NOTICE OF PUBLIC MEETING
CITY COUNCIL
CITY OF BONITA SPRINGS
OFFICIAL AGENDA
WEDNESDAY, JULY 15, 2020
9:00 A.M.
BONITA SPRINGS RECREATION CENTER
26740 PINE AVENUE
BONITA SPRINGS, FLORIDA 34135

PUBLIC COMMENT AVAILABLE VIA EMAIL, PHONE AND IN PERSON IN ACCORDANCE WITH SOCIAL DISTANCING GUIDELINES

DUE TO SOCIAL DISTANCING GUIDELINES, PLEASE EMAIL THE CITY AT **CITYMEETINGS@CITYOFBONITASPRINGS.ORG** IN ORDER TO:

1. SUBMIT YOUR COMMENT IN WRITING PRIOR TO THE MEETING; OR

2. PROVIDE YOUR NAME AND TELEPHONE NUMBER TO PARTICIPATE BY PHONE DURING THE MEETING. A MEMBER OF STAFF WILL CONTACT YOU PRIOR TO THE MEETING WITH CALL-IN INSTRUCTIONS. ALSO, PLEASE INDICATE IN YOUR EMAIL WHICH MEETING YOU WOULD LIKE TO PARTICIPATE BY PHONE.

PLEASE INCLUDE THE MEETING DATE IN THE SUBJECT LINE OF YOUR EMAIL. ALL EMAILS FOR PUBLIC COMMENT MUST BE RECEIVED BY 3:00 P.M. ON JULY 14, 2020.

CLICK HERE TO WATCH THE MEETING ONLINE, OR VISIT THE CITY'S WEBSITE AT WWW.CITYOFBONITASPRINGS.ORG AND CLICK "HOW DO I?" AND THEN CLICK "WATCH A MEETING LIVE" TO ACCESS THE LIVE STREAM.

INTERESTED PARTIES MAY ALSO ATTEND THE PUBLIC HEARING IN PERSON TO PROVIDE COMMENTS IN ACCORDANCE WITH THE CITY'S CODE OR AS THOSE PROVISIONS MAY BE MODIFIED BY THE CITY COUNCIL. SOCIAL DISTANCING AND OTHER CENTERS FOR DISEASE CONTROL (CDC) AND FLORIDA DEPARTMENT OF HEALTH (FDOH) GUIDELINES PERTAINING TO COVID-19 WILL BE FOLLOWED AND OBSERVED.

I. Call to order

II. Invocation

III. Pledge of Allegiance

IV. Roll call

V. Public comment on Agenda items

VI. First reading and public hearing of the following Zoning Ordinances.

A. A Zoning Ordinance of the City of Bonita Springs, Florida; approving application PD18-45808-BOS rezoning 4.75+/- acres from Community Commercial (CC) and Commercial

(CS) to a Mixed Use Planned Development (MPD) to allow a 202 room hotel, 42 multifamily dwelling units and 11,130 square feet of commercial space; for a property located on the north side of Bonita Beach Road, west of Imperial River Road and east of Okeana Street; and providing for an effective date. (Greensheet No. 20-07-194)

B. A Zoning Ordinance of the City of Bonita Springs, Florida; considering a request by Pelican Landing Golf Resort Ventures, LP, to amend Lee County Zoning Resolution No. 94-014, Pelican Landing Residential Planned Development (RPD)/Commercial Planned Development (CPD), to (1) rezone 20+/- acres from the Kersey Smoot RPD to the Pelican Landing CPD/RPD; (2) to amend condition 9 to create "FL" in the RPD land development area and add Continuing Care Facility (CCF), Assisted Living Facility (ALF), Independent Living Facility (ILF) and Health Care Facilities, Groups I, II, and III to the list of permitted uses; and (3) to amend Condition 12 associated with Deviation 12 to allow a maximum of four (4) residential buildings with a height greater than seventy-five (75) feet above minimum flood elevation north of Coconut Road in reference to RPD land development area “FL”, on land located within the Pelican Landing Golf Resort (a/k/a Raptor Bay) at the northwest intersection of Coconut Point Resort Drive and Coconut Road, Bonita Springs, FL 34134, on 55 +/- acres; providing for an effective date. (Greensheet No. 20-07-193)

VII. Consent Agenda: (Note: Items on the Consent Agenda will be considered as one unless a specific item is removed by a Council Member for separate discussion.)

A. Approve Resolution calling for and ordering an election on November 3, 2020 and designating qualified candidates. (Greensheet No. 20-07-189)

B. Approve budget Resolution to amend the FY 2020 Budget for the Community Development Block Grant. (Greensheet No. 20-07-180)

C. Approve Florida Department of Environmental Protection funding agreement and Budget Resolution for the Felts Avenue Bio-Reactor Phase II Project. (Greensheet No. 20-07-183)

D. Approve the 2020-2021 Interlocal Agreement for Stray Animal Control Services between Lee County and the City of Bonita Springs. (Greensheet No. 20-07-186)

E. Authorize staff to advertise RFP for Letters of Interest from Artists and other similar type vendors for use of Artist Cottage #5 at Riverside Park. (Greensheet No. 20-07-187)

F. Authorize staff to submit a grant application to the Florida Department of Economic Opportunity (FDEO) Community Development Block Grant – Mitigation (CDBG-MIT) General Planning Support Grant. (Greensheet No. 20-07-188)

G. Approve budget Resolution to establish a budget for the CDBG-DR Voluntary Buy-out Program. (Greensheet No. 20-07-179)

- <u>Opportunity for City Council comments on Consent Agenda items</u>

VIII. Proclamations and presentations:

<u>Brief recess, if needed.</u>

IX. Mayor and Council Member items:

X. City Attorney's items:

   A. A Resolution of the City Council of the City of Bonita Springs, Florida, extending Resolution 20-27 declaring that the City is suspending portions of its Land Development regulations and adopting interim regulations to provide temporary relief in response to COVID-19. (Greensheet No. 20-07-190)

   B. A Resolution of the City Council of the City of Bonita Springs, Florida, extending Resolution 20-32 providing for utilization of Communications Media Technology in land use proceedings and providing for public participation in response to COVID-19. (Greensheet No. 20-07-191)

XI. City Manager's items:

   A. Discussion of requested information from staff regarding past expenditures related to City Hall maintenance and repairs, as well as comparative market information, and direction to staff regarding proposal from Wright Construction Group in an amount not to exceed $1,972,685 for City Hall Renovations (Greensheet No. 20-07-192)

   B. Approve budget transfer Resolution to adjust the Grant funding amount and the General Fund funding amount for the Pine Lake Preserve Re-Hydration project. (Greensheet No. 20-07-178)

   C. Update on City's response to COVID-19.

XII. Mayor and Council reports:

XIII. Approval of Minutes: 07/01/20

XIV. Public comment:

XV. Adjournment.

ANY PERSON REQUIRING SPECIAL ACCOMMODATIONS AT ANY OF THE MEETINGS BECAUSE OF A DISABILITY OR PHYSICAL IMPAIRMENT SHOULD CONTACT MEG WEISS, DIRECTOR OF ADMINISTRATIVE SERVICES, AT 239-949-6262, AT LEAST 48 HOURS PRIOR TO THE MEETING. IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS TO BE MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.

PRINTED COPIES OF THE AGENDA WILL BE PROVIDED AT THE MEETING. TO VIEW THE ENTIRE CITY COUNCIL MEETING PACKET PLEASE VISIT WWW.CITYOFBONITASPRINGS.ORG

NOTE: THIS MEETING IS TELEVISED ON COMCAST, CHANNEL 98. AGENDAS ARE AVAILABLE FOR VIEW, AND THE MEETING CAN BE VIEWED AT **WWW.CITYOFBONITASPRINGS.ORG**

NEXT MEETING: JULY 27, 2020 BUDGET WORKSHOP

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-07-194

AGENDA ITEM SUMMARY

REQUESTED MOTION: First reading of the following Zoning Ordinance: A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING APPLICATION PD18-45808-BOS REZONING 4.75+/- ACRES FROM COMMUNITY COMMERCIAL (CC) AND COMMERCIAL (CS) TO A MIXED USE PLANNED DEVELOPMENT (MPD) TO ALLOW A 202 ROOM HOTEL, 42 MULTIFAMILY DWELLING UNITS AND 11,130 SQUARE FEET OF COMMERCIAL SPACE; FOR A PROPERTY LOCATED ON THE NORTH SIDE OF BONITA BEACH ROAD, WEST OF IMPERIAL RIVER ROAD AND EAST OF OKEANA STREET; AND PROVIDING FOR AN EFFECTIVE DATE.

MEETING DATE: 6/3/2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
☐	PRESENTATIONS	☐	STATUTE	John Dulmer, AICP, Community Development Director Jay Sweet, AICP, PSM City Planner, City Surveyor Mike Fiigon II Senior Planner
☐	CONSENT	☐	ORDINANCE	
☒	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☐	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:
This is the first reading and public hearing of a Zoning Ordinance for the Barefoot MPD request. The case was heard by the Zoning Board on June 16, 2020. The second reading and public hearing in front of City Council is tentatively scheduled for August 5, 2020.

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ **YES** ☒ **NO**
IF YES, WHICH STRATEGIC OBJECTIVE?

STAFF RECOMMENDATIONS: Advance to 2nd Reading on August 5, 2020.

REVIEWED BY:

City Manager: Arlen M H
City Attorney: ____________
City Clerk: ____________
Department Director: ____________

COUNCIL ACTION:

☐ **APPROVED**
☐ **DENIED**
☐ **DEFERRED**
☐ **OTHER**

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 20 -

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING APPLICATION PD18-45808-BOS REZONING 4.75+/- ACRES FROM COMMUNITY COMMERCIAL (CC) AND COMMERCIAL (CS) TO A MIXED USE PLANNED DEVELOPMENT (MPD) TO ALLOW A 202 ROOM HOTEL, 42 MULTIFAMILY DWELLING UNITS AND 11,130 SQUARE FEET OF COMMERCIAL SPACE; FOR A PROPERTY LOCATED ON THE NORTH SIDE OF BONITA BEACH ROAD, WEST OF IMPERIAL RIVER ROAD AND EAST OF OKEANA STREET; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Barefoot Beach Florida, LLC., has filed an application to request to rezone approximately 4.75 acres from Community Commercial and Commercial zoning districts to a Mixed Use Planned Development to allow a 202 room hotel, 42 multi-family dwellings and 11,130 square feet of commercial space; and

WHEREAS, the subject property is located on the North side of Bonita Beach Road between Imperial River Road and Okeana Street and is described more particularly in:

"See Exhibit A"

WHEREAS, a Public Hearing was advertised and heard on June 16, 2020, by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case PD18-45808-BOS which considered the evidence available and recommended denial (2-3) after giving full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City, and the testimony of all interested parties. The June 16, 2020 Staff Report prepared by Community Development and evidence submitted at the Zoning Board hearing, as part of the City Council hearing record, are on file with the City Clerk.

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

SECTION ONE: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the request to rezone the subject property to Mixed Use Planned Development, consistent with the Master Concept Plan; detailed and conditioned as follows:

Uses: The following uses will be allowed within this Mixed Use Planned Development:

1. Accessory uses and structures
2. Administrative offices
3. ATM (Automatic Teller Machine)
4. Banks and financial Establishments: Group I
5. Bar or cocktail Lounge
6. Broadcast studio commercial radio and television
7. Business services: Group I (excluding bail bonding and blood donor stations)
8. Clothing stores, general
9. Cultural facilities
10. Consumption on premises – limited to private club or restaurant use
11. Day care center, child, adult
12. Dwelling units: Multiple-family building(s) – limited to 42 dwelling units
13. Entrance gates and gatehouse
14. Essential services
15. Essential service facilities: Group I
16. Excavation: Water retention
17. Fences, walls
18. Food and beverage service, limited
19. Food stores: Group I
20. Hardware store
21. Health care facilities, Group I
22. Hobby, toy and game shops
23. Home occupation
24. Hotel/motel – limited to 202 hotel rooms
25. Laundry or dry cleaning: Group I
26. Package Store
27. Paint, Glass and Wallpaper
28. Parking lot: Accessory, Commercial Garage, public and private parking Temporary
29. Parks: Group I
30. Personal services: Group I and II (excluding massage establishment, escort services, palm readers, fortune teller or card reader, and tattoo parlors, except massage may be permitted within a health or beauty spa).
31. Pet services
32. Pet shop
33. Recreation facilities: Personal or Private—On site
34. Real estate sales office
35. Rental or leasing establishment: Group I, and II
36. Repair shops: Groups I, and II
37. Research and development laboratories: Group I, II, III, IV

38. Residential accessory uses
39. Restaurant: Groups I, II, and III (including outdoor COP and seating)
40. Schools: Commercial
41. Specialty retail shops: Group I, II, and III
42. Studios
43. Signs in accordance with Chapter 6
44. Used merchandise stores, Groups I and II Variety Store

Property Development Regulations: The property shall be subject to the following development standards:

Minimum Lot Area: 4.75 Acres (Depth 440’, Width 470’)

Maximum Lot Coverage: 85%

Minimum Setbacks:	**Building 1** Retail/Hotel	**Building 2** Hotel/MF	**Building 3** Parking Garage
Front (BBR)	13 feet	150 feet	250 feet
Side	20 feet	50 feet	25 feet
Rear	80 feet	149* feet	25 feet
Max. Height: (eave)	45 feet	75* feet	31 feet

* Should Rear Yard Setback be less than 149', the maximum permitted height shall not exceed 55’, which is compatible with the maximum permitted height of the residential properties to the north, based on the future land use category of Medium Density Residential.

