City Council Chambers
9101 Bonita Beach Road
Bonita Springs, Florida 34135

CITY COUNCIL
MEETING AGENDA

August 17, 2022
9:00 a.m.

If you plan to address the City Council, please complete a "Public Comment Card" located on the table outside of Chambers. Completed comment cards should be submitted to the City Clerk who sits to the left of the podium prior to the start of the meeting.

To submit your public comment in writing, please email your name, address, and comments to CITYMEETINGS@CITYOFBONITASPRINGS.ORG. **Any written public comment must be received by 4:00 p.m. on August 16, 2022.**

The City of Bonita Springs will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income, or marital status. To request an ADA-qualified reasonable modification at no charge to the requestor, please contact Lisa Roberson by calling (239) 949-6262 at least 48 hours prior to the meeting.

If a person decides to appeal a decision made by the Council on any matter at this meeting, such person must have a verbatim record of the proceeding to include the testimony and evidence upon which such appeal is to be based.

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1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Agenda
6. Mayor's Welcome
7. Public Comment on Agenda Items
8. Proclamations and Presentations:

A. Receive presentation for the Goodwin Street Pedestrian & Drainage Improvements Project from American Structurepoint, Inc., and provide direction on which design alternative to pursue. (Green Sheet No. 22-08-134)

9. Consent Agenda:

A. Authorize Resolution to accept the lone bid for Terry Street Lighting Improvements Edenbridge Court to Pine Avenue RFB 22-07 in the amount of $1,382,027.00 from Emergency One Electric, LLC, upon approval of all documents. (Green Sheet No. 22-08-133)

B. Approve the amendment of the lease agreement with Creative Expressions Study and Gallery, LLC for the use of Artist Cottage #4 for another on -year term. (Green Sheet No. 22-08-137)

C. Adopt a Resolution approving a budget transfer of $26,540 to provide additional funding for the upgrade of the City's Accounting Software. (Green Sheet No. 22-08-138)

D. Approve the Second Amendment to the Second Concessionaire Agreement with CGT Kayaks, Inc., to extend the term of the agreement for an additional one year term. (Green Sheet No. 22-08-139)

E. Approve contract agreement between the City and the Florida Department of Economic Opportunity for Community Development Block Grant – Mitigation (CDBG-MIT) for the East Terry Street Stormwater and Multi-Use Project – Contract Agreement - #MT119. (Green Sheet No. 22-08-140)

F. Approve First Amendment to Master Interlocal Agreement regarding distribution of Local Option Fuel Tax. (Green Sheet No. 22-08-142)

- Opportunity for City Council Comments on Consent Agenda

10. Mayor and Council Member Items:

A. Continued discussion of proposed lighting and landscaping enhancements for the Banyan tree across from Riverside Park. (Corrie; Green Sheet No. 22-08-143)

11. Public Hearing:

A. (Second Reading and Public Hearing) AN ORDINANCE OF THE CITY OF BONITA SPRINGS; EXTENDING THE ELECTRIC UTILITY FRANCHISE FOR FLORIDA POWER AND LIGHT COMPANY; AND PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet No. 22-08-131)

B. (Second Reading and Public Hearing) AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA RELATING TO THE LOCAL COMMUNICATIONS SERVICES TAX RATE; PROVIDING FOR INTENT; PROVIDING FOR LOCAL COMMUNICATIONS SERVICES TAX RATE; AND PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. (Green Sheet No. 22-08-130)

12. City Attorney's Items:

13. City Manager's Items:

A. Authorize Community Development to prepare Land Development Code (LDC) amendments to Chapters 3 (Development Standards) and 4 (Zoning). (Green Sheet No. 22-08-141)

B. Presentation and review of the June Financial Report. (Green Sheet No. 22-08-135)

C. Discussion on the current FY2022-2023 draft budget. (Green Sheet 22-08-132)

14. Mayor and Council Member Reports

15. Approval of the Minutes: 7/06/22

16. Public Comment

17. Adjournment

CITY OF BONITA SPRINGS Green Sheet No. 22-08-134
AGENDA ITEM SUMMARY August 17, 2022

REQUESTED MOTION: Receive presentation for the Goodwin Street Pedestrian & Drainage Improvements Project from American Structurepoint, Inc. and provide direction on which design alternative to pursue.

REQUESTOR: Matt Feeney, Assistant City Manager

AGENDA: Presentations

STRATEGIC PRIORITY: #1 Improve Storm Water Management, #2 Transportation, #5 Community Aesthetics

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BACKGROUND: July 21, 2021, Council approved staff's recommendation to negotiate with American Structurepoint, Inc. for the Goodwin Street Pedestrian & Drainage Improvements Project.

April 13, 2022, American Structurepoint conducted a public input workshop. Alternatives and project concepts were presented, and public input was received at the workshop.

American Structurepoint has reviewed the comments from the public input workshop and has prepared a presentation to report those findings to City Council and request direction to proceed to the next step in the design process: development of 60% design plans, environmental permitting, and right-of-way engineering. Three alternative routes for the roadway have been studied and will be presented to the Council. The Council must give due consideration to the relevant factors including, but not limited to: (1) the availability of alternative routes, (2) costs, (3) environmental factors, (4) long-range area planning, and (5) safety considerations. *Pasco County v. Franzel, 569 So. 2d 877 (Fla. 2d DCA 1990)*

STAFF RECOMMENDATION: To select the route and roadway Design Center Alignment and Design Alternative 2 Modified.

ATTACHMENTS: Copy of Presentation

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Debra Filipek
Department Director: Matt Feeney

Council Action: Approved __ Denied __ Deferred ___ Other______________________

Goodwin Street Pedestrian & Drainage Improvements

City of Bonita Springs Florida
Small Town Charm. Big Bright Future.

AMERICAN STRUCTUREPOINT INC.

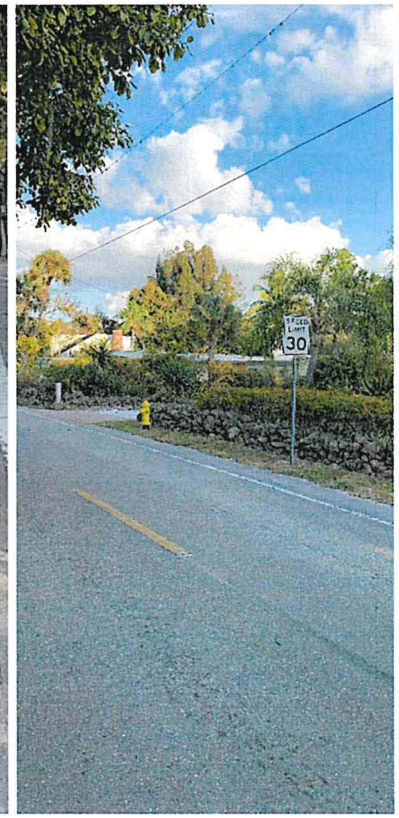
August 17, 2022

Purpose of Meeting

- Brief Overall Summary of Project
- Summary of Public Workshop and Results
- Changes based on Workshop Feedback
- Selection of Alignment/Alternative

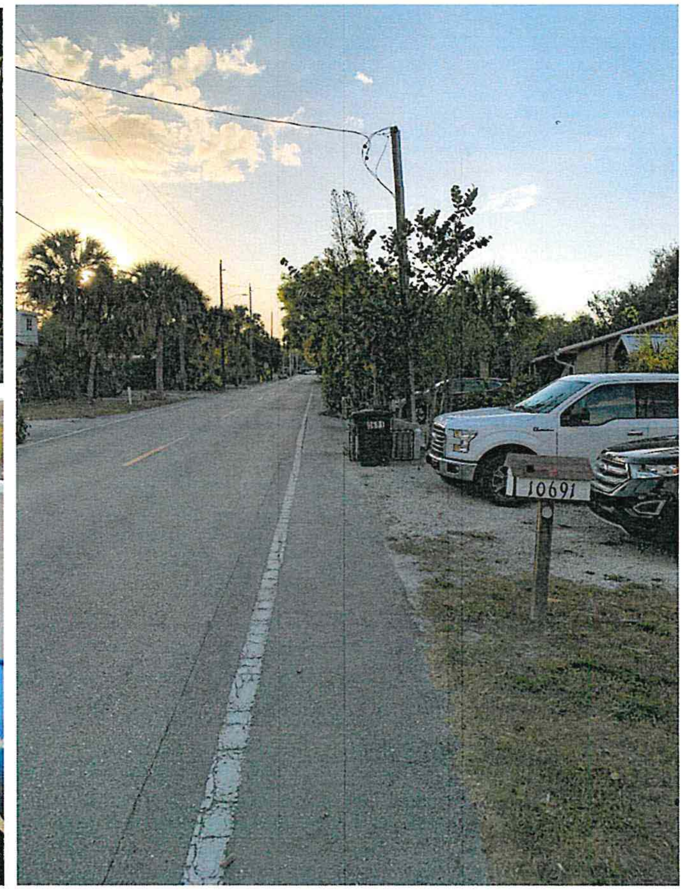
Summary of Project

- **Residential Corridor**
- **Crash History**
  - 6 crashes 2014-2019
    - 1 fatality, 1 injury, 1 bicycle
- **"High" Speeds**
  - Posted 30 mph, higher speeds observed
- **Lack of Pedestrian/Bicycle Accommodations**



Summary of Project

- 30'-50' Right-of-Way
- 2-10' Travel Lanes
- 2' Paved Shoulders
- "Open" Drainage
- Residential Driveways
- Functionally Obsolete Bridge over Leitner Creek
- Utilities Adjacent to Roadway



Project Goals

- Improve Safety
- Control Speed
- Improve Drainage and Stormwater Conveyance
- Improve the Pavement Condition
- Implement Bonita Springs Codes and Standards

Public Workshop

- Held on April 13 at City Hall
- Approximately 12 persons attended (~46 properties along Goodwin)
- Feedback from a few other residents after the meeting
- All respondents supportive of the project

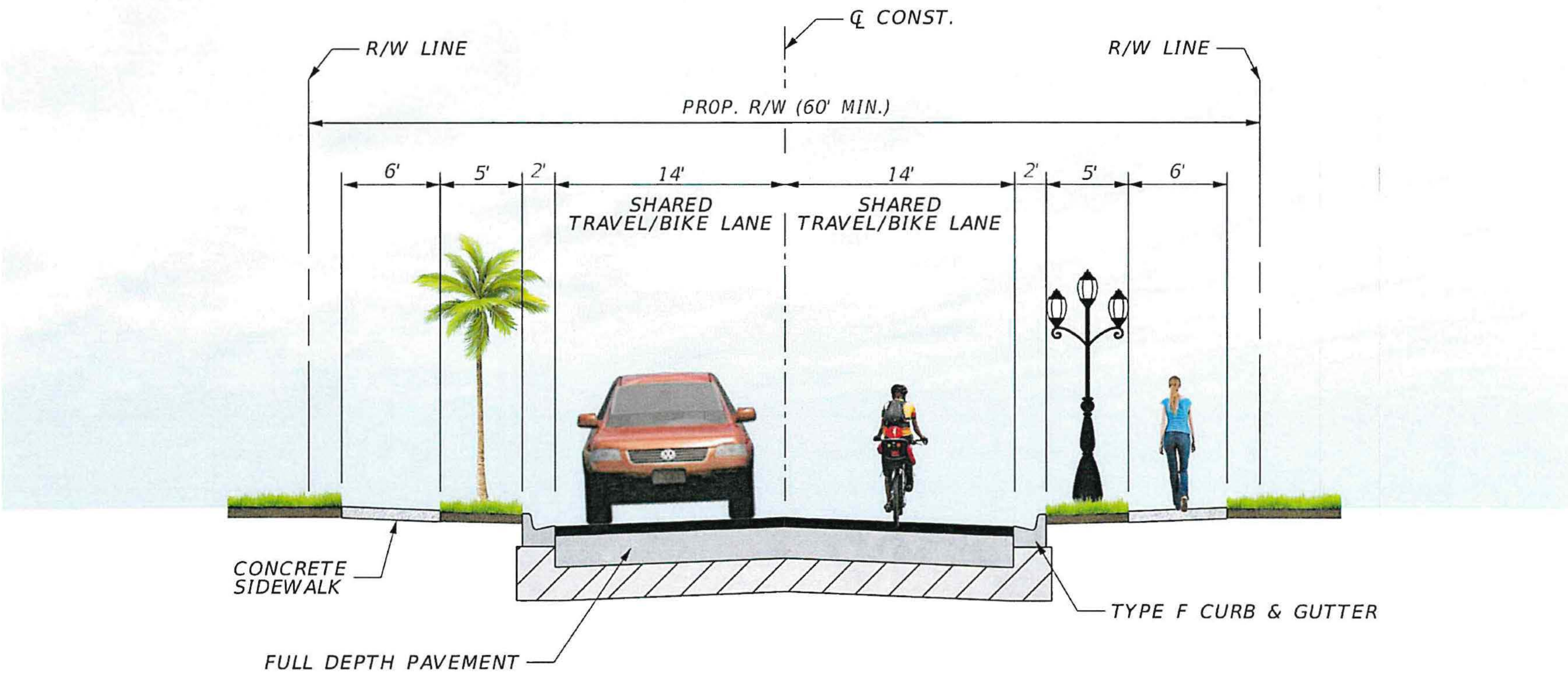
Improve Safety and Control Speed

- **Typical Section Enhancement**
  - Safely Accommodate all Modes of Transportation
- **Other Traffic Calming "Tools"**
  - Alignment Deflections
  - Add Lighting
  - Mid-Block Crossings w/ Warning Devices
  - Raised Intersections or Raised Crosswalks
  - Roundabout
  - On-Street Parking
  - Landscaping

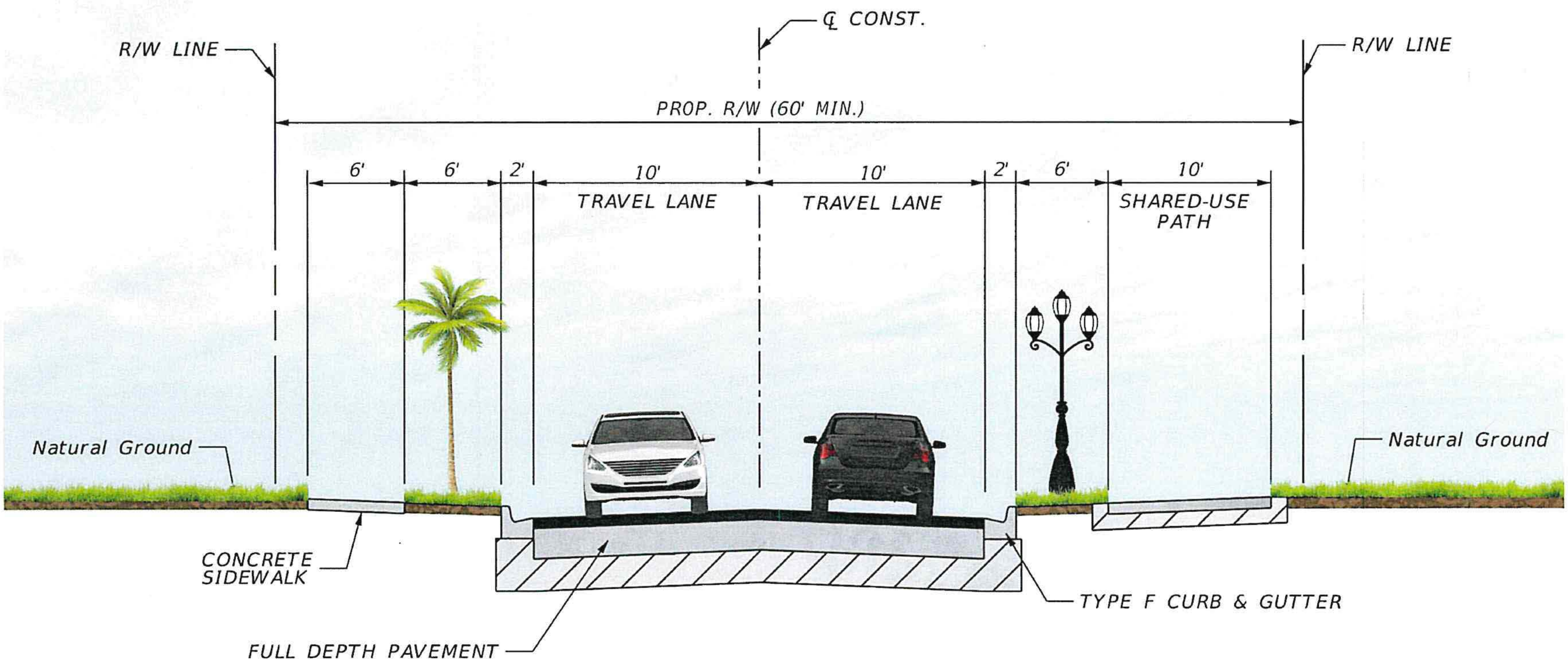
Franzel Factors for Alternatives Evaluation

- Alternatives
- Safety Considerations
- Long Range and Area Planning
- Environmental Factors
- Cost

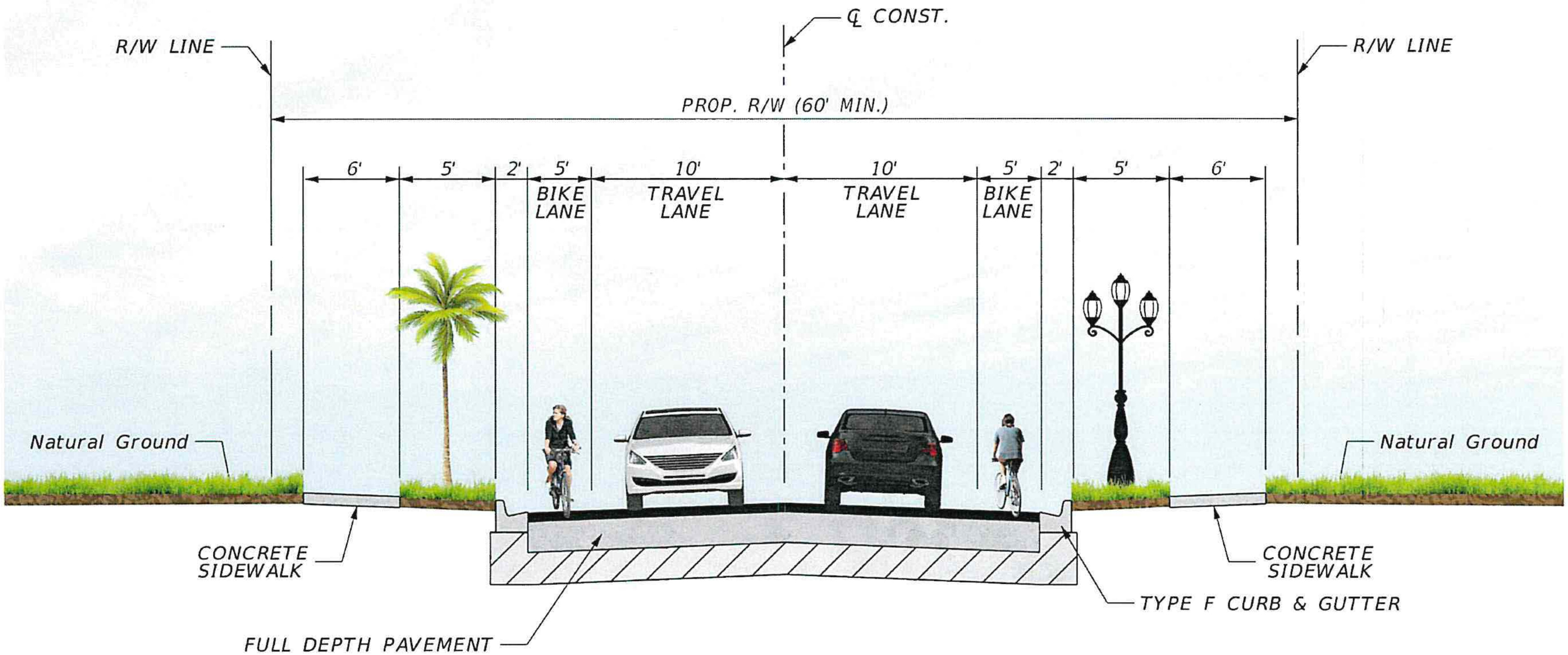
Typical Section Alternative 1



Typical Section Alternative 2



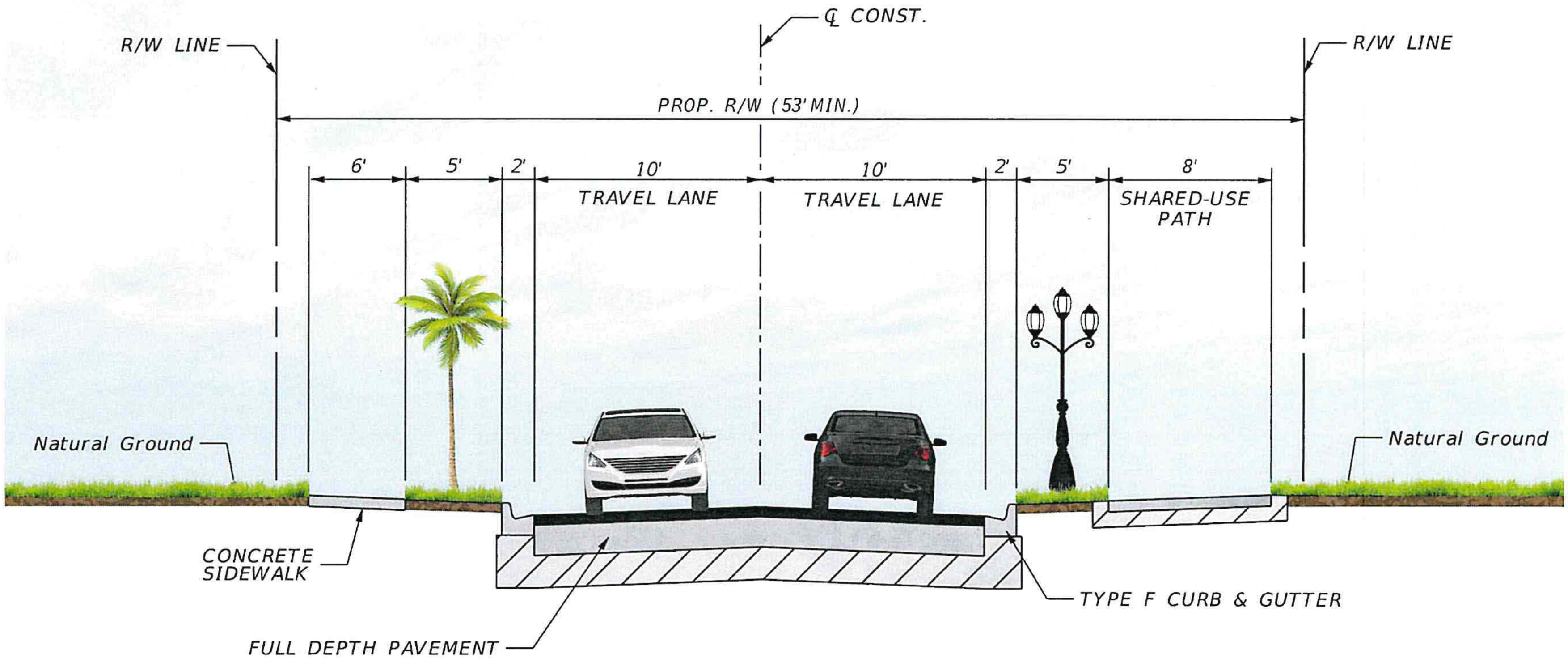
Typical Section Alternative 3



Workshop Feedback

- **Typical Section Enhancement**
  - Preferred Option 2 w/ desire to reduce R/W footprint
    - Shared use-path one side and no sidewalk on other side
- **Traffic Calming “Tools”**
  - Mid-Block Crossings w/ appropriate warning devices - liked
  - Roundabout – positive feedback
  - On-Street Parking – negative feedback (remove)
- **Additional Feedback**
  - Remove on-street parking
  - Try not to lower bridge (kayakers)
  - Nice to have better bridge aesthetics

Typical Section Alternative 2 - Modified



Alignment Alternatives

- Evaluated alignment alternatives and associated impacts with each alternative
  - Shift alignment 10' to the north
  - Shift alignment 10' to the south
  - Alignment remains on/near existing centerline
- Assess property impacts
  - damages, dwellings, costs, driveway parking, etc

Alignment Evaluation Matrix

Criteria	North Shift	South Shift	Center
Parcels Impacted	40	46	38
Est Total Takes	4	2	0
Right of Way Impacts	Max N/Min S	Max S/Min N	Minimize Both Sides
Driveway Parking Impacts	14	14	6
Relative R/W Costs	Highest	Middle	Lowest

Results of Refinements

- **Changes/Refinements**
  - Remove on-street parking
  - Reduces R/W impacts to 75% of the parcels
  - Can center the improvements about centerline of the road w/o increasing any impacts to properties
  - Reduces number of parcels impacted
  - 8' path allowed with low volume bikes and peds per design criteria
  - Path can stay on N. Side from Center St to Matheson Ave

Safety Considerations

- Accommodations for pedestrians and bicyclists
  - Sidewalk and shared-use path
  - Mid-block crossings
  - Raised crosswalks
- Roundabout at Matheson Avenue
- Lighting

Long Range Planning

- Bridge has reached its design life and should be replaced. New bridge design life 75 years
- New bridge required to accommodate new typical section

Long Range Planning

- Implement concepts/strategies consistent w/ Complete Streets Resolution 14-043 (2014)
- Consistent w/ Bonita Springs Bike and Pedestrian Master Plan (2017)
- Chapter 3 sections of the Bonita Springs Development Standards
- Consistent w/ Administrative Code Resolution 06-155 for Bicycle and Pedestrian Facilities (2006)

Environmental Factors

- Bridge replacement will have some minimal impacts to resources around Leitner Creek
- All other impacts similar for all alternatives

Cost Evaluation Matrix

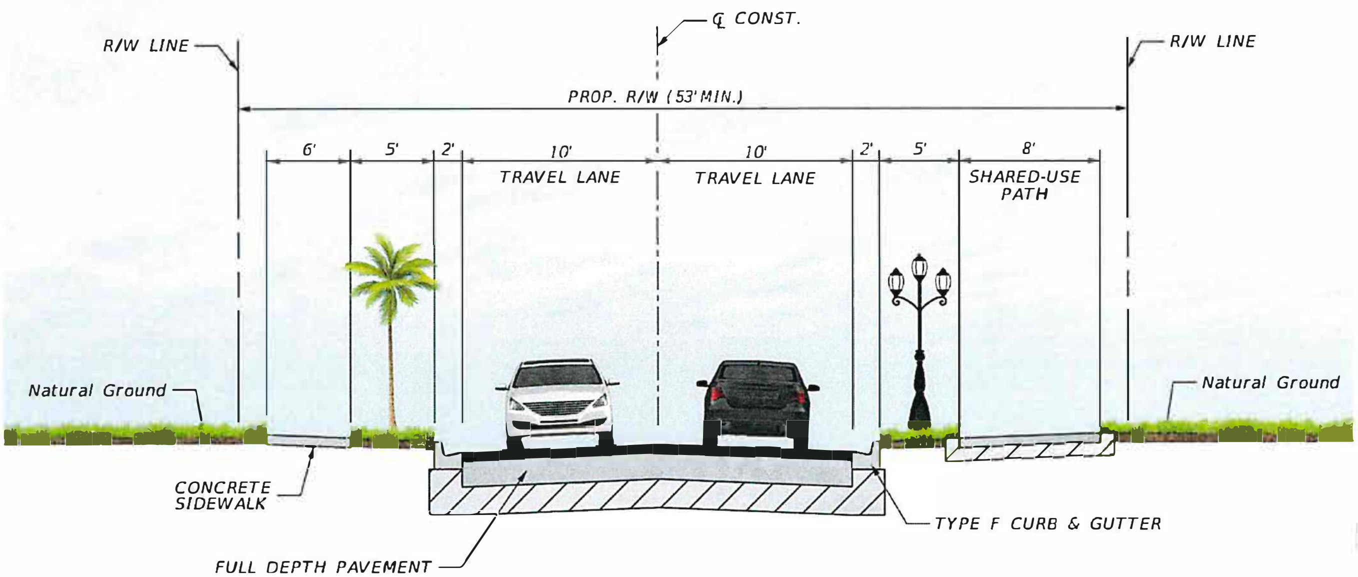
Criteria	Alternate 1	Alternate 2	Alternate 3	Alternate 2 Modified
Roadway (width)	54’-0	52’-0”	56’-0”	48’-0”
52’-0” Bridge (sft)	2280	2184	2352	1976
Right of Way (parcels)	40	46	40	38
Relative Costs	Mid/Higher	Mid/Lower	Highest	Lowest

Franzel Factor Summary

Criteria	Alternate 1	Alternate 2	Alternate 3	Alternate 2 Modified
Safety Factors	Good	Better	Better	Best
Long Range Planning	Good	Good	Good	Good
Environmental Factors	Low	Low	Low	Low
Costs	High	Middle	Highest	Lowest

Request for Approval for Design

- Typical Section – Alternative 2 Modified Recommended



CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 22-08-133
August 17, 2022

REQUESTED MOTION: Authorize Resolution to accept the lone bid for Terry Street Lighting Improvements Edenbridge Court to Pine Avenue RFB 22-07 in the amount of $1,382,027.00 from Emergency One Electric, LLC, upon approval of all documents.

REQUESTOR: Matt Feeney, Assistant City Manager

AGENDA: Consent

STRATEGIC PRIORITY: #5 Community Aesthetics

BACKGROUND: June 26, 2022, City staff advertised for sealed bids for Terry Street Lighting Improvements Edenbridge Court to Pine Avenue RFB 22-07. A mandatory pre-bid meeting was conducted July 12, 2022, with four electrical contractors in attendance.

Sealed bids were due August 4, 2022. The City received one (1) sealed bid for Terry Street Lighting Improvements Edenbridge Court to Pine Avenue RFB 22-07.

Emergency One Electric, LLC	$1,382,027.00

STAFF RECOMMENDATION: Accept bid from Emergency One Electric, LLC in the amount of $1,382,027.00 for the Terry Street Lighting Improvements Edenbridge Court to Pine Avenue RFB 22-07

ATTACHMENTS:

1. Bid Tabulation
2. Resolution

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Debra Filipek
Department Director: Matt Feeney

Council Action: Approved __ Denied __ Deferred ___ Other______________________

Bid Tabulation
West Terry St, Edenbridge Ct - Pine Ave

Emergency One Electric, LLC

	LIGHTING				Bid 1			Bid 2			Bid 3
		Unit	Quantity	Unit Price	Total		Unit Price	Total		Unit Price	Total
630-2-11	Conduit (Furnish and Install) (Open Trench)	LF	7,060	$27.00	$190,620.00						
630-2-12	Conduit (Furnish and Install) (Directional Bore)	LF	650	$27.00	$17,550.00						
635-2-11	Pull and Splice Box (Furnish and Install)	EA	19	$750.00	$14,250.00						
639-1-121	Electrical Power Service, F&I Underground. Furnish by	AS	2	$4,800.00	$9,600.00						
	Power Company										
639-2-1	Electric Power Service Wire, (Furnish and Install)	LF	200	$34.00	$6,800.00						
715-1-12	Lighting Conductor (Furnish and Install) Insulated No.8-6	LF	4,389	$33.00	$144,837.00						
715-4-11	Light Pole Complete, (Furnish and Install)	EA	59	$16,830.00	$992,970.00						
715-7-12	Load Center (Furnish and Install) Primary Voltage	EA	2	$2,700.00	$5,400.00						
	LIGHTING TOTAL				$1,382,027.00						

SERVICE SPECIFICATIONS:

1. THE ENCLOSURE SHALL BE STAINLESS STEEL AND RAIN-TIGHT. THE ENCLOSURE DOOR SHALL BE LOCKABLE BY PADLOCK AND SHALL HAVE A CONTINUOUS HINGE ALONG LEFT SIDE. NO SCREWS TO BE USED TO ATTACH THE DOOR.
2. THE TRANSFORMER SHALL PROVIDE 240V, SINGLE PHASE, 100 A, MCB, 2 WIRE SERVICE.
3. SERVICE PANEL SHALL INCLUDE LIGHTING CONTACTOR, AND 3 POSITION OVERRIDE SWITCH FOR "ON, OFF, & PHOTOCELL AUTOMATIC".
4. THE ENCLOSURE TO BE RIGIDLY ATTACHED TO THE POLE FACE.
5. A 600 VOLT SURGE ARRESTOR SHALL BE WIRED INSIDE THE ENCLOSURE.
6. ALL SERVICE EQUIPMENT SHALL BE U.L. APPROVED.

NOTES:

1. A PULL BOX IS REQUIRED AT EACH SERVICE POINT.
2. ALL CONDUIT SHALL BE RIGID OR INTERMEDIATE METAL ON ALL ABOVE GROUND INSTALLATIONS.
3. IT SHALL BE THE CONTRACTORS RESPONSIBILITY TO PROVIDE A COMPLETE SERVICE ASSEMBLY AS PER THE PLANS AND SERVICE SPECIFICATIONS.
4. THE SERVICE INSTALLATION SHALL MEET THE REQUIREMENTS OF THE NATIONAL ELECTRIC CODE, APPLICABLE LOCAL CODES, AND FDOT 2021 STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION.
5. ALL NEUTRAL WIRES TO HAVE WHITE INSULATION. DO NOT USE WHITE OR GREEN INSULATED WIRES FOR UNGROUNDED CONDUCTORS. HOT SHALL BE BLACK OR RED; GROUND SHALL BE GREEN.

Emergency One Electric, LLC.

8/4/2022

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 22 –

APPROVE RESOLUTION AWARDING TERRY STREET LIGHTING IMPROVEMENTS EDENBRIDGE COURT TO PINE AVENUE RFB 22-07 TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, EMERGENCY ONE ELECTRIC, LLC, IN THE TOTAL BID AMOUNT OF $1,382,027.00, AND AUTHORIZE THE MAYOR TO SIGN AGREEMENT, PENDING APPROVAL OF ALL DOCUMENTATION.

WHEREAS, City staff advertised for Terry Street Lighting Improvements Edenbridge Court to Pine Avenue RFB 22-07 and received one (1) sealed bid,

Emergency One Electric, LLC	$1,382,027.00

WHEREAS, the lowest responsive and responsible submittal was from Emergency One Electric, LLC in the Total Bid Amount of $1,382,027.00:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bonita Springs, Lee County, Florida:

Section 1. To enter into an agreement with the lowest responsive and responsible bidder, Emergency One Electric, LLC;

Section 2. Effective date.

This resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 17th day of August 2022

AUTHENTICATION:

____________________________ ____________________________

Mayor City Clerk

APPROVED AS TO FORM:____________________________

City Attorney

Vote:

Carr___ Corrie___
Purdon ___ Quaremba ___
Forbes ___ Steinmeyer ___
Gibson ___

Date filed with City Clerk: ________________________

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 22-08-137
August 17, 2022

REQUESTED MOTION: Approve the amendment of the lease agreement with Creative Expressions Studio and Gallery, LLC for the use of Artist Cottage #4 for another one-year term

REQUESTOR: Nicole Perino, Parks and Recreation Director

AGENDA: Consent

STRATEGIC PRIORITY: #8 Economic Development

BACKGROUND:

In 2006, City Council authorized staff to advertise a Request for Proposals (RFP) for Letters of Interest from artists and other similar type vendors for use of the six (6) historic fishing cottages at Riverside Park behind the Liles Hotels. The letters of interest were reviewed by the Art in Public Places board for the members to rank the six (6) top candidates to begin negotiations for a use agreement of each cottage. Since 2006, we have advertised a request for proposals for any vacant cottage that may be available for use. The intent of leasing the cottages to artists was to create an "artist village" that would enhance arts and culture in the downtown as well as encourage economic development in the area.

Creative Expressions Studio and Gallery, LLC would like to exercise their right to renew for another one-year term under the same terms and conditions. The agreement provides for hours of operation for special events, security, utilities, cancellation of lease, renewal option and insurance requirements. The agreement requires the artist to rent the premises for the sum of $300.00 per month from October to May and $200.00 per month from June to September, for the full term of the agreement.

STAFF RECOMMENDATION: Approve the amendment of the lease agreement with Creative Expressions Studio and Gallery, LLC for the use of Artist Cottage #4 for renewal of another one-year term.

ATTACHMENTS:

1. Lease Amendment
2. Original Agreement

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Debra Filipek
Department Director: Nicole Perino

Council Action: Approved __ Denied __ Deferred ___ Other_____________________

CITY OF BONITA SPRINGS
RENEWAL OF RIVERSIDE PARK COTTAGE USE AGREEMENTS
COTTAGE NO. 4

This Renewal of a lease agreement dated July 20, 2020, is made and entered into this 17th day of August 2022 between the CITY OF BONITA SPRINGS, a municipal corporation of the state of Florida *("lessor")*, and Creative Expressions Studio and Gallery, LLC, 24851 Bay Cedar Dr., Bonita Springs, FL 34134 ("*lessee*").

WHEREAS, the City and Lessee enter into an agreement for use of a Riverside Park Artist Cottage.

WHEREAS, it is in the public interest to amend the Agreement dated July 20, 2020, attached hereto as Exhibit "A" to continue the services for another one-year period under the same terms and conditions.

