAWN BY: VA PROJECT NO.: 07-0021-WM
	ACAD NO.: 10606 SD-2 FILE NO.: 10606