Conditions: This project is subject to the following condtions:

1. Except as modified by conditions or deviations herein, the proposed project must comply with the Bonita Springs Land Development Code, the Lee County Land Development Code (for any work done within the right-of-way of Bonita Beach Road), or any other applicable codes or regulations at time of local development order.

2. The project shall be consistent with the Master Concept Plan titled “BONITA BEACH - MPD MIXED USE HOTEL/RETAIL 4200 BONITA BEACH ROAD SW” prepared by RMC LLC., consisting of 2 sheets, having a date stamp of 02/27/2020, attached hereto and made a part hereof (Exhibit “B”), and as modified by the conditions set forth herein.

3. Hotel units may not be converted to additional multi-family units, unless approved by the City Council through amendment to this planned development.

4. <u>Environmental</u>.

   In support of Deviation 4, which requests relief from LDC Section 3-417(b)(1)a), the acreage of the required indigenous area for this project is 0.71 acres and shall be mitigated off-site in accordance with one of the options listed below.

   a. The Applicant will relocate three (3) existing Turkey Oak trees to the general location shown on the MCP or another location with adequate space as found suitable by a Certified Arborist. At the time of local development order the applicant and the City staff shall explore alternate on site locations for the relocation of the Turkey Oaks. City Staff shall have the authority to delete up to three (3) parking spaces if deemed necessary to provide an optimum location for these trees. The relocation shall be conducted according to International Society of Arborist Best Management Practices and Right Tree Right Place principles, and shall be done as part of the first local development order for the property.
   b. In addition, a fee in lieu paid to the City of Bonita Springs to purchase, restore, and maintain 0.82 acres of Xeric Oak and/or Upland Scrub, at a cost of $57,700, to mitigate for the required on-site indigenous area of 0.71 acres. The developer is proposing to mitigate for an additional 0.11 acre due to the type of habitat on the subject property. The fee in lieu includes the costs for seven (7) years of monitoring and maintenance shall be included in the fee, estimated at $1,000 per year. This fee shall be paid at time of issuance of the first local development order for the property. These funds may go towards the improvement of existing governmental conservation lands or for new acquisition of Xeric Oak and/or Upland Scrub habitat.
   c. At time of local development order, an FWC permit for the relocation of gopher tortoises shall be provided.
   d. The abundance of rare and unique plants on this this property provide an exceptional opportunity to enhance the flora communities within the City. To that end the applicant shall allow the harvesting of these species for a 45-day prior to any clearing activities. All harvesting activities shall be coordinated with the City's Environmentalist.
   e. Heritage Tree replacement ratio 1:1 with six (6) native tree species acceptable to staff, with all trees a minimum of 20 ft.

5. Shuttle Service.
   a. A shuttle service will be provided from the subject property to Bonita Beach and surrounding points of interest based upon demand. The shuttle service will enter the front of the property through the Bonita Beach Road and pick up passengers at the main entrance to the hotel. The shuttle would leave the property and enter Bonita Beach Road again. A proposed circulation time would be between 8 AM until 5 PM, based upon fluctuations in seasonal demand.
   b. 42 parking spaces available for public use will be reserved in the on-site parking garage.

6. Enhanced Buffer. Prior to local development order approval, the plans must delineate an enhanced 25-foot wide Type “F” buffer adjacent to the northern property line. The enhanced northern buffer must be 25 feet wide and must contain a double-staggered hedgerow planted at 48 inches and maintained at 60 inches; five (5) canopy trees per 100 linear feet, which must be 45 gallons, 12-14 feet in height at the time of planting; and an additional 16 palms per 100 linear feet, clustered in groups of 3 to 5 palms per cluster, planted at 14 to 18 foot clear trunk (Greywood).

7. The architecture shall be consistent with the renderings contained herein (Attachment H).

8. The parking structure shall be designed with enhanced façade treatments along all four elevations. All covered parking structure areas under buildings shall be designed with primary façade treatments on all exterior facades visible to a right of way and adjacent properties.

   a. Lighting on the top floor of the garage shall not exceed the height of the garage wall and shall be Dark Skies compliant.
   b. A row of plantings shall be placed along the wall of the top floor of the garage as an additional screening measure for visibility towards the northern residential properties.
   c. The surface parking lot shall be designed in accordance with LDC 4-899, with regards to development regulations for properties located within the Bonita Beach Road Corridor.

9. Outdoor Seating and Outdoor Consumption on Premises.

   a. Pursuant to the Master Concept Plan and the Schedule of Uses, Consumption on Premises (Outdoor), with seating, is approved for Buildings #1 and #2 only. The locations of the seating areas shall be oriented towards Bonita Beach Road and must be a minimum of 250’ away from any residentially-zoned property.

b. Any outdoor seating for Building #1 along the northern portion of the building will be prohibited.
c. All outdoor seating for Building #2 must be located on the pool deck area, above the main entry to the hotel, and shall not be located on the north, east or west sides of the building facing residentially-zoned properties.
d. Outdoor seating with or without COP is prohibited in Building #3.

10. Outdoor Entertainment.
    a. For the purpose of this set of conditions, outdoor entertainment is defined as live music or other activities that utilize amplified sound.
    b. Outdoor entertainment is limited to 12:00pm – 10:00pm, Monday-Sunday.
    c. Any outdoor speakers must be oriented away from any residentially-zoned properties to the north, east and west.
    d. The Noise Control Ordinance remains in full force and effect, accept as modified herein:
        i. In the event of a noise complaint, noise measurements shall be taken from the property line of the subject property closest to the complainant land, and not the receiving land.
    e. Nothing in these conditions shall hinder the applicant’s ability to submit for temporary use permits or special event permits in conjunction with the land development code requirements for Bonita Springs.

11. Additional Conditions. At the time of local development order, the property owner shall meet the following criteria:

    a. Provide engineering plans showing how the site will store and treat its surface water runoff consistent with the City’s Comprehensive Plan and the City’s LDC, including compliance with Policy 9.3.3 of the Conservation/Coastal Management Element of the City’s Comprehensive Plan, which states that an additional fifty (50) percent water quality is required over the already required South Florida Water Management District water quality.
    b. Provide a drainage analysis demonstrating that the site development plan has no adverse impact on adjacent properties and that there is sufficient on-site drainage capacity, storm-water conveyance, and controlled discharge. The drainage analysis shall include, but not be limited to:

i. an Interconnected Pond and Channel Routing (ICPR) Model. The 100-year 24 hour storm event is the primary storm used to evaluate the proposed design. The City reserves the right to request additional modeling of other storm events upon review of the data. All data submitted shall be formatted for inclusion into the city's Interconnected Pond Routing (ICPR) Model.
ii. a drainage map for all contributory areas within and into the development, showing flow paths/arrows, existing on-site and offsite drainage structures (sizes and inverts), and sub-basin areas; and (2) hydrologic and hydraulic calculations for the 5-, 25-, and 100-year design storm events in order to establish existing baseline conditions.
iii. Drainage impediments identified during the modeling process must be addressed in the drainage plan.

c. Roof gutters, downspouts and yard drains will be required to collect roof drainage and direct flow into yard drains or central drainage system to outfall structure.
d. Additional signage, such as stop signs, will be required to ensure traffic flow access into and out of the site remains safe.
    i. Roadway connection to Imperial River Road requires right-of-way permits through the Public Works Department.
e. The Fence/Wall shown on the MCP adjacent to parking in the southwest quadrant of the lot shall be a wall. The parking adjacent to the wall shall be moved 5' to the north.
f. Upon approval the applicant shall update the MCP to reflect all of the condition contained herein.

Deviations:

1. Relief from LDC Section 4-741(e)(1)(a), which requires a deviation for buildings and structures exceeding exceed 55 feet in height subject to increased setbacks for the Bonita Beach Road Corridor west of US 41, to permit a maximum building height of 75' & 50' minimum side yard setbacks as shown on the proposed Master Concept Plan (MCP).

2. Relief from LDC Section 3-418(d)(6), which requires if roads, drives, or parking areas are located less than 125' from an existing residential subdivision or residential lots. a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet; to allow for the side of the parking garage to be provided in lieu of the wall. The parking garage will be 31 feet in height and will

be constructed 25’ from the abutting property and landscaped between the wall and the abutting property with a minimum of five trees and 18 shrubs per 100 lineal feet.

3. Relief from LDC Section 3-417, which requires the minimum 20% of the development area to serve as open space; to allow for 15% of the site to serve as open space.

4. Relief from LDC Section 3-417(b)(1)(a), which requires the minimum 50% of the required open space as indigenous vegetation, to allow for off-site mitigation or a payment-in-lieu of the required indigenous preserve areas.

5. Relief from LDC Section 3-418(d)(4), which requires a 15-foot wide type "D" buffer where proposed commercial development abuts public rights-ofway; to allow for a modified 10-foot wide landscape buffer between the proposed parking area and Bonita Beach Road and eliminate the landscape buffer between the commercial liner building and Bonita Beach Road.

SECTION TWO: FINDINGS AND CONCLUSIONS

Based upon an analysis of the application and the standards for approval of a planned development rezone, the City Council makes the following findings and conclusions:

1. The Applicant has proven entitlement to the rezoning by demonstrating compliance with the Bonita Springs Comprehensive Plan, the Land Development Code, and other applicable codes and regulations.

2. Approval of this request will not place an undue burden upon existing transportation or planned infrastructure facilities. The appropriate roadway links are currently over capacity, but the traffic generated by the proposed zoning will not have a significant impact on the volume.

3. Urban services, as defined in the Bonita Springs Comprehensive Plan, are available and adequate to serve the proposed land use.

4. The requested planned development:

   a. appropriately conditioned meets or exceeds all general performance and locational standards set forth for potential uses allowed by the request;

   b. is consistent with the intensities and general uses set forth in the Bonita Springs Comprehensive Plan, while the request does not include residential density, outside of a caretaker’s residence within the proposed building, and thus, the project is well below the permitted maximum density; and

c. is compatible with existing uses in the surrounding area.

5. Additionally, pursuant to section 4-299(a)(2) and (4) of the LDC;

a. The proposed use or mix of uses is appropriate at the subject location;

b. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.

c. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

SECTION THREE: INCORPORATION OF RECORD

City Council of Bonita Springs hereby adopts and incorporates into this ordinance the record hearing exhibits and attachments considered as part of the application as follows:

<u>EXHIBITS</u>:

A. Legal Description and Sketch of the Subject Property.
B. Revised Master Concept Plan (MCP) dated December 2019.

<u>ATTACHMENTS</u>:

A. Staff Informational Analysis
EXHIBITS:
A. Legal Description and Sketch of the Subject Property
B. Master Concept Plan (MCP) dated December 2019
ATTACHMENTS:
A. Transcript of Neighborhood Meeting
B. Background and Informational Analysis
C. Application for Planned Development
D. Traffic Report
E. Environmental Report
F. Lee County Comment Letter
G. Citizen Responses
H. Architectural Renderings

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days from the date of adoption.

[SIGNATURE PAGE FOLLOWS]

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 5th day of August, 2020.