NOW, THEREFORE, inconsideration of the above premises and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties, the City and Lessee hereby agree to extend the Agreement as follows:

1. The recitals as set forth above are incorporated into the terms of this agreement as if set out herein at length.
2. Section V (B), Renewing Terms, is hereby extended in an increment of one year, to August 17, 2023.
3. All of the remaining terms in Exhibit "A", the Agreement, attached hereto, remain the same.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed Said Agreement is to become effective and operative upon filing with the City Clerk.

Lessee: ___________________________
Print name

By: ________________________________
Sign name

AUTHENTICATION:

____________________________________ ____________________________________
Mayor City Clerk

APPROVED AS TO FORM: _______________________________
City Attorney's Office

Date filed with City Clerk: ___________________

CITY OF BONITA SPRINGS
RIVERSIDE PARK COTTAGE USE AGREEMENT
COTTAGE NO. 4

THIS AGREEMENT is made this 20th day of July, 2020, between the City of Bonita Springs, a Florida municipal corporation (hereinafter, the "City"), whose address is 9101 Bonita Beach Road, Bonita Springs, Florida 34135, and Creative Expressions Studio and Gallery, LLC (hereinafter, "Tenant"), whose address is 24851 Bay Cedar Dr., Bonita Springs, Florida 34134.

WITNESSETH:

WHEREAS, the City owns certain historic fishing cottages located at Riverside Park, 27300 Old US 41 Road, Bonita Springs, Florida 34135.

WHEREAS, it is an objective for City Council that the public is able to observe a "village" of artists and craftsmen in the park; and

WHEREAS, since 2006, the cottages have been leased to artists or other similar vendors in furtherance of this objective of hosting an artist village for public viewing; and

WHEREAS, Cottage No. 4 is currently available for tenancy; and

WHEREAS, in March of 2020, the City issued an advertisement requesting letters of interest from artists or other similar vendors for use of the Cottage No. 4 (RFP 20-05); and

WHEREAS, based upon the submissions received in response to RFP 20-05, the Art in Public Places Board has determined Tenant to be the most qualified bidder for tenancy of Cottage No. 4.

NOW, THEREFORE, in consideration of the mutual covenants and considerations contained herein, the parties agree as follows:

GENERAL TERMS OF USE

1. The City hereby agrees to lease unto Tenant the Cottage No. 4 located at Riverside Park, 27300 Old US 41 Road, Bonita Springs, FL 34135 (hereinafter, the "Premises") for the business use described in the proposal submitted by Tenant in response to RFP 20-05.

2. The City shall maintain and make all exterior and structural repairs to the Premises that are not made necessary by fault of Tenant, and maintain and repair all heating, ventilating and air-conditioning equipment, all wires, pipes, conduits and other equipment or facilities for supplying heat, light, power, hot and cold water services to the Premises, all drainage and waste pipes or facilities leading from the Premises, and those portions of all outside utility lines supplying the Premises (unless the utility lines are maintained or repaired by utility companies). The City shall not be liable to Tenant for damages, nor for abatement in rent, due to the City's failure to perform work under this Agreement. The provisions of this paragraph shall not apply to any of the installations that may be installed by Tenant as subsequently provided for herein.

3. The City shall furnish adequate electricity, air-conditioning, water and all utilities; Tenant shall be responsible for its telephone, high-speed internet connections, and DSL connections.

4. The City shall furnish its security system for the grounds (Diamond Investigations and Security) and provide individual locks for each unit. Any additional security measures and associated costs shall be the responsibility of the Tenant alone.

5. Tenant shall maintain and operate the art studio in a first-class manner, in accordance with the highest standards for art studios, in furtherance of education to the public of the particular genre of art.

6. Tenant and Tenant's employees shall be clean, courteous, and neat in appearance. Tenant shall not employ any person who will violate any of the nondiscrimination terms of this Agreement.

7. In the performance of this Agreement, Tenant shall not discriminate against any worker, employee, or any member of the public, because of race, creed, color, religion, age, sex or national origin, nor otherwise commit any unfair employment practice. Tenant shall take affirmative action to ensure that employees are treated during employment without regard to their race, creed, color, religion, age sex or national origin.

8. Tenant shall similarly furnish services connected with Tenant's business on a fair, equal and nondiscriminatory basis to all customers or users.

9. Tenant agrees to be open for business during organized special events. The City shall provide fifteen (15) days' notice of any such event. Other than the mandated hours of operations described in this paragraph, Tenant may decide when it is advantageous to have the studio open for public viewing.

10. Tenant shall maintain the Premises in a clean, neat and sanitary condition, maintaining adequate and suitable receptacles for trash and refuse within the cottage and its immediately surrounding areas. Tenant shall empty trash and refuse receptacles in the dumpster as designated by the Parks and Recreation Director.

11. Tenant shall not erect or install, nor permit to be erected or installed, any signs or other similar advertising device in or upon the Premises or the building without first obtaining the written consent of the Parks and Recreation Director.

12. Tenant shall make no alterations, additions nor replacements to the Premises without obtaining prior written consent from the Parks and Recreation Director. At the time of the request, Tenant shall specifically state whether the desired modification will require new electrical or plumbing connections or any changes in the existing equipment on or in the Premises.

13. Any alterations, additions or other improvements to the Premises shall become part of the City-owned realty upon termination of this Agreement, unless removed during the course of the Agreement with written consent from the Parks and Recreation Director.

14. Tenant shall maintain the Premises in good and working order and repair, including but not limited to, all trade fixtures and equipment, furnishings, utility connections and services, mechanical and electrical arrangements, janitorial and custodian services, painting and decorating of the interior of the Premises (subject to approval of the Parks and Recreation Director), and all other related services necessary to maintain the Premises in a good, safe and sanitary condition during the term of this Agreement. Maintenance shall be at Tenant's sole expense and shall be subject to general inspection by the City to ensure a continuing quality of maintenance, health, and safety standards established by the City.

15. In the event that the Premises are not maintained by Tenant to the standards required herein, the City may enter the Premises for the purpose of curing the default of Tenant, without such entering causing or constituting a termination of this Agreement or an interference with the possession of the Premises by Tenant. Tenant agrees to pay the City all costs and expenses incurred through the curing any such default.

16. Tenant shall allow the City, or its authorized agents, access to the Premises at any reasonable hour for the purpose of inspecting or maintaining the Premises as required herein, or for any purpose necessary or connected with the exercise of its governmental functions. The City shall not be liable for any loss in business or damages of any nature to Tenant occasioned by the performance of the necessary work.

17. Tenant shall bear at its own expense all costs of operating its art studio and shall pay all other costs connected with the use of the Premises, including maintenance (except building structure, outside wall, and roof), insurance, taxes, janitorial services and supplies, and all permits and licenses required by law. TENANT SHALL ONLY USE TURPENOID AS THE CHEMICAL FOR THINNER, TURPENTINE, ETC., UNLESS NON-FLAMMABLE CHEMICALS ARE OTHERWISE AGREED UPON.

18. Tenant, Tenant's agents, all patrons and invitees, and any licensee of the Tenant shall have the right of ingress to and egress from the Premises without prior approval of the Parks and Recreation Director.

19. Tenant shall not assign, transfer, sublease, pledge, surrender, or otherwise encumber or dispose of the Premises, or any portion thereof, nor permit any other person(s), company or corporation to occupy the Premises, without first obtaining the written consent of City Council.

20. Tenant shall observe and obey all laws, ordinances, regulations and rules of the federal, state, county, and municipal governments that may be applicable to its operations. Tenant shall obtain and maintain all necessary permits and licenses for its operations. Tenant agrees to observe and obey any reasonable rule or regulation pertaining to the use of the building or related facilities that the City may adopt and enforce during the term of this Agreement.

TERM, RENT, RENEWALS & TERMINATION

21. The Term of this Agreement shall be for a period of one (1) year commencing on the date first written above, unless otherwise terminated or extended as provided for herein.

22. Tenant shall pay the City a sum of $300.00 per month as Rent for the Premises from October through May, and a sum of $200.00 per month as Rent for the Premises from June through September, due and payable on the first day of each month for the full term of this Agreement.

23. Tenant shall have the option for renewal of this Agreement so long as Tenant is not in default of any provision hereunder at the time of such election. Tenant shall provide written notice of election to renew not less than three (3) months prior to the expiration of the current term of the Agreement (original or extended). If Tenant opts to renew, the Agreement may be automatically renewed for subsequent one (1) year terms up to a maximum of three, upon all of the same terms, provisions, and conditions set forth in this Agreement.

24. In the event that Tenant holds over and remains in possession of the Premises after the expiration of this Agreement without any written renewal of the Agreement, that holding over shall not be deemed to operate as a renewal or extension of this Agreement, but shall only create a tenancy from month to month that may be terminated at any time by the City.

25. This Agreement shall be subject to cancellation by the Tenant in the event of any of the following events:
   a. The permanent abandonment of Riverside Park facility.
   b. The lawful assumption by the United States government, or its authorized agency, of the operation, control or use of the park, or any substantial part of the park, so as to substantially restrict Tenant's use of the Premises for a period of at least ninety (90) days.
   c. Issuance by any court of competent jurisdiction of any injunction in any way preventing or restraining the use of the Premises or of Riverside Park, and which remains in force for a period of at least ninety (90) days.

d. The default by the City in the performance of any covenant or provision herein required and the failure of the City to remedy that default within ten (10) days of receipt of written notice from Tenant demanding remedy of such default.
e. Upon ninety (90) days' written notice from Tenant or City.

26. Upon the termination of this Agreement by lapse of time or otherwise, except for Tenant's default, Tenant shall have the right to remove, or shall be obliged to remove upon direction from the City, all equipment, fixtures, and personal property installed by Tenant or located within the Premises (but not pipes, conduit, and wiring that Tenant may have installed and that may be affixed to or imbedded in walls, ceilings or floors). Tenant shall have thirty (30) days to remove any equipment and fixtures and personal property, and to fully restore the Premises to the condition in which it existed at the time that Tenant took possession, ordinary wear and tear excepted. After thirty (30) days, Tenant shall be deemed to have abandoned any equipment, fixtures, or personal property remaining in or on the Premises.

27. Upon the termination of this Agreement, Tenant shall have no further right to or interest in any of the leasehold improvements installed by Tenant.

28. At the expiration or termination of this Agreement, Tenant shall peaceably deliver possession of the Premises to the City in as good order and condition as it existed at the time that Tenant took possession, reasonable use and wear excepted.

DAMAGE OR DESTRUCTION OF PREMISES

29. If the Premises are damaged by fire, explosion, natural elements, the public enemy, or other casualty, but not rendered untenantable, the Premises may be repaired promptly by the City at the City's expense. If the damage is so extensive as to render the Premises untenantable and, in the City's judgment, cannot be repaired within ninety (90) days from the date that the damage occurred, the City may terminate this Agreement effective as of the date of the damage by giving Tenant written notice within thirty (30) days of the date that the damage occurred.

30. If the City does not terminate the Agreement as provided for in the paragraph above, the City shall promptly repair and restore the Premises to the condition in which it existed when originally delivered to the Tenant, and the rent payable shall completely abate from the date that the damage occurred until the Premises are substantially restored and is tenantable. If the Premises are not repaired or reconstructed within one hundred and twenty (120) days after the damage occurred, absent good cause, Tenant may give the City written notice of its intention to cancel the Agreement in its entirety as of the date of the damage.

REQUIRED INSURANCE & INDEMNIFICATION

31. Property Insurance. Tenant shall procure and keep in force a property insurance policy with special perils coverage upon its leasehold improvements, furniture, furnishings, fixtures and equipment, and business personal property to their full insurable value and shall provide the City with evidence that coverage has been procured and is being maintained in full force.

32. Workers' Compensation Insurance. The Tenant shall maintain workers' compensation insurance covering any employee whether part time, full time or casual in nature as required under Florida Statutes, including Employers' Liability Limit of $500,000. If the owner(s) and or officers are not permitted to a legal exemption, they shall also be covered as any other employee.

33. Liability Insurance. The Tenant shall maintain, throughout the term of this Agreement, a commercial general liability insurance policy with coverage limits of $1,000,000 bodily injury or property damage liability for each occurrence and $2,000,000 in the aggregate. Coverage shall include a least $50,000 fire legal liability and include products and completed operations. It is understood that the specified amounts of insurance in no way limits the liability of Tenant and that Tenant shall carry insurance in amounts so as to indemnify the City from all claims, suits, demands and actions. Tenant shall add the City as an additional insured including products and completed operations, and provide a certificate of insurance at the commencement of the lease and as often as requested by the City. Coverage shall be provided by an insurance carrier acceptable to the City.

34. Indemnification. To the fullest extent permitted by law, the Tenant shall indemnify and hold harmless the City, its consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the Tenant's fulfillment of this Agreement or the use of the Premises, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, pollution, or injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Tenant, the Tenant's subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified here under, except for gross negligence by the City.

TENANT DEFAULT & LIABILITY

35. Each of the following events shall constitute an Event of Default hereunder:
    a. Tenant's failure to pay when due any installment of rent and such failure continues for a period of ten (10) days after the due date, without any notice or demand being required.

b. Tenant's failure to perform or observe any other covenant, condition or other obligation of Tenant and such failure continues for a period of ten (10) days after Tenant receives written notice thereof.
c. The Premises become vacant and unoccupied for more than thirty (30) days.

36. Upon the occurrence of an Event of Default by Tenant that is not cured by Tenant within the applicable grace period specified above, the City or its agents or employees may immediately or at any time thereafter re-enter the Premises and remove Tenant, its agents, employees, licensees, and any other persons and all or any of its property from the Premises, either by summary dispossess proceedings or by any suitable action or proceedings at law or in equity or by force, self-help or otherwise, without being liable to indictment or prosecution of damages therefor, and repossess and enjoy the Premises, together with all alterations, additions, and improvements to the Premises.

37. The City's exercise of any of its remedies or its receipt of Tenant's keys shall not be considered an acceptance or surrender of the Premises by Tenant. A surrender must be agreed to in writing and signed by both parties.

38. In case of any termination, re-entry, or dispossession by summary proceedings or otherwise, the Rent and all other charges required to be paid up to the time of such termination, re-entry, or dispossession, shall be paid by Tenant, and Tenant also shall pay to the City all expenses which the City may then or thereafter incur for legal expenses, reasonable attorney's fees, and all other costs paid or incurred by the City as the result of such termination, re-entry, or dispossession, for restoring the Premises to good order and condition and for altering and otherwise preparing the Premises for reletting. The City may, but shall have no obligation, at any time relet the Premises, in whole or in part, for any rental then obtainable for a term that, at the City's option, may be for the remainder of the then current term of this Agreement or for any longer or shorter period.

39. Tenant shall remain liable to the City for damages in an amount equal to the Rent and other sums which would have been owing by Tenant hereunder for the balance of the Term had this Agreement not been terminated, less the net proceeds, if any, of any reletting of the Premises by the City after such termination, after deducting all of the City's expenses in connection with such recovery of possession or reletting. The City shall be entitled to collect and receive such damages from Tenant on the days on which the Rent and other amounts would have been payable if this Agreement had not been terminated. Alternatively, at the option of the City, the City shall be entitled to accelerate and declare the entire remaining unpaid Rent for the balance of the term to be immediately due and payable. The City shall be entitled to recover forthwith from Tenant, as damages for loss of the bargain and not as a penalty, an aggregate sum which, at the time of such termination of this Agreement, represents the present value of the aggregate of the Rent and other sums payable by Tenant hereunder that would have accrued for the balance of the term.

40. The City's rights and remedies set forth herein are cumulative and are in addition to the City's other rights and remedies at law or in equity or otherwise. The City's exercise of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy.

41. The City's delay or failure to exercise or enforce any of the City's rights or remedies or Tenant's obligations shall not constitute a waiver of any such rights, remedies or obligations. The City shall not be deemed to have waived any default unless such waiver expressly is set forth in an instrument signed by the City. Any such waiver shall not be construed as a waiver of any covenant or condition except as to the specific circumstances described in such waiver.

42. Neither Tenant's payment of an amount less than a sum due nor Tenant's endorsement or statement on any check or letter accompanying such payment shall be deemed an accord and satisfaction. Notwithstanding any request or designation by Tenant, the City may apply any payment received from Tenant to any payment then due. The City may accept the same without prejudice to the City's right to recover the balance of such sum or to pursue other remedies.

MISCELLANEOUS PROVISIONS

43. Force Majeure. The performance of all covenants contained here (except for the payment of rent which shall be paid if otherwise provided for herein), shall be postponed and suspended during any such period that performance is prevented by acts of God, accidents, weather and conditions arising from them, strikes, boycotts, lockouts and other labor troubles, riot, fire, earthquake, flood, storm, lightning, epidemic, insurrection, rebellion, revolution, civil war, hostilities, war, the declaration of existence of a national emergency and attendant conditions, the exercise of paramount power by the federal government, either through the taking of the Premises or the imposition of regulations restricting the conduct of business there, acts of enemies, sabotage, interference, restriction, limitation or prevention by legislation, regulation, decree, order of request of any federal, state or local government or any instrumentality or agency, including any court of competent jurisdiction, inability to secure labor or adequate supplies of materials, products or merchandise or any other delay or contingency beyond the reasonable control of the City or Tenant.

44. Independence of the Parties. It is understood and agreed that nothing contained herein is intended or should be construed as creating or establishing the relationship of copartners between the parties, or as constituting either party as the agent, representative, or employee of the other party for any purpose. Tenant is and remains an independent contractor with respect to all services performed under this Agreement.

45. Notices. Notices required herein shall be hand-delivered or sent via certified mail addressed to the respective addresses first written above. Notices to the City shall be addressed to the attention of the Parks and Recreation Director.

46. Nonrecording. Tenant shall not cause or allow this Agreement or any memorandum or disclosure thereof to be recorded or filed in any public land or other public records of any jurisdiction, and any attempt to do so may be treated by the City as a breach of this Agreement.

47. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be deemed invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall remain in effect and shall be enforceable to the full extent permitted by law.

48. Waiver of Jury Trial. EACH PARTY HEREBY KNOWINGLY AND VOLUNTARILY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY.

49. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. It is further agreed that the venue for any legal or equitable action between the parties relating to this Agreement shall be in the courts of appropriate jurisdiction in Lee County, Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

Jeanni Burgwald, Creative Expressions Studio and Gallery, LLC

By: Jeanni Burgwald

____
Witness 1

____
Witness 2

Attest:

By: ______________________
City Clerk

CITY OF BONITA SPRINGS

By: ______________________
Mayor Peter Simmons

CITY OF BONITA SPRINGS AGENDA ITEM SUMMARY	Green Sheet No. 22-08-138 August 17, 2022

REQUESTED MOTION: Adopt a resolution approving a budget transfer of $26,540 to provide additional funding for the upgrade of the City's Accounting Software

REQUESTOR: Lisa Griggs Roberson, CPA, Director of Financial and Adminstrative Services

AGENDA: Consent

STRATEGIC PRIORITY: 7) Government Transparency

BACKGROUND:

As provided in the 2021-2022 Budget, the City is in the process of upgrading to a web-based Accounting Software.

We have been informed by the software provider that two additional software modules will be needed to allow for proper posting of cash receipts and monitoring of contracts with a total cost of $26,540. This additional cost includes recurring annual cost of $5,440 and non-recurring implementation costs of $21,100.

The original contracts contained in the 2021-2022 budget totals $123,400. After this budget transfer the new total project cost will be $149,940 including recurring annual cost of $76,840 and non-recurring implementation costs of $73,100.

The additional funding of $26,540 is available in the General Fund Operating Contingency line item and the 2021-2022 budgeted expenditures will not be increased as a result of this transfer.

STAFF RECOMMENDATION: Approve the budget transfer.

ATTACHMENTS:

1. Budget Transfer Resolution

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Debra Filipek
Department Director: Lisa Roberson

Council Action: Approved __ Denied __ Deferred ___ Other_____________________

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 22-

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING THE BUDGET AMENDMENT FOR FISCAL YEAR 2021-2022; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 29, 2021, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2022, Fiscal Year 2021-2022; and

WHEREAS, Section 46(d) of the City Charter allows the transfer for all or part of any unrestricted appropriations from one department to another; and

WHEREAS, $26,540 of additional funding to upgrade the City's Accounting Software has been requested and funding for this expenditure is available in General Fund Operating Contingency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bonita Springs, Florida:

1. The above "Whereas" clauses are true, correct, and incorporated herein by reference.

2. The City Council authorizes a budget amendment to increase software maintenance by $5,440 (00.501.513.3426) and increase capital outlay by $21,100 (00.501.513.6400) funded by a reduction of $26,540 in the General Fund Operating Contingency line item (00.270.519.4909). The 2021-2022 budgeted expenditures will not be increased as a result of this transfer.

3. Effective date. This Resolution shall become effective immediately upon its adoption by City Council.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 17th day of August.

AUTHENTICATION:

____________________________ ____________________________

Mayor City Clerk

APPROVED AS TO FORM:____________________________

City Attorney

Vote:

Quaremba	Gibson
Purdon	Forbes
Carr	Steinmeyer
Corrie	

Date filed with City Clerk: ___________________________

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 22-08-139
August 17, 2022

REQUESTED MOTION: Approve the Second Amendment to the Second Concessionaire Agreement with CGT Kayaks, Inc. to extend the term of the agreement for an additional one year term.

REQUESTOR: Nicole Perino, Parks and Recreation Director

AGENDA: Consent

STRATEGIC PRIORITY: #8 Economic Development

BACKGROUND:

On December 3, 2014, the City entered into a Second Concessionaire Agreement with CGT Kayaks, Inc., which was set to expire on September 1, 2019. The Agreement provided for drop-in sites at both Riverside Park and River Park, includes an obligation of the City to issue an RFP for non-motorized vessel services at least one year prior to expiration, and dedicates Artist Cottage #6 for the Concessionaire's use.

On September 3, 2018, upon request by Mr. Paeno, Council approved extending the term of the Agreement for an additional three years due to extenuating circumstances that occurred during the term which impacted Concessionaire's business. The First Amendment provided for the following changes 1) Extended the agreement to September 1, 2022. 2) Removed River Park from the agreement 3) Removed the City's obligation to advertise for new proposals one year prior to expiration.

Due to the recent passing of CGT Kayaks CEO John Paeno, staff has held a discussion with Mr. Paeno's son, Nick Paeno, who would like to request a one-year extension to the current agreement in order to organize the affairs of the business.

STAFF RECOMMENDATION: Approve the Second Amendment to the Second Concessionaire Agreement

ATTACHMENTS:

1. Second Amendment to Second Concessionaire Agreement
2. First Amendment to the Second Concessionaire Agreement

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Debra Filipek
Department Director: Nicole Perino

Council Action: Approved __ Denied __ Deferred ___ Other______________________

SECOND AMENDMENT TO THE SECOND CONCESSIONAIRE AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND CGT KAYAKS INC.

THIS SECOND AMENDMENT to a Second Concessionaire Agreement dated December 3, 2014 is made and entered into this 17th day of August, 2022, by and between the City of Bonita Springs, a Florida municipal corporation whose mailing address is 9101 Bonita Beach Road, Bonita Springs, Florida 34135 (the "City"), and CGT Kayaks, Inc., a Florida corporation whose mailing address is 27600 Horne Ave, Bonita Springs, Florida 34135 (the "Operator").

RECITALS

WHEREAS, the City and Operator first entered into a Second Concessionaire Agreement on December 3, 2014 (the "Agreement"); and entered into the First amendment to the Agreement on May 15, 2019; and

WHEREAS, the First Amendment to the Agreement is set to expire on September 1, 2022; and

WHEREAS, Operator has requested to extend the Agreement for one year due to extenuating circumstances; and

NOW, THEREFORE, in consideration of the above premise and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Operator hereby agree as follows:

1. The recitals set forth above are true and correct and incorporated into the terms of this Agreement as if set forth herein at length.

2. The term of the Agreement is hereby extended for a period of one year and shall expire on September 1, 2023.

3. Operator must provide the City with a Certificate of Insurance evidencing appropriate Workers compensation insurance as required by Chapter 440 of the Florida Statutes prior to the commencement of the extended term authorized hereunder. Alternatively, Operator may elect to file an exemption in order to satisfy the requirements of Chapter 440.

4. All other terms of the Agreement, attached hereto and incorporated herein by reference, shall remain the same.

IN WITNESSETH WHEREOF, the City and Operator have caused this Second Amendment to the Second Concessionaire Agreement to be executed and shall become effective as of the date first written above.

CITY OF BONITA SPRINGS **OPERATOR**

______________________ ____________________

Mayor Nick Paeno, CEO CGT Kayaks, Inc

ATTEST:

____

City Clerk

Date: ___________________

APPROVED AS TO FORM: ____________________________

City Attorney's office

FIRST AMENDMENT TO THE SECOND CONCESSIONAIRE AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND CGT KAYAKS INC.

THIS FIRST AMENDMENT to a Second Concessionaire Agreement dated December 3, 2014 is made and entered into this 15 day of May, 2019, by and between the City of Bonita Springs, a Florida municipal corporation whose mailing address is 9101 Bonita Beach Road, Bonita Springs, Florida 34135 (the "City"), and CGT Kayaks, Inc. (f/k/a Calusa Ghost Tours, Inc.), a Florida corporation whose mailing address is 27313 Old 41 Road, Bonita Springs, Florida 34135 (the "Operator").

RECITALS

WHEREAS, the City and Operator first entered into a Second Concessionaire Agreement on December 3, 2014 (the "Agreement"); and

WHEREAS, the Agreement is currently set to expire on September 1, 2019; and

WHEREAS, Operator has requested to extend the Agreement for three additional years due to extenuating circumstances that affected his business for a substantial portion of the current term; and

WHEREAS, negotiations have caused the need to modify certain terms of the Agreement.

NOW, THEREFORE, in consideration of the above premises and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Operator hereby agree as follows:

1. The recitals set forth above are true and correct and incorporated into the terms of this Agreement as if set forth herein at length.

2. The term of the Agreement is hereby extended for a period of three years and shall expire on September 1, 2022.

3. The City is hereby released from its obligation to advertise for new proposals at least one year prior to expiration.

4. Paragraphs 1-7 of the section titled River Park, and any other reference to River Park, shall be void and considered removed from the Agreement.

5. Operator must provide the City with a Certificate of Insurance evidencing appropriate workers compensation insurance as required by Chapter 440 of the Florida Statutes prior to the commencement of the extended term authorized hereunder. Alternatively, Operator may elect to file an exemption in order to satisfy the requirements of Chapter 440.

6. All other terms of the Agreement, attached hereto and incorporated herein by reference, shall remain the same.

IN WITNESSETH WHEREOF, the City and Operator have caused this First Amendment to the Second Concessionaire Agreement to be executed and shall become effective as of the date first written above.

CITY OF BONITA SPRINGS

Peter Simmons

Mayor Peter Simmons

OPERATOR

John Paeno, CEO
CGT Kayaks, Inc.

ATTEST:

City Clerk

Date: 5/17/19

APPROVED AS TO FORM: ______________________
City Attorney's Office

SECOND CONCESSIONAIRE AGREEMENT
BETWEEN
CITY OF BONITA SPRINGS AND JOHN PAENO'S CALUSA GHOST TOURS
(2014 – 2019)

This Concessionaire Agreement is approved this ___ day of ________, 2014, by and between the City of Bonita Springs, ("City") municipality within the State of Florida, and John Paeno's Calusa Ghost Tours, Inc., ("Operator"), a Florida corporation, licensed to do business in the State of Florida, who agree as follows:

<u>Riverside Park</u>

1. Operator will provide kayaks, canoes, paddleboards and other non-motorized vessels (collectively referred throughout this agreement as "non-motorized vessels") to the public departing from the docks at Riverside Park owned by the City, on the south side of the river, 27300 Old US 41 Road.

2. Operator will provide non-motorized vessels to the public from 9:00 A.M. to 3:00 P.M. during June to September, and 9:00 A.M. to 5:00 from October to May, at least two (2) days per week year-round, of which one day must be on the week-end (Saturday or Sunday). These days are the minimum days of operation. Operator, at its option, may operate on additional days or hours of the week.

3. Riverside Park Compensation: In consideration for the rights and privileges granted, including the use of Cottage No. <u>6</u>, the Operator agrees to pay the city 2% percent of the gross receipts derived each month during winter season (October to May) from the Operator, with a minimum guarantee of $300.00 per month. During summer season (June to September), Operator agrees to pay the City a flat rate of $200.00 per month.

4. Cottage No. 6 is dedicated for use by the Operator under this Concession Agreement, provided that the Operator uses at least 70% of the floor space within the cottage for art, with up to 25% for paddling accessories and snacks and beverages, and up to 5% for non-motorized vessel rental. Operator may have one Kayak or other non-motorized vessel located outside of his cottage on the Liles Plaza area to promote the non-motorized vessel concession. The remainder of the non-motorized vessels will be stored and maintained at Riverside Park dockside in the green space or secured off-site by Operator.

5. It is anticipated that the Operator will bring artists to demonstrate applied arts and storytelling at Riverside Park. It is the responsibility of the Operator that any artist that is brought to the premises, either within or outside of the Cottage, be covered by the Operator's general liability insurance coverage. Any activity or program, including non-motorized vessel rental, must be coordinated with the Parks and Recreation Director so as to make sure that the activity or program does not interfere with other activities at Riverside Park. In no way may the Operator use

the premises that would inhibit or interfere with the other users of the Cottage or the occupants of the Liles Hotel. The Parks and Recreation Director will resolve any dispute between the Operator and any other occupant or lessee, with failure to abide by that determination may be grounds for termination.

River Park

1. Operator will provide non-motorized vessels to the public departing from the docks at River Park, (West of U.S. 41 on Imperial River), Bonita Springs for the Imperial River.

2. Due to limited parking space for patrons, Operator is granted the exclusive concession for a drop-in / drop-off at River Park (West of U.S. 41 on Imperial River). For the duration of this Agreement, the City will amend its Parks and Recreation Ordinance to prohibit other commercial vendors from using River Park for a drop-in / drop-off with their clients.

3. Operator has the non-exclusive use of the non-motorized vessel launching public pier and dock, but may not charge patrons for the use thereof. Operator does not have the right to charge the general public who uses City facilities with their own non-motorized vessels.

4. Nothing in this concession shall be construed to permit permanent fixtures or signage at River Park, unless otherwise agreed to by the consent of the Parks and Recreation Director. Permanent fixtures may include a paddle craft rack, a rental kiosk and signage. Operator may maintain the storage trailer on site at a City designated area until such time that the City completes the development of the park.

5. The Operator agrees to pay the city 10% percent of the gross receipts derived each month from any sales generated from the River Park (including but not limited to rentals, food, beverages, merchandise and all other items offered for sale). For purposes of determining calculation of gross receipts, a sale will include any patron that launches or returns a non-motorized vessel to River Park, regardless of where the point of sale occurs (e.g., Operator may use a cash register or credit card machine at a different location, including through electronic means, but if a customer either has drop in or drop off of a non-motorized vessel at River Park, Operator must treat that sale as a sale generated from River Park. There is no minimum guaranty of payment at River Park.

6. Operator will provide non-motorized vessel to the public at least ten (10) hours per week, at a minimum of two (2) days per week year-round, of which one day must be on the week-end (Saturday or Sunday). These days are the minimum days of operation. Operator, at its option, may operate on additional days or hours of the week.

7. Operator will hold promotional events at River Park at least four times per year, at least one month apart. Operator will submit flyers adverting the events at least two weeks prior to the event to the Parks and Recreation Director so that it may be advertised by the City. Operator charging for the event does not need to be in Exhibit A, but must be approved by the Parks and Recreation Director prior to the event.

General Terms

8. Operator will continue to provide services through September 1, 2019. The City will issue a Request for Proposals (RFP) for non-motorized vessel services at least one year prior to expiration. Operator is eligible to apply for the services. The City reserves the right to modify the terms of the RFP as it deems fit.

9. The Operator shall provide at its own expense all equipment. The Operator shall provide and maintain its equipment in good condition. The design and location of the concession area is subject to the approval of the Parks and Recreation Director.

10. The Operator agrees to reimburse the city for any expenses involved in the installation and additional utility connections for new or relocated equipment. Operator also agrees to reimburse the city on a monthly basis for the amount of electrical energy consumed as a result of the concession operation above and beyond the utilities used within the cottage at Riverside Park.

11. All food, beverages, merchandise and all other items offered for sale and the prices to be charged by the Operator shall be subject to the approval of the Parks and Recreation Director. The list of items and prices to be charged must be submitted by the Operator and will be incorporated into this Agreement, upon approval of both parties. The maximum price list for non-motorized vessel rentals, as well as any additional services to go into effect upon execution of this Agreement, is attached as Exhibit A.

12. During the life of this agreement the Operator shall obtain written approval from the Parks and Recreation Director to make any changes to the concession or to increase the price of rental equipment.

13. It is agreed by both parties that the prices to be charged shall be fair and reasonable and commensurate with prices charged for similar non-motorized vessel rentals in the area.

14. The Operator shall keep proper books, records and accounts accurately reflecting total gross sales of the concession and all sums owing to the city. The books, records and accounts shall be available for inspection in the city of between the

hours of 9:00 a.m. to 5:00 p.m. Mondays through Fridays, inclusive, by any authorized agent of the city.

15. On the tenth day of each month of operation during the life of this agreement, the Operator shall submit to the Parks and Recreation Director a statement, showing for each operating location as designated in this agreement, the total daily and total gross receipts for the month accompanied by payment in full of all amounts which may be due the city; the statement shall be in the detail and form as may be required by the Parks Director. Acceptance by the city of any statement of payment shall not prevent the city from later making a claim for adjustment by reason of errors or omission in the statement or payment.

16. The Operator shall appoint an employee who shall have full and complete control over the operation of the concession and who shall be responsible for all pertinent books and records and all payments made to the city. The Director shall arrange a daily schedule so that he or she will be available to agents of the city during normal business hours on 24 hours' notice.

17. All concessions shall be operated by the Operator's employees.

18. The Operator shall pay all license fees, taxes and comply with all rules, regulations and policies imposed by any city, state or federal authority. The fees and taxes shall not be deducted from any rentals or fees due the city.

19. Additional areas shall be designated for any new concession areas and locations, or activities sponsored by the city, that may become available during the life of this concession upon the request of the Parks and Recreation Director.

20. The location of the Operator's trucks and trailers, and the driveways used for access to these locations at both Liles Hotel and River Park, must meet with the approval of the Parks and Recreation Director.

21. Operator should indicate minimum inventories of rental goods. It is anticipated at least 6 canoes and 10 kayaks of general recreational category must be available for rental at all times and must be of premium quality and maintained in good working order. Additionally, operator must maintain canoe and kayak accessory goods (i.e. paddles, Personal Flotation Devices (PFD's), carriers, etc.). Retail sales may be permitted, as an incidental, consistent with Exhibit A.

22. All employees of operator shall be required to reflect a neat, clean appearance and conduct themselves in a pleasant, helpful, cheerful manner. All employees of Operator will wear Lessee's company identification with employee's name, either with a badge or embroidered on shirt.

23. Operator may make non-exclusive use of the public parking lot adjacent to the leased premises.

24. Operator may make non-exclusive use of the non-motorized vessel launching public pier and dock, but may not charge patrons for the use thereof. Operator does not have the right to charge the general public who uses City facilities with their own non-motorized vessels. The City will maintain and repair as needed existing non-motorized vessel launch facilities utilized as part of this Agreement.

25. Operator shall provide, hold, and have in place at the time of the execution of this Agreement all required insurances and licenses for conducting public water transportation on the Imperial River. Operator will comply with Florida Statutes §327.54 and §327.70. Operator shall procure and maintain Commercial General Liability insurance with minimum limits of $1,000,000.00 per occurrence for bodily injury and property damage. Said coverage shall include contractual liability relative to this Agreement and list the City Council of Bonita Springs as an additional insured. In addition, Operator shall be responsible for All Risk Property damage coverage including flood, where applicable, for their use of the property on City owned premises. Evidence of the above mentioned coverage shall be submitted to the City via a Certificate of Insurance.

26. Signs will be posted stating that neither the City nor Operator will assume responsibility for lost, stolen or damaged property left on non-motorized vessels, or at the park. Prior to any sign placement, the operator will show plans of the sign to the Parks and Recreation Director who will approve the sign if he determines it is of professional quality. In the alternative, Parks and Recreation may provide signage to assist the public in finding the location of the operator. Further, the City will not be responsible to Operator for damage or loss to the vessels or any equipment that has been placed on City premises. The City will not be responsible for injuries to any person, where such injuries occur during the use of the vessels or tours.

27. In the event that Operator neglects to pay the City the compensation as specified in this Agreement, the City may terminate this agreement immediately without further notice as specified below.

28. Audit privileges of Federal Income Tax returns of the business or the corporation responsible for reporting same are specifically included under this agreement.

29. Any modifications or changes to the agreement; location of non-motorized vessels, operation of non-motorized vessels or any other information pertinent to this agreement shall be delivered via US Mail or facsimile during the term of the agreement with a minimum of 30 days before the expiration of the agreement.

30. The City or Operator may terminate this agreement at any time with no less than 60 days' notice to the non-terminating party if there has been a specific breach of one or more of the articles contained above, or by mutual agreement.

31. Operator reserves the right to add additional tours in anticipation of high volume or remove tours if they are not producing sufficient income to support the tours and/or maintenance costs. City reserves the right to procure other vendors at its locations through a proposal process, in which event operator maintains the right to submit a letter of interest.