AUTHENTICATION:

____________________________ ____________________________
Mayor City Clerk

APPROVED AS TO FORM: __________________________
City Attorney

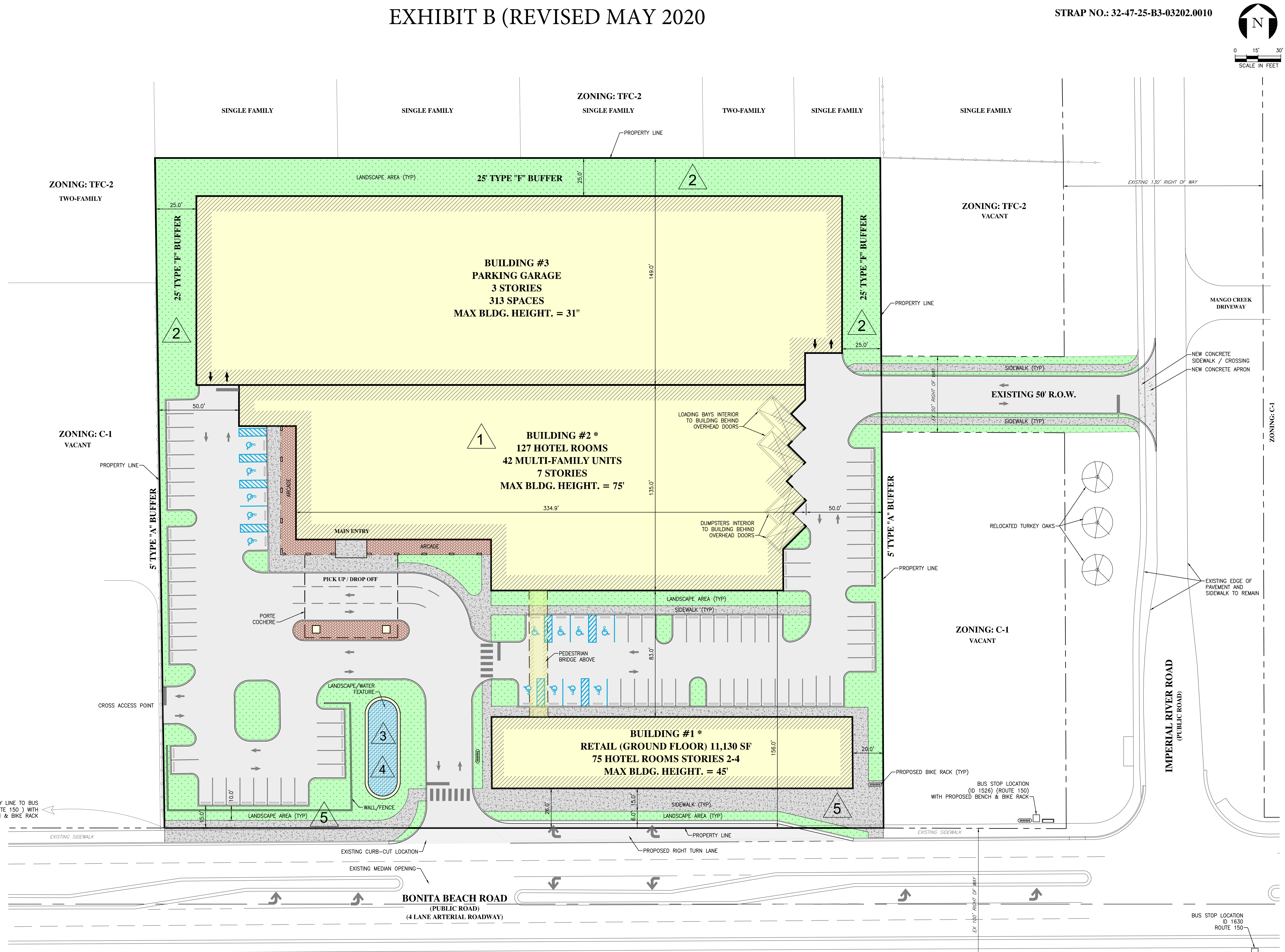
Vote:

Carr	Quaremba
Forbes	Simmons
Gibson	Corrie
Purdon	

Date filed with City Clerk: ________________________

EXHIBIT B (REVISED MAY 2020

STRAP NO.: 32-47-25-B3-03202.0010



* NOTE: DENOTES LOCATION OF INDOOR/OUTDOOR CONSUMPTION ON PREMISES OF ALCOHOL ALLOWED

NOTE: MONUMENT SIGN SHALL BE DESIGNED AND PERMITTED SEPARATELY BY OTHERS.

NOTE: SUBJECT PARCEL APPEARS TO BE IN F.E.M.A. FLOOD ZONE X, AS SHOWN ON THE NATIONAL FLOOD INSURANCE PROGRAM'S DIGITAL FLOOD INSURANCE RATE MAP (D.F.I.R.M.) MAP NUMBER 12115C0329F, EFFECTIVE DATE: 11/4/16

REVISIONS

NO.	DESCRIPTION	DATE
1	REVISED PER CITY COMMENTS	3/3/20
2	REVISED PER CITY COMMENTS	4/29/20

RONALD M. EDENFIELD, P.E. FLORIDA LICENSE NO. 45200

RMEC LLC — Engineering | Water Resources | Environmental, Fort Myers, FL | Cape Coral, FL, (239) 433-0614, WWW.RMEC-LLC.COM | CA#32266

CLIENT: BAREFOOT BEACH FLORIDA, LLC, 5959 CONOGA AVENUE, SUITE #500, WOODLAND HILLS, CALIFORNIA 91367

PROJECT: BONITA BEACH - MPD, MIXED USE HOTEL /RETAIL, 4200 BONITA BEACH ROAD SW, BONITA SPRINGS, FLORIDA 34134, LEE COUNTY, FLORIDA

SHEET TITLE: MASTER CONCEPT PLAN

DATE: APRIL 29, 2020
PROJECT NO: 2018-009
FILE NO: 32 47 25E
SCALE: 1" = 30'
SHEET NUMBER

1 of 2

HOTEL ROOM MATRIX							
ROOM TYPE	KING	KING SUITE	KING ADA	QUEEN DOUBLE	QUEEN DBL SUITE	QUEEN ADA	TOTAL
TYPICAL SQUARE FEET AREA	276	575	342	342	684	342	
TOTAL ROOMS	78	16	7	77	16	8	202

DEVELOPMENT SUMMARY:

HOTEL ROOMS 202
MULTI-FAMILY 42 DWELLING UNITS
COMMERCIAL RETAIL 11,130 SF

PARKING TABLE		
DESCRIPTION	SPACES PROVIDED	SPACES REQUIRED
OPEN AIR PARKING	91	
GARAGE PARKING	313	
TOTAL PARKING SPACES	404	364

PARKING SPACE CALCULATIONS:

202 GUEST ROOMS, 42 MULTI-FAMILY, 11,130 S.F. RETAIL

202 ROOMS x 1.2 / ROOM = 243 SPACES
HC SPACES = 243 / 25 = 10 SPACES

21 (1 BED) MULTI-FAMILY x 1.5 / UNIT = 32 SPACES
21 (2 BED) MULTI-FAMILY X 1.75 / UNIT = 37 SPACES
GUEST PARKING = .10 x 69 = 7 SPACES

11,130 S.F. RETAIL x 1 / 250 S.F. = 45 SPACES
HC SPACES = 45 /25 = 2 SPACES

TOTAL REQUIRED = 364 SPACES

SURFACE PARKING:

SURFACE PARKING LOT: 91

STRUCTURE PARKING:

STRUCTURE PARKING L1:	78	(33,600 S.F.)
L1.I:	76	(20,040 S.F.)
STRUCTURE PARKING L2:	75	(30,000 S.F.)
L2.5:	76	(20,040 S.F.)
STRUCTURE PARKING L3:	8	(1,800 S.F.)
PARKING PROVIDED:	404	
(INCLUDING 18 HC PARKING)		

EXTRA PUBLIC BEACH PARKING PROVIDED
404 - 364 = 40 SPACES
(INCLUDING 3 HC PARKING)

SITE DEVELOPMENT REGULATIONS	
MPD (OVERALL)	
MINIMUM LOT SIZE	4.75 ACRES
MINIMUM LOT DEPTH	440'
MINIMUM LOT WIDTH	470'
MINIMUM LOT COVERAGE	85%
MINIMUM PERIMETER SETBACK FOR BUILDING 1 (45'-TALL BUILDING)	13' TO BONITA BEACH ROAD 20' TO EAST BOUNDARIES
MINIMUM PERIMETER SETBACK FOR BUILDING 2 (75'-TALL BUILDING)	75' TO EAST AND WEST BOUNDARIES
MINIMUM PERIMETER SETBACK FOR BUILDING 3 (31'-TALL BUILDING)	25' TO NORTH, EAST AND WEST BOUNDARIES
BUILDING 1 (RETAIL & HOTEL)	
FRONT YARD / STREET SETBACK (BONITA BEACH ROAD)	13'
SIDE YARD SETBACK	20'
REAR YARD SETBACK	80'
BUILDING HEIGHT	45' (TO EAVE)
BUILDING 2 (HOTEL & MULTI-FAMILY)	
FRONT YARD / STREET SETBACK (BONITA BEACH ROAD)	150'
SIDE YARD SETBACK	50'
REAR YARD SETBACK	100'
BUILDING HEIGHT	75' (TO EAVE)
BUILDING 3 (PARKING GARAGE)	
FRONT YARD / STREET SETBACK (BONITA BEACH ROAD)	250'
SIDE YARD SETBACK	25'
REAR YARD SETBACK	25'
BUILDING HEIGHT	31' (TO EAVE)

FAR / DENSITY CALCS		
DESCRIPTION	BUILDING USE	ACREAGE / S.F.
BUILDING 1 ACREAGE / S.F.	RETAIL & HOTEL	1.12 AC (48,890 S.F.)
BUILDING 2 ACREAGE / S.F.	MIXED-USE	4.23 AC (184,130 S.F.)
RESIDENTIAL	MULTI-FAMILY	1.00 AC (43,938 S.F.)
NON-RESIDENTIAL	HOTEL	3.2 AC (140,192 S.F.)
BUILDING 3 ACREAGE / S.F.	PARKING GARAGE	2.47 AC (107,600 S.F.)
TOTAL BUILDING AREA (RESIDENTIAL + NON-RESIDENTIAL + PARKING GARAGE)		7.81 AC (340,620 S.F.)
TOTAL RESIDENTIAL BUILDING AREA		1.00 AC (43, 938 S.F.)
TOTAL NON-RESIDENTIAL BUILDING AREA		4.34 AC (189,082 S.F.)
TOTAL SITE AREA		4.75 AC (206,910 S.F.)
FLOOR AREA RATIO		1.1 FAR *
TOTAL DENSITY		8.8 DU / AC **

* NON-RESIDENTIAL USES ONLY PER POLICY 1.1.14
** BASE UPON GROSS MPD ACREAGE

EXHIBIT IV-H
SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS
BAREFOOT BEACH HOTEL MPD

1. REQUEST RELIEF FROM LDC SECTION 4-741(E)(1)(B), WHICH REQUIRES A DEVIATION FOR BUILDINGS AND STRUCTURES EXCEEDING EXCEED 55 FEET IN HEIGHT SUBJECT TO INCREASED SETBACKS FOR THE BONITA BEACH ROAD CORRIDOR WEST OF US 41, TO PERMIT A MAXIMUM BUILDING HEIGHT OF 75 FEET & 50' MINIMUM SIDE YARD SETBACKS AS SHOWN ON THE PROPOSED MASTER CONCEPT PLAN (MCP).

2. REQUEST RELIEF FROM LDC SECTION 3-418(D)(6), WHICH REQUIRES IF ROADS, DRIVES, OR PARKING AREAS ARE LOCATED LESS THAN 125 FEET FROM AN EXISTING RESIDENTIAL SUBDIVISION OR RESIDENTIAL LOTS, A SOLID WALL OR COMBINATION BERM AND SOLID WALL NOT LESS THAN EIGHT FEET IN HEIGHT MUST BE CONSTRUCTED NOT LESS THAN 25 FEET FROM THE ABUTTING PROPERTY AND LANDSCAPED (BETWEEN THE WALL AND THE ABUTTING PROPERTY) WITH A MINIMUM OF FIVE TREES AND 18 SHRUBS PER 100 LINEAL FEET; TO ALLOW FOR THE SIDE OF THE PARKING GARAGE TO BE PROVIDED IN LIEU OF THE WALL. THE PARKING GARAGE WILL BE 31 FEET IN HEIGHT AND WILL BE CONSTRUCTED 25 FEET FROM THE ABUTTING PROPERTY AND LANDSCAPED BETWEEN THE WALL AND THE ABUTTING PROPERTY WITH A MINIMUM OF FIVE TREES AND 18 SHRUBS PER 100 LINEAL FEET.

3. REQUEST RELIEF FROM LDC SECTION 3-416, WHICH REQUIRES THE MINIMUM 20% OF THE DEVELOPMENT AREA TO SERVE AS OPEN SPACE; TO ALLOW FOR 15% OF THE SITE TO SERVE AS OPEN SPACE.

4. REQUEST RELIEF FROM LDC SECTION 3-417(A)(B), WHICH REQUIRES THE MINIMUM 50% OF THE REQUIRED OPEN SPACE AS INDIGENOUS VEGETATION, TO ALLOW FOR OFF-SITE MITIGATION OR A PAYMENT-IN-LIEU OF THE REQUIRED INDIGENOUS PRESERVE AREAS.

5. REQUEST RELIEF FROM LDC SECTION 3-418(D)(4), WHICH REQUIRES A 15-FOOT WIDE TYPE "D" BUFFER WHERE PROPOSED COMMERCIAL DEVELOPMENT ABUTS PUBLIC RIGHTS-OF-WAY; TO ALLOW FOR A MODIFIED 10-FOOT WIDE LANDSCAPE BUFFER BETWEEN THE PROPOSED PARKING AREA AND BONITA BEACH ROAD AND ELIMINATE THE LANDSCAPE BUFFER BETWEEN THE COMMERCIAL LINER BUILDING AND BONITA BEACH ROAD.

LANDSCAPE BUFFER COMPOSITION:

5' TYPE "A" BUFFER: 4 TREES / 100'

25' TYPE "F" BUFFER: 5 TREES / 100' & 48" HIGH HEDGE

LEGAL DESCRIPTION

A LOT OR PARCEL OF LAND IN SECTION 32, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SECTION 32, TOWNSHIP 47 SOUTH, RANGE 25 EAST, RUN WEST ALONG THE SOUTH LINE OF SAID SECTION FOR 850 FEET; THENCE NORTH 50 FEET TO THE NORTH LINE OF THE BONITA BEACH ROAD, THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED. FROM SAID POINT OF BEGINNING RUN WEST ALONG THE NORTH LINE OF BONITA BEACH ROAD FOR 480 FEET; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID SECTION FOR 440 FEET TO THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED; LESS AND EXCEPT THE WEST 10 FEET THEREFROM.

REVISIONS

NO.	DESCRIPTION	DATE
1	REVISED PER CITY COMMENTS	3/3/20
2	REVISED PER CITY COMMENTS	4/29/20

RONALD M. EDENFIELD, P.E.
FLORIDA LICENSE NO. 45200

RMEC LLC
ENGINEERING | WATER RESOURCES | ENVIRONMENTAL
FORT MYERS, FL | CAPE CORAL, FL
(239) 433-0614
WWW.RMEC-LLC.COM | CA#32266

CLIENT:
BAREFOOT BEACH FLORIDA, LLC
5959 CONOGA AVENUE, SUITE #500
WOODLAND HILLS, CALIFORNIA 91367

PROJECT:
BONITA BEACH - MPD
MIXED USE HOTEL /RETAIL
4200 BONITA BEACH ROAD SW
BONITA SPRINGS, FLORIDA 34134
LEE COUNTY, FLORIDA

SHEET TITLE:
MASTER CONCEPT PLAN

DATE:	APRIL 29, 2020
PROJECT NO:	2018-009
FILE NO:	32 47 25E
SCALE:	1" = 30'

SHEET NUMBER

FIELDBOOK See PAGE File DATE 9/25/14 | SECTION 32 ,TWP 47 S, RGE 25 E

NORTH ARROW

FOUNDATION LOCATION | FIELDBOOK | PAGE

LEGEND

- ■ SET CONC. MON. W/CAP I.D.# 3553
- O SET IRON PIN W/CAP I.D. # 3553
- FD. CONC. MON. W/CAP
- □ FD. CONC. MON.
- O FD. IRON PIN
- ASSUMED ELEVATION
- Δ BENCHMARK
- R RECORDED
- M MEASURED

CON'T REVERSE SIDE

LEGAL DESCRIPTION

(AS PROVIDED BY CLIENT)

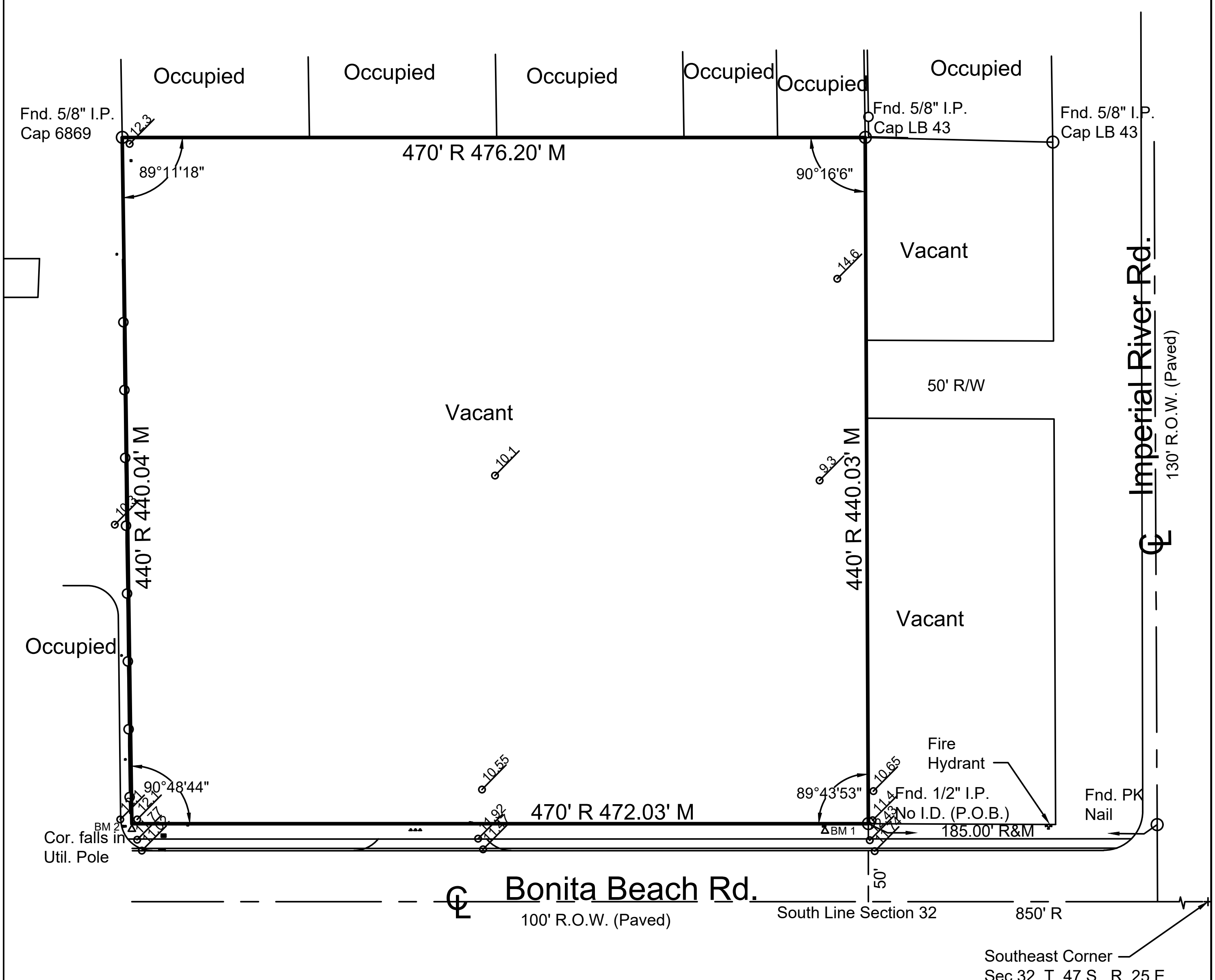
This is a boundary survey, see reverse side for a metes and bounds legal description.

SCALE 1"= 100'

The property address 4200 Bonita Beach Rd. per County Records.

FINAL SURVEY DATE

See reverse side for details.



Benchmark 1 is a nail in disk in the south face of a wood utility pole Elev. 14.05' NAVD88.

Benchmark 2 is a nail in disk in the south face of a wood utility pole Elev. 14.50' NAVD88.

NOTES

1. REPRODUCTION OF THIS SKETCH IS NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
2. NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY, AND OR OWNERSHIP WERE FURNISHED THIS SURVEYOR EXCEPT AS SHOWN.
3. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS NOTED.
4. BEARINGS SHOWN HEREON ARE BASED ON Angles are field measured
5. THIS PROPERTY LIES IN FLOOD ZONE X EL n/a PER F.I.R.M. PANEL NO. 12071C0654F , DATED 8/28/2008
6. LAST DATE OF FIELDWORK 9/25/14
7. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

CERTIFICATE

I hereby certify that the above described property was surveyed under my direction and the sketch of survey is true and correct to the best of my knowledge. This survey meets or exceeds the standards of practice set forth by the Florida Board of Land Surveyors, pursuant to Rule 5J-17 Florida Administrative Code, and pursuant to Section 472.027 Florida Statutes. There are no visible encroachments other than those shown hereon.

______________________ P.L.S.

MARK O. ALLEN P.L.S. #3553
LB #6558

MARK O. ALLEN, INC.

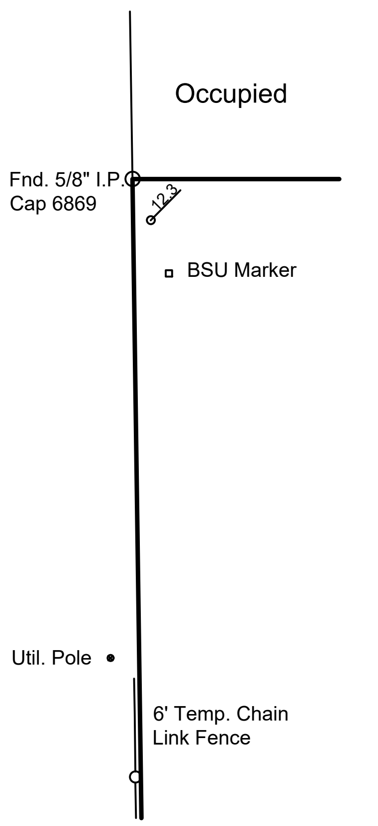
PROFESSIONAL LAND SURVEYOR

FAX: (239) 992-6070
TELE: (239) 992-8900

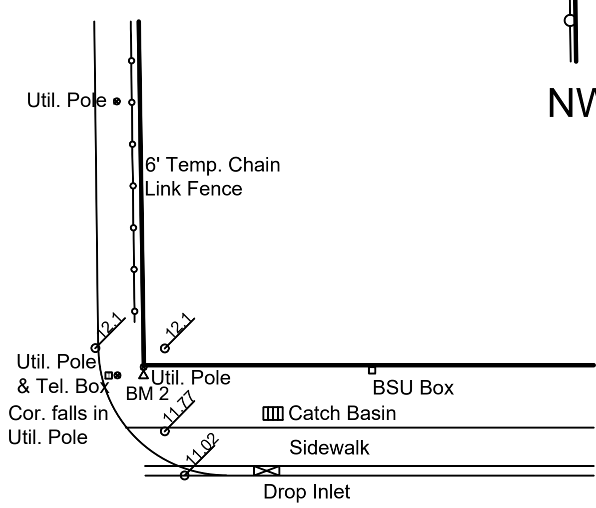
10602 WOODS CIRCLE
BONITA SPRINGS, FL 34135

DWN. BY	CHK'D BY	ORDERED BY	SHEET 1 OF 1
MG		Alan Codi	DWG. NO. 2014-114

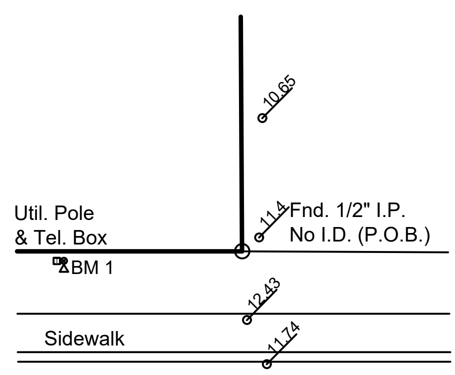
A lot or parcel of land in Section 32, Township 47 South, Range 25 East, Lee County, more particularly described as follows: Beginning at the Southeast corner of Serction 32, Township 47 South, Range 25 East, run West along the South line of said Section for 850 feet; thence North 50 feet to the North line of the Bonita Beach Road, the Point of Beginning of the lands herein described. From said Point of Beginning run West along said North line of the Bonita Beach Road for 480 feet; thence North parallel with the East line of said Section for 440 feet; thence East parallel with the South line of said Section 480 feet; thence South 440 feet to the Point of Beginning of the lands herein described, less and except the West 10 feet therefrom.