32. Operator shall protect, defend, indemnify, save and hold the City, the City Council of Bonita Springs, its agents, officials, employees and servants, including any volunteers, any firm, company, organization or individual, or their contractors or subcontractors with whom Operator may be contracted, harmless from and against any and all claims, demands, fines, loss or destruction of property, liabilities, damages, including incidental, special, actual, punitive, consequential, indirect, environmental pollution, judgments, losses, costs, expenses, suits, actions and causes of action of every kind and character, for claims based on the negligence, misconduct, or omissions of the Operator resulting from the company's non-performance of any of its obligations or operations under this Agreement, which may arise in favor of any person or persons on account of illness, disease, loss of property, services, wages, death or personal injuries resulting from the Operator's performance or non-performance of its obligations or operations under this Agreement, except any damages arising out of personal inquiry or property claims from third parties caused solely by the negligence, omission(s) or willful misconduct of the City, its officials, commissions, employees or agents which are subject to the limitations as set out in Florida Statutes §768.28, as amended. Further, the Operator hereby agrees to indemnify the City for all reasonable expenses and attorney's fees incurred by or imposed upon the City in connection therewith for any loss, damage, injury or other casualty. The Operator additionally agrees that the City may employ an attorney of the City's own selection to appear and defend any such action, on behalf of the City, at the expense of the Operator. The Operator further agrees to pay all reasonable expenses and attorney's fees incurred by the City in establishing the right to indemnity.

IN WITNESSETH WHEREOF, the CITY and the OPERATOR have caused this license to be executed under seal the day and year first above written.

JOHN PAENO'S CALUSA GHOST TOURS, INC.

(Witness)

By: ______________________

(Witness)

Approved at a City Council meeting on the 3 day of Dec., 2014.

BONITA SPRINGS, FLORIDA
BY ITS CITY COUNCIL

By: ______________________
CITY CLERK

By: ______________________
MAYOR

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

____
CITY ATTORNEY

Exhibit A

Nicole to get new prices

Single Kayaks
- $25 for 1 ½ hours
- $35 for ½ day
- $50 for full day

Tandem Kayaks and Canoes

- $40 for 1 ½ hours
- $50 for ½ day
- $60 for full day

<u>Tours</u>
- ECO Tour (2 hours) $40 per person
- Bat Tour (2 hours) $40 per person
- Beginner Class (2 hours) $40 per person

CGT Kayaks

Complimentary bottle of water comes with all tours and rentals

PFD, whistle, paddle, & USCG inspected paddle craft provided

Rentals

Singles & SUPs

$25 1.5 hrs

$35 half day

$50 full day

Tandem & canoes

$40 1.5 hrs

$50 half day

$60 full day

$10 delivery charge if off our designated sites

2 hr - Tours

Eco	$40
Imperial River	$40
Oak Creek	$40
Bat	$40
Bay Front	$40
Beginners class	$40

Summer and Group Rates:

Groups over 10 - 10% discount -

Non-profits - 50% - 100% discounts for example, Bonita Leadership - we will be donating our services for up to 30 people 100% free in Nov. In the past we split rentals 50% - 50% with the Cancer Society.

We also have coupons for $5 off distributed throughout the county.

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 22-08-140
August 17, 2022

REQUESTED MOTION: Approve contract agreement between the City and the Florida Department of Economic Opportunity for Community Development Block Grant – Mitigation (CDBG-MIT) for the East Terry Street Stormwater and Multi-Use Path Project – Contract Agreement - #MT119

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA: Consent

STRATEGIC PRIORITY: 1) Improve Stormwater Management, 3) Strengthen/Enhance City Finances, 4) Environmental Protection, 7) Government Transparency

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BACKGROUND: The City received a notice of award for funding of U.S. Housing and Urban Development (HUD) Community Development Block Grant – Mitigation (CDBG-MIT) funding for the East Terry Street Stormwater and Multi-Use Path Project on January 12, 2022. The Florida Department of Economic Opportunity (FDEO) has been working on the agreement since early March. FDEO submitted the contract agreement allocating $16.8 million for the East Terry Street Stormwater and Multi-Use Path project to the City on August 2, 2022.

Funding for this project does not require a City match.

STAFF RECOMMENDATION: Approve contract agreement MT119 with FDEO

ATTACHMENTS:

1. DEO Agreement - #MT119

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Debra Filipek
Department Director: Matt Feeney

Council Action: Approved __ Denied __ Deferred ___ Other______________________

State of Florida
Department of Economic Opportunity

Federally Funded
Community Development Block Grant
Mitigation Program (CDBG-MIT)
Subrecipient Agreement

THIS SUBRECIPIENT AGREEMENT is entered into by the State of Florida, Department of Economic Opportunity, (hereinafter referred to as "DEO") and the City of Bonita Springs (hereinafter referred to as the "Subrecipient"), each individually a "Party" and collectively "the Parties."

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

WHEREAS, pursuant to Public Law (P.L.) P.L. 115-123 Bipartisan Budget Act of 2018 and Additional Supplemental Appropriations for Disaster Relief Act 2018 (approved February 9, 2018), and P.L. 116-20 Supplemental Appropriations for Disaster Relief Requirements Act, 2019 (approved June 6, 2019), Division B, Subdivision 1 of the Bipartisan Budget Act of 2018, P.L. 115-56, the "Continuing Appropriations Act, 2018" ; and the requirements of the Federal Register (FR) notices entitled "Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Mitigation Grantees", 84 FR 45838 (August 30, 2019) and "Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees" (CDBG Mitigation) 86 FR 561 (January 6, 2021);(hereinafter collectively referred to as the "Federal Register Guidance"), the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD") has awarded Community Development Block Grant–Mitigation (CDBG-MIT) funds to DEO for mitigation activities authorized under Title I of the Housing and Community Development Act of 1974 (HCDA) (42 United States Code (U.S.C.) § 5301 *et seq.*) and applicable implementing regulations at 24 C.F.R. part 570 and consistent with the Appropriations Act.

WHEREAS, CDBG-MIT funds made available for use by the Subrecipient under this Agreement constitute a subaward of the DEO Federal award, the use of which must be in accordance with requirements imposed by Federal statutes, regulations and the terms and conditions of DEO's Federal award.

WHEREAS, the Subrecipient has legal authority to enter into this Agreement and by signing this Agreement, the Subrecipient represents and warrants to DEO that it will comply with all the requirements of the subaward described herein.

WHEREAS, all CDBG-MIT activities carried out by the Subrecipient will: (1) meet the definition of mitigation activities. For the purpose of this funding, mitigation activities are defined as those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters; (2) address the current and future risks as identified in DEO's Mitigation Needs Assessment of most impacted and distressed area(s); (3) be CDBG-eligible activities under the HCDA or otherwise eligible pursuant to a waiver or alternative requirement; and (4) meet a national objective, including additional criteria for mitigation activities and a Covered Project.

NOW THEREFORE, DEO and the Subrecipient agree to the following:

(1) SCOPE OF WORK

The Scope of Work for this Agreement includes Attachment A, Project Description and Deliverables. With respect to Attachment B, Project Budget, and Attachment C, Activity Work Plan, the Subrecipient shall submit to DEO such Attachments in conformity with the current examples attached hereto as necessary and appropriate. Provided further, if there is a disagreement between the Parties, with respect to the formatting and contents of such attachments, then DEO's decisions with respect to same shall prevail, at DEO's sole and absolute discretion.

(2) INCORPORATION OF LAWS, RULES, REGULATIONS AND POLICIES

Subrecipient has diligently reviewed this Agreement and is a sophisticated organization having experience managing projects with funds made available through federal grants. Subrecipient is familiar with DEO's grant agreement with HUD, has reviewed applicable CDBG-MIT regulations and guidelines, will conduct, and will ensure its activities are in compliance with DEO's grant agreement with HUD and all applicable CDBG-MIT regulations and guidelines. Subrecipient agrees to abide by all applicable State and Federal laws, rules and regulations as now in effect and as may be amended from time to time, including but not limited to, the Federal laws and regulations set forth in 24 CFR Part 570, applicable Federal Register Notices, the State's Action Plan, and all applicable CDBG-MIT regulations and guidelines.

Subrecipient shall ensure that all its activities under this Contract shall be conducted in conformance with these provisions, as applicable: 45 CFR Part 75, 29 CFR Part 95, 2 CFR Part 200, 20 CFR Part 601, 24 CFR Part 570 subpart I, *et seq*., and all other applicable federal laws, regulations, and policies governing the funds provided under this Agreement as now in effect and as may be amended from time to time.

(3) PERIOD OF AGREEMENT

This Agreement is effective as of the date DEO executes this Agreement (the "Effective Date") and ends forty-eight (48) months after execution by DEO, unless otherwise terminated as set forth herein.

(4) RENEWAL AND EXTENSION

This Agreement shall not be renewed. DEO shall not grant any extension of this Agreement unless the Subrecipient provides justification satisfactory to DEO in its sole discretion and DEO's Director of the Division of Community Development approves such extension in writing

(5) MODIFICATION OF AGREEMENT

Modifications to this Agreement shall be valid only when executed in writing by the Parties. Any modification request by the Subrecipient constitutes a request to negotiate the terms of this Agreement. DEO may accept or reject any proposed modification based on DEO's sole determination and absolute discretion, that any such acceptance or rejection is in the State's best interest.

(6) RECORDS

(a) The Subrecipient's performance under this Agreement shall be subject to 2 CFR part 200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards as now in effect and as may be amended from time to time.

(b) Representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, and representatives of the Federal government and their duly authorized representatives shall have access to any of the Subrecipient's books, documents, papers and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.

(c) The Subrecipient shall maintain books, records, and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by DEO under this Agreement.

(d) The Subrecipient will provide to DEO all necessary and appropriate financial and compliance audits in accordance with Paragraph (7), Audit Requirements and Attachments I and J herein and ensure that all related party transactions are disclosed to the auditor.

(e) The Subrecipient shall retain sufficient records to show its compliance with the terms of this Agreement and the compliance of all subrecipients, contractors, subcontractors and consultants paid from funds under this Agreement for a period of six (6) years from the date DEO issues the final closeout for this award. The Subrecipient shall also comply with the provisions of 24 CFR 570.493 and 24 CFR 570.502(a)(7)(ii). The Subrecipient shall further ensure that audit working papers are available upon request for a period of six (6) years from the date DEO issues the final closeout of this Agreement, unless extended in writing by DEO. The six-year period may be extended for the following reasons:

1. Litigation, claim or audit initiated before the six-year period expires or extends beyond the six-year period, in which case the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
2. Records for the disposition of non-expendable personal property valued at $1,000 or more at the time of acquisition shall be retained for six (6) years after final disposition.
3. Records relating to real property acquired shall be retained for six (6) years after the closing on the transfer of title.

(f) The Subrecipient shall maintain all records and supporting documentation for the Subrecipient and for all contractors, subcontractors and consultants paid from funds provided under this Agreement, including documentation of all program costs in a form sufficient to determine compliance with the requirements and objectives of the scope of work and all other applicable laws and regulations.

(g) The Subrecipient shall either (i) maintain all funds provided under this Agreement in a separate bank account or (ii) ensure that the Subrecipient's accounting system shall have sufficient internal controls to separately track the expenditure of all funds from this Agreement. Provided further, that the only option available for advanced funds is to maintain such advanced funds in a separate bank account. There shall be no commingling of funds provided under this Agreement with any other funds, projects or programs. DEO may, in its sole discretion, disallow costs made with commingled funds and require reimbursement for such costs as described herein, Subparagraph (22)(e), Repayments.

(h) The Subrecipient, including all of its employees or agents, contractors, subcontractors and consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or representatives of the Federal government or their duly authorized representatives. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(7) AUDIT REQUIREMENTS

(a) The Subrecipient shall conduct a single or program-specific audit in accordance with the provisions of 2 CFR part 200 if it expends seven hundred fifty thousand dollars ($750,000) or more in Federal awards from all sources during its fiscal year.

(b) Within sixty (60) calendar days of the close of Subrecipient's fiscal year, on an annual basis, the Subrecipient shall electronically submit a completed Audit Compliance Certification to audit@deo.myflorida.com, and DEO's grant manager; a blank version of which is attached hereto as Attachment J . The Subrecipient's timely submittal of one completed Audit Compliance Certification for each applicable fiscal year will fulfill this requirement within all agreements (e.g., contracts, grants, memorandums of understanding, memorandums of agreement, economic incentive award agreements, etc.) between DEO and the Subrecipient.

(c) In addition to the submission requirements listed in Attachment I, Audit Requirements, the Subrecipient shall send an electronic copy of its audit report to DEO's grant manager for this Agreement by June 30 following the end of each fiscal year in which it had an open CDBG-MIT subgrant.

(d) Subrecipient shall also comply with the Federal Audit Clearinghouse rules and directives, including but not limited to the pertinent Report Submissions provisions of 2 C.F.R 200.512, when such provisions are applicable to this Agreement.

(8) REPORTS

Subrecipient shall provide DEO with all reports and information set forth in Attachment G, Reports. The monthly reports and administrative closeout reports must include the current status and progress of Subrecipient and all subcontractors in completing the work described in the Scope of Work, Attachment A, Project Description and Deliverables, and the expenditure of funds under this Agreement. Within 10 calendar days of a request by DEO, Subrecipient shall provide additional program updates or information. Without limiting any other remedy available to DEO, if all required reports and copies are not sent to DEO or are not completed in a manner acceptable to DEO, payments may be withheld until the reports are completed to DEO's satisfaction. DEO may also take other action as stated in Paragraph (13) Remedies or otherwise allowable by law.

(9) INSPECTIONS AND MONITORING

(a) Subrecipient shall cooperate and comply with DEO, HUD, and auditors with any inspections and will immediately provide access to records and financial statements as deemed necessary by DEO, HUD, and their respective auditors at least in accordance with requirements of 2 CFR part 200 and 24 CFR 570.489.

(b) Subrecipient shall cooperate and comply with monitoring of its activities as deemed necessary by DEO to ensure that the subaward is used for authorized purposes in compliance with federal statutes, regulations, and this Agreement.

(c)Without limiting the actions DEO, HUD, or their respective investigators may take, monitoring procedures will include at a minimum: (1) reviewing financial and performance reports required by DEO; (2) following-up and ensuring Subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award provided to Subrecipient from DEO as detected through audits, on-site reviews and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to Subrecipient from DEO as required by 2 CFR §200.521.

(d) Corrective Actions: DEO may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. DEO may require Subrecipient to take timely and appropriate action on all deficiencies pertaining to the federal award provided to Subrecipient from the pass-through entity as detected through audits, on-site reviews and other means. In response to audit deficiencies or other findings of noncompliance with this agreement, DEO may in its sole discretion and without advance notice, impose additional conditions on the use of the CDBG-MIT funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance. DEO may also take other action as stated in Paragraph (13) Remedies or otherwise allowable by law.

(10) DUPLICATION OF BENEFITS

Subrecipient shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5155 *et seq.*) and described in Appropriations Acts. Subrecipient must comply with HUD's requirements for duplication of benefits, as described in the Federal Register and HUD guidance (including HUD training materials). Subrecipient shall carry out the activities under this Agreement in compliance with DEO's procedures to prevent duplication of benefits. Subrecipient shall sign a Subrogation Agreement (See Attachment M).

(11) LIABILITY

(a) If Subrecipient is a state agency or subdivision, as defined in Section 768.28(2), F.S., pursuant to Section 768.28(19), F.S., neither Party indemnifies nor insures or assumes any liability for the other Party for the other Party's negligence.

(b) Subrecipient assumes sole responsibility for the training and oversight of the parties it deals with or employs to carry out the terms of this Agreement to the extent set forth in Section 768.28, Florida Statutes. Subrecipient shall hold DEO harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. For purposes of this Agreement, Subrecipient agrees that it is not an employee or agent of DEO but is an independent contractor.

(c) Subrecipient agrees to be fully responsible for its negligent or tortious acts or omissions, which result in claims or suits against DEO. Subrecipient agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, F.S. Nothing herein shall be construed as consent by DEO to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

(d) Nothing herein is intended to serve as a waiver of sovereign immunity by DEO or the Subrecipient.

(12) EVENTS OF DEFAULT

If any of the following events occur ("Events of Default"), DEO may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies available through this Agreement or pursue any remedy at law or in equity, without limitation:

(a) Any warranty or representation made by Subrecipient, in this Agreement or any previous agreement with DEO, is or becomes false or misleading in any respect, or if Subrecipient fails to keep or perform any of the obligations, terms, or covenants in this Agreement or any previous agreement with DEO or HUD, and/or has not cured them in timely fashion and/or is unable or unwilling to meet its obligations under this Agreement and/or as required by statute, rule, or regulation;

(b) Any material adverse change occurs in the financial condition of Subrecipient at any time during the term of this Agreement and the Subrecipient fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by DEO;

(c) If Subrecipient fails to submit any required report or submits any required report with incorrect, incomplete, or insufficient information or fails to submit additional information as requested by DEO;

(d) If Subrecipient fails to perform or timely complete any of its obligations under this Agreement, including participating in DEO's Implementation Workshop. The Parties agree that in the event DEO elects to make payments or partial payments after any Events of Default, it does so without waiving the right to exercise any remedies allowable herein or at law and without becoming liable to make any further payment.

(e) Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party's performance obligation under this Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the Agreement to either Party. In the case of any delay the Subrecipient believes is excusable under this paragraph, Subrecipient shall notify DEO in writing of the delay or potential delay and describe the cause of the delay either: (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Subrecipient could reasonably foresee that a delay could occur as a result or (2) within five (5) calendar days after the date Subrecipient first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE SUBRECIPIENT'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY**. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. DEO, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify Subrecipient of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against DEO. Subrecipient shall not be entitled to an increase in the Agreement price or payment of any kind from DEO for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, Subrecipient shall perform at no increased cost, unless DEO determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to DEO or the State, in which case, DEO may do any or all of the following: (1) accept allocated performance or deliveries from Subrecipient, provided that Subrecipient grants preferential treatment to DEO with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by Subrecipient for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity or (3) terminate the Agreement in whole or in part.

(13) REMEDIES

If an Event of Default occurs, DEO may in its sole discretion and without limiting any other right or remedy available, provide thirty (30) calendar days written notice to the Subrecipient and if the Subrecipient fails to cure within those thirty (30) calendar days DEO may choose to exercise one or more of the following remedies, either concurrently or consecutively:

(a) Terminate this Agreement upon written notice by DEO sent in conformity with Paragraph (17) Notice and Contact;

(b) Begin any appropriate legal or equitable action to enforce performance of this Agreement;

(c) Withhold or suspend payment of all or any part of a request for payment;

(d) Demand Subrecipient return to DEO any funds used for ineligible activities or unallowable costs under this Agreement or any applicable law, rule or regulation governing the use of the funds; and

(e) Exercise any corrective or remedial actions, including but not limited to:

1. Request additional information from the Subrecipient to determine the reasons for or the extent of non-compliance or lack of performance;

2. Issue a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or

3. Advise the Subrecipient to suspend, discontinue or refrain from incurring costs for any activities in question.

(f) Exercise any other rights or remedies which may be otherwise available under law.

Pursuit of any of the above remedies does not preclude DEO from pursuing any other remedies in this Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Agreement or failure by DEO to require strict performance does not affect, extend or waive any other right or remedy available or affect the later exercise of the same right or remedy by DEO for any other default by the Subrecipient.

(14) DISPUTE RESOLUTION

DEO shall decide disputes concerning the performance of the Agreement, and document dispute decisions in writing and serve a copy of same to Subrecipient. All decisions are final and conclusive unless the Subrecipient files a petition for administrative hearing with DEO within twenty-one (21) days from the date of receipt of the decision. Exhaustion of administrative remedies prescribed in Chapter 120, F.S., is an absolute condition precedent to Subrecipient's ability to pursue any other form of dispute resolution; provided however, that the Parties may mutually agree to employ the alternative dispute resolution procedures outlined in Chapter 120, F.S.

(15) Citizen Complaints. The goal of DEO is to provide an opportunity to resolve citizen complaints in a timely manner, usually within fifteen (15) business days of the receipt of the complaint as expected by HUD, if practicable, and to provide the right to participate in the process and appeal a decision when there is reason for an applicant to believe its application was not handled according to program policies. All applications, guidelines and websites will include details on the right to file a complaint or appeal and the process for filing a complaint or beginning an appeal.

The Subrecipient will handle citizen complaints by:

(a) Conducting investigations, as necessary;
(b) Finding a resolution; or
(c) Conducting follow-up actions.

Program Appeals

Applicants may appeal program decisions related to one of the following activities:

(a) A program eligibility determination;
(b) A program assistance award calculation; or
(c) A program decision concerning housing unit damage and the resulting program outcome.

Citizens may file a written complaint or appeal with the Office of Long-Term Resiliency by email at CDBG-DR@deo.myflorida.com or by mail to the following address:

Attention: Office of Long-Term Resiliency
Florida Department of Economic Opportunity
107 East Madison Street
The Caldwell Building, MSC 420
Tallahassee, Florida 32399

HUD Complaints

If the complainant is not satisfied by the Subrecipient's determination or DEO's response, then the complainant may file a written appeal by following the instructions issued in the letter of response. If the complainant has not been satisfied with the response at the conclusion of the complaint or appeals process, a formal complaint may then be addressed directly to the regional Department of Housing and Urban Development (HUD) at:

Department of Housing & Urban Development
Charles E. Bennet Federal Building
400 West Bay Street, Suite 1015
Jacksonville, FL 32202

Fair Housing Complaints

The Florida Office of Long-Term Resiliency operates in Accordance with the Federal Fair Housing Law (The Fair Housing Amendments Act of 1988). Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination: 1-800-669-9777 (Toll Free), 1-800-927-9275 (TTY) or www.hud.gov/fairhousing.

(16) TERMINATION

(a) DEO may immediately suspend or terminate this Agreement for cause by providing written notice, from the date notice is sent by DEO. Cause includes, but is not limited to: an Event of Default as set forth in this Agreement; Subrecipient's improper or ineffective use of funds provided under this Agreement; fraud; lack of compliance with any applicable rules, regulations, statutes, executive orders, HUD guidelines, policies, directives or laws; failure, for any reason, to timely and/or properly perform any of the Subrecipient's obligations under this Agreement; submission of reports that are incorrect or incomplete in any material respect and refusal to permit public access to any document, paper, letter or other material subject to disclosure under law, including Chapter 119, F.S., as amended. The aforementioned reasons for termination are listed in the immediately preceding sentence for illustration purposes but are not limiting DEO's sole and absolute discretion with respect to DEO's right to terminate this Agreement. In the event of suspension or termination, Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs.

(b) DEO may unilaterally terminate this Agreement, in whole or in part, for convenience by providing Subrecipient fourteen (14) days written notice from the date notice is sent by DEO, setting forth the reasons for such termination, the effective date and, in the case of partial termination, the portion to be terminated. However, if in the case of partial termination, DEO determines that the remaining portion of the award will not accomplish the purpose for which the award was made, DEO may terminate the portion of the award which will not accomplish the purpose for which the award was made. Subrecipient shall continue to perform any work not terminated. In the event of termination for convenience, Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs for the terminated portion of work.

(c) The Parties may terminate this Agreement for their mutual convenience in writing, in the manner agreed upon by the Parties, which must include the effective date of the termination.

(d) In the event that this Agreement is terminated, Subrecipient shall not incur new obligations under the terminated portion of the Agreement after the date Subrecipient has received the notification of termination. Subrecipient shall cancel as many outstanding obligations as possible. DEO shall disallow all costs incurred after Subrecipient's receipt of the termination notice. DEO may, to the extent authorized by law, withhold payments to Subrecipient for the purpose of set-off until the exact amount of damages due to DEO from Subrecipient is determined.

(e) Upon expiration or termination of this Agreement, Subrecipient shall transfer to DEO any CDBG-MIT funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-MIT funds.

(f) Any real property under Subrecipient's control that was acquired or improved in whole or in part with CDBG-MIT funds (including CDBG-MIT funds provided to the subrecipient in the form of a loan) in excess of $25,000 must either:

1. Be used to meet a national objective until five years after expiration or termination of this Agreement, unless otherwise agreed upon by the Parties, or except as otherwise set forth herein; or
2. If not used to meet a national objective, Subrecipient shall pay to DEO an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG-MIT funds for the acquisition or improvement of the property for five years after expiration or termination of this Agreement.

(g) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Agreement.

(17) NOTICE AND CONTACT

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, first class or certified mail with return receipt requested, email with confirmation of receipt of email from Subrecipient, to the representative identified below at the address set forth below or said notification attached to the original of this Agreement.

(b) The name and address of DEO's Grant Manager for this Agreement is:

Jorge Passalacqua
107 E. Madison Street
Tallahassee, FL 32399
850-921-3278
Jorge.Passalacqua@deo.myflorida.com

(c) The name and address of the Local Government Project Contact for this Agreement is:

Elly McKuen
9101 Bonita Beach Road
Bonita Springs, FL 34135
239-980-2138
Elly.mckuen@cityofbonitasprings.org

(d) If different representatives or addresses are designated by either Party after execution of this Agreement, notice of the name, title and address of the new representative will be provided as provided for in this Agreement. Such change shall not require a formal amendment of the Agreement.

(18) CONTRACTS

If the Subrecipient contracts any of the work required under this Agreement, a copy of the proposed contract template and any proposed amendments, extensions, revisions, or other changes thereto, must be forwarded to the DEO grant manager for prior written approval. For each contract, the Subrecipient shall report to DEO as to whether that contractor or any subcontractors hired by the contractor, is a minority vendor, as defined in Section 288.703, F.S. The Subrecipient shall comply with the procurement standards in 2 CFR §200.318 - §200.327and §200.330 when procuring property and services under this Agreement (refer to Attachments D & E).

The Subrecipient shall include the following terms and conditions in any contract pertaining to the work required under this Agreement:

(a) the period of performance or date of completion;
(b) the performance requirements;
(c) that the contractor is bound by the terms of this Agreement;
(d) that the contractor is bound by all applicable State and Federal laws, rules, and regulations;
(e) that the contractor shall hold DEO and Subrecipient harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;
(f) the obligation of the Subrecipient to document in Subrecipient's reports the contractor's progress in performing its work under this Agreement;
(g) the requirements of 2 CFR Appendix II to Part 200 – Contract Provision for Non-Federal Entity Contract Under Federal Awards – (refer to Attachment L)

Subrecipient must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.489(l)), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, payment, performance bonds, if applicable, and liquidated damages.

Subrecipient shall maintain oversight of all activities performed under this Agreement and shall ensure that its contractors perform according to the terms and conditions of the procured contracts or agreements and the terms and conditions of this Agreement.

(19) TERMS AND CONDITIONS

This Agreement contains all the terms and conditions agreed upon by the Parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement; and this Agreement supersedes all previous understandings. No waiver by DEO may be effective unless made is writing by an authorized DEO official.

(20) ATTACHMENTS

(a) If any inconsistencies or conflict between the language of this Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

(b) This Agreement contains the following attachments:

Attachment A – Project Description and Deliverables
Attachment B – Project Budget (Example)
Attachment C – Activity Work Plan (Example)
Attachment D – Program and Special Conditions
Attachment E – State and Federal Statutes, Regulations and Policies
Attachment F – Civil Rights Compliance
Attachment G – Reports
Attachment H – Warranties and Representations
Attachment I – Audit Requirements and Exhibit 1 to Attachment I – Funding Sources
Attachment J – Audit Compliance Certification
Attachment K – SERA Access Authorization Form (form provided after execution of this agreement)
Attachment L – 2 CFR Appendix II to Part 200
Attachment M – Subrogation Agreement

(21) FUNDING/CONSIDERATION

(a) The funding for this Agreement shall not exceed **Sixteen Million Eight Hundred Thirty Three Thousand One Hundred Ninety Seven Dollars and Zero Cents** ($16,833,197.00) subject to the availability of funds. The State of Florida and DEO's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the Legislature and subject to any modification in accordance with Chapter 216, F.S. or the Florida Constitution.

(b) DEO will provide funds to Subrecipient by issuing a Notice of Subgrant Award/Fund Availability ("NFA") through DEO's financial management information system. Each NFA may contain specific terms, conditions, assurances, restrictions or other instructions applicable to the funds provided by the NFA. By accepting funds made available through an NFA, Subrecipient agrees to comply with all terms, conditions, assurances, restrictions or other instructions listed in the NFA.

(c) By execution of this Agreement, Subrecipient certifies that necessary written administrative procedures, processes and fiscal controls are in place for the operation of its CDBG-MIT program for which Subrecipient receives funding from DEO. These written administrative procedures, processes and fiscal controls must, at minimum, comply with applicable state and federal law, rules, regulations, guidance and the terms of this Agreement. Subrecipient agrees to comply with all the terms and conditions of Attachment D, Program and Special Conditions.

(d) Subrecipient shall expend funds only for allowable costs and eligible activities, in accordance with the Scope of Work.

(e) Subrecipient shall request all funds in the manner prescribed by DEO. The authorized signatory for the Subrecipient set forth on the SERA Access Authorization Form must approve the submission of each Request for Funds ("RFF") on behalf of Subrecipient. SERA Access Authorization Form will be provided after the execution of this Agreement.

(f) Except as set forth herein, or unless otherwise authorized in writing by DEO, costs incurred for eligible activities or allowable costs prior to the effective date of this Agreement are ineligible for funding with CDBG-MIT funds.

(g) If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the Federal Office of Management and Budget, the Florida Legislature, the State Chief Financial Officer or under Subparagraph (23), Mandated Conditions of this Agreement, all obligations on the part of DEO to make any further payment of funds will terminate and the Subrecipient shall submit its administrative closeout report and subgrant agreement closeout package as directed by DEO within thirty (30) calendar days from receipt of notice from DEO.

(h) Subrecipient is ultimately responsible for the administration of this Agreement, including monitoring and oversight of any person or entity retained or hired by Subrecipient.

(i) All expenditures under this Agreement shall be made in accordance with this Agreement and any applicable state or federal statutes, rules, or regulations.

(j) Funding for this Agreement is appropriated under Public Law 115-254, Division I, the "Supplemental Appropriations for Disaster Relief Act, 2018" and Public Law 116-20, the "Additional Supplemental Appropriations for Disaster Relief Act, 2019" for the purpose of assisting in long-term recovery from major disasters that occurred in 2017, 2018, and 2019 in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., (the "Stafford Act").

(k) CDBG-DR funds, appropriated and identified by Public Law, are governed by one or more Federal Register notices that contain requirements, applicable waivers, and alternative requirements that apply to the use of these funds.

(22) REPAYMENTS

(a) Subrecipient shall only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period. Subrecipient shall ensure that its contractors, subcontractors, and consultants only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period.

(b) In accordance with Section 215.971, F.S., Subrecipient shall refund to DEO any unobligated funds which have been advanced or paid.

(c) Subrecipient shall refund to DEO any funds paid in excess of the amount to which the Subrecipient or its contractors, subcontractors or consultants are entitled under the terms and conditions of this Agreement.

(d) Subrecipient shall refund to DEO any funds received for an activity if the activity does not meet one of the three National Objectives listed in 24 CFR § 570.483(b), (c) and (d); provided, however, the Subrecipient is not required to repay funds for subgrant administration unless DEO, in its sole discretion, determines Subrecipient is at fault for the ineligibility of the activity in question.

(e) Subrecipient shall refund to DEO any funds not spent in accordance with the conditions of this Agreement or applicable law. Such reimbursement shall be sent to DEO, by the Subrecipient, within thirty (30) calendar days from Subrecipient's receipt of notification of such non-compliance.

(f) In accordance with Section 215.34(2), F.S., if a check or other draft is returned to DEO for collection, the Subrecipient shall pay to DEO a service fee of $15.00 or five percent of the face amount of the returned check or draft, whichever is greater. All refunds or repayments to be made to DEO under this Agreement are to be made payable to the order of "Department of Economic Opportunity" and mailed directly to DEO at the following address:

Department of Economic Opportunity
Community Development Block Grant Programs Cashier
107 East Madison Street – MSC 420
Tallahassee, Florida 32399-6508

(23) MANDATED CONDITIONS

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations and materials submitted or provided by the Subrecipient in this Agreement, in any later submission or response to a DEO request or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations and materials are incorporated herein by reference.

(b) This Agreement shall be construed under the laws of the State of Florida and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. The Parties explicitly waive any right to jury trial.

(c) If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from and shall not invalidate any other provision of this Agreement.

(d) Any power of approval or disapproval granted to DEO under the terms of this Agreement shall survive the term of this Agreement.

(e) This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(f) Subrecipient shall comply with all applicable local, state and federal laws, including the Americans With Disabilities Act of 1990, as amended (P.L. 101-336, 42 U.S.C. § 12101 *et seq.*); the Florida Civil Rights Act, as amended, Chapter 760, Florida Statutes; Title VII of the Civil Rights Act of 1964, as amended; and laws which prohibit discrimination by public and private entities on in employment, public accommodations, transportation, state and local government services and telecommunications.

(g) Pursuant to Section 287.133(2)(a), F.S., a person or affiliate, as defined in Section 287.133(1), F.S., who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of thirty-five thousand dollars ($35,000) for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. By executing this Agreement, the Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the convicted vendor list. The Subrecipient shall disclose if it or any of its affiliates is placed on the convicted vendor list.

(h) Pursuant to Section 287.134(2)(a), F.S., an entity or affiliate, as defined in Section 287.134(1), who has been placed on the discriminatory vendor list may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity. By executing this Agreement, the Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list. The Subrecipient shall disclose if it or any of its affiliates is placed on the discriminatory vendor list.

(i) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(j) In the event travel is pre-approved by DEO, any bills for travel expenses shall be submitted and reimbursed in accordance with Section 112.061, F.S., the rules promulgated thereunder and 2 CFR § 200.474.

(k) If Subrecipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to DEO or be applied against DEO's obligation to pay the Agreement award amount.

(l) Subrecipient acknowledges being subject to Florida's Government in the Sunshine Law (Section 286.011, F.S.) with respect to the meetings of Subrecipient's governing board or the meetings of any subcommittee making recommendations to the governing board. Subrecipient agrees that all such aforementioned meetings shall be publicly noticed, open to the public and the minutes of all the meetings shall be public records made available to the public in accordance with Chapter 119, F.S.

(m) Subrecipient shall comply with section 519 of P. L. 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990; and section 906 of P.L. 101-625, the Cranston-Gonzalez National Affordable Housing Act, 1990, by having, or adopting within ninety (90) days of execution of this Agreement, and enforcing, the following:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(n) Upon expiration or termination of this Agreement, Subrecipient shall transfer to DEO any CDBG-MIT funds remaining at the time of expiration or termination, and any accounts receivable attributable to the use of CDBG-MIT funds.

(24) LOBBYING PROHIBITION

(a) No funds or other resources received from DEO under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) The Subrecipient certifies, by its signature to this Agreement, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of

Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any general loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement;

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

3. Subrecipient shall require that this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose as described in this Agreement. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than one hundred thousand dollars ($100,000) for each such failure.

(25) COPYRIGHT, PATENT AND TRADEMARK

Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this Agreement are hereby transferred by Subrecipient to the State of Florida.

(a) If the Subrecipient has a pre-existing patent or copyright, Subrecipient shall retain all rights and entitlements to that pre-existing patent or copyright unless this Agreement expressly provides otherwise.

(b) If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement or in any way connected with it, Subrecipient shall refer the discovery or invention to DEO for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films or other copyrightable material are produced, Subrecipient shall notify DEO. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the Subrecipient to the State of Florida.

(c) Within thirty (30) calendar days of execution of this Agreement, Subrecipient shall disclose all intellectual properties relating to the performance of this Agreement which give rise to a patent or copyright. Subrecipient shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and DEO shall have the right to all patents and copyrights which accrue during performance of this Agreement.

(26) LEGAL AUTHORIZATION

(a) Subrecipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. Subrecipient certifies that the undersigned person has the authority to legally execute and bind the Subrecipient to the terms of this Agreement. DEO may, at its discretion, request documentation evidencing the undersigned has authority to bind Subrecipient to this Agreement as of the date of execution; any such documentation is incorporated herein by reference.

(b) Prior to the execution of this Agreement, Subrecipient warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation or any other legal or financial condition that would in any way prohibit, restrain or diminish Subrecipient's ability to satisfy its obligations.

Subrecipient shall immediately notify DEO in writing if its ability to perform is compromised in any manner during the term of this Agreement.

(27) PUBLIC RECORD RESPONSIBILITIES

(a) In addition to Subrecipient's responsibility to directly respond to each request it receives for records, in conjunction with this Agreement and to provide the applicable public records in response to such request, Subrecipient shall notify DEO of the receipt and content of all such requests by sending an email to PRRequest@deo.myflorida.com within one (1) business day from receipt of the request.

(b) Subrecipient shall keep and maintain public records required by DEO to perform the Subrecipient's responsibilities hereunder. Subrecipient shall, upon request from DEO's custodian of public records, provide DEO with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, F.S., or as otherwise provided by law. Subrecipient shall allow public access to all documents, papers, letters or other materials made or received by the Subrecipient in conjunction with this Agreement, unless the records are exempt from Article I, Section 24(a) of the Florida Constitution and Section 119.07(1), F.S. For records made or received by Subrecipient in conjunction with this Agreement, Subrecipient shall respond to requests to inspect or copy such records in accordance with Chapter 119, F.S. For all such requests for records that are public records, as public records are defined in Section 119.011, F.S., Subrecipient shall be responsible for providing such public records per the cost structure provided in Chapter 119, F.S., and in accordance with all other requirements of Chapter 119, F.S., or as otherwise provided by law.