NW Cor. Detail



SW Cor. Detail



SE Cor. Detail

APPENDIX A

LEGEND OF ABBREVIATIONS

A= Arc
APPROX= Approximate
ASPH= Asphalt
AVE= Avenue
BLVD= Boulevard
B.M= Benchmark
℄ = Centerline
CH= Chord
CALC= Calculated
C.B= Chord Bearing
CBS= Concrete Block Structure
C&GS Coastal and Geodetic Survey
CHK'D= Checked
CMP= Corrigated Metal Pipe
CO= County
CONC= Concrete
COR= Corner
CT= Court
D.E= Drainage Easement
Desc= Description
D.H= Drill Hole
DWN= Drawn
EL or ELEV= Elevation
EOP= Edge of Pavement
EOW= Edge of Water
FB= Fieldbook
FD= Found
FLA= Florida
IP= Iron Pin
LN= Lane
M= Measured
M.E= Maintenance Easement
MH= Manhole
MHW= Mean High Water
MON= Monument
N/A= Not Applicable
NGVD= National Geodetic Vertical Datum
NO= Number
O.R Book= Official Record Book
ORIG= Original
O/S= Offset
P.B= Plat Book
P.C= Point of Curvature
PG= Page
P.I= Point of Intersection
PLS= Professional Land Surveyor
℗ = Property Line
PLS= Professional Land Surveyor
P.O.B= Point of Begininng
P.O.C= Point of Commencement
P.O.L= Point on Line
PROP= Property
P.T= Point of Tangency
PUE= Public Utility Easement
R= Record or Radius
RAD= Radius
RCP= Reinforced Concrete Pipe
RD= Road
RDL= Radial
RES= Residence
RLS= Registered Land Surveyor
R.O.W= Right of Way
R or RGE= Range
SEC= Section
ST= Street
STY= Story
TOB= Top of Bank
TYP= Typical
T or TWP= Township
UE= Utility Easement
W/= With
Δ = Delta or Benchmark
= Fire Hydrant

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-07-193

AGENDA ITEM SUMMARY

REQUESTED MOTION: First reading of the following Zoning Ordinance: A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST BY PELICAN LANDING GOLF RESORT VENTURES, LP, TO AMEND LEE COUNTY ZONING RESOLUTION NO. 94-014, PELICAN LANDING RESIDENTIAL PLANNED DEVELOPMENT (RPD)/COMMERCIAL PLANNED DEVELOPMENT (CPD), TO (1) REZONE 20+/- ACRES FROM THE KERSEY SMOOT RPD TO THE PELICAN LANDING CPD/RPD; (2) TO AMEND CONDITION 9 TO CREATE "F1" IN THE RPD LAND DEVELOPMENT AREA AND ADD CONTINUING CARE FACILITY (CCF), ASSISTED LIVING FACILITY (ALF), INDEPENDENT LIVING FACILITY (ILF) AND HEALTH CARE FACILITIES, GROUPS I, II, AND III TO THE LIST OF PERMITTED USES; AND (3) TO AMEND CONDITION 12 ASSOCIATED WITH DEVIATION 12 TO ALLOW A MAXIMUM OF FOUR (4) RESIDENTIAL BUILDINGS WITH A HEIGHT GREATER THAN SEVENTY-FIVE (75) FEET ABOVE MINIMUM FLOOD ELEVTAION NORTH OF COCONUT ROAD IN REFERENCE TO RPD LAND DEVELOPMENT AREA "F1", ON LAND LOCATED WITHIN THE PELICAN LANDING GOLF RESORT (A/K/A RAPTOR BAY) AT THE NORTHWEST INTERSECTION OF COCONUT POINT RESORT DRIVE AND COCONUT ROAD, BONITA SPRINGS, FL 34134, ON 55 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

MEETING DATE: 7/15/2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
☐	PRESENTATIONS	☐	STATUTE	John Dulmer, AICP, Community Development Director
☐	CONSENT	☐	ORDINANCE	
☒	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☐	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:

This request has been scheduled as part of on-going litigation between the City of Bonita Springs and WCI COMMUNITIES, LLC over the Raptor Bay project. The Zoning Board public hearing is scheduled for August 4, 2020 at 1PM using communications media technology.

This rezoning petition was remanded in February 2016 to the City of Bonita Springs Board for Land Use Hearing and Adjustment and Zoning Board of Appeals for review under Lee Plan and Lee County LDC at time of annexation. In addition to the remand, the Applicant filed multiple lawsuits against the City stemming from the Annexation Agreement. The Final Judgement Confirming Final Arbitration Order for Case 17-CA-3966 stated that the Annexation Agreement is enforceable. The Court ordered and adjudged that WCI's rezoning application, PD15-23946-BOS, was approved.

WCI Communities has entered into a contract purchase agreement with London Bay Homes. London Bay Homes is requesting to satisfy the Zoning Board remand and obtain the requisite zoning ordinance memorializing the Final Judgement Confirming Final Arbitration Order and Case 17-CA-3966. London Bay is also requesting the ability to establish a future interconnect to the Bayview on Estero Bay project and modify the schedule of uses to add Assisted Living Facilities; Continuing Care Facilities; Health Care Facilities, Groups I, II, and III; and Independent Living Units. Other changes will include memorializing subsequent amendments to Condition 12 as approved by Lee County.

This is the first reading of a Zoning Ordinance for the Pelican Landing RPD/CPD amendment request. The first reading of the Zoning Ordinance also requires a public hearing and thought presentations are not anticipated until the second hearing, public comment, questions and clarifications may be addressed during the first reading so as to be incorporated at final adoption. The second reading and public hearing is tentatively scheduled for the August 5, 2010 in order to afford due process in accordance with the land development code and state law.

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ **YES** ☒ **NO**

IF YES, WHICH STRATEGIC OBJECTIVE?

STAFF RECOMMENDATIONS: Advance to 2nd Reading on August 5, 2020.

REVIEWED BY:

City Manager: Carla M H

City Attorney: ____________________

City Clerk: ____________________

Department Director: ____________________

COUNCIL ACTION:

☐ **APPROVED**
☐ **DENIED**
☐ **DEFERRED**
☐ **OTHER**

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 20 -

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST BY PELICAN LANDING GOLF RESORT VENTURES, LP, TO AMEND LEE COUNTY ZONING RESOLUTION NO. 94-014, PELICAN LANDING RESIDENTIAL PLANNED DEVELOPMENT (RPD)/COMMERCIAL PLANNED DEVELOPMENT (CPD), TO (1) REZONE 20+/- ACRES FROM THE KERSEY SMOOT RPD TO THE PELICAN LANDING CPD/RPD; (2) TO AMEND CONDITION 9 TO CREATE "F1" IN THE RPD LAND DEVELOPMENT AREA AND ADD CONTINUING CARE FACILITY (CCF), ASSISTED LIVING FACILITY (ALF), INDEPENDENT LIVING FACILITY (ILF) AND HEALTH CARE FACILITIES, GROUPS I, II, AND III TO THE LIST OF PERMITTED USES; AND (3) TO AMEND CONDITION 12 ASSOCIATED WITH DEVIATION 12 TO ALLOW A MAXIMUM OF FOUR (4) RESIDENTIAL BUILDINGS WITH A HEIGHT GREATER THAN SEVENTY-FIVE (75) FEET ABOVE MINIMUM FLOOD ELEVTAION NORTH OF COCONUT ROAD IN REFERENCE TO RPD LAND DEVELOPMENT AREA “F1”, ON LAND LOCATED WITHIN THE PELICAN LANDING GOLF RESORT (A/K/A RAPTOR BAY) AT THE NORTHWEST INTERSECTION OF COCONUT POINT RESORT DRIVE AND COCONUT ROAD, BONITA SPRINGS, FL 34134, ON 55 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, PELICAN LANDING GOLF RESORT VENTURES L P, has filed an application to request to amend a portion of the previously approved Pelican Landing Residential Planned Development (RPD)/Commercial planned development (CPD) and Kersey Smoot RPD to redevelop a portion of an existing golf course with residential uses; and

WHEREAS, the subject property is located at, Bonita Springs, Florida 34135 and is described more particularly as:

“See Exhibit A”

WHEREAS, a Public Hearing was advertised and heard on August 4, 2020, by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals (“Zoning Board”) on Case PD15-23946-BOS which considered the evidence available and recommended APPROVAL/DENIAL (0-0) after giving full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City, and the testimony of all interested parties. The July 28, 2020 Staff Report prepared by Community Development and evidence submitted at the Zoning Board hearing, as part of the City Council hearing record, are on file with the City Clerk.

WHEREAS, the rezoning petition was remanded in February 2016 to the City of Bonita Springs Board for Land Use Hearing and Adjustment and Zoning Board of Appeals for review under Lee Plan and Lee County LDC at time of annexation; and

WHEREAS, in addition to the remand, the Applicant filed multiple lawsuits against the City stemming from the Annexation Agreement and the City’s failure to meet its obligations under the Annexation Agreement; and

WHEREAS, the City and WCI consented to the determination of a mandatory arbitration decision to limit the continued uncertainty and costs of litigation; and

WHEREAS, the Final Judgement Confirming Final Arbitration Order for Case 17-CA-3966 stated that the Annexation Agreement is enforceable; and

WHEREAS, the Court ordered and adjudged that WCI's rezoning application, PD15-23946-BOS, was approved for the following:

a. Condition 9 is amended to create RPD land development area F1 consisting of 55+/- acres; and
b. Condition 12 associated with deviation 12 is amended to allow a maximum of four (4) residential buildings with a height greater than seventy-five (75) feet above minimum flood elevation north of Coconut Road in reference to the RPD land development area F1 request (up to twenty stories in height over two stories of parking); and
c. Twenty (20) +/- acres from the Kersey Smoot RPD is added to the Pelican Landing CPD/RPD and rezoned to RPD land development area F1; and
d. Thirty-five (35) +/- acres from RPD Land Development Area E is added to RPD land development area F1.

WHEREAS, WCI Communities has entered into a contract purchase agreement with London Bay Homes. London Bay Homes is requesting to satisfy the Zoning Board remand and obtain the requisite zoning ordinance memorializing the Final Judgement Confirming Final Arbitration Order; and

WHEREAS, London Bay Homes is requesting additional changes beyond the Final Judgment that include establishing a future interconnect to the Bayview on Estero Bay project and modification to the schedule of uses to add Assisted Living Facilities; Continuing Care Facilities; Health Care Facilities, Groups I, II, and III; and Independent Living Units; and other changes that memorialize subsequent amendments to Condition 12 as approved previously by Lee County.

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

SECTION ONE: RECITALS

The forgoing recitals are true and correct and are incorporated herein by this reference.

SECTION TWO: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the request to amend Lee County Zoning Resolution No. 94-014 in accordance with the Final Judgement Confirming Final Arbitration Order for Case 17-CA-3966 in additional to the following changes:

Conditions:

1. In accordance with the Final Judgement Confirming Final Arbitration Order for Case 17-CA-3966, the City acknowledges Lee County Zoning Resolution No. 94-014 was deemed amended to incorporate the following changes:
    a. Condition 9 is amended to create RPD land development area F1 consisting of 55+/- acres; and
    b. Condition 12 associated with deviation 12 is amended to allow a maximum of four (4) residential buildings with a height greater than seventy-five (75) feet above minimum flood elevation north of Coconut Road in reference to the RPD land development area F1 request; and
    c. Twenty (20) +/- acres from the Kersey Smoot RPD is added to the Pelican Landing CPD/RPD and rezoned to RPD land development area F1; and
    d. Thirty-five (35) +/- acres from RPD Land Development Area E is added to RPD land development area F1.

2. The following conditions apply to those requests beyond that of the Final Judgement Confirming Final Arbitration Order for Case 17-CA-3966.

    a. The development of this project must be consistent with the Master Concept Plan (MCP) entitled Pelican Landing RPD/CPD Area F-1 Conceptual Master Plan **(Exhibit A),** stamped received July 7, 2020, except as modified by the conditions contained herein. This development must comply with all requirements of the County's LDC in effect as of March 26, 2014 at time of local development order approval, except as may be granted by deviation as part of this planned development. Approval of a Final Zoning Plan is still required in accordance with Condition 1 of Lee County Resolution Z-94-14.

    b. Conditions 9 and 12 of Lee County Resolution Z-94-14 are hereby amended for the development of this project.

Residential Planned Development

8. Permitted uses in RPD land development Area A:

Zero lot line, Single-Family, Two-Family Attached

Residential Accessory Uses, including but not limited to:
- Private garages, carports and parking areas
- Private swimming pools and enclosures
- Private tennis courts

Model Homes, Model Units and Model Display Center, limited to residential uses within Pelican Landing
Speculative Home
Temporary Sales and/or Construction Office
Administrative Offices
Home Occupation
Entrance Gates and Gatehouses
Public and Private Parks, Playgrounds, Tot Lots, Community Swimming Pools, Tennis Courts or other community recreational amenity, Playfields and Commonly Owned Open Space
Essential Services
Signs

9. Permitted Uses in RPD land development Areas B, C, D, ~~and~~ F and F1 (Area F-1 limited to a maximum of 503 dwelling units):

Residential Uses, including but not limited to:
- Zero lot line
- Two family attached
- Townhouse
- Duplex
- Single family
- Multiple family buildings

Residential Accessory Uses, including but not limited to:
- Private garages, carports and parking areas
- Private swimming pools and enclosures
- Private tennis courts
- Private boat docks (where permitted by DRI Development Order)

Model Homes, Model Units and Model Display Center, limited to residential uses within Pelican Landing
Temporary Sales and/or Construction Office
Administrative Offices
Golf Courses, Golf Course Accessory and Associate Uses, including but not limited to:
- Club house
- Maintenance facility
- Pro shop
- Alcoholic beverage consumption in the club house
- Snack bar at the ninth hole or other appropriate location
- Ball washers

- Restrooms and other uses which are normal and accessory to the golf course

Assisted Living Facility (ALF) (at a density of 4 ALF beds: 1 residential dwelling unit). Limited to area F-1 . (An ALF is also permitted in RPD Area D on the parcel located at the southeast corner of Spring Creek Road and Coconut Road pursuant to Z-96-055).

ALF/CCF Accessory uses and structures. ALF/CCF including but not limited to: small-scale retail and personal services for use by residents such as ATM's, auditoriums, banking, barber and/or beauty shop, spa services, laundry and/or dry cleaning (Group I and II), medical offices, pharmacy, postal services, rehabilitation facilities, sundries, other community recreational facilities and similar uses)

Club, country

Club, private

Continuing Care Facility (CCF), calculated at a density of 2 CCF units: 1 residential dwelling units, Limited to area F-1

Health Care Facilities, Groups I, II and III, Limited to area F-1

Home Occupation

Independent Living Units (ILF), calculated at a density of 2 ILF units: 1 residential dwelling units, Limited to area F-1

Entrance Gates and Gatehouse

Public and Private Parks

Playground, Tot Lots

Community Swimming Pools

Tennis Courts or other community recreational amenity

Playfields

Essential Services

Essential Service Facilities

Signs

Excavation-water retention

12. Deviation (12) is approved for RPD Area F, F1 and CPD Area B. These areas may be developed with a maximum building height exceeding 75 feet above minimum flood elevation only if in compliance with the following development regulations. All buildings 45 feet in height or less shall comply with normal setbacks required of conventional multi-family zoning districts. All buildings over 45 feet shall provide one foot of setback from the Pelican Landing perimeter property line for every foot of elevation. In recognition of the wetlands north of Coconut Road, the setback for structures in excess of 75 feet in CPD Area B and the RPD Area F that is adjacent to Coconut Road may be per LDC Section 34-2174.

The regulations set forth below in 12.a through 12.e apply to the development of buildings greater than 75 feet above minimum flood elevation:

a. Minimum Lot Area and Dimensions

Lot Size	10,000 square feet
Lot Area per Unit	1,000 square feet
Width	100 feet
Depth	100 feet

b. Minimum Setbacks

Private Road	25 feet
Side Yard	25 feet
Rear Yard	25 feet
Waterbody	25 feet

c. A minimum building separation of 125 feet shall be provided between those buildings above 75 feet.

d. A maximum of 8 residential buildings and one hotel building with a height of greater than 75 feet, above minimum flood elevation may be permitted south of Coconut Road. Such buildings may be located within RPD Area F (residential) and CPD Area B (Hotel).-The F-1 parcel located north of Coconut Road may be developed with four (4) multi-family buildings up to twenty (20) habitable floors over two (2) floors of parking and additional buildings with a height less than 75 feet are also permitted; OR parcel F-1 may be developed with single-family, zero lot line, duplex, townhouse, and multi-family buildings up to 120 feet over parking.

e. A minimum of 15% open space shall be provided for each multi-family building site/Continuing Care Facility (CCF) that is or exceeds 75 feet in height.

3. Environmental Conditions-Subject to modification
   a. No further clearing and development is permitted west of the 50' offset development line (generally the existing vegetation line).
   b. Wetland impacts are prohibited.
   c. Fertilizer ordinance

4. All development must be consistent with the applicable provisions of the Lee County LDC and the terms and conditions of Z-94-014, as subsequently amended.

5. Approval of this rezoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the County's LDC in effect as of April may be required to obtain a local development order.

Deviations: No additional deviations have been sought as part of this application. All deviations previously granted remain in effect.

SECTION THREE: FINDINGS AND CONCLUSIONS

Based upon an analysis of the application and the standards for approval of a planned development rezone, the City Council makes the following findings and conclusions:

1. The Applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee County Comprehensive Plan, the Land Development Code, and other applicable codes and regulations.

2. Approval of this request will not place an undue burden upon existing transportation or planned infrastructure facilities.

3. Urban services, as defined in Lee County Comprehensive Plan, are available and adequate to serve the proposed land use.

4. The requested planned development:

   a. appropriately conditioned meets or exceeds all general performance and locational standards set forth for potential uses allowed by the request;

   b. is consistent with the intensities and general uses set forth in the Lee County Comprehensive Plan; and

   c. is compatible with existing uses in the surrounding area.

5. Additionally, pursuant to section 34-145(d)(4) and (2)of the LDC;

   a. The proposed use or mix of uses is appropriate at the subject location;

   b. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

SECTION FOUR: INCORPORATION OF RECORD

City Council of Bonita Springs hereby adopts and incorporates into this ordinance the record hearing exhibits and attachments considered as part of the application as follows:

EXHIBITS:
A. Legal Description and Sketch of the Subject Property
B. Revised Master Concept Plan (MCP) received July 7, 2020

SECTION FIVE: EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days from the date of adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 5th day of August, 2020.

AUTHENTICATION:

______________________________	______________________________
Mayor	City Clerk

APPROVED AS TO FORM: ______________________________
City Attorney

Vote:

Carr	Gibson
Purdon	Quaremba
Forbes	Simmons
Corrie	

Date filed with City Clerk: ________________________

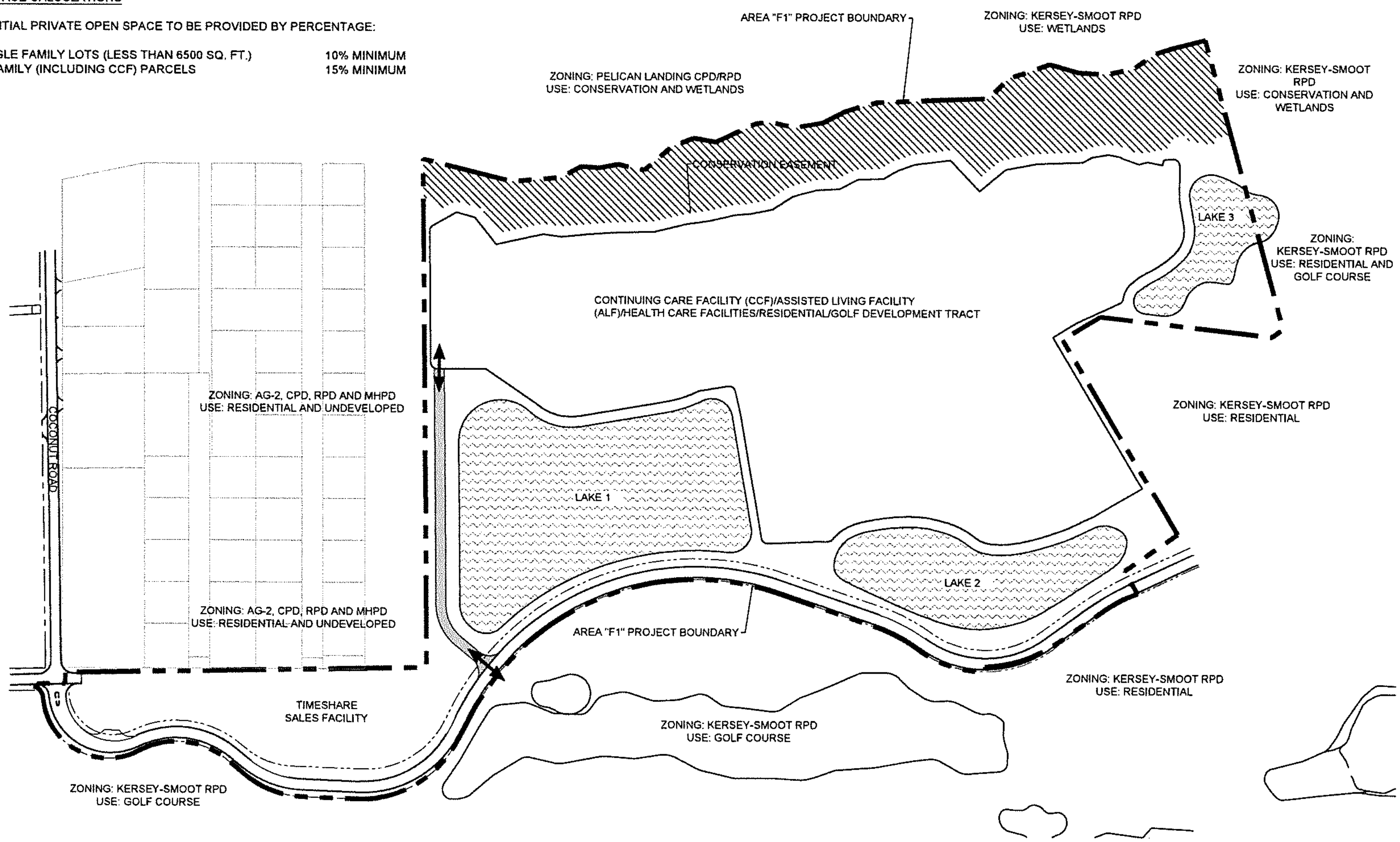
SITE SUMMARY

PLAN DESIGNATION:	OUTLYING SUBURBAN (LEE COUNTY)
EXISTING ZONING DESIGNATION:	PELICAN LANDING RPD/CPD AND KERSEY-SMOOT RPD
PROPOSED ZONING DESIGNATION:	PELICAN LANDING RPD/CPD
PROPOSED LAND USE:	CONTINUING CARE FACILITY (CCF)/ASSISTED LIVING FACILITY (ALF)/HEALTH CARE FACILITIES/RESIDENTIAL/GOLF COURSE
GROSS AREA:	55 +/- ACRES
MAXIMUM DWELLING UNITS:	503
MAXIMUM BUILDING HEIGHT:	20 STORIES OVER 2 STORIES PARKING
STRAP NUMBER:	07-47-25-B2-00000.0010

OPEN SPACE CALCULATIONS

RESIDENTIAL PRIVATE OPEN SPACE TO BE PROVIDED BY PERCENTAGE:

ALL SINGLE FAMILY LOTS (LESS THAN 6500 SQ. FT.)	10% MINIMUM
MULTI-FAMILY (INCLUDING CCF) PARCELS	15% MINIMUM



WALDROP ENGINEERING

CIVIL ENGINEERING & LAND DEVELOPMENT CONSULTANTS

28100 BONITA GRANDE DRIVE - SUITE 305 BONITA SPRINGS, FL 34135

P: 239-405-7777 F: 239-405-7899 EMAIL: info@waldropengineering.com

PELICAN LANDING RPD/CPD
AREA F-1
CONCEPTUAL MASTER PLAN

PLAN REVISIONS

SET NUMBER 704-102

SHEET 1

PROPERTY DESCRIPTION

PARCEL "A"
A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3539, PAGE 3116, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LYING IN SECTION 8, TOWNSHIP 47 SOUTH, RANGE 25 EAST,LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE EAST QUARTER CORNER OF SECTION 7, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN ALONG THE EAST LINE OF SAID SECTION 7, NORTH 01°34'55" WEST, A DISTANCE OF 462.67 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE CONTINUE ALONG SAID LINE, NORTH 01°34'55" WEST, A DISTANCE OF 1,047.21 FEET TO A POINT ON A NON TANGENTIAL CURVE TO THE LEFT; THENCE SOUTHEASTERLY 160.75 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 610.00 FEET, A CENTRAL ANGLE OF 15°05'55", (CHORD BEARING SOUTH 56°49'22" EAST, A DISTANCE OF 160.28 FEET) TO A POINT ON A REVERSE CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 68.10 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 675.00 FEET, A CENTRAL ANGLE OF 05°46'48", (CHORD BEARING SOUTH 61°28'55" EAST, A DISTANCE OF 68.07 FEET) TO A POINT ON A COMPOUND CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 273.04 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 260.00 FEET, A CENTRAL ANGLE OF 60°10'09", (CHORD BEARING SOUTH 28°30'27" EAST, A DISTANCE OF 260.66 FEET); THENCE SOUTH 01°34'37" WEST, A DISTANCE OF 129.72 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE SOUTHERLY 147.14 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 225.00 FEET, A CENTRAL ANGLE OF 37°28'04", (CHORD BEARING SOUTH 20°18'39" WEST, A DISTANCE OF 144.53 FEET); THENCE SOUTH 39°02'41" WEST, A DISTANCE OF 55.64 FEET TO A POINT ON A CURVE TO THE LEFT; THENCE SOUTHERLY 225.28 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 190.00 FEET, A CENTRAL ANGLE OF 67°56'02", (CHORD BEARING SOUTH 05°04'40" WEST, A DISTANCE OF 212.31 FEET) TO A POINT ON A REVERSE CURVE TO THE RIGHT; THENCE SOUTHWESTERLY 294.51 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 155.00 FEET, A CENTRAL ANGLE OF 108°52'02", (CHORD BEARING SOUTH 25°32'39" WEST, A DISTANCE OF 252.17 FEET); THENCE SOUTH 79°58'40" WEST, A DISTANCE OF 20.36 FEET; THENCE SOUTH 01°34'55" EAST, A DISTANCE OF 30.26 FEET; THENCE SOUTH 88°25'05" WEST, A DISTANCE OF 26.60 FEET; THENCE NORTH 01°34'55" WEST, A DISTANCE OF 84.84 FEET; THENCE SOUTH 89°04'08" WEST, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 5.50 ACRES, MORE OR LESS.

TOGETHER WITH

PARCEL "B"
A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3539, PAGE 3116, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LYING IN SECTIONS 5, 6, 7, AND 8, TOWNSHIP 47 SOUTH, RANGE 25 EAST,LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE EAST QUARTER CORNER OF SECTION 7, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN ALONG THE EAST LINE OF SAID SECTION 7, NORTH 01°34'55" WEST, A DISTANCE OF 2,541.19 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE ALONG SAID LINE, NORTH 01°34'55" WEST, A DISTANCE OF 106.67 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 7; THENCE RUN ALONG SAID NORTH LINE, SOUTH 89°21'21" WEST, A DISTANCE OF 1,336.61 FEET; THENCE NORTH 02°49'58" WEST, A DISTANCE OF 21.41 FEET; THENCE NORTH 46°12'33" WEST, A DISTANCE OF 68.47 FEET; THENCE NORTH 17°55'59" WEST, A DISTANCE OF 45.26 FEET; THENCE NORTH 20°33'16" WEST, A DISTANCE OF 57.29 FEET; THENCE NORTH 15°28'57" EAST, A DISTANCE OF 73.32 FEET; THENCE NORTH 02°31'16" EAST, A DISTANCE OF 63.41 FEET; THENCE NORTH 12°17'57" WEST, A DISTANCE OF 66.88 FEET; THENCE NORTH 35°08'27" WEST, A DISTANCE OF 62.53 FEET; THENCE NORTH 19°13'15" WEST, A DISTANCE OF 42.97 FEET; THENCE NORTH 14°30'57" WEST, A DISTANCE OF 81.14 FEET; THENCE NORTH 74°27'51" EAST, A DISTANCE OF 702.39 FEET; THENCE SOUTH 36°38'48" EAST, A DISTANCE OF 37.55 FEET; THENCE SOUTH 05°27'07" WEST, A DISTANCE OF 410.85 FEET; THENCE SOUTH 32°11'36" EAST, A DISTANCE OF 104.97 FEET; THENCE NORTH 58°26'45" EAST, A DISTANCE OF 537.28 FEET; THENCE SOUTH 36°07'42" EAST, A DISTANCE OF 153.86 FEET;

PROPERTY DESCRIPTION (CONTINUED)

THENCE NORTH 59°35'17" EAST, A DISTANCE OF 62.68 FEET; THENCE SOUTH 21°42'41" EAST, A DISTANCE OF 4.51 FEET TO A POINT ON A CURVE TO THE LEFT; THENCE SOUTHEASTERLY 60.98 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 258.00 FEET, A CENTRAL ANGLE OF 13°32'33", (CHORD BEARING SOUTH 28°28'57" EAST, A DISTANCE OF 60.84 FEET); THENCE SOUTH 35°15'14" EAST, A DISTANCE OF 155.79 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE SOUTHERLY 186.50 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 330.00 FEET, A CENTRAL ANGLE OF 32°22'48", (CHORD BEARING SOUTH 19°03'50" EAST, A DISTANCE OF 184.02 FEET); THENCE NORTH 89°17'12" EAST, A DISTANCE OF 11.43 FEET TO A POINT ON A NON TANGENTIAL CURVE TO THE RIGHT; THENCE SOUTHERLY 120.30 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 275.00 FEET, A CENTRAL ANGLE OF 25°03'52", (CHORD BEARING SOUTH 11°48'24" WEST, A DISTANCE OF 119.35 FEET) TO THE POINT OF BEGINNING.

CONTAINING 14.81 ACRES, MORE OR LESS.

NOTES

1. BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF SECTION 7, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING N 1°34'55" W.

2. DIMENSIONS SHOWN HEREON ARE IN U.S. SURVEY FEET AND DECIMALS THEREOF.

3. THIS SKETCH AND DESCRIPTION IS <u>NOT</u> VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. NO ADDITIONS OR DELETIONS TO THIS SKETCH AND DESCRIPTION ARE PERMITTED WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE SIGNING PARTY.

NOT COMPLETE WITHOUT SHEETS 1 - 2 OF 2

THIS IS NOT A SURVEY

DRAWN BY:	KJG
CHECKED BY:	DLS
JOB CODE:	PLAA
SCALE:	N/A
DATE:	25 JUNE 2015
FILE:	14-24-SL
SHEET:	1 of 2

GradyMinor

Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

Civil Engineers • Land Surveyors • Planners • Landscape Architects
Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266

Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380

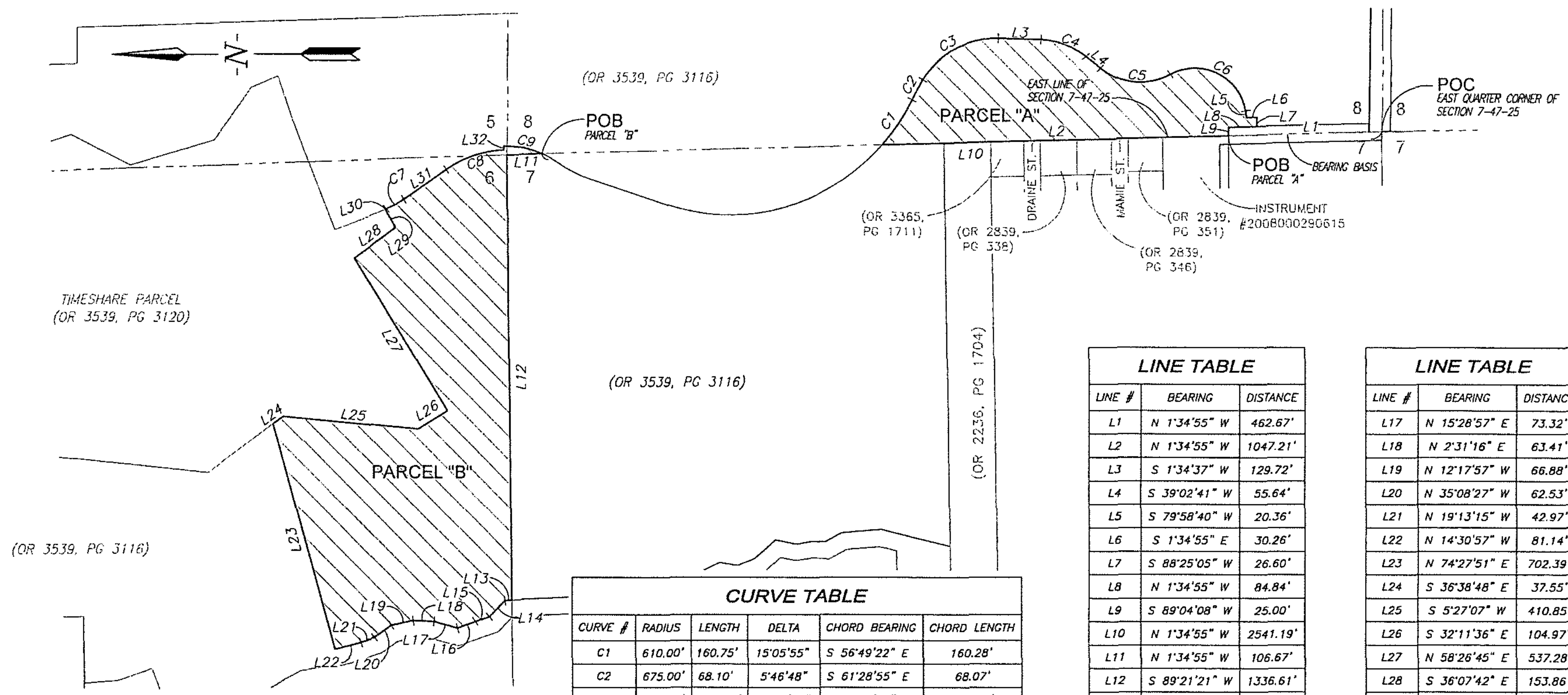
SKETCH AND DESCRIPTION

A PORTION OF
OFFICIAL RECORDS BOOK 3539, PAGE 3116
LYING IN
SECTIONS 5, 6 7 & 8, TOWNSHIP 47 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

6/29/15
DATE SIGNED

DONALD L. SAINTENOY III, P.S.M
FL LICENSE #5761
FOR THE FIRM

G:\SURVEY\PROJECT SURVEY 2014\24 - RAPTOR BAY\SURVEY\14-24-SL.DWG



CURVE TABLE					
CURVE #	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD LENGTH
C1	610.00'	160.75'	15°05'55"	S 56°49'22" E	160.28'
C2	675.00'	68.10'	5°46'48"	S 61°28'55" E	68.07'
C3	260.00'	273.04'	60°10'09"	S 28°30'27" E	260.66'
C4	225.00'	147.14'	37°28'04"	S 20°18'39" W	144.53'
C5	190.00'	225.28'	67°56'02"	S 5°04'40" W	212.31'
C6	155.00'	294.51'	108°52'02"	S 25°32'39" W	252.17'
C7	258.00'	60.98'	13°32'33"	S 28°28'57" E	60.84'
C8	330.00'	186.50'	32°22'48"	S 19°03'50" E	184.02'
C9	275.00'	120.30'	25°03'52"	S 11°48'24" W	119.35'

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N 1°34'55" W	462.67'
L2	N 1°34'55" W	1047.21'
L3	S 1°34'37" W	129.72'
L4	S 39°02'41" W	55.64'
L5	S 79°58'40" W	20.36'
L6	S 1°34'55" E	30.26'
L7	S 88°25'05" W	26.60'
L8	N 1°34'55" W	84.84'
L9	S 89°04'08" W	25.00'
L10	N 1°34'55" W	2541.19'
L11	N 1°34'55" W	106.67'
L12	S 89°21'21" W	1336.61'
L13	N 2°49'58" W	21.41'
L14	N 46°12'33" W	68.47'
L15	N 17°55'59" W	45.26'
L16	N 20°33'16" W	57.29'

LINE TABLE		
LINE #	BEARING	DISTANCE
L17	N 15°28'57" E	73.32'
L18	N 2°31'16" E	63.41'
L19	N 12°17'57" W	66.88'
L20	N 35°08'27" W	62.53'
L21	N 19°13'15" W	42.97'
L22	N 14°30'57" W	81.14'
L23	N 74°27'51" E	702.39'
L24	S 36°38'48" E	37.55'
L25	S 5°27'07" W	410.85'
L26	S 32°11'36" E	104.97'
L27	N 58°26'45" E	537.28'
L28	S 36°07'42" E	153.86'
L29	N 59°35'17" E	62.68'
L30	S 21°42'41" E	4.51'
L31	S 35°15'14" E	155.79'
L32	N 89°17'12" E	11.43'

0 200' 400' 800'

SCALE: 1" = 400'

THIS PLAN MAY HAVE BEEN ENLARGED OR REDUCED FROM INTENDED DISPLAY SCALE FOR REPRODUCTION REASONS

LEGEND
- POC POINT OF COMMENCEMENT
- POB POINT OF BEGINNING
- OR OFFICIAL RECORDS BOOK
- PG PAGE(S)

THIS IS NOT A SURVEY

DRAWN BY:	KJG
CHECKED BY:	DLS
JOB CODE:	PLAA
SCALE:	1" = 400'
DATE:	25 JUNE 2015
FILE:	14-24-SL
SHEET:	2 of 2

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LEE COUNTY, FLORIDA

NOT COMPLETE WITHOUT SHEETS 1-2 OF 2

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Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2020000087230, Doc Type JUD, Pages 8, Recorded 4/9/2020 at 9:53 AM, Deputy Clerk CMASSEY ERECORD
4/8/2020 2:16 PM Filed Lee County Clerk of Court

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR LEE COUNTY FLORIDA, CIVIL DIVISION

WCI COMMUNITIES, LLC, et al.,

Plaintiffs,

v.