(c) This Agreement may be terminated by DEO for refusal by Subrecipient to comply with Florida's public records laws or to allow public access to any public record made or received by the Subrecipient in conjunction with this Agreement.

(d) If, for purposes of this Agreement, Subrecipient is a "contractor" as defined in Section 119.0701(1)(a), F.S. ("Subrecipient-contractor"), the Subrecipient-contractor shall transfer to DEO, at no cost to DEO, all public records upon completion including termination, of this Agreement or keep and maintain public records required by DEO to perform the service. If Subrecipient-contractor transfers all public records to the public agency upon completion of this Agreement, Subrecipient-contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Subrecipient-contractor keeps and maintains public records upon completion of the Agreement, the Subrecipient-contractor shall meet all applicable requirements for retaining public records in accordance with Chapters 119 and 257, F.S. All records stored electronically must be provided to DEO, upon request from DEO's custodian of public records, in a format that is compatible with the information technology systems of DEO.

(e) If DEO does not possess a record requested through a public records request, DEO shall notify Subrecipient-contractor of the request as soon as practicable, and the Subrecipient-contractor must provide the records to DEO or allow the records to be inspected or copied within a reasonable time, but in all cases within fourteen business days. If the Subrecipient-contractor does not comply with DEO's request for records, DEO shall enforce the provisions set forth in this Agreement. Subrecipient-contractor who fails to provide public records to DEO within a reasonable time may be subject to penalties under Section 119.10, F.S.

(f) Subrecipient shall notify DEO verbally within twenty-four (24) hours and in writing within seventy-two (72) hours if any data in the Subrecipient's possession related to this Agreement is subpoenaed or improperly used, copied or removed (except in the ordinary course of business) by anyone except an authorized representative of DEO. Subrecipient shall cooperate with DEO, in taking all steps as DEO deems advisable, to prevent misuse, regain possession or otherwise protect the State's rights and the data subject's privacy.

(g) Subrecipient acknowledges DEO is subject to the provisions of Chapter 119, F.S., relating to public records and that reports, invoices and other documents Subrecipient submits to DEO under this Agreement constitute public records under Florida Statutes. Subrecipient shall cooperate with DEO regarding DEO's efforts to comply with the requirements of Chapter 119, F.S.

(h) If Subrecipient submits records to DEO that are confidential and exempt from public disclosure as trade secrets or proprietary confidential business information, such records should be identified as such by Subrecipient prior to submittal to DEO. Failure to identify the legal basis for each exemption from the requirements of Chapter 119, F.S., prior to submittal of the record to DEO serves as the Subrecipient's waiver of a claim of exemption. Subrecipient shall ensure public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement term and following completion of this Agreement if the Subrecipient-contractor does not transfer the records to DEO upon completion, including termination, of this Agreement.

(i) **IF SUBRECIPIENT-CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT-CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at** PRRequest@deo.myflorida.com**, or by mail at Department of Economic Opportunity, Public Records Coordinator, 107 East Madison Street, Caldwell Building, Tallahassee, Florida 32399-4128.**

(j) To the extent allowable by law, Subrecipient shall be fully liable for the actions of its agents, employees, partners, contractors and subcontractors and shall fully indemnify, defend, and hold harmless the State and DEO, and their officers, agents and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to public record requests or public record law violation(s), alleged to be caused in whole or in part by the Subrecipient, its agents, employees, partners, contractors or subcontractors, provided, however, Subrecipient does not indemnify for that portion of any costs or damages proximately caused by the negligent act or omission of the State or DEO. DEO, in its sole discretion, has the right, but not the obligation, to enforce this indemnification provision.

(k) DEO does not endorse any Subrecipient, commodity, or service. Subject to Chapter 119, F.S., Subrecipient shall not publicly disseminate any information concerning this Agreement without prior written approval from DEO, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying DEO or the State as a reference, or otherwise linking Subrecipient's name and either a description of the Agreement or the name of DEO or the State in any material published, either in print or electronically, to any other entity that is not a Party to this Agreement, except potential or actual employees, agents, representatives or subcontractors with the professional skills necessary to perform the work services required by the Agreement.

(l) Subrecipient shall comply with the requirements set forth in Section 119.0701, F.S., when entering into any public agency contract for services after the Effective Date of this Agreement. Subrecipient shall amend each of the Subrecipient's public agency contracts for services already in effect as of the Effective Date of this Agreement and which contract will or may be funded in whole or in part with any public funds. DEO may terminate this Agreement if the Subrecipient does not comply with this provision.

(28) EMPLOYMENT ELIGIBILITY VERIFICATION

(a) Section 448.095, F.S., requires the following:

1. Every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

2. A private employer shall, after making an offer of employment which has been accepted by a person, verify such person's employment eligibility. A private employer is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a person is a contract employee retained by a private employer, the private employer must verify the employee's employment eligibility upon the renewal or extension of his or her contract.

(b) E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found at:

https://www.e-verify.gov/

(c) If the Recipient does not use E-Verify, the Recipient shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the effective date of this Agreement.

(29) PROGRAM INCOME

(a) The Subrecipient shall report to DEO all program income (as defined at 24 CFR § 570.500(a) or in the Federal Register Guidance governing the CDBG-MIT funds) generated by activities carried out with CDBG-MIT funds made available under this Agreement as part of the Subrecipient's Quarterly Progress Report. The Subrecipient shall use program income in accordance with the applicable requirements of 2 CFR part 200, 24 CFR part 570.489, 570.500, 570.504 and the terms of this Agreement.

(b) Program income generated after closeout shall be returned to DEO. Program income generated prior to closeout shall be returned to DEO unless the program income is used to fund additional units of CDBG-MIT activities, specified in a modification to this Agreement and duly executed prior to administrative closeout.

(30) NATIONAL OBJECTIVES

All activities funded with CDBG-MIT funds must meet the criteria for one of the CDBG program's National Objectives. The Subrecipient certifies that the activities carried out under this Agreement shall meet the following national objectives and satisfy the following criteria:

(a) Benefit low- and moderate- income persons;
(b) Meet a particularly urgent need;
(c) Aid in the prevention or elimination of slums or blight.

(31) INDEPENDENT CONTRACTOR

(a) In Subrecipient's performance of its duties and responsibilities under this Agreement, it is mutually understood and agreed Subrecipient is at all times acting and performing as an independent contractor. Nothing in this Agreement is intended to or shall be deemed to constitute an employer/employee relationship, partnership or joint venture between the Parties. Subrecipient shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. Nothing in this Agreement shall be construed to create any agency or employment relationship between DEO Subrecipient, its employees, subcontractors or agents. Neither Party shall have any right, power or authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other.

(b) Subrecipient, its officers, agents, employees, subcontractors or assignees, in performance of this Agreement shall act in the capacity of an independent contractor and not as an officer, employee, agent, joint venturer, or partner of the State of Florida.

(c) Subrecipient shall have sole right to control the manner, method and means by which the services required by this Agreement are performed. DEO shall not be responsible to hire, supervise or pay Subrecipient's employees. Neither Subrecipient, nor its officers, agents, employees, subcontractors or assignees are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Agreement.

(d) Subrecipient agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, employee, servant, joint venturer or partner of the State of Florida.

(e) Unless justified by the Subrecipient, and agreed to by DEO in the Scope of Work, DEO will not furnish services of support (*e.g.*, office space, office supplies, telephone service, secretarial or clerical support) to the Subrecipient or its subcontractor or assignee.

(f) DEO shall not be responsible for withholding taxes with respect to the Subrecipient's use of funds under this Agreement. Subrecipient shall have no claim against DEO for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits or employee benefits of any kind. Subrecipient shall ensure that its employees, subcontractors and other agents, receive benefits and necessary insurance (health, workers' compensation, reemployment assistance benefits) from an employer other than the State of Florida.

(g) Subrecipient, at all times during the Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of Chapter 443, F.S.

(h) DEO shall not be responsible for providing any training to Subrecipient, its employees, assigns, agents, representatives or subcontractors in the professional skills necessary to perform the work services required by this Agreement; DEO may provide training in the form of an Implementation Workshop in keeping with implementation

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State of Florida

Department of Economic Opportunity
Federally Funded Subrecipient Agreement
Signature Page

IN WITNESS THEREOF, and in consideration of the mutual covenants set forth above and, in the attachments and exhibits hereto, the Parties executed this Agreement by their duly authorized undersigned officials.

CITY OF BONITA SPRINGS		**DEPARTMENT OF ECONOMIC OPPORTUNITY**	
By	______________________ Signature **Rick Steinmeyer**	**By**	______________________ Signature **Dane Eagle**
Title	**Mayor**	**Title**	**Secretary**
Date	______________________	**Date**	______________________
Federal Tax ID #	**59-3649914**		
UEI #	**LLWSSKDMXTCJ8**		

Approved as to form and legal sufficiency, subject only to full and proper execution by the Parties.

OFFICE OF GENERAL COUNSEL
DEPARTMENT OF ECONOMIC OPPORTUNITY

By: ______________________________

Approved Date: ______________________

Attachment A – Project Description and Deliverables

1. PROGRAM DESCRIPTION: In April 2018, the U.S. Department of Housing and Urban Development (HUD) announced the State of Florida, Department of Economic Opportunity (DEO) would receive $633,485,000 in funding to support long-term mitigation efforts following declared disasters in 2016 and 2017 through HUD's Community Development Block Grant Mitigation (CDBG-MIT) program. Awards were distributed on a competitive basis targeting HUD designated Most Impacted and Distressed (MID) Areas, primarily addressing the Benefits to Low-to-Moderate Income (LMI) National Objective. Additional information may be found in the Federal Register, Vol. 84, No. 169. The Florida Department of Economic Opportunity (DEO) has apportioned the Federal Award to include the following initiatives: Critical Facility Hardening Program $75,000,000; General Planning Support Program $20,000,000; General Infrastructure Program $475,000,000; and State Planning and Administration $63,485,000.

This award has been granted under the **General Infrastructure Program**. Projects eligible for funding under this program must be from units of general local government (UGLG) include towns, cities, counties and villages. Eligible Activities include projects that demonstrably increase community resilience. The following types of infrastructure projects are encouraged:

1. Restoration of critical infrastructure
2. Re-nourishment of protective coastal dune systems and state beaches
3. Building or fortifying buildings that are essential to the health, safety, and welfare of a community
4. Rehabilitation or construction of stormwater management systems
5. Improvements to drainage facilities
6. Reconstruction of lift stations and sewage treatment plants
7. Road repair and improvement and bridge strengthening

2. PROJECT DESCRIPTION: The City of Bonita Springs, Florida was awarded Sixteen Million Eight Hundred Thirty-Three Thousand One Hundred Ninety-Seven Dollars and Zero Cents ($16,833,197.00) of CDBG-MIT (Community Development Block Grant – Mitigation) funds to create stormwater resiliency improvements and construct a multi-use pathway along East Terry Street from Old 41 Road east to Bonita Grande Drive through installation of enclosed drainage systems along the corridor. The improvements are intended to reduce/eliminate future flooding in the area. The area of benefit consists of 56% low to moderate income (LMI) residents and will meet the LMI National Objective.

3. SUBRECIPIENT RESPONSIBILITIES:

A. Complete and submit to DEO within thirty (30) days of Agreement execution a staffing plan which must be reviewed and approved by the DEO Grant Manager prior to implementation. Should any changes to the staffing plan be deemed necessary, an updated plan must be submitted to DEO for review and approval. The Staffing plan must include the following:
   1. Organizational Chart; and
   2. Job descriptions for Subrecipient's employees, contracted staff, vendors, and contractors.

B. Develop and submit a copy of the following policies and procedures to the DEO Grant Manager for review and approval within thirty (30) days of Agreement execution. The DEO Grant Manager will provide approval in writing prior to the policies and procedures being implemented.
   1. Procurement policies and procedures that incorporate 2 CFR Part 200.317-327.
   2. Administrative financial management policies, which must comply with all applicable HUD CDBG-MIT and State of Florida rules.
   3. Quality assurance and quality control system policies and procedures that comply with all applicable HUD CDBG-MIT and DEO policies.

4. Policies and procedures to detect and prevent fraud, waste and abuse that describe how the Subrecipient will verify the accuracy of applicant information, monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring policy, and which items will be monitored, and procedures for referring instances of fraud, waste and abuse to HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email hotline@hudoig.gov).
5. Policies and procedures for the requirements under 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award.

C. Attend fraud related training offered by HUD OIG to assist in the proper management of the CDBG-MIT grant funds when available.

D. Upload required documents into a system of record provided by DEO.

E. Complete and submit an updated Project Budget (Attachment B) for review and approval by DEO no later than thirty (30) days after Agreement execution. Any changes to the Project Budget must be submitted in the monthly report submitted to DEO for review and approval by the DEO Grant Manager.

F. Maintain organized Subrecipient agreement files and make them accessible to DEO or its representatives upon request.

G. Comply with all terms and conditions of the Subrecipient Agreement, Infrastructure Program Guidelines, Action Plans, Action Plan amendments, and Federal, State, and local laws.

H. Provide copies of all proposed procurement documents to DEO ten (10) days prior to posting as detailed in Attachment D of Subrecipient Agreement. The proposed procurement documents will be reviewed and approved by DEO Grant Manager. Should the procurement documents require revisions based on state or federal requirements, Subrecipient will be required to postpone procurement and submit revised documents for review and approval.

I. Complete procurement of all applicants for internal grants management, compliance and direct program and product production, including:
1. Selection of applicants, subrecipients and/or staff that will be responsible for managing applicant intake and related operations, compliance, finance, and administration.
2. Selection of applicants, subrecipients and/or staff that will be responsible for appraisal, environmental review, title services and legal services.
3. Copies of all contracts to be executed by Subrecipient. Contracts must be provided to DEO prior to execution as detailed in Attachment D. Any contract executed by Subrecipient must follow the terms and conditions set forth in this Agreement. Should the submitted contract require necessary additions and/or changes, DEO's Contract Manager will contact Subrecipient regarding changes. Subrecipient is required to submit the updated contract within thirty (30) days. Should the contract not be submitted in a timely manner, Subrecipient will be required to complete the selection process once more.

J. Ensure all projects seeking assistance under the current CDBG-MIT funds, and any future funds allocated for Mitigation, provided by DEO, receive the required Environmental Clearance from DEO prior to Subrecipient being able to commit CDBG-MIT funds.

K. Provide the following documentation to DEO within ten (10) calendar days after the end of each month:
1. A revised detail report measuring the actual cost versus the project cost.
2. An updated Attachment C which documents any changes to the project progress along with justification for the revision.

L. Develop and submit to DEO a monthly revised detailed timeline for implementation consistent with the milestones outlined in the Mitigation Program Guidelines and report actual progress against the projected progress ten (10) calendar days after the end of each month.

M. Provide the following information on a quarterly basis within ten (10) calendar days of the end of each quarter:

1. Submit updated organization chart on a quarterly basis with quarterly report.
2. If staffing changes, there must be a submittal stating the names, job descriptions, on the monthly report deadline.
3. A progress report documenting the following information:
   a. Accomplishments within the past quarter;
   b. Issues or risks that have been faced with resolutions; and
   c. Projected activities to be completed within the following quarter.

N. Subrecipient shall adhere to the deadlines for the project as agreed upon in the Attachment C – Activity Work Plan. If Subrecipient is unable to meet a deadline within thirty (30) calendar days of the due date, Subrecipient shall request an extension of such deadline from DEO in writing at least thirty (30) business days prior to the deadline. Deadlines shall not be extended outside of the term of this Agreement except by a formal amendment executed in accordance with Section (5) Modification of Agreement.

O. Close out report will be due no later than sixty (60) calendar days after this Agreement ends or is otherwise terminated.

4. ELIGIBLE TASKS AND DELIVERABLES:

A. Deliverable No. 1 – Program Implementation

Subrecipient shall:

1. Ensure the proper management and no duplication of benefits. Ensuring project is tracked properly by budget, personnel, and hours. Subrecipient will be the liaison between, the Contractor and the Engineer.
2. Ensure compliance with Section 3 to include Pre-Bid Briefing of potential bidders; Bidding Oversight and Selection of Section 3 Preference; Pre-Construction Documentation & Briefing of Contractor; Weekly Monitoring for new Section 3 Hires; Monthly Section 3 Reporting from Contractors· Section 3 Reporting to FDEO/HUD.
3. Perform Fair Housing activities i.e., Fair Housing Month Proclamation and Resolution; letters to bankers and realtors; postings at Government Center and Library).
4. Ensure compliance with Davis Bacon Labor Standards: includes Verification of Certified Weekly Payrolls; Employee Interviews and Site Inspections; Training Contractor Personnel on Davis Bacon.
5. Provide construction oversight (includes oversight of the Engineer of the project to ensure the project is on schedule and within budget. Being liaison between engineer and construction contractor if problems arise).
6. Ensure completion of construction Inspections (physical inspections to ensure project complies with engineering design and construction plans).
7. Perform financial oversight (Contractors and A/E invoices will be Q/C to ensure they are correct and within budget before processed on a Request for Reimbursement (RFR). All budget requests will be prepared by the subrecipient).
8. Perform General grant management (record keeping, submission of reimbursement requests, file management).
9. Perform Data and Document Management (All records will be kept on-site in hard and electronic copy for review by FDEO/HUD).
10. Create and submit all required Semi-Annual Reports, Quarterly Reports, and other required reports as required in Attachment G (Reports).

11. Conduct activities associated with the required environmental review as required by 24 CFR 50.4, 58.5 and 58.6.
12. Hire a Grant Administrator and/or manager utilizing the City's procurement policy and following all applicable federal standards, rules, and regulations including preparing bid documents, submitting bid documents to DEO for review/approval, advertising for engineering consultant, reviewing/evaluating/ranking proposals, sending rankings to DEO for review/approval.
13. Hire a Florida Board Certified Professional Engineer (PE) licensed in the State of Florida utilizing the City's procurement policy and following all applicable federal standards, rules, and regulations including preparing bid documents, submitting bid documents to DEO for review/approval, advertising for engineering consultant, reviewing/evaluating/ranking proposals, sending rankings to DEO for review/approval.
14. Hire a Florida licensed contractor(s) utilizing the City's procurement policy and following all applicable federal standards, rules, and regulations including preparing bid documents, submitting bid documents to DEO for review/approval, advertising for engineering consultant, reviewing/evaluating/ranking proposals, sending rankings to DEO for review/approval.

B. Deliverable 2- Engineering and Design

Subrecipient shall:

1. Create a full design package(s), signed, and sealed by a Professional Engineer (PE) licensed in the State of Florida, including engineering drawings, specifications, Opinions of Probable Cost (OPC), surveys, and any other reports, documents, or information relevant to this project.
2. Meet all local current hurricane code ratings, local codes, and building codes.
3. Obtain all necessary permits, correspondence with permitting agencies, final permits, and any other permit-related documentation for the project required from all applicable local, state, and federal agencies.
4. Provide services to include construction milestones, estimated construction timeline, inspections during construction, and As-Built plans prior to project completion.

C. Deliverable 3 – Segment 1 Construction (Old 41 Road east to Imperial Parkway)

Subrecipient shall:

1. Provide construction video, mobilization, traffic control, clearing and grubbing, inlet protection system, sediment barriers, stabilization, and all other similar components.
2. Perform Stormwater improvements – trench work, pipe culverts (various sizes), conflict boxes, inlets, and all other similar components.
3. Provide concrete/asphalt path, pattern pavement, thermoplastic, handrails, pedestrian detections, pedestrian signals, ground mounted signs and posts, pathway lighting, and all other similar components.
4. Provide irrigation system, landscape (trees, shrubs, ground over, turf), benches, trash cans and all other similar components.

D. Deliverable 4 – Segment 2 Construction (Imperial Parkway east to Interstate 75)

Subrecipient shall:

1. Provide construction video, mobilization, traffic control, clearing and grubbing, inlet protection system, sediment barriers, stabilization, and all other similar components.
2. Perform Stormwater improvements – trench work, pipe culverts (various sizes), conflict boxes, inlets, and all other similar components.
3. Provide concrete/asphalt path, pattern pavement, thermoplastic, handrails, pedestrian detections, pedestrian signals, ground mounted signs and posts, pathway lighting, and all other similar components.
4. Provide irrigation system, landscape (trees, shrubs, ground over, turf), benches, trash cans and all other similar components.

E. Deliverable 5 – Segment 3 Construction (Interstate 75 east to Bonita Grande Drive)

Subrecipient shall:

1. Provide construction video, mobilization, traffic control, clearing and grubbing, inlet protection system, sediment barriers, stabilization, and all other similar components.
2. Perform Stormwater improvements – trench work, pipe culverts (various sizes), conflict boxes, inlets, and all other similar components.
3. Provide concrete/asphalt path, pattern pavement, thermoplastic, handrails, pedestrian detections, pedestrian signals, ground mounted signs and posts, pathway lighting, and all other similar components.
4. Provide irrigation system, landscape (trees, shrubs, ground over, turf), benches, trash cans and all other similar components.

5. DEO RESPONSIBILITIES:

1. Monitor the ongoing activities of Subrecipient to ensure all activities are being performed in accordance with the Agreement to the extent required by law or deemed necessary be DEO in its discretion
2. Assign a Grant Manager as a point of contact for Subrecipient
3. Review Subrecipient's invoices described herein and process them on a timely basis
4. DEO shall monitor progress, review reports, conduct site visits, as DEO determines necessary at DEO's sole and absolute discretion, and process payments to Subrecipient

6. DELIVERABLES:

Subrecipient agrees to provide the following services as specified:

Deliverable 1 - Project Implementation		
Tasks	**Minimum Level of Service**	**Financial Consequences**
Subrecipient may provide project implementation activities as identified in Section 4.A., of this Scope of Work which shall be reimbursed upon satisfactory completion of an eligible task as detailed, in Deliverables 2-3 of this Scope of Work.	Subrecipient may request reimbursement upon completion of a minimum of one task on a per completed task basis associated with a completed task as identified in Deliverables 2 through 3 of this Scope of Work as evidenced by submittal of the following documentation: 1) Staffing plan, policy/procedures, detailed budget plan (Attachment B)	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable.

	and the work activity plan (Attachment C) 2) Completion of the Exempt or Categorically Exempt Not Subject To (as applicable) Environmental Review to release funds for project development 3) General administration for such tasks as DEO sponsored training, file management, developing monthly/quarterly reports, ensuring compliance with all DEO governing requirements 4) Completed Environmental Assessment (if applicable) 5) Payroll documentation 6) Engineering inspections (if applicable) 7) Davis-Bacon review summary report (if applicable) 8) Section 3 summary report (if applicable) 9) Documentation/preparation of monitoring by DEO (if applicable) 10) Construction inspection documents (if applicable; and 11) Invoice package in accordance with Section 7 of this Scope of Work	
		Deliverable 1 Cost: $275,000.00
Deliverable 2 – Engineering and Design		
Tasks	**Minimum Level of Service**	**Financial Consequences**
Subrecipient shall complete tasks as detailed in Section 4.B of this Scope of Work.	Subrecipient may request reimbursement upon completion of the tasks listed in 4.B. of the Scope of Work as evidenced by submittal of the following documentation: 1) All bidding documents 2) Engineering services contract 3) Engineer's final report 4) Final design documents including drawings and opinion of probable costs 5) Staff payroll documentation (if applicable)	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable.

	6) Invoice package in accordance with Section 7 of this scope of work.	
		Deliverable No. 2 Cost: $900,000.00
Deliverable 3 – Segment 1 Construction (Old 41 Road east to Imperial Parkway)		
Tasks	**Minimum Level of Service**	**Financial Consequences**
Subrecipient shall complete tasks as detailed in Section 4.C of this Scope of Work.	Subrecipient may request reimbursement upon completion of the tasks listed in 4.C. of the Scope of Work, or upon completion of construction at 5% increments and closeout milestones. All reimbursement requests must be evidenced by submittal of the following documentation: 1) AIA forms G702, G703 or their substantive equivalent, certifying that the project, or a quantifiable portion of the project is complete. 2) Photographs of the completed project, or progress made. 3) Invoice package in accordance with Section 7 of this Scope of Work	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable.
		Deliverable 3 Cost: $3,200,000
Deliverable 4 – Segment 2 Construction (Imperial Parkway east to Interstate 75)		
Tasks	**Minimum Level of Service**	**Financial Consequences**
Subrecipient shall complete tasks as detailed in Section 4.D of this Scope of Work.	Subrecipient may request reimbursement upon completion of the tasks listed in 4.C. of the Scope of Work, or upon completion of construction at 5% increments and closeout milestones. All reimbursement requests must be evidenced by submittal of the following documentation: 1) AIA forms G702, G703 or their substantive equivalent, certifying that the project, or a quantifiable portion of the project is complete. 2) Photographs of the completed project, or progress made. 3) Invoice package in accordance with Section 7 of this Scope of Work	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable.
		Deliverable 4 Cost: $6,229,098
Deliverable 5 – Segment 3 Construction (Interstate 75 east to Bonita Grande Drive)		
Tasks	**Minimum Level of Service**	**Financial Consequences**

Subrecipient shall complete tasks as detailed in Section 4.E of this Scope of Work.	Subrecipient may request reimbursement upon completion of the tasks listed in 4.C. of the Scope of Work, or upon completion of construction at 5% increments and closeout milestones. All reimbursement requests must be evidenced by submittal of the following documentation: 1) AIA forms G702, G703 or their substantive equivalent, certifying that the project, or a quantifiable portion of the project is complete. 2) Photographs of the completed project, or progress made. 3) Invoice package in accordance with Section 7 of this Scope of Work	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable.
		Deliverable 5 Cost: $6,229,099
		Total Project Cost Not to Exceed: $16,833,197.00

COST SHIFTING: The deliverable amounts specified within the Deliverables Section 6 table above are established based on the Parties' estimation of sufficient delivery of services fulfilling grant purposes under the Agreement in order to designate payment points during the Agreement Period; however, this is not intended to restrict DEO's ability to approve and reimburse allowable costs Subrecipient incurred providing the deliverables herein. Prior written approval from DEO's Grant Manager is required for changes to the above Deliverable amounts that do not exceed **10%** of each deliverable total funding amount. Changes that exceed **10%** of each deliverable total funding amount will require a formal written amendment request from Subrecipient, as described in **MODIFICATION** section of the Agreement. Regardless, in no event shall DEO reimburse costs of more than the total amount of this Agreement.

7. INVOICE SUBMITTAL:

DEO shall reimburse Subrecipient in accordance with Section 6, above. In accordance with the Funding Requirements of s. 215.971(1), F.S. and Section 21 of this Agreement, Subrecipient and its subcontractors may only expend funding under this Agreement for allowable costs resulting from obligations incurred during this Agreement. To be eligible for reimbursement, costs must be in compliance with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures:https://myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/referenceguideforstateexpenditures4a8dd8e7f6fd4eaeb3eb12363d341f74.pdf?sfvrsn=ae70963d_2).

A. Subrecipient shall provide one (1) invoice per month for services rendered during the applicable period of time as defined in the deliverable table. In any month no deliverable has been completed, the subrecipient will provide notice that no invoicing will be submitted.
B. The following documents shall be submitted with the itemized invoice:
    1. A cover letter signed by Subrecipient's Grant Manager certifying that the costs being claimed in the invoice package: (1) are specifically for the project represented to the State in the budget appropriation; (2) are for one or more of the components as stated in Section 5, DELIVERABLES, of this Attachment A; (3) have been paid; and (4) were incurred during this Agreement.

2. Subrecipient's invoices shall include the date, period in which work was performed, amount of reimbursement, and work completed to date;
3. A certification by a licensed professional using AIA forms G702 and G703, or their substantive equivalents, certifying that the project, or a quantifiable portion of the project, is complete.
4. Photographs of the project in progress and completed work;
5. A copy of all supporting documentation for vendor payments;
6. A copy of the bank statement that includes the cancelled check or evidence of electronic funds transfer. The State may require any other information from Subrecipient that the State deems necessary to verify that the services have been rendered under this Agreement.

C. Subrecipient's invoice and all documentation necessary to support payment requests must be submitted into DEO's Subrecipient Enterprise Resource Application (SERA). Further instruction on SERA invoicing and reporting, along with a copy of the invoice template, will be provided upon execution of the Agreement.

~ Remainder of this page is intentionally left blank ~

Attachment B – Project Budget (Example)

Subrecipient: _____ Contract Number: _____ Modification Number: _____

Activity/Project		**National Objective**			**Beneficiaries**					**Budget**			
Activity	**Description**	**LMI**	**Slum & Blight**	**Urgent Need**	**VLI**	**LI**	**MI**	**Non-LMI**	**Total**	**CDBG-MIT Amount**	**Other Funds**	**Source***	**Total Funds**
1. Housing Program - Homeowner Service Project *(Example Activities)*													
	Home Repair												
	Reconstruction												
	Replacement of Manufactured Homes												
	Temporary Rental and Mortgage Assistance												
	Buyout / Acquisition for Redevelopment												
2. Housing Program - Supportive Housing Initiative PUD Rental Housing Project *(Example Activities)*													
3. Public Facilities Program – Unified Service Center *(Example Activities)*													
4. Infrastructure Program *(Example Activities)*													
	Armstrong Drainage Project												
	Hastings Phase I Sewer												
	Hastings Phase II Sewer												

	Oyster Creek Basin Improvements												
	Orange Street Drainage												
	Avenue D Drainage												
	St. Augustine - Lake Maria Sanchez HMGP Match Drainage												
	St. Augustine Blvd & Cypress Rd Drainage												
5.	**Administration**												
6.	**Planning**												
	Totals:												

***Show the sources and amounts of Other Funds needed to complete the project below, including local funds, grants from other agencies and program income.**

Source of Other Funds	**Amount**
1.	
2.	
3.	
4.	

Attachment C – Activity Work Plan (Example)

Subrecipient ______________ Activity: ______________ Project Budget: ______________

Contract Number: ______________ Date Prepared: ______________ Modification Number: ______________

Start Date (month /year)	**End Date** (month /year)	**Describe Proposed Action**	**Activity**	**Description**	**Deliverable**	**Associated Task**	**CDBG-MIT Funding**	**Local/Match Funding**	**Estimated Funds by End Date**

1. The Subrecipient shall demonstrate that progress is being made in completing project activities in a timely fashion pursuant to the activity work plan. If the Subrecipient does not comply with the activity work plan schedule, a justification for the delay and a plan for timely accomplishment shall be submitted to DEO within 21 calendar days of receiving DEO's request for justification for the delay. Any project for which the Subrecipient has not completed the activities listed in the Activity Work Plan may be rescinded unless DEO agrees that the Subrecipient has provided adequate justification for the delay.

2. The Subrecipient shall maintain records of expenditure of funds from all sources that will allow accurate and ready comparison between the expenditures and the budget/activity line items as defined in the Project Budget and Activity Work Plan.

3. The Subrecipient shall request DEO's approval for all professional services contracts and/or agreements that will be reimbursed with CDBG-MIT funds. Copies of the following procurement documents must be provided to DEO for review:

   a. When publication of a Request for Proposal (RFP) is used as a means of solicitation, a copy of the advertisement, including an affidavit of publication;
   b. DEO will either approve the procurement or notify the Subrecipient that the procurement cannot be approved because it violates State, Federal or local procurement guidelines. The Subrecipient shall notify DEO in writing no later than 90 calendar days from the effective date of this agreement if it will not be procuring any professional services or if it will be using non-CDBG-MIT funds to pay for professional services.

4. Prior to the obligation or disbursement of any funds, except for administrative expenses and not to exceed $5000, the Subrecipient shall complete the following:
   a. Submit for DEO's approval the documentation required in paragraph 3 above for any professional services contract. The Subrecipient proceeds at its own risk if more than the specified amount is incurred before DEO approves the procurement. If DEO does not approve the procurement of a professional services contract, the local government will not be able to use CDBG-MIT funds for that contract beyond $5,000.
   b. Comply with 24 CFR part 58 and the regulations implementing the National Environmental Policy Act, 40 CFR §§ 1500-1508. When the Subrecipient has completed the environmental review process, it shall submit a Request for Release of Funds and Certification. DEO will issue an Authority to Use Grant Funds (form HUD-7015.16) when this condition has been fulfilled to the satisfaction of DEO. If DEO has not issued an Authority to use Grant Funds within 15 days of Subrecipient's submission of the required documentation, DEO shall provide the Subrecipient a written update regarding the status of the review process. **SUBRECIPIENT SHALL NOT BEGIN CONSTRUCTION BEFORE DEO HAS ISSUED THE "AUTHORITY TO USE GRANT FUNDS."**

5. The Subrecipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §§ 4601-4655; hereinafter, the "URA"), implementing regulations at 24 CFR part 42, 49 CFR part 24 and 24 CFR § 570.606(b), the requirements of 24 CFR § 42.325 – 42.350 governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. § 5304(d)), and the requirements in 24 CFR § 570.606(d), governing optional relocation assistance policies.

6. If the Subrecipient undertakes any activity subject to the URA, the Subrecipient shall document completion of the acquisition by submitting all documentation required for a desk monitoring of the acquisition, including a notice to property owners of his or her rights under the URA, an invitation to accompany the appraiser, all appraisals, offer to the owner, acceptance, contract for sale, statement of settlement costs, copy of deed, waiver of rights (for donations), as applicable. The documentation shall be submitted prior to completing the acquisition (closing) so that DEO can

determine whether remedial action may be needed. The Subrecipient shall provide relocation assistance to displaced persons as defined by 24 CFR § 570.606(b)(2), that are displaced as a direct result of acquisition, rehabilitation, demolition, or conversion for a CDBG-assisted project.

7. The Subrecipient shall timely submit completed forms for all prime and subcontractors as required by this Agreement, DEO, HUD, and applicable, regulations and guidance laws, specifically including but not limited to:

   a. Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions);
   b. Section 3 Participation Report (Construction Prime Contractor);
   c. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Subcontractor), (if applicable); and
   d. Section 3 Participation Report (Construction Subcontractor), (if applicable).

8. In addition, each construction contract or agreement for new or replacement housing must contain language that requires the contractor to meet the Green Building Standard for Replacement and New Construction of Residential Housing, as defined in the Allocation notice published in the Federal Register Volume 81, Number 224 on Monday, November 21, 2016.

9. For each Request for Funds (RFF) that includes reimbursement of construction costs, the Subrecipient shall provide a copy of the American Institute of Architects (AIA) form G702, Application and Certification for Payment, or a comparable form approved by DEO, signed by the contractor and inspection engineer, and a copy of form G703, Continuation Sheet, or a comparable form approved by DEO. For each RFF that includes construction costs, the Subrecipient shall provide a copy of AIA form G702, or a comparable form approved by DEO, if applicable, signed by the contractor and the local building inspector or housing specialist and a copy of form G703, or a comparable form approved by DEO, if applicable.

10. For each project, when the Subrecipient issues the Notice to Proceed to the contractor(s), copies of the following documents shall be sent to DEO:

   a. Notice to Proceed;
   b. The contractor's performance bond (100 percent of the contract price); and
   c. The contractor's payment bond (100 percent of the contract price).

11. The Subrecipient shall undertake an activity each quarter to affirmatively further fair housing pursuant to 24 CFR § 570.487(b).

12. The Subrecipient shall ensure that a deed restriction is recorded on any real property or facility, excluding easements, acquired with CDBG-MIT funds. This restriction shall limit the use of that real property or facility to the use stated in the subgrant application and that title shall remain in the name of the Subrecipient. Such deed restriction shall be made a part of the public records in the Clerk of Court of the county in which the real property is located. Any future disposition of that real property shall be in accordance with 24 CFR § 570.505. Any future change of use of real property shall be in accordance with 24 CFR § 570.489(j).

13. The Subrecipient shall comply with the historic preservation requirements of the National Historic Preservation Act of 1966, as amended, the procedures set forth in 36 CFR part 800, and the Secretary of the Interior's Standards for Rehabilitation, codified at 36 CFR 67, and Guidelines for Rehabilitating Historic Buildings.

14. Pursuant to section 102(b), Public Law 101-235, 42 U.S.C. § 3545, the Subrecipient shall update and submit Form HUD 2880 to DEO within thirty (30) calendar days of the Subrecipient's knowledge of changes in situations which would require that updates be prepared. The Subrecipient must disclose:

   a. All developers, contractors, consultants and engineers involved in the application or in the planning, development or implementation of the project or CDBG- MIT-funded activity; and

b. Any person or entity that has a financial interest in the project or activity that exceeds $50,000 or 10 percent of the grant, whichever is less.

15. If required, the Subrecipient shall submit a final Form HUD 2880, to DEO with the Subrecipient's request for administrative closeout, and its absence or incompleteness shall be cause for rejection of the administrative closeout.

16. Conflicts of interest relating to procurement shall be addressed pursuant to 24 CFR § 570.489(g). Title 24 CFR § 570.489(h) shall apply in all conflicts of interest not governed by 24 CFR § 570.489(g), such as those relating to the acquisition or disposition of real property; CDBG-MIT financial assistance to beneficiaries, businesses or other third parties; or any other financial interest, whether real or perceived. Additionally, the Subrecipient agrees to comply with, and this Agreement is subject to, Chapter 112 F.S.

17. Any payment by the Subrecipient using CDBG-MIT funds for acquisition of any property, right-of-way, or easement that exceeds fair market value as determined through the appraisal process established in HUD Handbook 1378 shall be approved in writing by DEO prior to distribution of the funds. Should the Recipient fail to obtain DEO pre-approval, any portion of the cost of the acquisition exceeding Fair Market Value shall not be paid or reimbursed with CDBG-MIT funds.

18. The Subrecipient shall take photographs or video of all activity locations prior to initiating any construction. As the construction progresses, additional photography or videography shall document the ongoing improvements. Upon completion of construction, final documentation of the activity locations will be provided to DEO with the administrative closeout package for this Agreement.

19. If an activity is designed by an engineer, architect or other licensed professional, it shall be certified upon completion by a licensed professional as meeting the specifications of the design, as may have been amended by change orders. The date of completion of construction shall be noted as part of the certification. This certification shall be accomplished prior to submission of an administrative closeout package and a copy of the certification shall be submitted with the administrative closeout package.

Attachment E – State and Federal Statutes, Regulations, and Policies

The CDBG-MIT funds available to the Subrecipient through this agreement constitute a subaward of DEO's Federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. This agreement includes terms and conditions of DEO's Federal award that are imposed on the Subrecipient and the Subrecipient agrees to carry out its obligations in compliance with all of the obligations described in this Agreement.

The Subrecipient agrees to, and, by signing this Agreement, certifies that, it will comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR part 570, as modified by the Federal Register notices that govern the use of CDBG-MIT funds available under this agreement. These Federal Register notices include, but are not limited to, Federal Register Guidance Vol. 84, No. 169/Friday, August 30, 2019/Notices, Vol. 81, No. 224/Monday, November 21, 2016/Notices, Volume 83, No. 28/Friday, February 9, 2018/Notices, Volume 82, No. 11/Wednesday, January 18, 2017/Notices, Volume 82, No. 150/Monday, August 7, 2017/Notices, and Vol. 83, No. 157/Tuesday, August 14, 2018/Notices. Notwithstanding the foregoing, (1) the Subrecipient does not assume any of DEO's responsibilities for environmental review, decision-making and action, described in 24 CFR part 58 and (2) the Subrecipient does not assume any of DEO's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient shall also comply with all other applicable Federal, state and local laws, regulations and policies as now in effect and as may be amended from time to time that govern the use of the CDBG-MIT funds in complying with its obligations under this agreement, regardless of whether CDBG-MIT funds are made available to the Subrecipient on an advance or reimbursement basis.

The Subrecipient also agrees to use funds available under this Agreement to supplement rather than supplant funds otherwise available. The Subrecipient further agrees to comply with all other applicable Federal, State, and local laws, regulations and policies governing the funds provided under this Agreement, including, but not limited to the following:

1. State of Florida Requirement
   State of Florida Requirements are stated throughout this Agreement and Attachments thereto.

2. Audits, Inspections and Monitoring
   a. Single Audit
      The Subrecipient must be audited as required by 2 CFR part 200, subpart F when it is expected that the Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

   b. Inspections and Monitoring
      The Subrecipient shall permit DEO and auditors to have access to the Subrecipient's records and financial statements as necessary for DEO to meet the requirements of 2 CFR part 200.

      The Subrecipient must submit to monitoring of its activities by DEO as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this agreement.

      This review must include:
      (1) Reviewing financial and performance reports required by DEO;
      (2) Following up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from DEO detected through audits, on-site reviews, and other means; and
      (3) Issuing a management decision for audit findings pertaining to this Federal award provided to the Subrecipient from DEO as required by 2 CFR §200.521.

c. Corrective Actions
The Subrecipient shall be subject to reviews and audits by DEO, including onsite reviews of the Subrecipient as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2). DEO may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. DEO may require the Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site. DEO may impose additional conditions on the use of the CDBG-MIT funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

3. Drug-Free Workplace
Subrecipients must comply with drug-free workplace requirements in Subpart B of part 2429, which adopts the government-wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

4. Procurement and Contractor Oversight
The Subrecipient shall comply with the procurement standards in 2 CFR §200.318 - §200.327 when procuring property and services under this agreement. The Subrecipient shall impose the Subrecipient's obligations under this agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors.

The Subrecipient must comply with CDBG regulations regarding debarred or suspended entities, specifically including, 24 CFR 570.609 or 24 CFR 570.489, as applicable. CDBG funds may not be provided to excluded or disqualified persons.

The Subrecipient shall maintain oversight of all activities under this agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this agreement. To check for debarred or suspended entities, please visit https://www.sam.gov/SAM/

5. Property Standards
Real property acquired by the Subrecipient under this agreement shall be subject to 24 CFR 570.489(j) and 24 CFR 570.200(j). The Subrecipient shall also comply with the Property Standards at 2 CFR 200.310, 2 CFR 200.312, 2 CFR 200.314 through 2 CFR 200.316. The Subrecipient shall also comply with 2 CFR 200.313 Equipment, except that when the equipment is sold, the proceeds shall be program income and equipment not needed by the Subrecipient for activities under this agreement shall be transferred to DEO for its CDBG-MIT program or shall be retained after compensating DEO.

The Subrecipient shall also comply with the Property Standards in 2 CFR 200.310 through 2 CFR 200.316, except to the extent they are inconsistent with 24 CFR 570.200(j) and 24 CFR 570.489(j), in which case Subrecipient shall comply with 24 CFR 570.200(j) and 24 CFR 570.489(j), except to the extent that proceeds from the sale of equipment are program income and subject to the program income requirements under this agreement, pursuant to 24 CFR 570.489(e)(1)(ii).

6. Federal Funding Accountability and Transparency Act (FFATA)
The Subrecipient shall comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The Subrecipient must have an active registration in SAM, https://www.sam.gov/SAM/ in accordance with 2 CFR part 25, appendix A, and must have a Unique Entity Identifier (UEI) number. The Subrecipient must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

7. Relocation and Real Property Acquisition
The Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 USC 4601 – 4655, 49 CFR part 24, 24 CFR part 42, and 24 CFR 570.606.

In addition to other URA requirements, these regulations (49 CFR § 24.403(d)) implement Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC § 5181, which provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the URA shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act".

8. Non-discrimination
   a. 24 CFR Part 6
   The Subrecipient will comply with 24 CFR part 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance. The Subrecipient will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-MIT funds. Thus, the Subrecipient shall comply with regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs.

   b. Architectural Barriers Act and the Americans with Disabilities Act
   The Subrecipient shall ensure that its activities are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed or altered with funds allocated or reallocated under this part after December 11, 1995 and meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

   The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

   c. State and Local Nondiscrimination Provisions
   The Subrecipient must comply with the Florida Small and Minority Business Assistance Act (§§ 288.703-288.706, F.S.); Title VI of the Civil Rights Act of 1964 (24 CFR part 1)

      (1) General Compliance
      The Subrecipient shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended. No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this agreement. The specific nondiscrimination provisions at 24 CFR 1.4 apply to the use of these funds. The Subrecipient shall not intimidate, threaten, coerce or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR part 1, or because an individual has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under 24 CFR part 1. The identity of complainants

shall be kept confidential except to the extent necessary to carry out the purposes of 2 CFR part 1, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

(2) Assurances and Real Property Covenants
As a condition to the approval of this Agreement and the extension of any Federal financial assistance, the Subrecipient assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this part 1.

If the Federal financial assistance under this agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, the Subrecipient's assurance herein shall obligate the Subrecipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate the Subrecipient for the period during which Federal financial assistance is extended pursuant to the contract or application. This assurance gives DEO and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-MIT funds and provided to the Subrecipient under this Agreement, the instrument effecting any disposition by the Subrecipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If the Subrecipient receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

d. <u>Affirmative Action</u>

(1) Approved Plan
The Subrecipient agrees that it shall carry out pursuant to DEO's specifications an Affirmative Action Program in compliance with the President's Executive Order 11246 of September 24, 1965, as amended, and implementing regulations at 41 CFR 60. DEO shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this agreement.

(2) Women- and Minority-Owned Businesses (W/MBE)
The Subrecipient shall take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when the Subrecipient procures property or services under this agreement.

(3) Notifications
The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement
The Subrecipient shall, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

9. Labor and Employment
   Labor Standards
   The Subrecipient shall comply with the in labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis- Bacon Act, as amended (40 U.S.C. 3141, *et seq.*) and 29 CFR part 1, 3, 5, 6 and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

   The Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The Subrecipient shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to DEO for review upon request.

10. Section 3 of the Housing and Urban Development Act of 1968
    a. Low-Income Person Definition
       A low-income person, as this term is defined in Section 3 (b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher and or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or (ii) A very low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437 a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

    b. Compliance
       Subrecipient shall comply with the provisions of Section 3 of the Housing Urban Development Act of 1968, as amended, 12 USC 1701u, and implementing its implementing regulations at 24 CFR part 75 (formerly 24 CFR part 135). Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with existing Federal, state and local laws and regulations. Accordingly, a subrecipient of Section 3-covered assistance is required to develop strategies for meeting both the regulatory requirements at 24 CFR part 75 and any other applicable statutes or regulations. Subrecipient and any of its contractors and subcontractors shall include the following "Section 3 clause" in every "Section 3-covered contract":

       (1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
       (2) The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
       (3) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants

for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

(5) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.

(6) Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(7) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

c. <u>Section 3 Benchmarks and Reporting</u>

A. Benchmarks. Contracts over $200,000 trigger Section 3 Benchmark requirements. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 workers and business concerns to meet these *minimum* numeric goals:

1. Twenty-five percent (25%) of the total hours on a Section 3 project must be worked by Section 3 workers; and
2. Five percent (5%) of the total hours on a Section 3 project must be worked by Targeted Section 3 workers.

B. Reporting. If the subrecipient's reporting indicates that the subrecipient has not met the Section 3 benchmarks described in 24 CFR § 75.23, pursuant to 24 CFR § 75.25(b), the subrecipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued.

C. Recipient will comply with any Section 3 Project Implementation Plan documents provided by HUD or DEO which may be amended from time to time for HUD reporting purposes.

11. <u>Conduct</u>

a. <u>Hatch Act</u>

The Subrecipient shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

b. <u>Conflict of Interest</u>

In the procurement of supplies, equipment, construction, and services pursuant to this agreement, the Subrecipient shall comply with the conflict of interest provisions in DEO's procurement policies and procedures. In all cases not governed by the conflict of interest provisions in DEO's procurement policies and procedures, the Subrecipient shall comply with the conflict of interest provisions in 24 CFR 570.489(h).

c. <u>Lobbying Certification</u>

The Subrecipient hereby certifies that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(3) The language of paragraph (i) through (iv) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

(4) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

d. Religious Activities

The Subrecipient agrees that funds provided under this agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

Equal Treatment for Faith-Based Organizations. Prohibits any State or local government receiving funds under any Department program, or any intermediate organization with the same duties as a governmental entity, from discriminating for or against an organization on the basis of the organization's religious character or affiliation. Prohibits religious organizations from engaging in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance.

Prohibits an organization that participates in programs funded by direct financial assistance from the Department, in providing services, from discriminating against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Any restrictions on the use of grant funds shall apply equally to religious and non-religious organizations.

e. Environmental Conditions

(1) Prohibition on Choice Limiting Activities Prior to Environmental Review

The Subrecipient must comply with the limitations in 24 CFR 58.22 even though the Subrecipient is not delegated the requirement under Section 104(g) of the HCD Act for environmental review, decision- making and action (see 24 CFR part 58) and is not delegated DEO's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. 24 CFR 58.22 imposes limitations on activities pending clearance and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity. If DEO has not issued an Authority to Use Grant Funds within 15 days of Subrecipient's submission of the required documentation, DEO shall provide the Subrecipient a written update regarding the status of the review process.

(2) Air and Water

The Subrecipient shall comply with the following requirements insofar as they apply to the performance of this agreement:

(a) Air quality. (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)); and (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93); and

(b) Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq*., as amended, including the requirements specified in Section 114 and Section 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder.

(c) The Clean Air and Water Act: If this Contract is in excess of $100,000, Contractor shall comply with all applicable standards, orders or regulations issued under the Clean Air Act, as amended, 42 U.S.C. 7401, Section 508 of the Clean Water Act, as amended, 33 U.S.C. 1368, et seq., Executive Order 11738 and Environmental Protection Agency regulations. Contractor shall report any violation of the above to DEO.

(d) Energy Efficiency: Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State of Florida's energy conservation plan issued in compliance with the Energy Policy and Conservation Act, Pub. L. 94-163.

(3) Flood Disaster Protection

The Subrecipient shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a. Additionally, the Subrecipient shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-MIT award and listed at the beginning of this Attachment.

(4) Lead-Based Paint

The Subrecipient shall follow DEO's procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title.

(5) Historic Preservation

The Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in title 54 of the United States Code, and the procedures set forth in 36 CFR part 800 insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, State, or local historic property list.

(6) **Additional Regulations**

(a) The Temporary Assistance for Needy Families Program ('TANF"), 45 CFR Parts 260-265, the Social Services Block Grant ("SSBG"), 42 U.S.C. 1397d, and other applicable federal regulations and policies promulgated thereunder.

(b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681, *et seq*., which prohibits discrimination on the basis of sex in educational programs.

(c) Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.

(d) The Pro-Children Act: Contractor agrees to comply with the Pro-Children Act of 1994, 20 U.S.C. 6083. Failure to comply with the provisions of the law may result in the imposition of civil monetary penalty up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. This clause is applicable to all approved sub-contracts. In compliance with Public Law (Pub. L.) 103-277, the Contract shall not permit smoking in any portion of any indoor facility used for the provision of federally funded services including health, day care, early childhood development, education or library services on a routine or regular basis, to children up to age 18.

(e) Public Announcements and Advertising: When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal money, Contractor shall clearly state (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

(f) Purchase of American-Made Equipment and Products: Contractor assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Agreement will be American-made.

(g) The Consolidated Appropriations Act, 2010, Division E, Section 511 (Pub. L. 111-117), which prohibits distribution of federal funds made available under the Act to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries. The Continuing Appropriations Act, 2011, Sections 101 and 103 (Pub. L. 111-242), provides that appropriations made under Pub. L. 111-117 are available under the conditions provided by Pub. L. 111-117.

(h) Contract Work Hours and Safety Standards Act (40 U.S.C. §327–333) — If this Contract involves federal funding in excess of $2,000 for construction contracts or in excess of $2,500 for other contracts that involve the employment of mechanics or laborers, compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR Part 5) is required. Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(i) Resource Conservation and Recovery Act (RCRA). Under RCRA (Pub. L. 94–580 codified at 42 U.S.C. 6962), state and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

(j) Immigration Reform and Control Act. Contractor shall comply with the requirements of the Immigration Reform and Control Act of 1986, which requires employment verification and retention of verification forms for any individuals hired who will perform any services under the contract.

When it is determined that the Subrecipient is in non-compliance with federal or state program requirements, the State may impose any of the additional conditions and/or requirements outlined in 2 CFR § 200.207.

Fair Housing

As a condition for the receipt of CDBG-MIT funds, each Subrecipient must certify that it will "affirmatively further fair housing" in its community. A Subrecipient shall demonstrate its commitment to affirmatively further fair housing by implementing the actions listed below.

Each Subrecipient shall do the following:

1. Have in place a fair housing resolution or ordinance that covers all Federally protected classes (race, color, familial status, handicap, national origin, religion and sex);
2. Designate an employee as the Fair Housing Coordinator who is available during regular business hours to receive fair housing calls;
3. Publish the Fair Housing Coordinator's contact information quarterly in a newspaper of general circulation in the Subrecipient's jurisdiction so that people know who to call to ask fair housing questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website;
4. Establish a system to record the following for each fair housing call:
   a) The nature of the call,
   b) The actions taken in response to the call,
   c) The results of the actions taken and
   d) If the caller was referred to another agency, the results obtained by the referral agency;
5. Conduct at least one fair housing activity each quarter. Identical activities (see examples below) shall not be conducted in consecutive quarters; and
6. Display a fair housing poster in the CDBG-MIT Office. (This does not count as a fair housing activity.)

The Subrecipient shall ensure that the fair housing contact person has received training so that he/she can handle fair housing phone inquiries or refer the inquiries to the appropriate people/agencies. Records maintained by the contact will help the community do the following:

1. Define where discriminatory practices are occurring,
2. Help the community measure the effectiveness of its outreach efforts, and
3. Provide the community with a means to gain information that can be used to design and implement strategies that will eliminate fair housing impediments.

Examples of fair housing activities include the following:

1. Making fair housing presentations at schools, civic clubs and neighborhood association meetings;
2. Conducting a fair housing poster contest or an essay contest;
3. Manning a booth and distributing fair housing materials at libraries, health fairs, community events, yard sales and church festivals; and
4. Conducting fair housing workshops for city/county employees, realtors, bank and mortgage company employees, insurance agents and apartment complex owners.

Printing a fair housing notice on a utility bill is no longer accepted as a fair housing activity; however, mailing a DEO-approved fair housing brochure as an insert with utility bills will be accepted as an activity. Placing posters in public buildings does not meet the requirement for a fair housing activity.

The Subrecipient shall document its fair housing activities by keeping photographs, newspaper articles, sign-in sheets and copies of handouts in their CDBG-MIT project file and include information about the activities in the comment section of each quarterly report.

Equal Employment Opportunity

As a condition for the receipt of CDBG-MIT funds, each Subrecipient must certify that it and the contractors, subcontractors, subrecipients and consultants that it hires with CDBG-MIT funds will abide by the Equal Employment Opportunity (EEO) Laws of the United States. A Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

Each Subrecipient shall do the following:

1. Have in place an equal employment opportunity resolution or ordinance that protects its applicants and employees and the applicants and employees of its contractors, subcontractors, subrecipients and consultants from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral and other aspects of employment, on the basis of race, color, religion, sex, national origin, disability, age or genetics;
2. Designate an employee as the EEO Coordinator who is available during regular business hours to receive EEO calls;
3. Publish the EEO Coordinator's contact information quarterly in a newspaper of general circulation in the Subrecipient's jurisdiction so that people know who to call to ask EEO questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
4. Establish a system to record the following for each EEO call:
   a) The nature of the call,
   b) The actions taken in response to the call and
   c) The results of the actions taken;
5. Each Subrecipient shall maintain a list of certified minority-owned business enterprises (MBE) and women-owned business enterprises (WBE) that operate in its region. The Subrecipient shall use this list to solicit companies to bid on CDBG-MIT-funded construction activities and shall provide a copy of the list to the prime contractor(s) to use when it hires subcontractors and consultants. The Department of Management Services maintains a list of certified minority- and women-owned businesses that can be used to develop a local MBE/WBE list at the following website: https://osd.dms.myflorida.com/directories.
6. Incorporate the Equal Employment Opportunity clause set forth in 41 CFR Part 60-1.4(b) into any contracts or subcontracts that meet the definition of "federally assisted construction contract" in 41 CFR 60-1.3.

Section 504 and the Americans with Disabilities Act (ADA)

As a condition for the receipt of CDBG-MIT funds, the Subrecipient must certify that it provides access to all federally funded activities to all individuals, regardless of handicap. The Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

The Subrecipient shall do the following:

1. Have in place a resolution or ordinance that is designed to eliminate discrimination against any person who:
   a) Has a physical or mental impairment which substantially limits one or more major life activities,
   b) Has a record of such an impairment, or
   c) Is regarded as having such an impairment;
2. Designate an employee as the Section 504/ADA Coordinator who is available during regular business hours to receive Section 504/ADA calls;
3. Publish the Section 504/ADA Coordinator's contact information quarterly in a newspaper of general circulation in the Subrecipient's jurisdiction so that people know who to call to ask Section 504/ADA questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
4. Establish a system to record the following for each Section 504/ADA call:
   a) The nature of the call,
   b) The actions taken in response to the call and

c) The results of the actions taken.

Section 504 prohibitions against discrimination (see 45 CFR part 84) apply to service availability, accessibility, delivery, employment and the administrative activities and responsibilities of organizations receiving Federal financial assistance. A Subrecipient of Federal financial assistance may not, on the basis of disability:

1. Deny qualified individuals the opportunity to participate in or benefit from Federally funded programs, services or other benefits,
2. Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers, or
3. Deny employment opportunities, including hiring, promotion, training and fringe benefits, for which they are otherwise entitled or qualified.

The ADA regulations (Title II, 28 CFR part 35, and Title III, 28 CFR part 36) prohibit discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability.

Title II covers all activities of state and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting and town meetings). State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision or speech disabilities.

Title III covers businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation and commercial facilities. Public accommodations are private entities who own, lease, lease to or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers and recreation facilities including sports stadiums and fitness clubs. Transportation services provided by private entities are also covered by Title III.

Section 3 - Economic Opportunities for Low- and Very Low-Income Persons

Each Subrecipient shall encourage its contractors to hire qualified low- and moderate-income residents for any job openings that exist on CDBG-MIT-funded projects in the community. The Subrecipient and its contractors shall keep records to document the number of low- and moderate-income people who are hired to work on CDBG-MIT-funded projects. The number of low- and moderate-income residents who are hired to work of the project shall be reported in the comment section of the quarterly report.

The following Section 3 clause is required to be included in any contracts and subcontracts funded by this Agreement:

Section 3 Clause

1. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are Subrecipients of HUD assistance for housing.

2. The Parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the

notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.

6. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Civil Rights Regulations

As a condition for the receipt of CDBG-MIT funds, each Subrecipient must certify that it will abide by the following Federal laws and regulations:

1. Title VI of the Civil Rights Act of 1964 – Prohibits discrimination by government agencies that receive Federal funding;
2. Title VII of the Civil Rights Act of 1964 – prohibits employment discrimination on the basis of race, color, religion, sex or national origin;
3. Title VIII of the Civil Rights Act of 1968 – as amended (the Fair Housing Act of 1988);
4. 24 CFR § 570.487(b) – Affirmatively Furthering Fair Housing;
5. 24 CFR § 570.490(b) – Unit of general local government's record;
6. 24 CFR § 570.606(b) – Relocation assistance for displaced persons at URA levels;
7. Age Discrimination Act of 1975;
8. Executive Order 12892 – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing;
9. Section 109 of the Housing and Community Development Act of 1974 – No person shall be excluded from participation in, denied benefits of or subjected to discrimination under any program or activity receiving CDBG-MIT funds because of race, color, religion, sex or national origin;
10. Section 504 of the Rehabilitation Act of 1973 and 24 CFR part 8, which prohibits discrimination against people with disabilities;
11. Executive Order 11063 – Equal Opportunity in Housing;
12. Executive Order 11246 – Equal Employment Opportunity; and
13. Section 3 of the Housing and Urban Development Act of 1968, as amended – Employment/Training of Lower Income Residents and Local Business Contracting.

I hereby certify that the City of Bonita Springs shall comply with all of the provisions and Federal regulations listed in this Attachment F.

By: ______________________ **Date:** ______________________

Name: Rick Steinmeyer

Title: Mayor

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Attachment G – Reports

The following reports must be completed and submitted to DEO in the time frame indicated below. Failure to timely file these reports constitutes an Event of Default, as defined in Paragraph (10) Default, of this Agreement.

1. **Monthly Progress Report** must be submitted to DEO ten (10) calendar days after the end of each month.

2. A **Quarterly Progress** Report must be submitted to DEO on forms to be provided by DEO no later than the 10th of every April, July, October and January**.**

3. A **Contract and Subcontract Activity** form, Form HUD-2516, currently available at https://www.hud.gov/sites/documents/DOC_36660; which is incorporated herein by reference, must be submitted by April 15 and October 15 each year through the DEO's SERA reporting system. The form must reflect all contractual activity for the period, including Minority Business Enterprise and Woman Business Enterprise participation. If no activity has taken place during the reporting period, the form must indicate "no activity".

   The Subrecipient shall closeout its use of the CDBG-MIT funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR § 200.343. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to the Subrecipient) and determining the custodianship of records.

   Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Agreement, the Subrecipient shall transfer to the recipient any CDBG-MIT funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-MIT funds. Further, any real property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG-MIT funds (including CDBG-MIT funds provided to the Subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

4. In accordance with 2 CFR part 200, should the Subrecipient meet the threshold for submission of a single or program specific audit, the audit must be conducted in accordance with 2 CFR part 200 and submitted to DEO no later than nine months from the end of the Subrecipient's fiscal year. If the Subrecipient did not meet the audit threshold, an **Audit Certification Memo** must be provided to DEO no later than nine months from the end of the Subrecipient's fiscal year.

5. A copy of the **Audit Compliance Certification** form, Attachment J, must be emailed to audit@deo.myflorida.com within sixty (60) calendar days of the end of each fiscal year in which this subgrant was open.

6. **Section 3 Quarterly Reporting Requirements**. Reporting of labor hours for Section 3 projects must comply with 24 CFR §75.25(a). Subrecipients must report the following: (i) the total number of labor hours worked; (ii) the total number of labor hours worked by Section 3 workers; and (iii) the total number of labor hours worked by Targeted Section 3 workers. If Section 3 benchmarks are not met, the subrecipient's qualitative efforts must be reported in a manner required by 24 CFR §75.25(b).

   Subrecipients shall provide Section 3 Reporting quarterly to DEO by the 10th of each quarter (January 10, April 10, July 10, and October 10). For Section 3 Reporting, Subrecipients should complete and return the Project Implementation Plan template to DEO.

7. Request for Funds must be submitted as required by DEO and in accordance with the ***Project Description and Deliverables***, ***Project Budget and Activity Work Plan.***

8. All forms referenced herein are available online or upon request from DEO's grant manager for this Agreement.

Financial Management

The Subrecipient's financial management system must comply with the provisions of 2 CFR part 200 (and particularly 2 C.F.R 200.302 titled "Financial Management"), Section 218.33, F.S., and include the following:

1. Accurate, current and complete disclosure of the financial results of this project or program.
2. Records that identify the source and use of funds for all activities. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
3. Effective control over and accountability for all funds, property and other assets. The Subrecipient shall safeguard all assets and assure that they are used solely for authorized purposes.
4. Comparison of expenditures with budget amounts for each Request for Funds (RFF). Whenever appropriate, financial information should be related to performance and unit cost data.
5. Written procedures to determine whether costs are allowed and reasonable under the provisions of the 2 CFR part 200 (and particularly 2 CFR 200 Subpart E titled "Costs Principles") and the terms and conditions of this Agreement.
6. Cost accounting records that are supported by backup documentation.

Competition

All procurement transactions must follow the provisions of 2 CFR §§ 200.318-200.327 and be conducted in a manner providing full and open competition. The Subrecipient shall be alert to conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids or requests for proposals shall be excluded from competing for such procurements. Awards must be made to the responsible and responsive bidder or offeror whose proposal is most advantageous to the program, considering the price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror must fulfill in order for the bid or offer to be evaluated by the Subrecipient. Any and all bids or offers may be rejected if there is a sound, documented reason.

Codes of Conduct

The Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer or agent shall participate in the selection, award or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in a tangible personal benefit from a firm considered for a contract. The officers, employees and agents of the Subrecipient shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts. The standards of conduct must provide for disciplinary actions to be applied for violations of the standards by officers, employees or agents of the Subrecipient. (*See* 2 CFR § 200.318(c)(1).)

Business Hours

The Subrecipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site at all reasonable times for business. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

Licensing and Permitting

All contractors or employees hired by the Subrecipient shall have all current licenses and permits required for all of the particular work for which they are hired by the Subrecipient.

Attachment I – Audit Requirements

The administration of resources awarded by DEO to the Subrecipient may be subject to audits and/or monitoring by DEO as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200 Subpart F - Audit Requirements, and section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEO staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this Agreement, the Subrecipient agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by DEO. In the event DEO determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by DEO staff to the Subrecipient regarding such audit. The Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED. This part is applicable if the Subrecipient is a state or local government or nonprofit organization as defined in 2 CFR §200.1.

1. A Subrecipient that expends $750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT 1 to this form lists the federal resources awarded through DEO by this agreement. In determining the federal awards expended in its fiscal year, the Subrecipient shall consider all sources of federal awards, including federal resources received from DEO. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the Subrecipient conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.

2. For the audit requirements addressed in Part I, paragraph 1, the Subrecipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.

3. A Subrecipient that expends less than $750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If the Subrecipient expends less than $750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Subrecipient resources obtained from other than federal entities).

PART II: STATE FUNDED. This part is applicable if the Subrecipient is a non-state entity as defined by Section 215.97(2), F.S.

1. In the event that the Subrecipient expends a total amount of state financial assistance equal to or in excess of $750,000 in any fiscal year of such Subrecipient (for fiscal years ending June 30, 2017, and thereafter), the Subrecipient must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through DEO by this agreement. In determining the state financial assistance expended in its fiscal year, the Subrecipient shall consider all sources of state financial assistance, including state financial assistance received from DEO, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.

2. For the audit requirements addressed in Part II, paragraph 1, the Subrecipient shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting

package as defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the Subrecipient expends less than $750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If the Subrecipient expends less than $750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the Subrecipient's resources obtained from other than state entities).

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), F.S., State agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with Section 215.97, F.S. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

N/A

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR § 200.512, by or on behalf of the Subrecipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR § 200.1 and §200.512.

   The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of the Subrecipient directly to each of the following:

   a. DEO at each of the following addresses:

Electronic copies (preferred):	or	Paper (hard copy):
Audit@deo.myflorida.com		Department Economic Opportunity MSC # 75, Caldwell Building 107 East Madison Street Tallahassee, FL 32399-4126

   b. The Auditor General's Office at the following address:

   Auditor General
   Local Government Audits
   342 Claude Pepper Building, Room 401
   111 West Madison Street
   Tallahassee, Florida 32399-1450

   The Auditor General's website (https://flauditor.gov/) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or the management letter required by Part III of this form shall be submitted by or on behalf of the Subrecipient directly to:

Electronic copies (preferred):	or	Paper (hard copy):
Audit@deo.myflorida.com		Department Economic Opportunity MSC # 75, Caldwell Building 107 East Madison Street Tallahassee, FL. 32399-4126

4. Any reports, management letters, or other information required to be submitted DEO pursuant to this agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

5. Subrecipients, when submitting financial reporting packages to DEO for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Subrecipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION. The Subrecipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five (5) years from the date the audit report is issued, or six (6) state fiscal years after all reporting requirements are satisfied and final payments have been received, whichever period is longer, and shall allow DEO, or its designee, CFO, or Auditor General access to such records upon request. The Subrecipient shall ensure that audit working papers are made available to DEO, or its designee, CFO, or Auditor General upon request for a period of six (6) years from the date the audit report is issued, unless extended in writing by DEO. In addition, if any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the expiration of the controlling period as identified above, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the controlling period as identified above, whichever is longer.

Federal Resources Awarded to the Subrecipient Pursuant to this Agreement Consist of the Following:

Federal Awarding Agency:	U.S. Department of Housing and Urban Development
Federal Funds Obligated to Subrecipient:	$16,833,197.00
Catalog of Federal Domestic Assistance Title:	Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii
Catalog of Federal Domestic Assistance Number:	14.228
Project Description: *This is not a research and development award.*	Funding is being provided for the City of Bonita Springs to create stormwater resiliency improvements and construct a multi-use pathway along East Terry Street from Old 41 Road east to Bonita Grande Drive through installation of enclosed drainage systems along the corridor.

Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to this Agreement are as Follows:

Federal Program

1. The Subrecipient shall perform its obligations in accordance with Sections 290.0401- 290.048, F.S.
2. The Subrecipient shall perform its obligations in accordance with 24 CFR §§ 570.480 – 570.497.
3. The Subrecipient shall perform the obligations as set forth in this Agreement, including any attachments or exhibits thereto.
4. The Subrecipient shall perform the obligations in accordance with chapter 73C-23.0051(1) and (3), F.A.C.
5. The Subrecipient shall be governed by all applicable laws, rules and regulations, including, but not necessarily limited to, those identified in Award Terms & Conditions and Other Instructions of the Subrecipient's Notice of Subgrant Award/Fund Availability (NFA).

State Resources Awarded to the Subrecipient Pursuant to this Agreement Consist of the Following: *N/A*

Matching Resources for Federal Programs: *N/A*

Subject to Section 215.97, Florida Statutes: *N/A*

Compliance Requirements Applicable to State Resources Awarded Pursuant to this Agreement are as Follows: *N/A*

NOTE: Title 2 CFR § 200.331 and Section 215.97(5), F.S., require that the information about Federal Programs and State Projects included in Exhibit 1 and the Notice of Subgrant Award/Fund Availability be provided to the Subrecipient.

Attachment J – Audit Compliance Certification

Email a copy of this form within 60 days of the end of each fiscal year in which this subgrant was open to audit@deo.myflorida.com.

Subrecipient:

FEIN:	Subrecipient's Fiscal Year:
Contact Name:	Contact's Phone:

Contact's Email:

1. Did the Subrecipient expend state financial assistance, during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between the Subrecipient and the Department of Economic Opportunity (DEO)? ☐ Yes ☐ No

   If the above answer is yes, answer the following before proceeding to item 2.

   Did the Subrecipient expend $750,000 or more of state financial assistance (from DEO and all other sources of state financial assistance combined) during its fiscal year? ☐ Yes ☐ No

   If yes, the Subrecipient certifies that it will timely comply with all applicable State single or project-specific audit requirements of Section 215.97, Florida Statutes and the applicable rules of the Department of Financial Services and the Auditor General.

2. Did the Subrecipient expend federal awards during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between the Subrecipient and DEO? ☐ Yes ☐ No

   If the above answer is yes, also answer the following before proceeding to execution of this certification:

   Did the Subrecipient expend $750,000 or more in federal awards (from DEO and all other sources of federal awards combined) during its fiscal year? ☐ Yes ☐ No

   If yes, the Subrecipient certifies that it will timely comply with all applicable single or program-specific audit requirements of 2 CFR part 200, subpart F, as revised.

By signing below, I certify, on behalf of the Subrecipient, that the above representations for items 1 and 2 are true and correct.

Signature of Authorized Representative	Date
Printed Name of Authorized Representative	Title of Authorized Representative

Attachment K – Subrecipient Enterprise Resource Application (SERA) Form

Attachment K will be provided after execution of this Agreement

Attachment L
2 CFR Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See 200.323 – Procurement of Recovered Materials.

(K) See 200.216 – Prohibition on certain telecommunications and video surveillance services or equipment.

(L) See 200.322 – Domestic Preferences for procurements.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

Attachment M

State of Florida
Department of Economic Opportunity

Federally Funded
Community Development Block Grant
Disaster Recovery (CDBG-MIT) Subrogation Agreement

This Subrogation and Assignment Agreement ("Agreement") is made and entered into by and between the City of Bonita Springs hereinafter referred to as "Subrecipient") and the State of Florida, Department of Economic Opportunity (hereinafter referred to as "DEO").

In consideration of Subrecipient's receipt of funds or the commitment by DEO to evaluate Subrecipient's application for the receipt of funds (collectively, the "Grant Proceeds") under the DEO Community Development Block Grant-Mitigation Program (the "CDBG-MIT Program") administered by DEO, Subrecipient hereby assigns to DEO all of Subrecipient's future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("FEMA") or the Small Business Administration ("SBA") (singularly, a "Disaster Program" and collectively, the "Disaster Programs") that was the basis of the calculation of Grant Proceeds paid or to be paid to Subrecipient under the CDBG-MIT Program and that are determined in the sole discretion of DEO to be a duplication of benefits ("DOB") as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA or the SBA or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "Proceeds," and any Proceeds that are a DOB shall be referred to herein as "DOB Proceeds." Upon receiving any Proceeds, Subrecipient agrees to immediately notify DEO who will determine in its sole discretion if such additional amounts constitute a DOB. If some or all of the Proceeds are determined to be a DOB, the portion that is a DOB shall be paid to DEO, to be retained and/or disbursed as provided in this Agreement. The amount of DOB determined to be paid to DEO shall not exceed the amount received from the CDBG-MIT Program.

Subrecipient agrees to assist and cooperate with DEO to pursue any of the claims Subrecipient has against the insurers for reimbursement of DOB Proceeds under any such policies. Subrecipient's assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing record and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by DEO. Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Program.

If requested by DEO, Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to DEO, to the extent of the Grant Proceeds paid to Subrecipient under the CDBG-MIT Program, the Policies, any amounts received under the Mitigation Programs that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by DEO to consummate and make effective the purposes of this Agreement.

Subrecipient explicitly allows DEO to request of any company with which Subrecipient held insurance policies, or FEMA or the SBA or any other entity from which Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by DEO to monitor/enforce its interest in the rights assigned to it under this Agreement and give Subrecipient's consent to such company to release said information to DEO.

If Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, Subrecipient agrees to promptly pay such amounts to DEO, if Subrecipient received Grant Proceeds under the CDBG-MIT Program in an amount greater than the amount Subrecipient would have received if such DOB Proceeds had been considered in the calculation of Subrecipient's award.

In the event that the Subrecipient receives or is scheduled to receive any subsequent Proceeds, Subrecipient shall pay such subsequent Proceeds directly to DEO, and DEO will determine the amount, if any, of such subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of Subsequent DOB Proceeds shall be returned to the Subrecipient. Subsequent DOB Proceeds shall be disbursed as follows:

1. If the Subrecipient has received full payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be retained by DEO.
2. If the Subrecipient has received no payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be used by DEO to reduce payments of the Grant Proceeds to the Subrecipient, and all Subsequent DOB Proceeds shall be returned to the Subrecipient.
3. If the Subrecipient has received a portion of the Grant Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Grant Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to the Subrecipient; and (B) any remaining Subsequent DOB Proceeds shall be retained by DEO.
4. If DEO makes the determination that the Subrecipient does not qualify to participate in the CDBG-MIT Program or the Subrecipient determines not to participate in the CDBG-MIT Program, the Subsequent DOB Proceeds shall be returned to the Subrecipient, and this Agreement shall terminate.

Once DEO has recovered an amount equal to the Grant Proceeds paid to Subrecipient, DEO will reassign to Subrecipient any rights assigned to DEO pursuant to this Agreement.

Subrecipient represents that all statements and representations made by Subrecipient regarding Proceeds received by Subrecipient shall be true and correct as of the date of the signing of this Agreement.

Warning: Any person who intentionally or knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

~ Remainder of this page is intentionally left blank ~

The person executing this Agreement on behalf of the Subrecipient hereby represents that he\she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by Subrecipient.

In any proceeding to enforce this Agreement, DEO shall be entitled to recover all costs of enforcement, including actual attorney's fees.

CITY OF BONITA SPRINGS		**DEPARTMENT OF ECONOMIC OPPORTUNITY**	
By	____________________ Signature **Rick Steinmeyer**	**By**	____________________ Signature **Dane Eagle**
Title	**Mayor**	**Title**	**Secretary**
Date	____________________	**Date**	____________________

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 22-08-142
August 17, 2022

REQUESTED MOTION: Approve First Amendment to Master Interlocal Agreement regarding distribution of Local Option Fuel Tax

REQUESTOR: Lisa Griggs Roberson, CPA, Director of Financial and Adminstrative Services

AGENDA: Consent

STRATEGIC PRIORITY: 3) Strengthen City Finances

BACKGROUND:

Lee County currently assesses local option fuel taxes (6 cents Local Option Fuel Tax and 5 cents Local Option Fuel Tax) on a per gallon basis for each gallon purchased within the county. This revenue is then allocated to each jurisdiction through an interlocal agreement.

The method used to determine the allocation is a formula based 50% on population and 50% on centerline miles within each jurisdiction. The current Interlocal Agreement expires December 31, 2022.

The proposed amendment updates population, centerline miles and extends the agreement for five years ending December 31, 2027.

As a result of the changes to population and centerline miles, the City's revenue is anticipated to be reduced slightly by approximately $16,000 per year effective January 1, 2023. The City's local option fuel tax in 2022-2023 is budgeted for $1,808,300.

STAFF RECOMMENDATION: Approve amendment to interlocal agreement.

ATTACHMENTS:

1. First Amendment to Master Interlocal Agreement regarding distribution of Local Option Fuel Tax
2. BSC 19-09-173 Master Interlocal Agreement regarding distribution of Local Option Fuel Tax

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REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Debra Filipek
Department Director:	Lisa Roberson

Council Action: Approved __ Denied __ Deferred ___ Other______________________

FIRST AMENDMENT TO MASTER INTERLOCAL AGREEMENT REGARDING DISTRIBUTION FORMULA FOR ALLOCATION OF REVENUE FROM LOCAL OPTION FUEL TAX LEVIED PURSUANT TO SECTION 336.025(1)(a) AND 336.025(1)(b), FLORIDA STATUTES, AMONG LEE COUNTY, CITY OF BONITA SPRINGS, CITY OF CAPE CORAL, CITY OF FORT MYERS, CITY OF SANIBEL, TOWN OF FORT MYERS BEACH AND VILLAGE OF ESTERO

This Interlocal Agreement is entered into by and among: LEE COUNTY, a political subdivision of the State of Florida ("County"), CITY OF BONITA SPRINGS, CITY OF CAPE CORAL, CITY OF FORT MYERS, CITY OF SANIBEL, TOWN OF FORT MYERS BEACH, and VILLAGE OF ESTERO, all municipal corporations organized and existing under the laws of the State of Florida (collectively referred to as the "Municipalities") (County and Municipalities are collectively referred to as the "Parties").

RECITALS

WHEREAS, Section 336.025(1)(a), Florida Statutes, authorizes the County to levy and re-impose, in addition to other taxes allowed by law, a six-cent local option fuel tax, upon every gallon of motor fuel and special fuels sold in the county and taxed under Chapter 206, Florida Statutes; and

WHEREAS, Lee County adopted Ordinance 19-06 re-imposing the six-cent (6 cent) fuel tax becoming effective from September 1, 2019 to August 31, 2049; and

WHEREAS, Section 336.025(1)(b), Florida Statutes, authorizes the County to levy and re-impose an additional five-cent (5 cent) local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provision of Chapter 206, Florida Statute; and

WHEREAS, the County adopted Ordinance 19-07 re-imposing the additional five-cent (5 cent) fuel tax becoming effective from September 1, 2019 to August 31, 2049; and

WHEREAS, Section 336.025(1)(b)(2), Florida Statutes, authorizes the County to enter into interlocal agreements with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, setting forth a distribution formula for dividing the entire proceeds of the taxes among county government and all eligible municipalities within the county; and

WHEREAS, the County and Municipalities entered into an Interlocal Agreement Relating to Local Option Fuel Tax that expires December 31, 2022, setting forth a formula for distribution of the six-cent and five-cent local option fuel tax; and

WHEREAS, the Municipalities desire to continue the Interlocal Agreement with each other and with the County in order to distribute the proceeds of the five-cent and six-cent local option fuel tax; and

NOW, THEREFORE, IN CONSIDERATION, of the mutual terms, understandings, conditions, premises and covenants hereinafter set forth, and pursuant to Section 336.025, Florida Statutes, the County and Municipalities hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein.

2. **Authority.** The County and Municipalities enter into this Interlocal Agreement pursuant to the authority provided by Section 336.025, Florida Statutes.

3. **Scope of Agreement.** This Agreement shall apply to the six-cent gas tax authorized in Section 336.025(1)(a), Florida Statutes, as well as the additional five-cent gas tax authorized by Section 336.025(1)(b), Florida Statutes.

4. **Effective Date.** This Agreement shall be effective and continue from and including January 1, 2023, through and including December 31, 2027.

5. **Existing Agreements.** The previous Agreements between the Parties relating to local option fuel tax or gas tax shall be terminated and be of no further force or effect and replaced by this Agreement upon its Effective Date.

6. **Distribution of Proceeds.** The County and Municipalities agree that from January 1, 2023 to December 31, 2027, the proceeds of the local option gas taxes levied upon every gallon of motor fuel and diesel fuel sold in Lee County shall be distributed between the County and Municipalities using a blended percentage allocation of each entity's maintained centerline miles of roadways as a percent of total maintained roadways and each entity's population as a percentage of the county's total population. Centerline miles and population will be weighted 50%/50% for the blended percentage allocation (see Attachment A).

   6.1 The population figures for the Municipalities will be based upon the latest University of Florida Bureau of Economics and Business Research ("BEBR") population figures, pursuant to Section 336.025, Florida Statutes, as may be amended.
   6.2 The County shall forward the finalized allocation percentages to the State of Florida Department of Revenue for distributing the proceeds of the local option gas tax in accordance with the distribution formula established pursuant to this Agreement.
   6.3 Any new municipality incorporated in the County during the term of this Agreement, which is eligible for participation in the distribution of the local option gas tax shall result in recalculation of the fifty percent (50%) of the proceeds based on the total population distribution among each Municipality and unincorporated Lee County, and fifty percent (50%) of the proceeds based upon centerline miles of roadway maintained by Lee County and each Municipality. Such redistribution shall become effective upon entering into an agreement with the new municipality.
   6.4 The Parties agree and confirm that all Local Option Gas Tax proceeds, as distributed by the State pursuant to this Agreement, will be utilized for only those purposes and uses as provided for by law.

7. **Ongoing Obligations.** This Interlocal Agreement is expressly contingent upon the County's continued levy by County Ordinances of the Local Option Gas Taxes as authorized by law, for the term of this Agreement. If the County's Local Option Gas Tax, for any lawful reason(s), is repealed, sunset, or otherwise terminated by the County as to their effectiveness, this Interlocal Agreement will automatically terminate and shall be of no further force or effect.

8. **Amendment To Agreement.** This Interlocal Agreement may be modified or terminated only by agreement in writing and approved by the Parties.

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

10. **Notices.** Whenever any Party desires to give notice to any other Party or Parties, such notice must be in writing, mailed, and sent by email to the designated representative(s) of the respective Parties. Any Party may change its designated representative(s) for notice purposes by providing notice thereof to all other Parties in accordance with this paragraph.

11. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute an original, but such counterparts shall together constitute one and the same instrument.

12. **Ineligibility.** If, during the term of the imposition of this local option gas tax, any of the Municipalities become ineligible to receive a share of the proceeds of the local option gas tax for any reason, any funds otherwise undistributed because of such ineligibility shall be distributed by the Florida Department of Revenue to the remaining Municipalities in proportion to the distribution formula then in effect.

13. **Miscellaneous.**
    - **A.** The Parties represent that they have full authority to enter into and execute this Interlocal Agreement.
    - **B.** The terms and conditions of this Interlocal Agreement shall extend to and bind the successors and assigns of the County and the Municipalities.
    - **C.** The drafting of this Interlocal Agreement has been a joint endeavor between the Parties and shall not, solely as a matter of judicial construction, be interpreted more strictly against one Party than the other.
    - **D.** The invalidity of any provision hereof as may be found by a court of competent jurisdiction shall in no way affect or invalidate the remaining provisions of the Agreement.
    - **E.** In no case shall the Parties be liable for either consequential or special damages of any kind whatsoever, including, but not limited to, lost revenues, or any other damages of any kind relating to this Agreement.
    - **F.** Disputes arising under this Interlocal Agreement shall be resolved pursuant to Florida law. Venue shall be the Twentieth Judicial Circuit Court, in Lee County, Florida.

IN WITNESS WHEREOF, the Parties hereto have cause this Interlocal Agreement to be executed on the respective dates under each signature.

ATTEST: LINDA DOGGETT
CLERK OF THE COURTS

By:________________________
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By:____________________________
Cecil L Pendergrass, Chairman

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

By:____________________________
Office of the County Attorney

Date:______________________________

ATTEST:

By:______________________
Clerk, Town of Fort Myers Beach

TOWN OF FORT MYERS BEACH

By:__________________________
Ray Murphy, Mayor

APPROVED AS TO FORM:

By:__________________________
Town Attorney

Date:________________________

ATTEST:

By:__________________________
Clerk, City of Fort Myers

CITY OF FORT MYERS

By:______________________________
Kevin B. Anderson, Mayor

APPROVED AS TO FORM:

By:______________________________
City Attorney

Date:_____________________________

ATTEST:

By:__________________________
Clerk, City of Cape Coral

CITY OF CAPE CORAL

By:______________________________
John Gunter, Mayor

APPROVED AS TO FORM:

By:______________________________
City Attorney

Date:____________________________

ATTEST:

By:_________________________
Clerk, City of Bonita Springs

CITY OF BONITA SPRINGS

By:_____________________________
Rick Steinmeyer, Mayor

APPROVED AS TO FORM:

By:_____________________________
City Attorney

Date:____________________________

ATTEST:

By:____________________________
Clerk, Village of Estero

VILLAGE OF ESTERO

By:________________________________
Katy Errington, Mayor

APPROVED AS TO FORM:

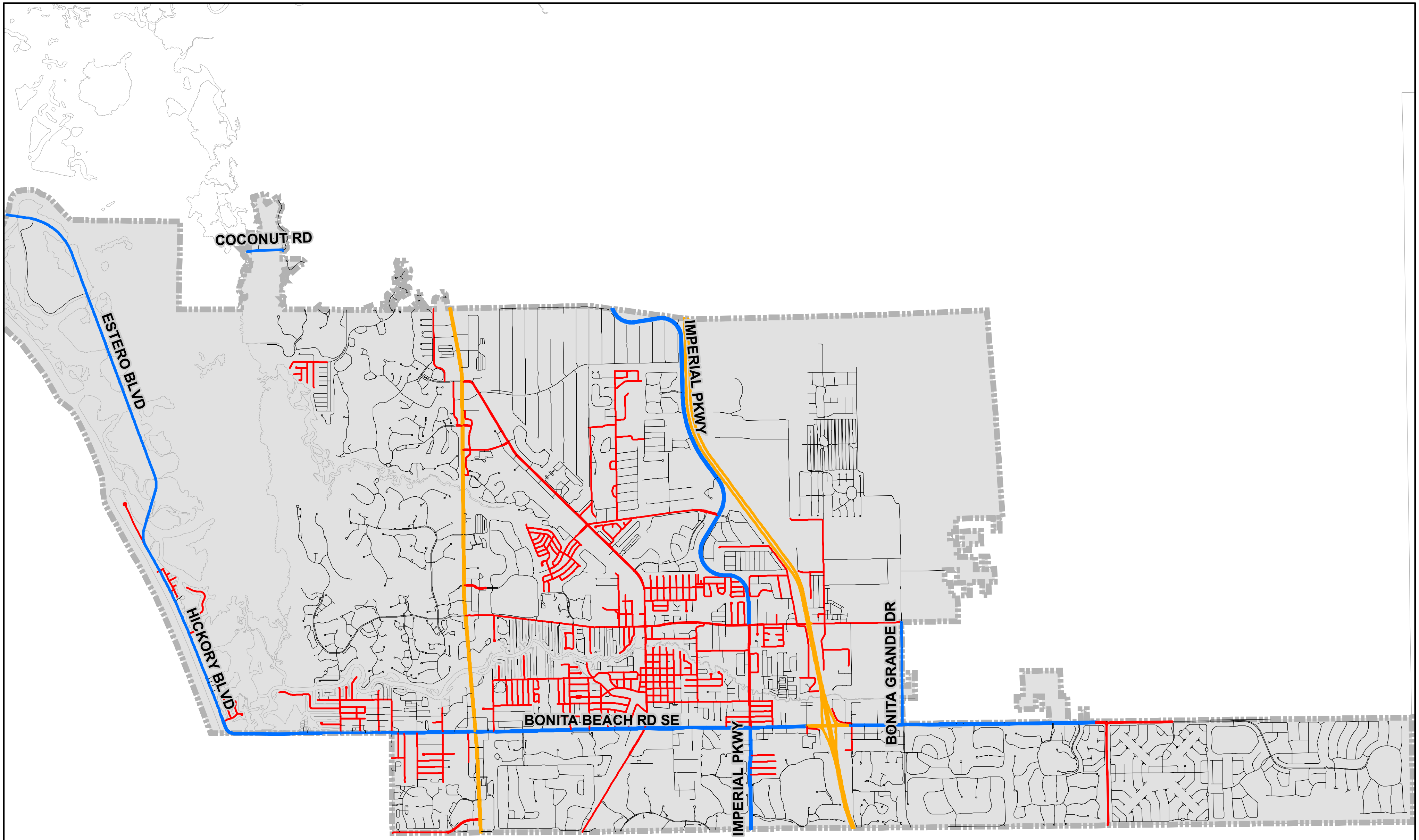
By:________________________________
Village Attorney

Date:______________________________

ATTEST:	CITY OF SANIBEL
By:__________________________ Clerk, City of Sanibel	By:__________________________ Holly D. Smith, Mayor
	APPROVED AS TO FORM:
	By:__________________________ City Attorney
	Date:_________________________

ATTACHMENT A

LOCAL OPTION GAS TAX DISTRIBUTION							
	POPULATION 2021 BEBR		CENTERLINE MILES		PROPOSED BASED ON 50/50 SPLIT BETWEEN CENTERLINE MILES AND POPULATION	CURRENT	CONTRACT END
	Population	Percent Allocation	Centerline Miles	Percent Allocation	Percent Allocation	Percent Allocation	
Cape Coral	201,554	25.76	1,562.6	33.88	29.82	27.29	12/31/27
Fort Myers	91,544	11.70	244.1	5.29	8.49	10.67	12/31/27
Sanibel	6,443	0.82	86.9	1.88	1.35	3.50	12/31/27
Fort Myers Beach	5,584	0.71	23.9	0.52	0.62	1.00	12/31/27
Bonita Springs	54,746	7.00	91.8	1.99	4.49	4.53	12/31/27
Estero	37,213	4.76	26.3	0.57	2.66	2.52	12/31/27
Lee County	385,495	49.26	2,577.1	55.87	52.56	50.49	
	782,579	100.00	4,613	100.00	100.00	100.00	



BONITA SPRINGS MAINTAINED MILEAGE

- City Maintained - 91.8 Miles
- County Maintained - 33.9 Miles
- Non-County/Privately Maintained - 318.9 Miles
- State Maintained - 24 Miles
- Bonita Springs City Limits

Lee County Southwest Florida

Lee DOT, Rob Lovell, ROW Project Manager, 533-8117

MASTER INTERLOCAL AGREEMENT REGARDING DISTRIBUTION FORMULA FOR ALLOCATION OF REVENUE FROM LOCAL OPTION FUEL TAX LEVIED PURSUANT TO SECTION 336.025(1)(a) AND 336.025(1)(b), FLORIDA STATUTES, AMONG LEE COUNTY, CITY OF BONITA SPRINGS, CITY OF CAPE CORAL, CITY OF FORT MYERS, CITY OF SANIBEL, TOWN OF FORT MYERS BEACH AND VILLAGE OF ESTERO

This Interlocal Agreement is entered into by and among: LEE COUNTY, a political subdivision of the State of Florida ("County"), CITY OF BONITA SPRINGS, CITY OF CAPE CORAL, CITY OF FORT MYERS, CITY OF SANIBEL, TOWN OF FORT MYERS BEACH, and VILLAGE OF ESTERO, all municipal corporations organized and existing under the laws of the State of Florida (collectively referred to as the "Municipalities") (County and Municipalities are collectively referred to as the "Parties").

RECITALS

WHEREAS, Section 336.025(1)(a), Florida Statutes, authorizes the County to levy and re-impose, in addition to other taxes allowed by law, a six-cent local option fuel tax, upon every gallon of motor fuel and special fuels sold in the county and taxed under Chapter 206, Florida Statutes; and

WHEREAS, Lee County adopted Ordinance 19-06 re-imposing the six-cent (6 cent) fuel tax becoming effective from September 1, 2019 to August 31, 2049; and

WHEREAS, Section 336.025(1)(b), Florida Statutes, authorizes the County to levy and re-impose an additional five-cent (5 cent) local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provision of Chapter 206, Florida Statute; and

WHEREAS, the County adopted Ordinance 19-07 re-imposing the additional five-cent (5 cent) fuel tax becoming effective from September 1, 2019 to August 31, 2049; and

WHEREAS, Section 336.025(1)(b)(2), Florida Statutes, authorizes the County to enter into interlocal agreements with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, setting forth a distribution formula for dividing the entire proceeds of the taxes among county government and all eligible municipalities within the county; and

WHEREAS, the County and Municipalities entered into Interlocal Agreements Relating to Local Option Fuel Tax that expire August 31, 2019, setting forth a formula for distribution of the six-cent and five-cent local option fuel tax; and

WHEREAS, the Municipalities desire to reestablish the Interlocal Agreement with each other and with the County in order to distribute the proceeds of the five-cent and six-cent local option fuel tax; and

NOW, THEREFORE, IN CONSIDERATION, of the mutual terms, understandings, conditions, premises and covenants hereinafter set forth, and pursuant to Section 336.025, Florida Statutes, the County and Municipalities hereby agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and incorporated herein.

2. **Authority.** The County and Municipalities enter into this Interlocal Agreement pursuant to the authority provided by Section 336.025, Florida Statutes.

3. **Scope of Agreement.** This Agreement shall apply to the six-cent gas tax authorized in Section 336.025(1)(a), Florida Statutes, as well as the additional five-cent gas tax authorized by Section 336.025(1)(b), Florida Statutes.

4. **Effective Date.** This Agreement shall be effective and continue from and including September 1, 2019, through and including December 31, 2022.

5. **Existing Agreements.** The previous Agreements between the Parties relating to local option fuel tax or gas tax shall be terminated and be of no further force or effect and replaced by this Agreement upon its Effective Date .

6. **Distribution of Proceeds.** The County and Municipalities agree that from September 1, 2019 to December 31, 2019, the proceeds of the local option gas taxes will be distributed at the percentages in effect August 31, 2019. The County and Municipalities further agree that from January 1, 2020 to December 31, 2022, the proceeds of the local option gas taxes levied upon every gallon of motor fuel and diesel fuel sold in Lee County shall be distributed between the County and Municipalities using a blended percentage allocation of each entity's maintained centerline miles of roadways as a percent of total maintained roadways and each entity's population as a percentage of the county's total population. Centerline miles and population will be weighted 50%/50% for the blended percentage allocation (see Attachment A).

   6.1 The population figures for the Municipalities will be based upon the latest University of Florida Bureau of Economics and Business Research ("BEBR") population figures, pursuant to Section 336.025, Florida Statutes, as may be amended.

   6.2 The County shall forward the finalized allocation percentages to the State of Florida Department of Revenue for distributing the proceeds of the local option gas tax in accordance with the distribution formula established pursuant to this Agreement.

   6.3 Starting January 1, 2020, the City of Cape Coral and the County will contribute 2.39 percent and 2.40 percent, respectively, of their local gas tax allocation for a total of 4.79 percent to the City of Sanibel, City of Fort Myers, and Town of Fort Myers Beach – 2.08% to Sanibel, 2.42% to Fort Myers, and 0.29% to Fort Myers Beach – until December 31, 2022, to help mitigate the reduction in gas tax percentage to those cities based on the agreed upon formula. This means for the three years beginning January 1, 2020, Sanibel will receive a total of 3.5% gas tax, Fort Myers will receive a total 10.67% gas tax, and Fort Myers Beach will receive a total of 1.0% gas tax (see Attachment A).

   6.4 Any new municipality incorporated in the County during the term of this Agreement, which is eligible for participation in the distribution of the local option gas tax shall result in recalculation of the fifty percent (50%) of the proceeds based on the total population distribution among each Municipality and unincorporated Lee County, and fifty percent (50%) of the proceeds based upon centerline miles of roadway maintained by Lee County and each Municipality. Such redistribution shall become effective upon entering into an agreement with the new municipality.

6.5 The Parties agree and confirm that all Local Option Gas Tax proceeds, as distributed by the State pursuant to this Agreement, will be utilized for only those purposes and uses as provided for by law.

7. **Ongoing Obligations.** This Interlocal Agreement is expressly contingent upon the County's continued levy by County Ordinances of the Local Option Gas Taxes as authorized by law, for the term of this Agreement. If the County's Local Option Gas Tax , for any lawful reason(s), is repealed, sunset, or otherwise terminated by the County as to their effectiveness, this Interlocal Agreement will automatically terminate and shall be of no further force or effect.

8. **Amendment To Agreement.** This Interlocal Agreement may be modified or terminated only by agreement in writing and approved by the Parties.

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

10. **Notices.** Whenever any Party desires to give notice to any other Party or Parties, such notice must be in writing, mailed, and sent by email to the designated representative(s) of the respective Parties. Any Party may change its designated representative(s) for notice purposes by providing notice thereof to all other Parties in accordance with this paragraph.

11. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute an original, but such counterparts shall together constitute one and the same instrument.

12. **Ineligibility.** If, during the term of the imposition of this local option gas tax, any of the Municipalities become ineligible to receive a share of the proceeds of the local option gas tax for any reason, any funds otherwise undistributed because of such ineligibility shall be distributed by the Florida Department of Revenue to the remaining Municipalities in proportion to the distribution formula then in effect.

13. **Miscellaneous.**
   - **A.** The Parties represent that they have full authority to enter into and execute this Interlocal Agreement.
   - **B.** The terms and conditions of this Interlocal Agreement shall extend to and bind the successors and assigns of the County and the Municipalities.
   - **C.** The drafting of this Interlocal Agreement has been a joint endeavor between the Parties and shall not, solely as a matter of judicial construction, be interpreted more strictly against one Party than the other.
   - **D.** The invalidity of any provision hereof as may be found by a court of competent jurisdiction shall in no way affect or invalidate the remaining provisions of the Agreement.

E. In no case shall the Parties be liable for either consequential or special damages of any kind whatsoever, including, but not limited to, lost revenues, or any other damages of any kind relating to this Agreement.

F. Disputes arising under this Interlocal Agreement shall be resolved pursuant to Florida law. Venue shall be the Twentieth Judicial Circuit Court, in Lee County, Florida.

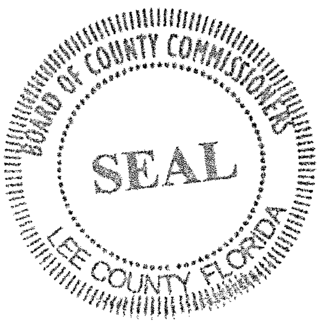
ATTACHMENT A

LOCAL OPTION GAS TAX DISTRIBUTION										
	POPULATION 2019 BEBR		CENTERLINE MILES		BASED ON 50/50 SPLIT BETWEEN CENTERLINE MILES AND POPULATION	LEE COUNTY AND CAPE CORAL SUBSIDY TO FT MYERS AND SANIBEL	PROPOSED	CURRENT	CONTRACT END
	Population	Percent Allocation	Centerline Miles	Percent Allocation	Percent Allocation	Percent Adjustment	Percent Allocation	Percent Allocation	
Cape Coral	180,204	25.24	1,559.0	34.11	29.68	(2.39)	27.29	24.95	12/31/22
Fort Myers	81,868	11.47	230.0	5.03	8.25	2.42	10.67	14.00	12/31/22
Sanibel	6,701	0.94	86.9	1.90	1.42	2.08	3.50	5.00	12/31/22
Fort Myers Beach	6,406	0.90	23.9	0.52	0.71	0.29	1.00	1.17	12/31/22
Bonita Springs	51,181	7.17	86.7	1.90	4.53		4.53	4.54	12/31/22
Estero	31,806	4.46	26.9	0.59	2.52		2.52	2.54	12/31/22
Lee County	355,737	49.83	2,556.7	55.94	52.89	(2.40)	50.49	47.80	
	713,903	100.00	4,570	100.00	100.00	0.00	100.00	100.00	

IN WITNESS WHEREOF, the Parties hereto have cause this Interlocal Agreement to be executed on the respective dates under each signature.

ATTEST: LINDA DOGGETT
CLERK OF THE COURTS

By: ______________________
Deputy Clerk



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: ______________________
Brian Hamman, Acting Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

By: ______________________
Office of the County Attorney

Date: Sept. 19, 2019

ATTEST:

By: ___________________
Clerk, Town of Fort Myers Beach

TOWN OF FORT MYERS BEACH

By: ___________________
Anita T. Cerceda, Mayor

APPROVED AS TO FORM:

By: ___________________
Town Attorney

Date: 9/13/19

ATTEST:

By:______________________
Clerk, City of Fort Myers

CITY OF FORT MYERS CORPORATE SEAL FLORIDA

CITY OF FORT MYERS

By:______________________
Randall Henderson, Jr., Mayor

APPROVED AS TO FORM:

By:______________________
City Attorney

Date: 9/4/2019

ATTEST:

By: Kimberly Bruns
Clerk, City of Cape Coral

CITY OF CAPE CORAL

By:
Joe Coviello, Mayor

APPROVED AS TO FORM:

By:
City Attorney

Date: 9/4/2019

ATTEST:

By:______________________
Clerk, City of Bonita Springs

CITY OF BONITA SPRINGS

By:______________________
Peter Simmons, Mayor

APPROVED AS TO FORM:

By:______________________
City Attorney

Date: Sept 4, 2019

ATTEST:

By: Kathy Hall
Clerk, Village of Estero

VILLAGE OF ESTERO

By: Steven Sarkozy
Steven Sarkozy, Village Manager

APPROVED AS TO FORM:

By: ______________________
Village Attorney

Date: September 18, 2019

ATTEST:

By: ______________________ MMC
Clerk, City of Sanibel

CITY OF SANIBEL

By: ______________________
Judith A. Zimomra, City Manager

APPROVED AS TO FORM:

By: ______________________
City Attorney

Date: 8/29/19

APPROVED FINANCIAL SUFFICIENCY

______________________ 8/29/19
Steven C. Chaipel, Finance Director

September 26, 2019

Mr. Fernando Foyo
Revenue Accounting Sub Process
Florida Department of Revenue
P.O. Box 6609
Tallahassee FL 32314

RE: LEE COUNTY, FLORIDA
Local Option Gas Tax Distributions – F.S. Sec. 336.025 (5) (a)

Dear Mr. Foyo:

In conjunction with F.S. 336.025 (5) (a), Lee County provides the state with the percentage distribution for the next fiscal year in allocating Local Option Gas Taxes.

Lee County distribution for October 1, 2019 through December 31, 2019 remains the same as fiscal year 18-19. The allocation for this period is:

Cape Coral	24.95%
Fort Myers	14.00%
Sanibel	5.00%
Fort Myers Beach	1.17%
Bonita Springs	4.54%
Village of Estero	2.54%
Unincorporated Lee County	47.80%
	100.00%

Lee County Ordinances 89-21 and 93-28 imposing the local option gas taxes expired August 31, 2019 and were replaced by Ordinances 19-06 and 19-07 (respectively) adopted May 2019. The new distribution of taxes effective January 1, 2020 per the attached Master Interlocal Agreement between Lee County and its cities is:

Cape Coral	27.29%
Fort Myers	10.67%
Sanibel	3.50%
Fort Myers Beach	1.00%
Bonita Springs	4.53%
Village of Estero	2.52%
Unincorporated Lee County	50.49%
	100.00%

Thank you for your attention to this matter. If any additional information is required, please contact me at (239) 533-2221.

Sincerely,

Peter Winton

cc: Board of County Commissioners
Richard Wesch, County Attorney
Randy Cerchie, Department of Transportation Director

P.O. Box 398, Fort Myers, Florida 33902-0398 (239) 533-2111
Internet address http://www.lee-county.com

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 22-08-143
August 17, 2022

REQUESTED MOTION: Continued discussion of proposed lighting and landscaping enhancements for the Banyan tree across from Riverside Park.

REQUESTOR: Council Member Chris Corrie, District 4

AGENDA: Council Member Items

STRATEGIC PRIORITY: N/A

BACKGROUND:

On May 18, 2022, the City Council discussed a proposed idea from the Bonita Springs Historical Society to install lighting and enhanced landscaping intended to accent the Banyan tree across from Riverside Park. At the meeting, City Council authorized BSHS to move forward with a root study and begin plans for lighting and landscaping, at their own financial risk. During the discussion, City Council also directed staff to engage DPZ to provide conceptual plans for the entire parcel.

On August 3, 2022, DPZ presented various concepts and layout options for Council's consideration and future planning. Additionally, BSHS provided a topographical and boundary survey of the tree and roots provided by RWA Engineering. Mr. Derrick Botana, with the BSHS had intended on presenting the Society's update at the August 3, 2022, meeting but was unfortunately unable to attend due to illness. Mr. Botana has asked for an opportunity to discuss the Society's findings and suggestions for the tree lighting and enhanced landscaping with City Council and will be present at this meeting to provide an update.

STAFF RECOMMENDATION: Council's pleasure.

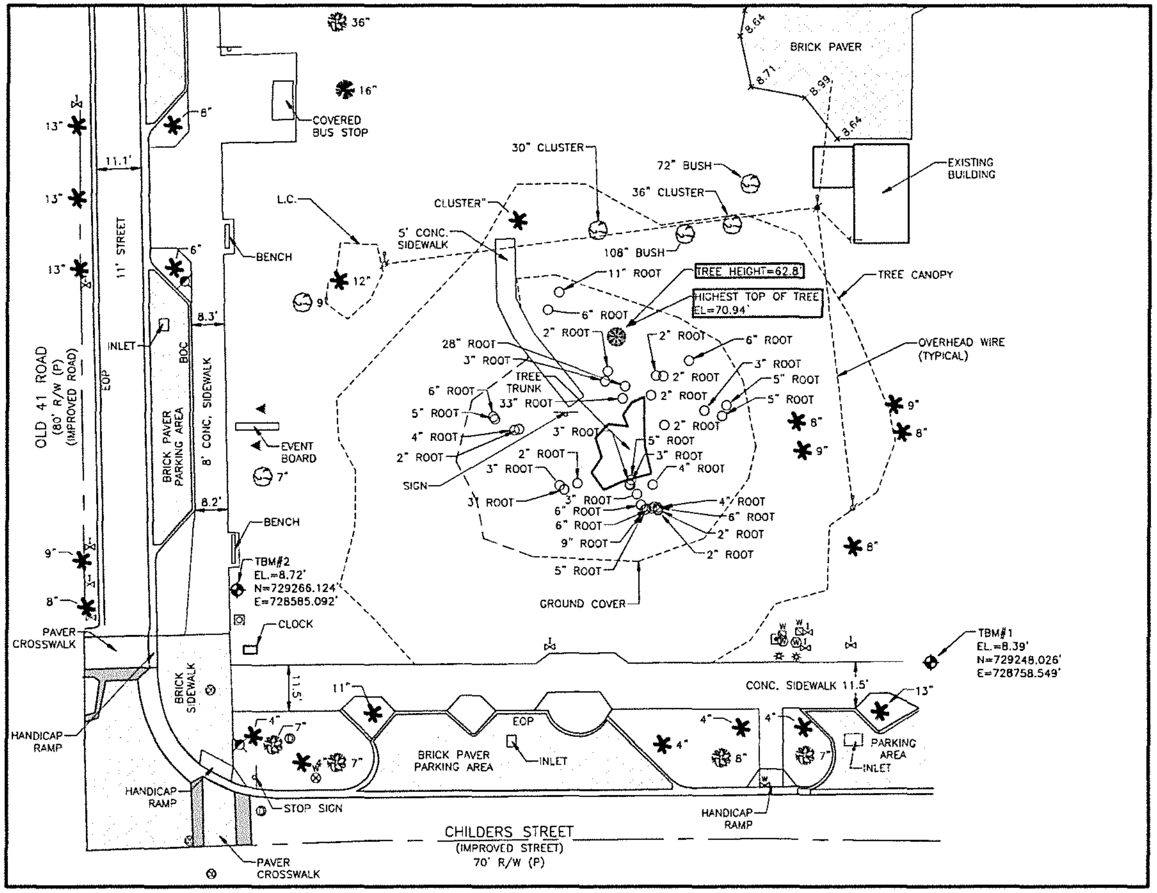
ATTACHMENTS:

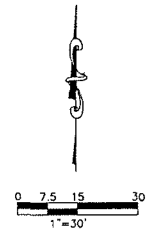
1. Topographic, Tree, and Boundary Survey from RWA Engineering
2. Bonita Banyan Perspective View and Concept Plan

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Debra Filipek
Department Director:

Council Action: Approved __ Denied __ Deferred ___ Other______________________





ABBREVIATIONS & LEGEND:

=	AIR RELEASE VALVE
=	WATER VALVE
=	WATER SERVICE
=	BACKFLOW PREVENTOR
=	IRRIGATION VALVE
=	ELECTRIC PULL-BOX
=	STREET LIGHT
=	ELECTRIC TRANSFORMER
=	CABLE TV SERVICE
=	SANITARY CLEANOUT
=	SANITARY MANHOLE
=	COMMUNICATIONS SERVICE
=	SET 5/8" IRON PIN WITH CAP LB 6952
=	PROPOSED DRAINAGE FLOW
PG =	PAGE
=	BANYAN TREE
=	PALM TREE
=	UNKNOWN TREE

FFE =	FINISHED FLOOR ELEVATION
EL =	ELEVATION
C1 =	SEE CURVE TABLE
PRM =	PERMANENT REFERENCE MONUMENT
FIPC =	FOUND IRON PIN WITH CAP, LB6952
AE =	ACCESS EASEMENT
DE =	DRAINAGE EASEMENT
PUE =	PUBLIC UTILITY EASEMENT
LME =	LAKE MAINTENANCE EASEMENT
CUE =	COUNTY UTILITY EASEMENT
LBE =	LANDSCAPE BUFFER EASEMENT
IE =	IRRIGATION EASEMENT
AC =	AIR CONDITIONER
BR =	PAVER BRICKS
EOP =	EDGE OF PAVEMENT/BRICKS
BOC =	BACK OF CURB
R/W =	RIGHT-OF-WAY
PEP =	POOL EQUIPMENT PAD
CBP =	CONCRETE BRICK PAVER
PB =	PLAT BOOK
X8.2' =	SPOT ELEVATION
L.C. =	LANDSCAPE
=	ELECTRIC POST
=	GROUND LIGHT
=	PINE TREE

June 8, 2022 4:19 PM K:\2022\220055.00.00 Bonita Banyan Project\02 Boundary, Tree & Topographic Survey\00-BSTS.DWG

GENERAL NOTES

1. UNLESS A COMPARISON IS MADE, MEASURED BEARINGS AND DISTANCES ARE IDENTICAL WITH PLAT VALUES.
2. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF. DIMENSIONAL TIES ARE PERPENDICULAR TO RELATIVE PARCEL BOUNDARY LINE.
3. BEARINGS ARE BASED ON STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE, NORTH AMERICAN DATUM OF 1983 (NAD83, 2011 ADJUSTMENT).
4. THIS SURVEY IS ONLY FOR THE LANDS DESCRIBED, IT IS NOT A CERTIFICATE OF TITLE, ZONING, EASEMENTS OR FREEDOM FROM ENCUMBRANCES. ABSTRACT OF TITLE WAS NOT REVIEWED.
5. SURFACE, SUBSURFACE & AERIAL IMPROVEMENTS, UNLESS DEPICTED HEREON, WERE NOT LOCATED.
6. ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) AND ARE GPS DERIVED. BENCHMARK PID AD6335 WITH ELEVATION OF 3.13' (NAVD88).
7. SURVEYED PARCEL IS IN F.E.M.A. FLOOD ZONE(S) "X" AND "AE" ELEVATION 10.0' AS SHOWN ON THE NATIONAL FLOOD INSURANCE PROGRAM'S DIGITAL FLOOD INSURANCE RATE MAP (D.F.I.R.M.) MAP NUMBER 12071C0659H EFFECTIVE DATE: MAY 16, 2012.
8. THIS SURVEY REPRESENTS EXISTING CONDITIONS AS OF THE DATE OF LAST FIELD WORK OBSERVATION: 06/01/2022.

MICHAEL A. WARD DATE
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. LS 5301
THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY MICHAEL A. WARD, PLS.

	NAME	DATE
FIELD:	CL	6/01/22
DRAWN:	JR	6/07/22
CHECKED:	WF	6/07/22

RWA ENGINEERING

12800 University Drive, Suite 175
Fort Myers, Florida 33907
Phone: (239) 597-0575
Fax: (239) 597-0578
LB No.: 6952

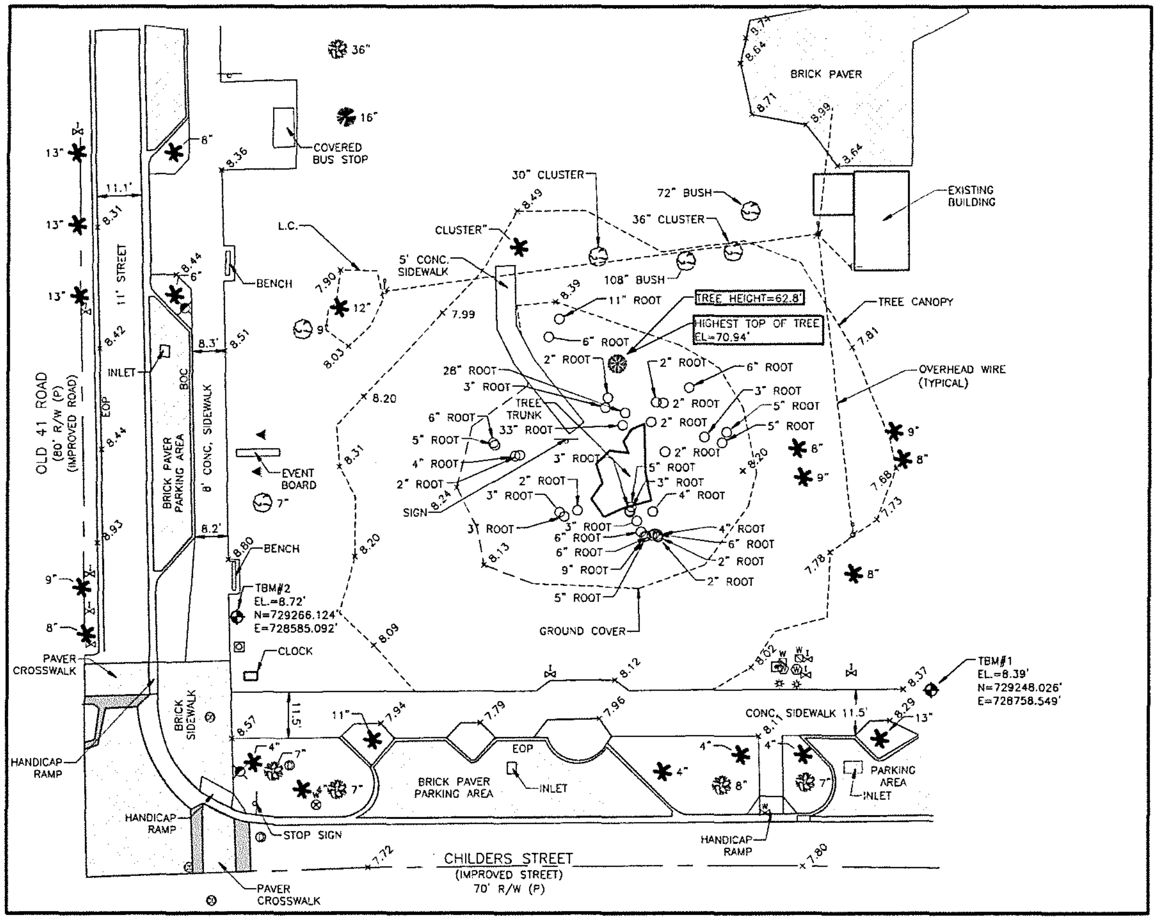
DATE: 6/8/2022
HORIZ. SCALE: 1"=30'
VERT. SCALE: N/A
SEC: 35 TWP: 47S RGE: 25E

CLIENT: BONITA SPRINGS HISTORICAL SOCIETY

TITLE: TOPOGRAPHIC, TREE, AND BOUNDARY SURVEY

PROJECT: BONITA BANYAN PROJECT

CROSS REFERENCE:	PROJECT NO.:	SHEET NUMBER:	FILE NAME:
20-566 PC-50	220055.00.00	1 OF 2	BSTS-01



0 7.5 15 30
1"=30'

ABBREVIATIONS & LEGEND:

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June 8, 2022 4:19 PM K:\2022\220055.00.00 Bonita Banyan Project\02 Boundary, Tree & Topographic Survey\00-BSTS.DWG

	NAME	DATE
FIELD:	CL	6/01/22
DRAWN:	JR	6/07/22
CHECKED:	WF	6/07/22

RWA ENGINEERING

12800 University Drive, Suite 175
Fort Myers, Florida 33907
Phone: (239) 597-0575
Fax: (239) 597-0578
LB No.: 6952

DATE: 6/8/2022
HORIZ. SCALE: 1"=30'
VERT. SCALE: N/A
SEC: 35 TWP: 47S RGE: 25E

CLIENT: BONITA SPRINGS HISTORICAL SOCIETY

TITLE: TOPOGRAPHIC, TREE, AND BOUNDARY SURVEY

PROJECT: BONITA BANYAN PROJECT

CROSS REFERENCE:	PROJECT NO.:	SHEET NUMBER:	FILE NAME:
ZO-566 PG-50	220055.00.00	2 OF 2	BSTS-01

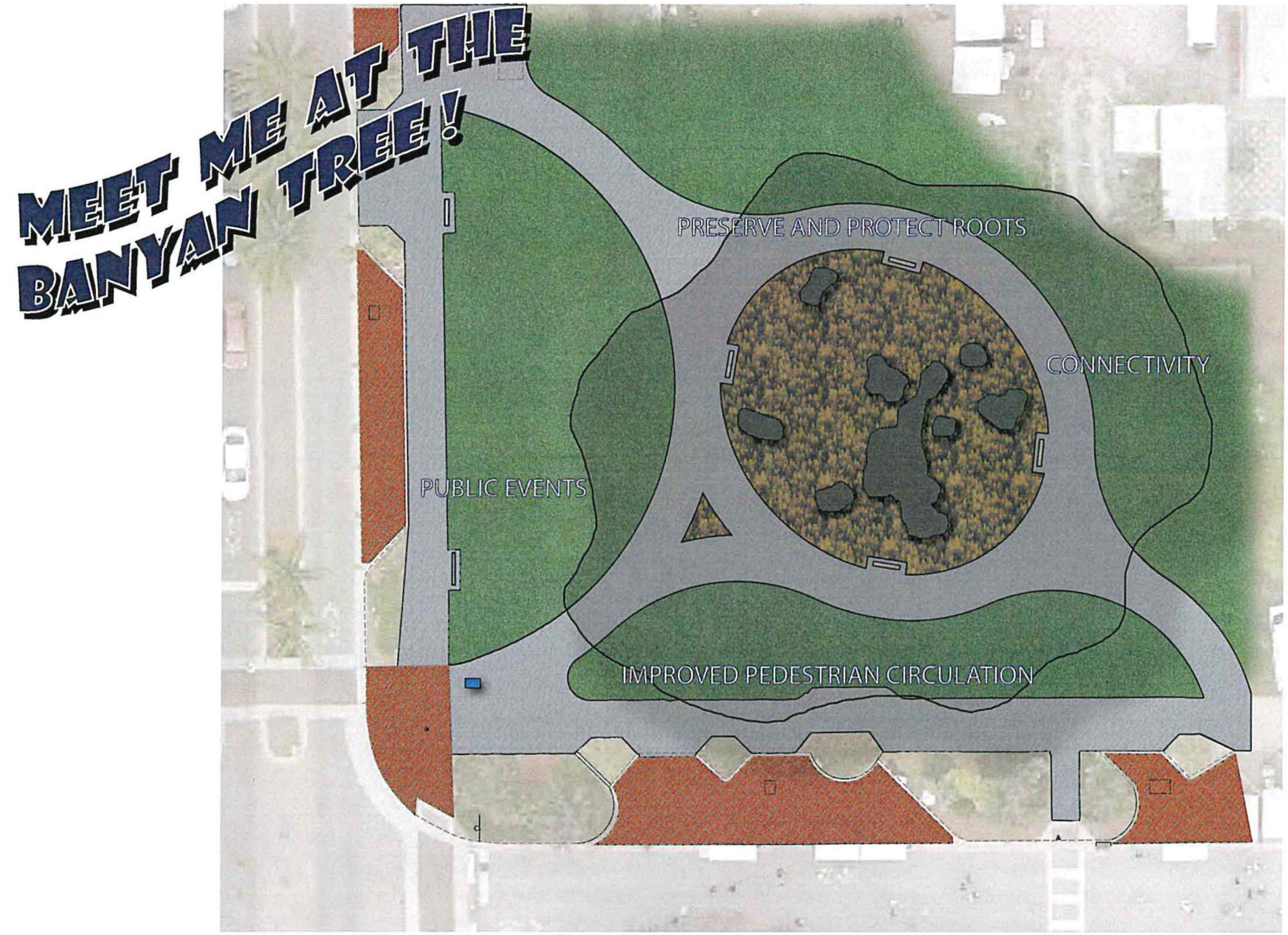
BONITA BANYAN

PERSPECTIVE VIEW

BONITA SPRINGS HISTORICAL SOCIETY

RWA ENGINEERING

JUNE 28, 2022



BONITA BANYAN

CONCEPT PLAN

BONITA SPRINGS HISTORICAL SOCIETY

RWA ENGINEERING

JUNE 28, 2022

CITY OF BONITA SPRINGS **AGENDA ITEM SUMMARY**	Green Sheet No. 22-08-131 August 17, 2022

REQUESTED MOTION: (Second Reading and Public Hearing) AN ORDINANCE OF THE CITY OF BONITA SPRINGS; EXTENDING THE ELECTRIC UTILITY FRANCHISE FOR FLORIDA POWER AND LIGHT COMPANY; AND PROVIDING FOR AN EFFECTIVE DATE.

REQUESTOR: Lisa Griggs Roberson, CPA, Director of Financial & Adminstrative Services

AGENDA: Public Hearing.

STRATEGIC PRIORITY: 3) Strengthen/Enhance City Finances

BACKGROUND:

The first reading and public hearing of the Ordinance occurred on August 5, 2022. The ordinance to maintain the Florida Power and Light electric franchise fee at the current rate of 4% without providing for a sunset.

The 2022-2023 draft budget includes electric franchise fee revenue of $3,200,000 based upon the current rate of 4%.

The Franchise Agreement rate change will be effective December 31, 2022.

Staff has included a schedule of current rates for neighboring and comparable jurisdictions.

Staff requests that Council authorize the Mayor to execute Florida Power and Light documentation to facilitate maintaining the current rate.

STAFF RECOMMENDATION: Consider adoption of the Ordinance

ATTACHMENTS:

1. Ordinance
2. Comparative Rate Data

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Debra Filipek
Department Director: Lisa Roberson

Council Action: Approved __ Denied __ Deferred ___ Other______________________

CITY OF BONITA SPRINGS

ORDINANCE NO. 22-__

AN ORDINANCE OF THE CITY OF BONITA SPRINGS; EXTENDING THE ELECTRIC UTILITY FRANCHISE FOR FLORIDA POWER AND LIGHT COMPANY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bonita Springs ("City" or "Grantor") recognizes that the citizens of the City need and desire the benefits of electric service; and

WHEREAS, Florida Power & Light Company ("FPL" or "Grantee") is a public utility which has the demonstrated ability to supply such services; and

WHEREAS, FPL and the City entered into a franchise agreement through Bonita Springs Ordinance No. 00-08, providing for the payment of fees to the City in exchange for the nonexclusive right and privilege of supplying electricity and other services within the City free of competition from the City, pursuant to certain terms and conditions; and

WHEREAS, the City previously adopted Ordinance No. 16-15 amending the franchise agreement and raising the City's consideration from 3% to 4% until December 31, 2022; and

WHEREAS, Bonita Springs City Council has elected to extend the current rate structure as set forth in in Section 5 (d) of the franchise agreement.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Section 5 of Ordinance No. 00-08, as amended by Ordinance No. 16-15, is hereby further amended as set forth below, with deleted text identified with ~~strike through~~ and additional text identified with underlining.

Section 5(d): ~~Grantor hereby exercises its option set forth in Section 5(c) to increase the amount to be paid by Grantee as consideration for this franchise.~~ Subject to the limitations and other provisions specified in Section 5(c), Grantee shall, commencing on ~~December 1, 2016 and ending on~~ December 31, 2022, ~~increase~~<u>continue</u> its payment to Grantor ~~to~~<u>of</u> four (4%) percent of the Grantee's billed revenues, less actual write-offs, from the sale of electricity to residential, commercial and industrial customers within the incorporated areas of the Grantor for the monthly billing period ending thirty (30) days prior to each payment. ~~After December 31, 2022, the Grantee shall pay to the Grantor an amount equal to three (3%) percent of the Grantee's billed revenues, as specified in Section 5(a).~~

<u>Section 2.</u> All other terms of Ordinance No. 00-08, as amend by Ordinance No. 16-15, remain the same.

<u>Section 3.</u> The effective date of this Ordinance immediately upon its adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 17th day of August, 2022.

AUTHENTICATION:

________________________ Mayor

________________________ City Clerk

APPROVED AS TO FORM: ________________________
City Attorney

Vote:

Carr	Gibson
Purdon	Quaremba
Forbes	Steinmeyer
Corrie	

Date filed with City Clerk: ___________________________

Franchise Fee

Current Rates			
	Franchise Fee	Public Service Tax	Total Fees
City of Sanibel	3.00%	n/a	3.00%
City of Bonita Springs	4.00%	n/a	4.00%
Lee County Unincorporated	4.50%	n/a	4.50%
Village of Estero	4.50%	n/a	4.50%
City of Cape Coral	3.00%	7.00%	10.00%
Town of Fort Myers Beach	n/a	10.00%	10.00%
City of Naples	5.90%	7.00%	12.90%
City of Fort Myers	5.90%	10.00%	15.90%
City of Sarasota	6.00%	10.00%	16.00%

Should current rate sunset, revenue will be reduced by $800,000 and rate would revert to 3.00%

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 22-08-130
August 17, 2022

REQUESTED MOTION: (Second Reading and Public Hearing) AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA RELATING TO THE LOCAL COMMUNICATIONS SERVICES TAX RATE; PROVIDING FOR INTENT; PROVIDING FOR LOCAL COMMUNICATIONS SERVICES TAX RATE; AND PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

REQUESTOR: Lisa Griggs Roberson, CPA, Director of Financial & Adminstrative Services

AGENDA: Public Hearing

STRATEGIC PRIORITY: #3 Strengthen/Enhance City Finances

BACKGROUND:

The first reading and public hearing of the Ordinance occurred on August 5, 2022. The ordinance will maintain the communications services tax at the current rate of 3.61% without providing for a sunset.

The 2022-2023 draft budget includes communications services tax revenue of $1,296,600 based upon the current rate of 3.61%.

Florida Statutes § 202.21 requires that a municipality changing the rate must notify the Department of Revenue (DOR) as to the ordinance adoption by September 1 for a rate change effective on January 1.

Staff has included a schedule of current rates for neighboring and comparable jurisdictions.

STAFF RECOMMENDATION: Consider adoption of the Ordinance

ATTACHMENTS:

1. Ordinance
2. Comparative Rate Data

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Debra Filipek
Department Director: Lisa Roberson

Council Action: Approved __ Denied __ Deferred ___ Other_____________________

CITY OF BONITA SPRINGS, FLORIDA
ORDINANCE NO. 22-

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA RELATING TO THE LOCAL COMMUNICATIONS SERVICES TAX RATE; PROVIDING FOR INTENT; PROVIDING FOR LOCAL COMMUNICATIONS SERVICES TAX RATE; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; AND PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 202, §202.19(2), Florida Statutes, municipalities may levy a local communications service tax on voice, data, audio, video, or any other information or signals transmitted by any medium; and

WHEREAS, the City has previously authorized the imposition of a local communications service tax below the maximum rate of 5.1%.

THE CITY COUNCIL OF THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

SECTION 1. EXTENSION OF LOCAL COMMUNICATIONS SERVICES TAX RATE.

The City of Bonita Springs hereby extends its local communications services tax rate effective January 1, 2023 as provided in §202.19(2)(a), Florida Statutes, to a tax rate of 3.61 %, which is below the maximum tax rate of 5.1% for municipalities that choose not to levy permit fees (reflective of a base rate of 3.49% plus the additional 0.12% add-on provided by §202.19(2)(c), F.S.).

SECTION 2. NOTICE TO THE DEPARTMENT OF REVENUE.

The City of Bonita Springs directs that notice of the increased local communications services tax rate be provided to the Department of Revenue by providing a copy of this ordinance, along with DOR Form DR-700021, postmarked on or before September 1, 2022, as provided in §202.21, Florida Statutes.

SECTION 3. SEVERABILITY.

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 4: EFFECTIVE DATE.

The effective date of this ordinance shall be upon adoption, with the effective date of the tax increase commencing on billing after January 1, 2023.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 17th day of August 2022.

AUTHENTICATION:

______________________________	______________________________
Mayor	City Clerk

APPROVED AS TO FORM: ___________________________
City Attorney

Vote:

Carr	Gibson
Purdon	Quaremba
Forbes	Steinmeyer
Corrie	

Date filed with City Clerk: _________________________

Communications Services Tax

Current Rates	
City of Bonita Springs	3.61%
Lee County Unincorporated	3.61%
Village of Estero	3.61%
City of Cape Coral	5.22%
City of Fort Myers	5.22%
Town of Fort Myers Beach	5.22%
City of Naples	5.22%
City of Sanibel	5.22%
City of Sarasota	5.32%

Should current rate sunset, revenue will be reduced by $660,000 and rate would revert to 1.82%

REQUESTED MOTION: Authorize Community Development to prepare land development code (LDC) amendments to Chapters 3 (Development Standards) and 4 (Zoning).

REQUESTOR: John Dulmer, AICP, Community Development

AGENDA: City Manager's Items

STRATEGIC PRIORITY: 5-Community Aesthetics: Develop and Implement Urban Design and 8-Economic Development

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BACKGROUND:

Community Development is requesting authorization to pursue land development code (LDC) amendments to Chapters 3 (Development Standards) and 4 (Zoning). These changes include recent Council agenda items pertaining to bikeway and pedestrian facilities and mobile food vendors regulations. Staff is also recommending an additional change to allow for alternate suitable materials for private infrastructure as the community continues to experience supply chain challenges.

LDC Chapter 3

1. Bikeway and pedestrian facilities (LDC Sec. 3-263). These changes correct a codification error reference for complete streets, clarify concise requirements for site-related and off-site improvements, and clarify the applicability for payment in lieu options.
2. Piping materials for use in right-of-way (LDC Sec. 3-535). The current code does not allow for use of plastic pipe for stormwater drain lines under travel ways. Due to demand and supply chain challenges, Applicants are requesting Staff to evaluate this material. Lee County and Florida Department of Transportation (FDOT) do allow for this type of material in certain circumstances and Staff is willing to consider a similar standard. Other changes include updates to materials based on engineering best management practices and are generally consistent with other local jurisdictions and the FDOT.

LDC Chapter 4

1. Mobile Food Vendors (LDC Sec. 4-2153 et. seq.) Changes include the removal of the language for mobile food vendor location permit approvals to be listed on the advertised City Council agenda per City Council's direction. Other changes include clarifying language to existing standards discussed at the August 3, 2022 City Council meeting.

These LDC amendments would be scheduled for advertising and public hearings along with other previously authorized LDC amendments (Tree Advisory Board Landscape Recommendations and Home Occupation changes). These items are tentatively scheduled for the August 18th Local Planning Agency meeting, September 7 (first reading and public hearing), and September 21 (second reading and public hearing).

STAFF RECOMMENDATION: Proceed with LDC amendments

ATTACHMENTS: None

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Debra Filipek
Department Director: John Dulmer

Council Action: Approved __ Denied __ Deferred ___ Other_____________________

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 22-08-135
August 17, 2022

REQUESTED MOTION: Presentation and review of the June Financial Report.

REQUESTOR: Lisa Griggs Roberson, CPA, Director of Financial and Adminstrative Services

AGENDA: City Manager's Items

STRATEGIC PRIORITY: #7 Government Transparency

BACKGROUND:

Staff will be providing a brief presentation on the attached fiscal year to date financial report for June 30, 2022. This report is for nine months of operations in the 2021-2022 fiscal year.

STAFF RECOMMENDATION: Receive presentation and report.

ATTACHMENTS:

1. Presentation
2. Financial Report

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Debra Filipek
Department Director:	Lisa Roberson

Council Action: Approved __ Denied __ Deferred ___ Other______________________

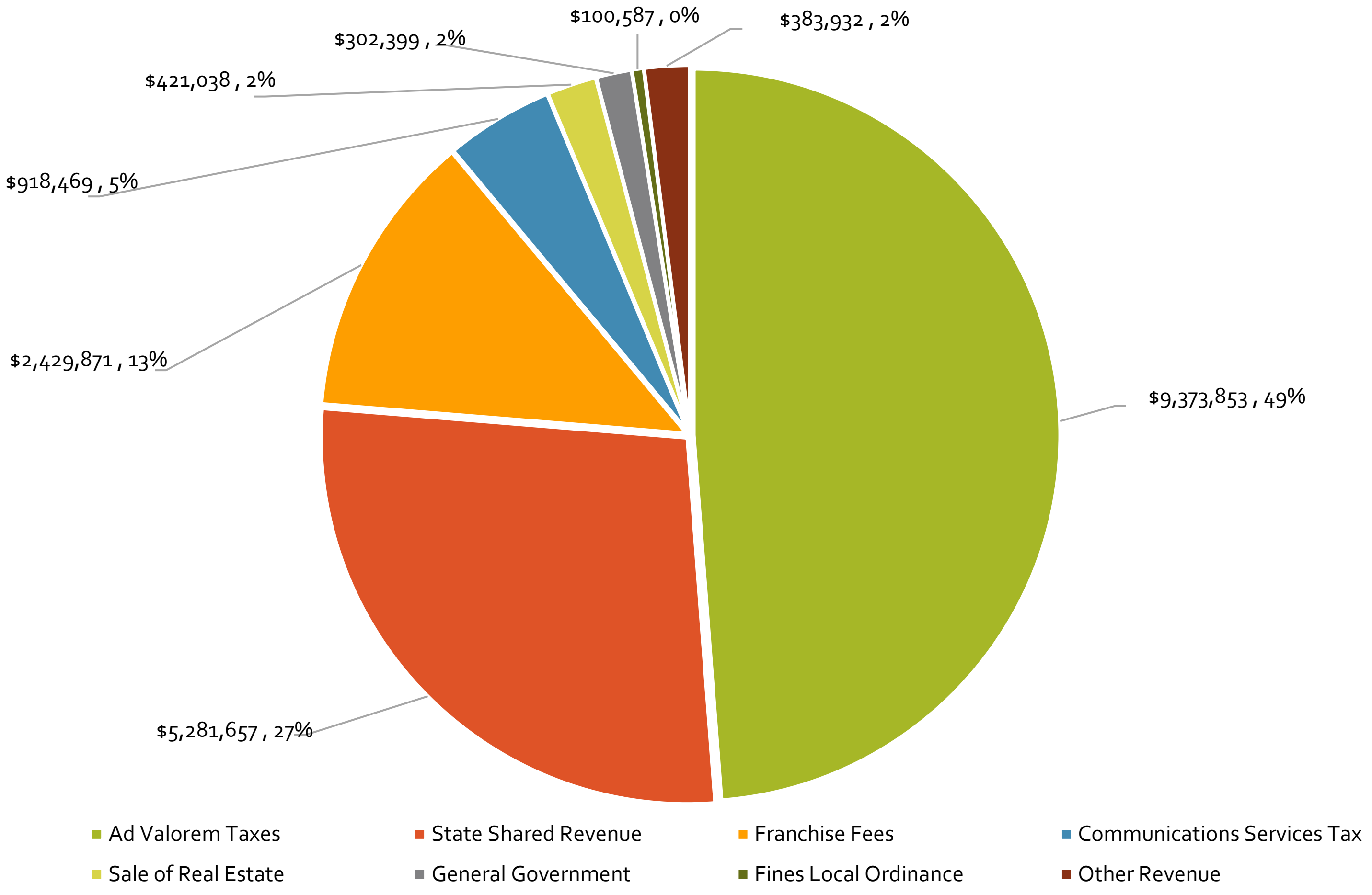
JUNE FINANCIAL REPORT

City of Bonita Springs Florida

Small Town Charm.
Big Bright Future.

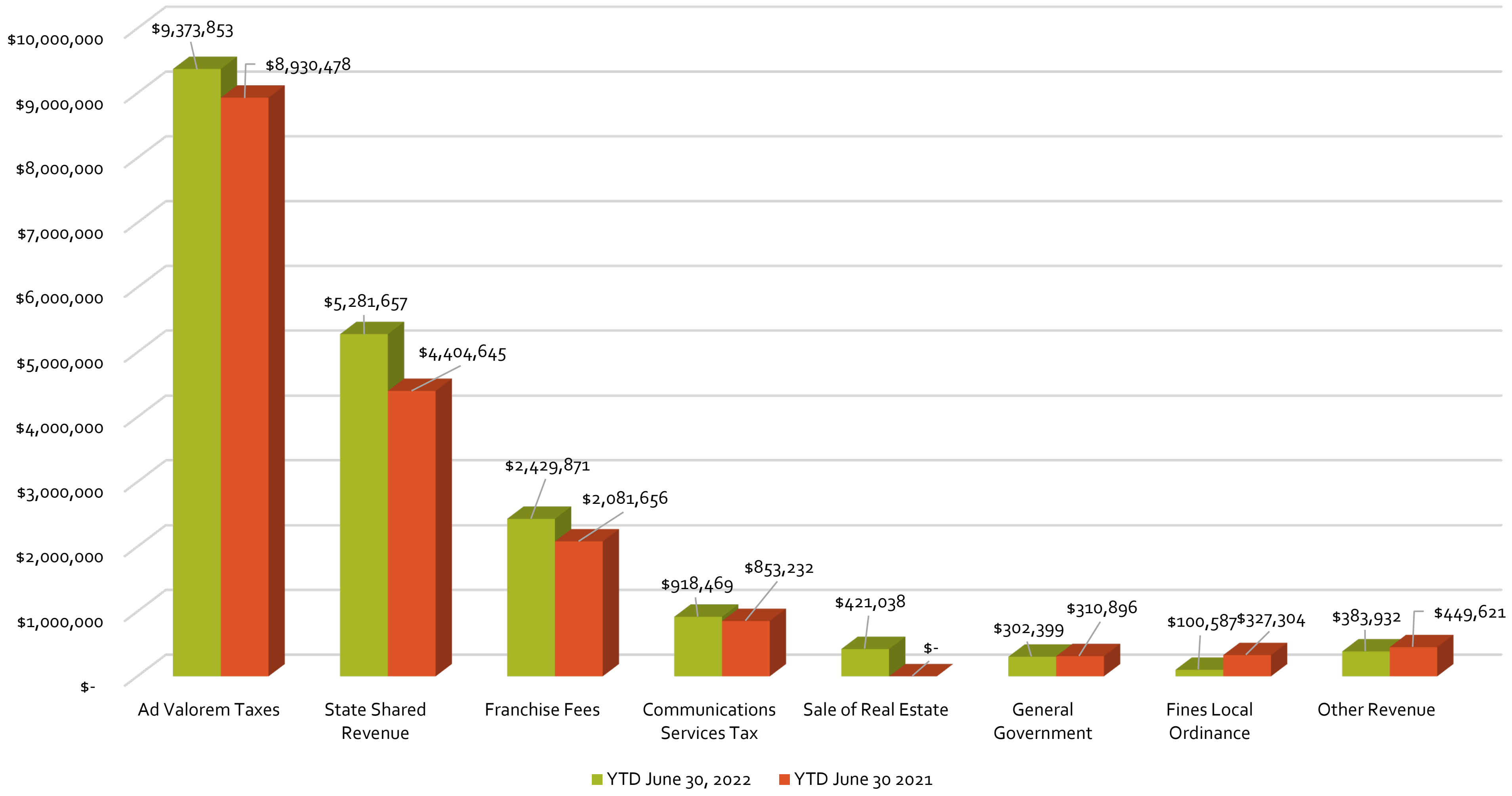
Presented 8/17/22

General Fund Revenue as of June 30, 2022



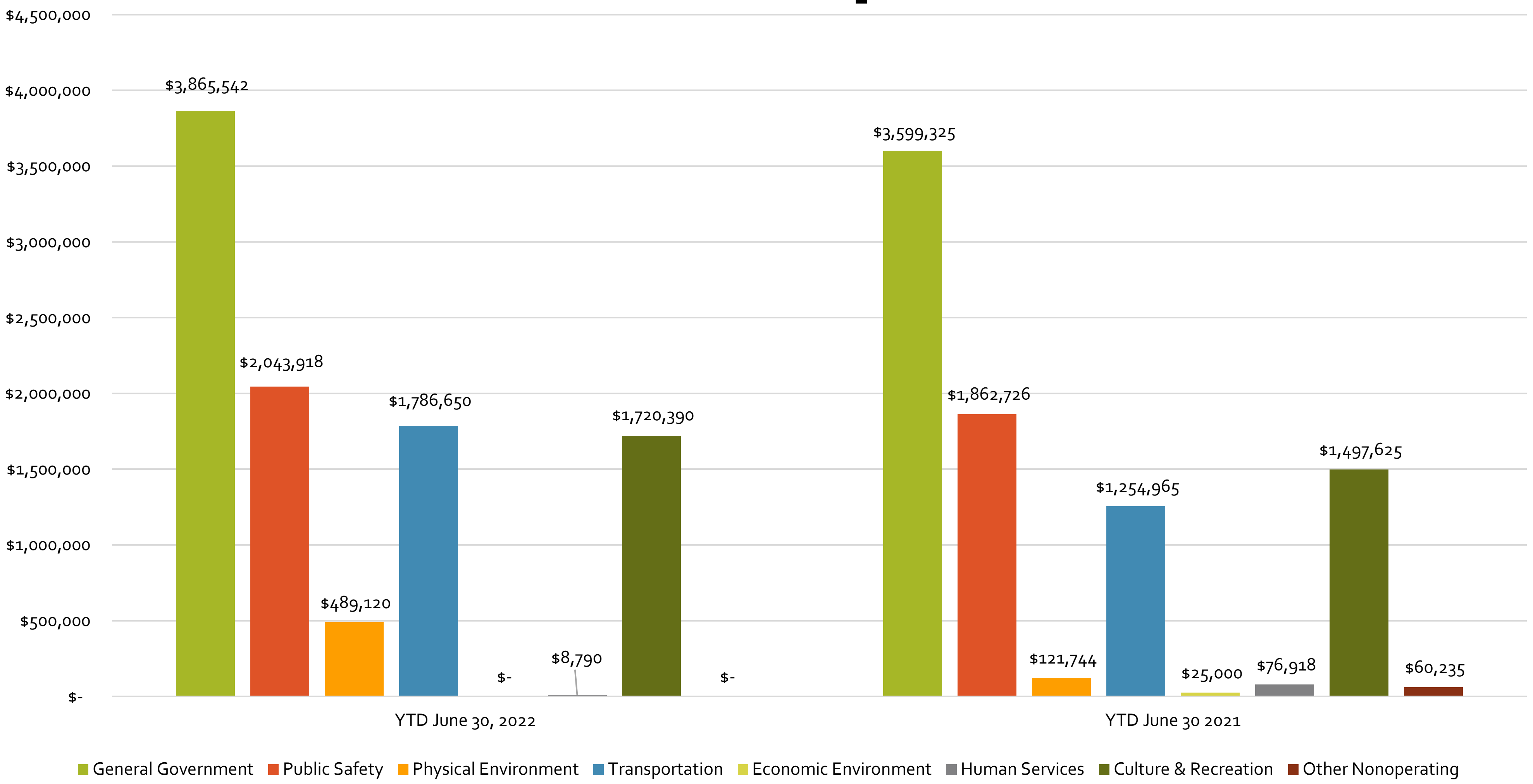
Presented 8/17/22

General Fund Revenue

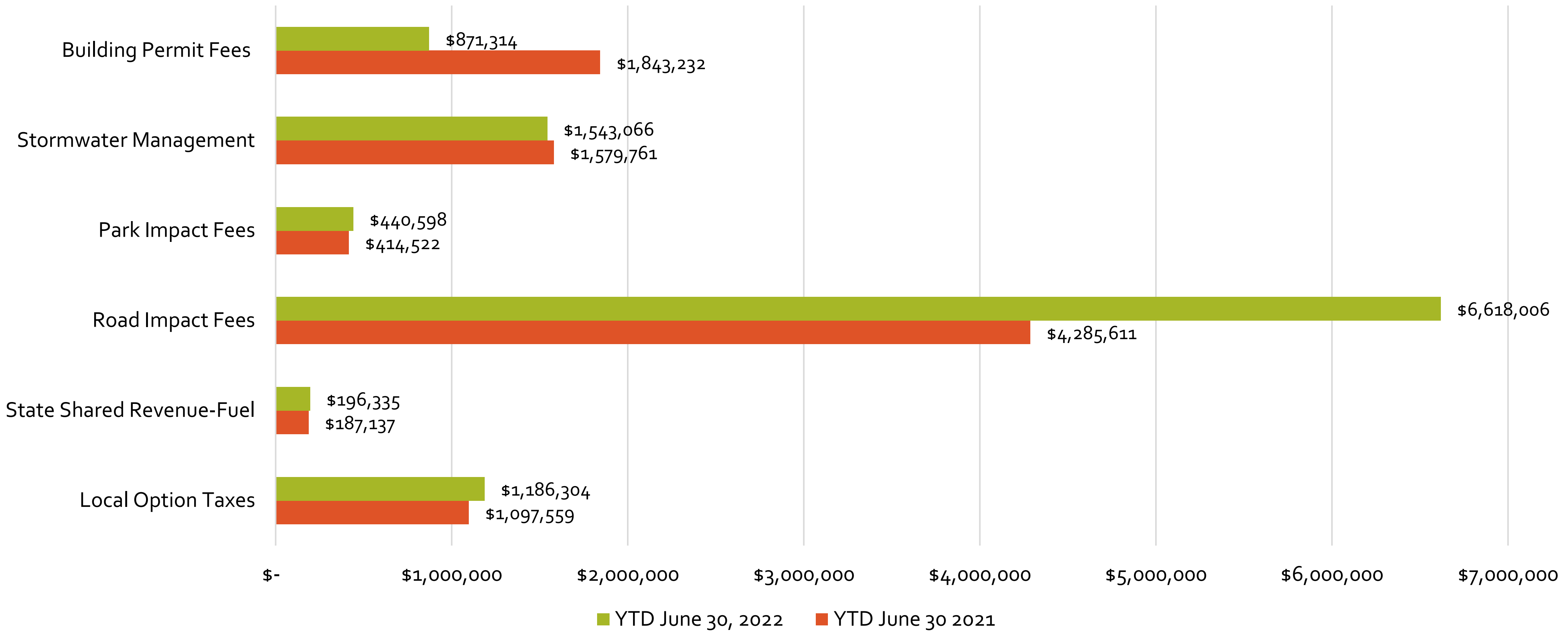


Presented 8/17/22

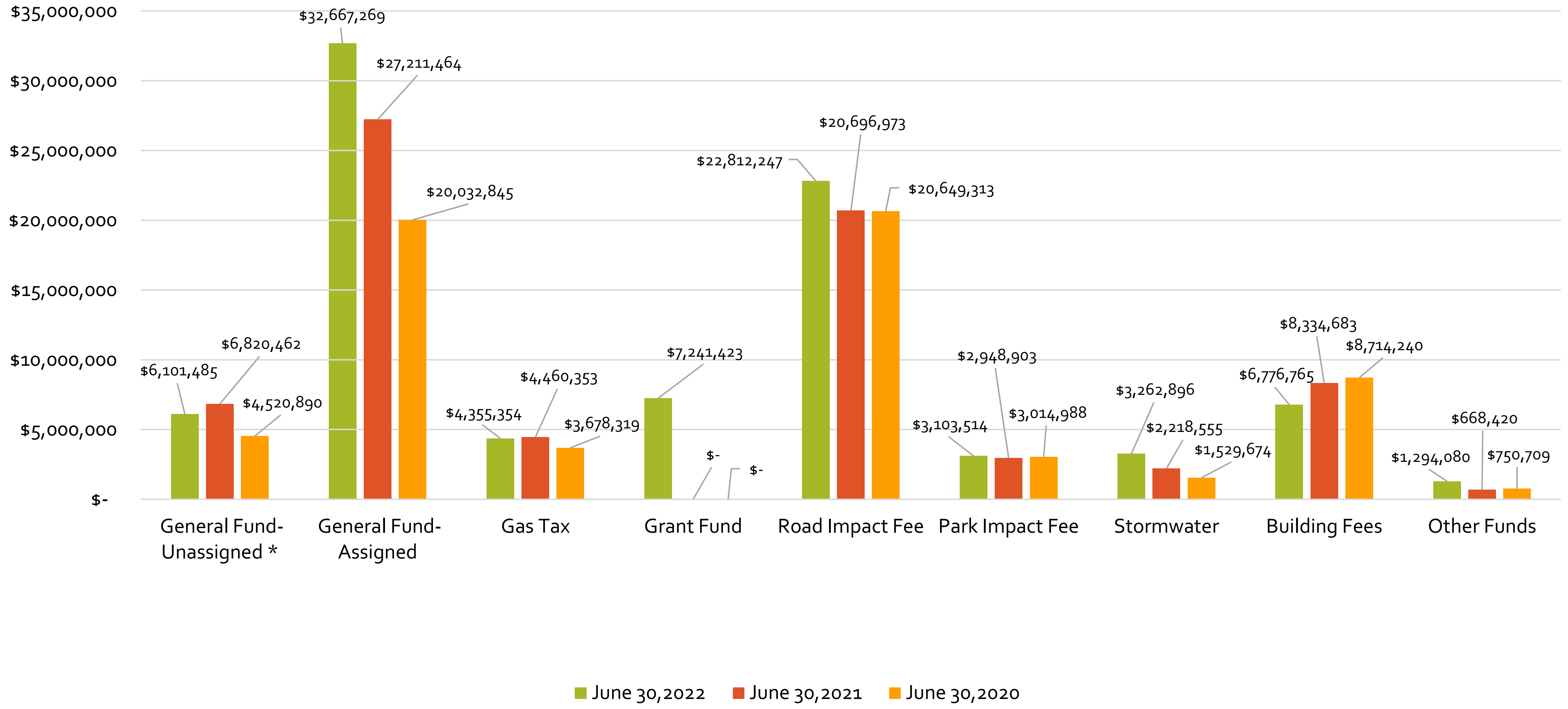
General Fund Expenditures



Restricted Revenue



Cash Balances



* General fund unassigned fund balance has been updated for year-to-date budget amendments.

Presented 8/17/22

THANK YOU

City of Bonita Springs, Florida

Balance Sheet

as of June 30, 2022

		Special Revenue Funds									
				Impact Fee Funds							
	General Fund	Gas Tax	Grants	Road	Park	Stormwater Management	Building Fees	Downtown Area Revenue Sharing	Debt Service Funds	Capital Project Fund	Total Governmental Funds
ASSETS											
Cash and cash equivalents	$ 38,768,754	$ 4,355,354	$ 7,241,423	$ 22,812,247	$ 3,103,514	$ 3,262,896	$ 6,776,765	$ 1,226,304	$ 67,776	$ -	$ 87,615,033
Receivables (net)	401,528	-	-	-	-	-	-	-	-	-	401,528
Due from other govt			647,578								647,578
Due from other funds	447,658	-	-	-	-	-	-	-	-	-	447,658
Total assets	$ 39,617,940	$ 4,355,354	$ 7,889,001	$ 22,812,247	$ 3,103,514	$ 3,262,896	$ 6,776,765	$ 1,226,304	$ 67,776	$ -	$ 89,111,797
LIABILITIES AND FUND BALANCES											
Liabilities:											
Accounts and contracts payable	$ 176,761	$ 141,572	$ 2,176	$ 6,400	$ 2,484	$ -	$ 13,700	$ -	$ -	$ -	$ 343,093
Accrued liabilities	279,175	-	-		-	-	-	-	-	-	279,175
Fund Bal-Beach Renourishment	748,588										748,588
Due to other funds	-	-	447,658		-	-	-	-	-	-	447,658
Due to other governments	39,867	-	-	55,840	-	-	-	-	-	-	95,707
Unearned Revenue	-	-	7,241,423	-	-	-	-	-	-	-	7,241,423
Total liabilities	1,244,391	141,572	7,691,257	62,240	2,484	-	13,700	-	-	-	9,155,644
Total fund balances, beginning of the year	30,237,567	4,397,757	-	21,507,811	3,077,820	2,015,241	7,950,075	487,792	67,776	-	69,741,839
Revenues and Other Financing Sources over (under) Expenditures and Other Financing Uses	8,135,982	(183,975)	197,744	1,242,196	23,210	1,247,655	(1,187,010)	738,512	-	-	10,214,314
Fund balances	38,373,549	4,213,782	197,744	22,750,007	3,101,030	3,262,896	6,763,065	1,226,304	67,776	-	79,956,153
Total liabilities and fund balances	$ 39,617,940	$ 4,355,354	$ 7,889,001	$ 22,812,247	$ 3,103,514	$ 3,262,896	$ 6,776,765	$ 1,226,304	$ 67,776	$ -	$ 89,111,797

City of Bonita Springs, FL

General Fund Budget Report

Group Summary

For Fiscal: 2021-2022 Period Ending: 06/30/2022

RevAccountType;ExpFinStmtLineItem	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Fund: 00 - General Fund					
Revenue					
311 - Ad Valorem Taxes	9,268,000.00	9,268,000.00	65,155.47	9,373,852.97	-105,852.97
315 - Communications Services Taxes	1,273,000.00	1,273,000.00	116,509.10	918,468.73	354,531.27
316 - Local Business Taxes	30,000.00	30,000.00	302.59	9,436.99	20,563.01
323 - Franchise Fees	3,265,000.00	3,265,000.00	309,941.07	2,429,870.91	835,129.09
329 - Other Permits, Fees & Special Assessment	61,300.00	61,300.00	5,085.00	32,040.00	29,260.00
335 - State Shared Revenue	6,446,070.00	6,446,070.00	780,302.43	5,281,656.80	1,164,413.20
341 - General Government	473,900.00	473,900.00	18,359.90	302,398.88	171,501.12
343 - Physical Environment	112,200.00	112,200.00	15,500.00	92,250.00	19,950.00
347 - Culture/Recreation	77,600.00	77,600.00	5,854.70	68,776.50	8,823.50
349 - Other Charges for Services	107,100.00	107,100.00	2,838.90	36,273.61	70,826.39
351 - Judgements, Fines-Traffic	22,400.00	22,400.00	1,131.15	14,640.99	7,759.01
354 - Fines Local Ordinance	80,000.00	80,000.00	400.00	100,586.90	-20,586.90
361 - Interest & Other Earnings	90,000.00	90,000.00	20,339.97	66,195.78	23,804.22
362 - Rents & Royalties	20,000.00	20,000.00	31,979.65	56,647.65	-36,647.65
366 - Contributions	4,000.00	4,000.00	0.00	629.87	3,370.13
369 - Other Misc Revenues	33,000.00	33,000.00	-29,429.65	7,040.96	25,959.04
388 - Proceeds of General Capital Dispositons	0.00	0.00	0.00	421,037.83	-421,037.83
Revenue Total:	**21,363,570.00**	**21,363,570.00**	**1,344,270.28**	**19,211,805.37**	**2,151,764.63**
Expense					
51 - General Government	6,523,375.00	6,463,583.00	510,749.98	3,865,541.73	2,598,041.27
52 - Public Safety	2,835,674.00	2,847,698.00	81,330.26	2,043,918.46	803,779.54
53 - Physical Environment	477,844.00	766,987.00	8,855.98	489,120.15	277,866.85
54 - Transportation	3,127,082.00	3,149,518.00	203,338.79	1,786,649.59	1,362,868.41
55 - Economic Environment	27,550.00	27,550.00	0.00	0.00	27,550.00
56 - Human Services	194,186.00	194,186.00	890.00	8,790.00	185,396.00
57 - Culture & Recreation	2,552,949.00	2,588,281.00	240,898.16	1,720,390.12	867,890.88
58 - Other Uses/Transfers Out	9,180,290.00	24,190,395.00	210,283.23	1,161,413.07	23,028,981.93
Expense Total:	**24,918,950.00**	**40,228,198.00**	**1,256,346.40**	**11,075,823.12**	**29,152,374.88**
Fund: 00 - General Fund Surplus (Deficit):	**-3,555,380.00**	**-18,864,628.00**	**87,923.88**	**8,135,982.25**	**-27,000,610.25**
Total Surplus (Deficit):	**-3,555,380.00**	**-18,864,628.00**	**87,923.88**	**8,135,982.25**	

General Fund Expenditure by Department

City of Bonita Springs, FL

Group Summary

For Fiscal: 2021-2022 Period Ending: 06/30/2022

Department	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Fund: 00 - General Fund					
101 - City Council	461,187.00	461,187.00	23,739.46	315,659.39	145,527.61
102 - Boards & Committees	77,000.00	77,000.00	415.30	4,518.60	72,481.40
201 - City Manager	565,711.00	568,395.00	45,418.10	351,525.32	216,869.68
211 - Planning & Zoning	1,897,751.00	1,897,751.00	143,936.47	1,332,043.33	565,707.67
220 - Law Enforcement/Security	2,047,554.00	2,047,554.00	5,251.20	1,536,220.30	511,333.70
230 - Neighborhood Services	757,390.00	769,414.00	74,726.14	492,869.93	276,544.07
240 - Information Technologies	217,622.00	220,617.00	20,383.15	143,118.20	77,498.80
250 - Public Works	3,537,926.00	3,849,505.00	211,789.47	2,236,691.91	1,612,813.09
260 - Emergency Preparedness	30,730.00	30,730.00	1,352.92	14,828.23	15,901.77
270 - Non-Departmental Expenditures	840,189.00	741,029.00	26,220.63	145,124.37	595,904.63
301 - City Attorney	788,962.00	792,397.00	61,058.10	409,475.16	382,921.84
401 - Adminstrative Services	400,961.00	407,834.00	43,220.30	251,719.04	156,114.96
402 - City Hall	240,080.00	240,080.00	21,788.66	153,865.36	86,214.64
410 - Human Resources	68,400.00	68,400.00	-1,747.04	26,536.27	41,863.73
430 - Communications	761,536.00	780,061.00	71,901.37	472,809.93	307,251.07
501 - Finance	766,917.00	781,773.00	75,562.07	476,835.09	304,937.91
601 - Parks & Recreation Adminstration	666,550.00	680,528.00	73,852.90	466,775.29	213,752.71
602 - Receation Center	420,736.00	426,491.00	42,751.51	276,780.55	149,710.45
603 - Community Park & Ball Fields	194,326.00	194,326.00	16,718.04	116,770.52	77,555.48
604 - Community Pool	381,063.00	386,662.00	42,201.54	249,382.56	137,279.44
605 - Riverside Park	141,643.00	141,643.00	11,481.44	117,931.55	23,711.45
609 - Formerly Community Hall/Sherriff Substation	14,941.00	14,941.00	622.14	15,212.72	-271.72
610 - Dog Park	65,650.00	65,650.00	936.53	32,938.30	32,711.70
611 - Beach Parks	9,698.00	9,698.00	17.03	303.85	9,394.15
613 - BS Soccer Complex	99,314.00	99,314.00	4,710.12	104,256.59	-4,942.59
614 - Kentucky Street Park	4,250.00	4,250.00	0.00	1,573.39	2,676.61
615 - Liles Hotel	74,532.00	74,532.00	6,586.66	46,322.19	28,209.81
617 - Bonita Nature Place	24,130.00	24,130.00	1,787.20	16,001.20	8,128.80
618 - Windsor Road Preserve	8,125.00	8,125.00	24.72	2,059.44	6,065.56
620 - Marni Fields	92,166.00	92,166.00	11,586.09	67,594.77	24,571.23
621 - BS River Park	18,990.00	18,990.00	1,352.24	7,003.51	11,986.49
622 - Cullum's Bonita Trail	14,250.00	14,250.00	0.00	12,271.32	1,978.68
623 - Carpenter Lane Canoe & Kayak	1,180.00	1,180.00	39.68	168.28	1,011.72
624 - Leitner Creek Neighborhood Park	5,250.00	5,250.00	1,269.58	4,306.74	943.26
626 - Oak Creek Preserve	6,000.00	6,000.00	4,100.00	10,997.34	-4,997.34
629 - Oak Creek Kayak Launch	10,450.00	10,450.00	0.00	0.00	10,450.00
631 - Former Library Building	20,000.00	20,000.00	1,009.45	1,596.46	18,403.54
883 - Veterans	5,500.00	5,500.00	0.00	293.48	5,206.52
885 - Donate a Bench	0.00	0.00	0.00	29.57	-29.57
Fund: 00 - General Fund Total:	**15,738,660.00**	**16,037,803.00**	**1,046,063.17**	**9,914,410.05**	**6,123,392.95**
Total Surplus (Deficit):	**-15,738,660.00**	**-16,037,803.00**	**-1,046,063.17**	**-9,914,410.05**	

Special Revenue Funds Budget Report

City of Bonita Springs, FL

Group Summary

For Fiscal: 2021-2022 Period Ending: 06/30/2022

RevAccountType;ExpFinStmtLineItem	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Fund: 10 - Gas Tax Fund					
Revenue					
312 - Local Option Taxes	1,652,850.00	1,652,850.00	160,239.26	1,186,304.42	466,545.58
335 - State Shared Revenue	370,000.00	370,000.00	24,541.87	196,334.96	173,665.04
361 - Interest & Other Earnings	11,000.00	11,000.00	2,326.00	7,970.00	3,030.00
Revenue Total:	**2,033,850.00**	**2,033,850.00**	**187,107.13**	**1,390,609.38**	**643,240.62**
Expense					
54 - Transportation	1,198,268.00	1,198,268.00	231,515.10	801,856.99	396,411.01
58 - Other Uses/Transfers Out	1,841,600.00	4,464,039.00	97,804.83	772,727.83	3,691,311.17
Expense Total:	**3,039,868.00**	**5,662,307.00**	**329,319.93**	**1,574,584.82**	**4,087,722.18**
Fund: 10 - Gas Tax Fund Surplus (Deficit):	**-1,006,018.00**	**-3,628,457.00**	**-142,212.80**	**-183,975.44**	**-3,444,481.56**
Fund: 13 - Grant Fund					
Revenue					
331 - Federal Grants	300,000.00	5,277,447.00	294,362.75	928,328.34	4,349,118.66
332 - Other Financial Assistance-Federal Source	250,000.00	250,000.00	0.00	0.00	250,000.00
334 - State Grants	2,978,200.00	31,326,206.00	74,062.79	518,237.80	30,807,968.20
337 - Local Gvmt Grants	40,000.00	90,616.00	0.00	2,176.00	88,440.00
361 - Interest & Other Earnings	0.00	0.00	2,383.00	6,092.00	-6,092.00
381 - Transfers In	40,000.00	40,000.00	0.00	6,724.69	33,275.31
Revenue Total:	**3,608,200.00**	**36,984,269.00**	**370,808.54**	**1,461,558.83**	**35,522,710.17**
Expense					
52 - Public Safety	80,000.00	80,000.00	2,176.00	16,676.69	63,323.31
58 - Other Uses/Transfers Out	3,528,200.00	36,904,269.00	80,532.78	1,247,137.65	35,657,131.35
Expense Total:	**3,608,200.00**	**36,984,269.00**	**82,708.78**	**1,263,814.34**	**35,720,454.66**
Fund: 13 - Grant Fund Surplus (Deficit):	**0.00**	**0.00**	**288,099.76**	**197,744.49**	**-197,744.49**
Fund: 14 - Road Impact Fee Fund					
Revenue					
324 - Impact Fees	3,502,000.00	3,502,000.00	503,911.57	6,618,005.59	-3,116,005.59
361 - Interest & Other Earnings	50,000.00	50,000.00	12,814.00	43,959.00	6,041.00
Revenue Total:	**3,552,000.00**	**3,552,000.00**	**516,725.57**	**6,661,964.59**	**-3,109,964.59**
Expense					
58 - Other Uses/Transfers Out	8,462,810.00	22,863,524.00	-68,899.70	5,419,768.87	17,443,755.13
Expense Total:	**8,462,810.00**	**22,863,524.00**	**-68,899.70**	**5,419,768.87**	**17,443,755.13**
Fund: 14 - Road Impact Fee Fund Surplus (Deficit):	**-4,910,810.00**	**-19,311,524.00**	**585,625.27**	**1,242,195.72**	**-20,553,719.72**
Fund: 16 - Park Impact Fee Fund					
Revenue					
324 - Impact Fees	252,700.00	252,700.00	24,624.00	440,598.00	-187,898.00
361 - Interest & Other Earnings	10,000.00	10,000.00	1,798.00	6,159.00	3,841.00
Revenue Total:	**262,700.00**	**262,700.00**	**26,422.00**	**446,757.00**	**-184,057.00**
Expense					
58 - Other Uses/Transfers Out	1,250,000.00	3,161,420.00	317,267.06	423,546.98	2,737,873.02
Expense Total:	**1,250,000.00**	**3,161,420.00**	**317,267.06**	**423,546.98**	**2,737,873.02**
Fund: 16 - Park Impact Fee Fund Surplus (Deficit):	**-987,300.00**	**-2,898,720.00**	**-290,845.06**	**23,210.02**	**-2,921,930.02**
Fund: 18 - Stormwater Management					
Revenue					
325 - Special Assessments - Charges for Public Services	1,008,100.00	1,008,100.00	13,343.35	1,543,065.93	-534,965.93
361 - Interest & Other Earnings	3,000.00	3,000.00	578.00	1,982.00	1,018.00
Revenue Total:	**1,011,100.00**	**1,011,100.00**	**13,921.35**	**1,545,047.93**	**-533,947.93**

RevAccountType;ExpFinStmtLineItem	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Expense					
53 - Physical Environment	520,380.00	520,380.00	46,638.00	297,393.24	222,986.76
Expense Total:	**520,380.00**	**520,380.00**	**46,638.00**	**297,393.24**	**222,986.76**
Fund: 18 - Stormwater Management Surplus (Deficit):	**490,720.00**	**490,720.00**	**-32,716.65**	**1,247,654.69**	**-756,934.69**
Fund: 19 - Building Fees Fund					
Revenue					
322 - Building Permits	1,607,000.00	1,607,000.00	88,972.29	871,313.56	735,686.44
329 - Other Permits, Fees & Special Assessment	0.00	0.00	0.00	225,486.63	-225,486.63
361 - Interest & Other Earnings	30,000.00	30,000.00	4,577.00	16,304.00	13,696.00
Revenue Total:	**1,637,000.00**	**1,637,000.00**	**93,549.29**	**1,113,104.19**	**523,895.81**
Expense					
52 - Public Safety	3,034,220.00	3,034,220.00	242,310.36	2,187,488.44	846,731.56
58 - Other Uses/Transfers Out	0.00	955,373.00	13,600.00	112,626.00	842,747.00
Expense Total:	**3,034,220.00**	**3,989,593.00**	**255,910.36**	**2,300,114.44**	**1,689,478.56**
Fund: 19 - Building Fees Fund Surplus (Deficit):	**-1,397,220.00**	**-2,352,593.00**	**-162,361.07**	**-1,187,010.25**	**-1,165,582.75**
Fund: 23 - Downtown Area Revenue Sharing					
Revenue					
311 - Ad Valorem Taxes	542,000.00	542,000.00	0.00	341,183.00	200,817.00
337 - Local Gvmt Grants	1,362,600.00	1,362,600.00	0.00	1,370,475.00	-7,875.00
Revenue Total:	**1,904,600.00**	**1,904,600.00**	**0.00**	**1,711,658.00**	**192,942.00**
Expense					
58 - Other Uses/Transfers Out	1,073,570.00	1,073,570.00	0.00	973,146.00	100,424.00
Expense Total:	**1,073,570.00**	**1,073,570.00**	**0.00**	**973,146.00**	**100,424.00**
Fund: 23 - Downtown Area Revenue Sharing Surplus (Deficit):	**831,030.00**	**831,030.00**	**0.00**	**738,512.00**	**92,518.00**
Total Surplus (Deficit):	**-6,979,598.00**	**-26,869,544.00**	**245,589.45**	**2,078,331.23**	

Debt Service Funds Budget Report

City of Bonita Springs, FL

Group Summary

For Fiscal: 2021-2022 Period Ending: 06/30/2022

RevAccountType;ExpFinStmtLineItem	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Fund: 20 - 2011 Debt Fund					
Revenue					
381 - Transfers In	2,487,350.00	2,487,350.00	0.00	2,556,945.45	-69,595.45
Revenue Total:	**2,487,350.00**	**2,487,350.00**	**0.00**	**2,556,945.45**	**-69,595.45**
Expense					
51 - General Government	2,556,950.00	2,556,950.00	0.00	2,556,945.45	4.55
Expense Total:	**2,556,950.00**	**2,556,950.00**	**0.00**	**2,556,945.45**	**4.55**
Fund: 20 - 2011 Debt Fund Surplus (Deficit):	**-69,600.00**	**-69,600.00**	**0.00**	**0.00**	**-69,600.00**
Fund: 21 - 2014 Debt Fund					
Revenue					
381 - Transfers In	1,073,570.00	1,073,570.00	0.00	973,146.00	100,424.00
Revenue Total:	**1,073,570.00**	**1,073,570.00**	**0.00**	**973,146.00**	**100,424.00**
Expense					
51 - General Government	1,073,570.00	1,073,570.00	0.00	973,146.00	100,424.00
Expense Total:	**1,073,570.00**	**1,073,570.00**	**0.00**	**973,146.00**	**100,424.00**
Fund: 21 - 2014 Debt Fund Surplus (Deficit):	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
Fund: 22 - 2020 Debt Fund					
Revenue					
381 - Transfers In	125,000.00	125,000.00	0.00	62,996.99	62,003.01
Revenue Total:	**125,000.00**	**125,000.00**	**0.00**	**62,996.99**	**62,003.01**
Expense					
51 - General Government	125,000.00	125,000.00	0.00	62,996.99	62,003.01
Expense Total:	**125,000.00**	**125,000.00**	**0.00**	**62,996.99**	**62,003.01**
Fund: 22 - 2020 Debt Fund Surplus (Deficit):	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
Total Surplus (Deficit):	**-69,600.00**	**-69,600.00**	**0.00**	**0.00**	

Capital Projects Funds Budget Report

City of Bonita Springs, FL

Group Summary

For Fiscal: 2021-2022 Period Ending: 06/30/2022

ExpFunction;RevAccountType	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Fund: 30 - Cap Projects Fund					
Revenue					
366 - Contributions	0.00	927,017.00	0.00	0.00	927,017.00
381 - Transfers In	20,410,550.00	87,332,573.00	624,157.51	6,355,779.15	80,976,793.85
Revenue Total:	**20,410,550.00**	**88,259,590.00**	**624,157.51**	**6,355,779.15**	**81,903,810.85**
Expense					
513 - Finance & Adminstration	100,000.00	1,059,370.00	13,600.00	148,010.85	911,359.15
519 - Other Gen Gvmt	1,540,000.00	2,707,664.00	250.00	33,603.53	2,674,060.47
537 - Conservation/Resource Mgmt	310,000.00	1,148,588.00	0.00	0.00	1,148,588.00
538 - Flood/Storm Water Mgmt	5,686,980.00	46,158,812.00	82,845.28	1,396,382.67	44,762,429.33
539 - Other Physical Environment	250,000.00	250,000.00	0.00	0.00	250,000.00
541 - Road & Street Facilities	10,434,500.00	32,799,013.00	363,605.50	4,549,527.53	28,249,485.47
545 - Parking Facilities	50,000.00	50,000.00	0.00	0.00	50,000.00
572 - Parks & Recreation	1,989,070.00	3,886,459.00	163,856.73	216,254.57	3,670,204.43
573 - Cultural Services	50,000.00	100,000.00	0.00	12,000.00	88,000.00
575 - Special Recreation Facilities	0.00	99,684.00	0.00	0.00	99,684.00
Expense Total:	**20,410,550.00**	**88,259,590.00**	**624,157.51**	**6,355,779.15**	**81,903,810.85**
Fund: 30 - Cap Projects Fund Surplus (Deficit):	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
Fund: 31 - Other Capital Projects Fund					
Revenue					
381 - Transfers In	1,200,000.00	2,554,097.00	26,430.69	154,774.12	2,399,322.88
Revenue Total:	**1,200,000.00**	**2,554,097.00**	**26,430.69**	**154,774.12**	**2,399,322.88**
Expense					
552 - Economic Development	0.00	173,285.00	17,000.00	94,903.82	78,381.18
572 - Parks & Recreation	1,200,000.00	2,380,812.00	9,430.69	59,870.30	2,320,941.70
Expense Total:	**1,200,000.00**	**2,554,097.00**	**26,430.69**	**154,774.12**	**2,399,322.88**
Fund: 31 - Other Capital Projects Fund Surplus (Deficit):	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
Total Surplus (Deficit):	**0.00**	**0.00**	**0.00**	**0.00**	

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 22-08-132
August 17, 2022

REQUESTED MOTION: Discussion on the current FY2022-2023 draft budget.

REQUESTOR: Lisa Griggs Roberson, CPA, Director of Financial and Adminstrative Services

AGENDA: City Manager's Items

STRATEGIC PRIORITY: 7) Government Transparency

BACKGROUND:

Staff will be reviewing the materials previously provided for discussion and City Council's direction in preparation of the September 8th budget hearing.

STAFF RECOMMENDATION: Council's pleasure.

ATTACHMENTS:

1. 2022-2023 Budget Update

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Debra Filipek
Department Director:	Lisa Roberson

Council Action: Approved __ Denied __ Deferred ___ Other______________________

City of Bonita Springs Florida

Small Town Charm.
Big Bright Future.

2022-2023 BUDGET UPDATE

Revenue Projection Changes 2021-2022
Actual Collection Higher Than Anticipated

Ad Valorem/Real Estate Taxes	$ 214,000
Electric Franchise Fees	340,000
Half-Cent Sales Tax	120,000
Proceeds from Sale of Real Estate (Levin Lot)	420,000
Road Impact Fees	
Residential	350,000
Commercial	60,000
Building Permit Fees	(520,000)
	$ 984,000
General Fund-Unrestricted Revenue	1,094,000
Restricted Revenue	(110,000)
Projected increase to Beginning Fund Balance	$ 984,000

Continuation of Services Budget Changes

Animal Control Services	$ (32,956)

Increased Level of Services Budget Changes

Celebrate Bonita	$	20,000
W.Terry St/Old 41 Quadrant Rd (CIP-GF)		200,000
	$	220,000
CIP=Capital Improvement Project; GF-General Fund;		

Summary of Proposed Changes

General Fund		
Revenue Increases 2021-2022 Collections	$	1,094,000
Expenditures Decreases		12,956
Capital Improv.Project Funding Increases		(200,000)
Impact on Unassigned Fund Balance		906,956
Special Revenue Funds		
Revenue Decreases 2021-2022 Collections		(110,000)
Impact on Restricted Funds		(110,000)
Impact on All City Funds	$	796,956

Projection of Unassigned Fund Balance as of September 30,2023

Estimate presented on July 20, 2022		4,149,762
Impact of Proposed Budget Changes		906,956
Allocation to Disaster Reserves		(1,000,000)
Estimate updated on August 17, 2022		4,056,718

Please note that Unassigned Fund Balance will be recalculated based upon actual collections and activity for fiscal year ending 9/30/2022.

Remaining Budget Calendar

- *September 8th @ 5:01 pm* - Tentative Budget Hearing including Millage Rate Vote

- *September 21th @ 5:01 pm* - Final Budget Hearing including Millage Rate Vote

Thank you

City Council Chambers
9101 Bonita Beach Road
Bonita Springs, Florida 34135

CITY COUNCIL
MEETING MINUTES

July 6, 2022
5:30 p.m.

1. Call to Order

   Mayor Rick Steinmeyer called the meeting to order at 5:30 P.M.

2. Invocation

   Pastor Riley Grandell, with Gulf Shore Church, furnished the invocation.

3. Pledge of Allegiance

   Mayor Steinmeyer led in the Pledge of Allegiance.

4. Roll Call

   Mayor Steinmeyer and all Council Members were in attendance, with Council Member Jesse Purdon participating via telephone.

   Council Member Amy Quaremba motioned to allow Council Member Purdon to participate via phone; Council Member Mike Gibson seconded; and the motion passed unanimously.

5. Approval of Agenda

6. Mayor's Welcome

7. Public Comment on Agenda Items

8. Zoning and Land Use Items:

   A. (FIRST READING AND PUBLIC HEARING) A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST TO REZONE 20.99± ACRES FROM COMMERCIAL PLANNED DEVELOPMENT (CPD) TO COMMERCIAL PLANNED DEVELOPMENT/ RESIDENTIAL PLANNED DEVELOPMENT (CPD/RPD) TO ALLOW FOR A MAXIMUM OF 252 MULTI-FAMILY DWELLING UNITS, INCLUDING BONUS DENSITY UNITS, AND UP TO 10,000 SQUARE FEET OF COMMERCIAL USE AT THE NORTHEAST INTERSECTION OF BONITA BEACH ROAD AND I-75, BONITA SPRINGS, FLORIDA, 34135; PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet No. 22-07-108)

5:35 P.M.

City Attorney Derek Rooney read the title block of the Zoning Ordinance into the record.

Mary Zizzo, Community Development, introduced the case, noting that presentations will be provided at second reading.

PUBLIC COMMENT

Deborah Levitt expressed concerns with over development, and suggested utilizing existing properties to develop.

Council Member Mike Gibson motioned to move to second reading; Council Member Amy Quaremba seconded; and the motion passed unanimously.

9. Proclamations and Presentations:

   A. Presentation of the first Tree of the Season Award to Mr. Mike Kirby for his 25' tall Paradise tree. (Green Sheet No. 22-07-102)

Jack Brown, Chairman of the Tree Advisory Board, presented the "Tree of the Season" award to former Community Development employee Mike Kirby. Mr. Kirby was in attendance to accept the award and to thank Mayor Steinmeyer and City Council.

5:42 P.M.

Council Member Amy Quaremba would like to promote the program in her district. She also suggested information be placed on the City's website to promote the program.

   B. Presentation of audited financial statements for the fiscal year ended September 30, 2021 by Jeff Brown, CPA, Partner with the audit firm of Ashley, Brown & Smith, CPAs. (Green Sheet No. 22-07-099)

Tony Smith, CPA, with Ashley, Brown & Smith, CPAs, presented the audited financial statements for the fiscal year ended September 30, 2021.

10. Consent Agenda:

Council Member Laura Carr motioned approval of the Consent Agenda; Council Member Quaremba seconded, and requested Item E. be pulled for an overview of the administrative process, which Staff provided. The motioned passed unanimously.

   A. Adopt resolution accepting the Selection Committee's recommendation and authorizing staff to negotiate with RK&K for the City's US 41 and Bonita Beach Road Quadrant Plan Northwest Phase I (CN 22-05). (Green Sheet No. 22-07-100) **ADOPTED RESOLUTION NO. 22-47**

B. Approve Resolution calling for and ordering an election on November 8, 2022 and designating qualified candidates. (Green Sheet No. 22-07-101) **ADOPTED RESOLUTION NO. 22-48**

C. Adopt a Resolution to add Change Order No. 1 to the Citrus Park/East Bonita Springs Stormwater Improvement Project, Phase 1 with Kisinger Campo & Associates, Inc. for construction designs, environmental reviews and permitting in the amount of $67,000 bringing the total amount to $232,292. (Green Sheet No. 22-07-106) **ADOPTED RESOLUTION NO. 22-49**

D. Approve Proposal from Ajax Paving Industries of Florida, LLC for the West Terry Street Roundabout improvements in the amount of $284,756.95. (Green Sheet No. 22-07-107)

E. Ratify the draft administrative action regarding an application for final plan approval (FPA) to allow for the construction of two duplexes and two accessory dwellings on the property located at 27301 Horne Avenue. (Green Sheet No. 22-07-109)

F. Approve modification #2 to the contract agreement between the City of Bonita Springs and Florida Department of Emergency Management for the Citrus Park Drainage Project, Phase 1 (Green Sheet No. 22-07-110)

- Opportunity for City Council Comments on Consent Agenda

11. Mayor and Council Member Items: No items.

12. Public Hearing:

A. First Reading of the following Ordinance: AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, APPROVING THE PETITION OF BONITA SPRINGS UTILITIES, INC., TO INCREASE ITS WATER AID-TO-NEW CONSTRUCTION FEES AND CERTAIN MISCELLANEOUS SERVICE CHARGES; AND PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet No. 22-07-111)

City Attorney Derek Rooney read the title block of the Ordinance into the record.

Council Member Mike Gibson motioned to move forward to second reading; Council Member Laura Carr seconded; and the motioned passed unanimously.

13. City Attorney's Items:

A. FIRST READING OF THE FOLLOWING ORDINANCE: AN ORDINANCE AMENDING THE BONITA SPRINGS CODE OF ORDINANCES CHAPTER 24 - FLOOD HAZARD REDUCTION – TO CLARIFY AND UPDATE DEFINITIONS AND REGULATIONS AS NECESSARY TO REMAIN IN THE NATIONAL FLOOD INSURANCE PROGRAM; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE. (Green Sheet No. 22-07-103)

Council Member Gibson motioned to move forward to second reading; Council Member Quaremba seconded.

Ayita Lonergan, Floodplain Manager for the City, provided a brief overview and responded to Council questions.

The motion passed unanimously.

B. First Reading of the following Ordinance: AN ORDINANCE OF THE CITY OF BONITA SPRINGS; RELATING TO BUILDING AND CONSTRUCTION CODES; AMENDING CHAPTER 10 – BUILDING CODES AND STANDARDS – ADOPTING LOCAL TECHNICAL AMENDMENTS TO THE *FLORIDA BUILDING CODE*; ADDING DEFINITIONS FOR DETERMINING REPETITIVE LOSS, COASTAL A ZONES; SUBSTANTIAL DAMAGE AND SUBSTANTIAL IMPROVEMENT; PROVIDING FOR CONFLICT OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE. (Green Sheet No. 22-07-104)

<u>6:01 P.M.</u>

City Attorney Rooney read the title block of the Ordinance into the record.

Council Member Mike Gibson motioned to move forward to second reading; Council Member Carr seconded; and the motion passed unanimously.

C. Authorize the Mayor to execute interim public access facilitation agreement pursuant to the City's Settlement Agreement with BG Mine, LLC. (Green Sheet No. 22-07-112)

<u>6:02 P.M.</u>

City Attorney Rooney provided a brief overview.

Council Member Carr motioned to approve; Council Member Chris Corrie seconded; and the motion passed unanimously.

<u>ADDITIONAL ITEM(S):</u>

City Attorney Rooney informed Council of amendments that will be coming forth to Council for their consideration in relation to the home occupation code, to ensure the code conforms with the State and Lee County's regulations. The second item regards to personal watercraft vehicle licenses, of which there is currently a license requirement and registration relating to the operation of personal watercraft rentals within the City. Direction is being sought to remove the license requirement and prohibit these operations from public lands.

14. City Manager's Items:

A. Staff update regarding the Tree Advisory Board's recommended LDC amendments. (Green Sheet No. 22-07-105)

Sean Gibbons, Community Development, provided an update regarding Staff recommendations after receiving feedback from industry members and as a result of the Tree Advisory Board's recommended LDC amendments.

ADDITIONAL ITEM(S):

City Manager Hunter reminded Council that the July 20, 2022 budget workshop is scheduled for 5:30 P.M.

15. Mayor and Council Member Reports

Council Member Forbes commended all involved in the great 4th of July event! He also reported that he, along with Council Member Carr, attended Lee County Commissioner Frank Mann's funeral services. He also commended Trish Leonard on the Award she received from the Estero Chamber of Commerce.

Council Member Gibson also commended Staff on the great job with the 4th of July event!

6:15 P.M.

Trish Leonard President of Downtown Alliance addressed the Mayor and City Council.

Council Member Quaremba reported on the Horizon Council General Membership meeting and the Downtown Alliance meeting she attended. She also thanked all involved and participated in the 4th of July!

Council Member Carr also reported on the Horizon Council meeting she attended in which Don Scott made a presentation. The 4th of July event was great!

Council Member Purdon suggested a way to recognize John Paeno's for all the contributions he made to the City.

Mayor Steinmeyer also echoed comments regarding the great 4th event!

16. Approval of the Minutes:

Council Member Gibson motioned approval of both sets of Minutes; Council Member Quaremba seconded; and the motion passed unanimously.

A. June 1, 2022

B. June 15, 2022

17. Public Comment

Alex Grantt addressed the Everglades Wonder Gardens, and suggested delaying the demolition to allow time to obtain an option from the new director.

18. Adjournment

There being no further items to discuss, the meeting adjourned at 6:27 P.M.

Respectfully submitted,

____
Debra Filipek, City Clerk

APPROVED:
CITY COUNCIL
Date: ____________________________
AUTHENTICATED:

____
Mayor Rick Steinmeyer