CITY OF BONITA SPRINGS, FLORIDA, a Florida municipal corporation,

Defendant.
_______________________________/

CASE NO.: 17-CA-3966

FINAL JUDGMENT CONFIRMING FINAL ARBITRATION ORDER

THIS CAUSE having come before the Court on the entry of a Final Arbitration Order following the Parties' participation in this Court's Ordered Non-Binding Arbitration on September 19, 2019, and upon the expiration of the deadline for a party to move for trial de novo with no such motion being filed by either party, and upon consideration of the Final Arbitration Order, the submission from the Parties, and otherwise being fully advised in the premises, this Court finds:

BACKGROUND

1. In 2014, the City of Bonita, Florida ("City"), and the Plaintiffs' predecessor-in-interest entered into an Annexation Agreement, pursuant to which the Plaintiffs' predecessor-in-interest agreed to allow the City to voluntarily annex approximately 55.16± acres of property located within Lee County ("**Property**"). In exchange for the voluntary annexation, the City agreed to, among other things, initiate and grant a Comprehensive Plan Amendment and a rezoning that would allow the construction of up to four (4) multi-family buildings with the permitted height of twenty (20) habitable floors over two (2) floors of parking on the Property. The Annexation Agreement provided that, if any party breached its terms, the prevailing party would be entitled to an award of attorney's fees.

2. On February 3, 2016, the City Council denied the proposed Comprehensive Plan Amendment. The Plaintiffs' rezoning application remains pending.

3. The Plaintiffs sued the City. The Plaintiffs' Second Amended Complaint contains two counts against the City, seeking: (1) damages related to the City's failure to grant the promised Comprehensive Plan Amendment; and (2) specific performance of the outstanding obligation to approve the Plaintiffs' pending rezoning application. The City answered the Second Amended Complaint, raising numerous affirmative defenses.

THE ARBITRATOR'S FINDINGS

4. This Court ordered the parties to non-binding arbitration, which occurred on September 20, 2019. The Arbitrator found in favor of the Plaintiffs on the Second Amended Complaint as follows

a. The Annexation Agreement is enforceable.

b. The City breached the Annexation Agreement by not granting the Comprehensive Plan Amendment.

c. The Arbitrator found the City had not granted the Plaintiffs' pending rezoning application and, therefore, ordered the City to grant the Plaintiffs' pending rezoning application.

d. The Arbitrator ordered the City to pay economic damages of six million three hundred thousand dollars and 00/100 ($6.3 Million) to the Plaintiffs, with no prejudgment interest.

e. The Arbitrator found the Plaintiffs entitled to contractual attorney's fees and costs.

5. Neither party timely sought a trial de novo from the arbitrator's award and, therefore, pursuant to Fla. R. Civ. P. 1.820(h), this Court enters a final judgment pursuant to the arbitrator's award.

CONCLUSION

The Final Arbitration Order rendered on October 14, 2019, is confirmed in its entirety, and judgment is entered in favor of Plaintiffs, WCI COMMUNITIES, LLC, a Delaware limited liability company, as successor-in interest for Pelican Landing Golf Resort Ventures Limited Partnership, a dissolved Delaware limited partnership, and WCI COMMUNITIES, INC., a Delaware corporation, in the amount of **$6,300,000.00** and against Defendant City of Bonita Springs, Florida. The parties have informed the Court that the City has made such payment in full and, therefore, such amount has been fully satisfied.

The Court reserves jurisdiction to determine the amount of attorneys' fees and costs to which the Plaintiffs are entitled.

It is further ordered and adjudged that WCI's rezoning application, PD15-23946-BOS, currently pending before the City is approved as follows:

Lee County Zoning Resolution No. 94-014 is hereby amended to incorporate the following changes:

1. Condition 9 is amended to create RPD land development area F1 consisting of 55+/- acres; and

2. Condition 12 associated with deviation 12 is amended to allow a maximum of four (4) residential buildings with a height greater than seventy-five (75) feet above minimum flood elevation north of Coconut Road in reference to the RPD land development area F1 request; and

3. Twenty (20) +/- acres from the Kersey Smoot RPD is added to the Pelican Landing CPD/RPD and rezoned to RPD land development area F1; and

4. Thirty-five (35) +/- acres from RPD Land Development Area E is added to RPD land development area F1.

A true and correct copy of the Final Arbitration Order is attached as **Exhibit "A"** and incorporated herein by reference.

DONE and **ORDERED** in Fort Myers, Lee County, Florida, this 6TH day of ~~March~~ April 2020.

Honorable Joseph C. Fuller
Circuit Judge

Conformed Copies to All Parties and Counsel of Record:
✓Carl Joseph Coleman, Esq. (~~joe.coleman@bipc.com~~)
Hala Sandridge, Esq. (~~hala.sandridge@bipc.com~~)
Victoria Oguntoye, Esq. (~~victoria.oguntoye@bipc.com~~)
✓David A. Theriaque, Esq. (~~dat@theriaquelaw.com~~)
✓S. Brent Spain, Esq. (~~sbs@theriaquelaw.com~~)
✓Benjamin R. Kelley, Esq. (~~brk@theriaquelaw.com~~)

NO COPIES/ENVELOPES
PROVIDED

IN THE CIRCUIT COURT IN AND FOR LEE COUNTY, FLORIDA
TWENTIETH JUDICIAL CIRCUIT COURT
CIRCUIT CIVIL DIVISION

WCI COMMUNITIES, LLC., et al.,

Plaintiffs,

vs. **Case No. 17-CA-003966**

CITY OF BONITA SPRINGS, FLORIDA,

Defendant.

FINAL ARBITRATION ORDER

Pursuant to the Arbitration Hearing held on **September 19, 2019**, before Arbitrator, Larry S. Pivacek, the Plaintiffs and Defendant being present on said date and counsel for the Plaintiffs and the Defendant therein being present, it is hereby, ORDERED and ADJUDGED as follows:

Procedural Posture of the Case Presented to the Arbitrator

This matter comes before the Arbitrator for determination and ruling on the Plaintiffs *Second Amended Complaint, Count I* and *Count II.* The Defense has asserted numerous *Affirmative Defenses* in response to the Plaintiffs *Second Amended Complaint.*

[redacted]

Final Order of the Arbitrator

Plaintiff's Second Amended Complaint – Count I

The Arbitrator finds in favor of the Plaintiffs as to the *Second Amended Complaint – Count I.* Specifically, the Arbitrator Orders as follows:

1. The *Annexation Agreement* between the Plaintiffs and the Defendant is enforceable.
2. The Defendant breached said *Annexation Agreement* by not, to date, granting a Comprehensive Plan Amendment.
3. The Plaintiffs are award economic damages and the Defendant is ordered to pay the Plaintiffs economic damages in the amount of six-million-three-hundred thousand ($6.30 Million) dollars and 00/100.
4. The Plaintiffs request a determination of contractual entitlement to attorney fees. The Arbitrator GRANTS Plaintiffs entitlement to attorney fees. The specific amount of attorney fees to which the Plaintiffs may be entitled shall be reserved to the discretion of the trial court.
5. The Plaintiffs request a determination of costs. he Arbitrator GRANTS Plaintiffs entitlement to costs. The specific amount of costs to which the Plaintiffs may be entitled shall be reserved to the discretion of the trial court.
6. The Plaintiffs request for an award of prejudgment interest at the prevailing statutory rate is DENIED, in whole.
7. There exist Five (5) *Affirmative Defenses* plead by the Defendant in response and relation to the Plaintiffs *Second Amended Complaint – Count I. Affirmative Defenses Nos. 1, 2, 4* and *10*, are DENIED. *Affirmative Defense No. 3* has been plead and proved to the satisfaction of the Arbitrator such that it works to reduce the award of economic damages herein-above awarded to the Plaintiffs. Also, *Affirmative Defense No. 3* provides a basis for the Arbitrator to deny the Plaintiffs request for pre-judgment interest. (See Paragraph 2. C., *supra.* See also, Paragraph 2. F., *supra.*)

LST

<u>Final Order of the Arbitrator</u>

<u>Plaintiff's Second Amended Complaint – Count II</u>

The Arbitrator finds in favor of the Plaintiffs as to the *Second Amended Complaint – Count II.* Specifically, the Arbitrator Orders as follows:

8. The *Annexation Agreement* between the Plaintiffs and the Defendant is enforceable.
9. The Defendant has not granted, to date, the Plaintiffs currently pending rezoning application. The Arbitrator orders the Defendant to GRANT the Plaintiffs currently pending rezoning application.
10. The Plaintiffs request a determination of contractual entitlement to attorney fees. The Arbitrator GRANTS Plaintiffs <u>entitlement</u> to attorney fees. The specific <u>amount</u> of attorney fees to which the Plaintiffs may be entitled shall be reserved to the discretion of the trial court.
11. The Plaintiffs request a determination of costs. The Arbitrator GRANTS Plaintiffs <u>entitlement</u> to costs. The specific <u>amount</u> of costs to which the Plaintiffs may be entitled shall be reserved to the discretion of the trial court.
12. The Plaintiffs request that the Arbitrator find that an anticipatory breach of the *Annexation Agreement* by the Defendant. The request for a finding of anticipatory breach is DENIED. Because the Arbitrator has found that the Defendant has, to date, still failed to grant the Plaintiffs pending rezoning application and because the Arbitrator has furthermore ordered the Defendant to grant said rezoning application, the question of anticipatory breach is rendered moot and/or irrelevant.
13. There exist Seven (7) *Affirmative Defenses* plead by the Defendant in response to the Plaintiffs *Second Amended Complaint – Count II. Affirmative Defenses Nos. 1, 5, 6, 7, 8, 9* and *10*, are DENIED.

LSP

Conclusion

WHEREFORE, the Plaintiffs are awarded, and the Defendant shall pay to the Plaintiffs the amount of $6,300,00.00 in economic damages. Furthermore, the Defendant is ordered to GRANT the Plaintiffs currently pending rezoning application.

ORDERED on this 14th day of October, 2019.

Larry S. Pivacek

Mr. Larry S. Pivacek, Arbitrator
2500 Airport-Pulling Road South, Suite 306
Naples, Florida 34112-8442

Mr. Carl Joseph Coleman, Esquire, Counsel for Plaintiffs
Ms. Hal Sandridge, Esquire, Counsel for Plaintiffs
Mr. David A. Theriaque, Esquire, Counsel for Defendant
Mr. Brent Spain, Esquire, Counsel for Defendant

LSP

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	20-07-189

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve Resolution calling for and ordering an election on November 3, 2020 designating qualified candidates.

MEETING DATE: 7/15/2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
☐	PRESENTATIONS	☐	STATUTE	Debra Filipek City Clerk
☒	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☐	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:

Attached is a Resolution calling for and ordering an election on November 3, 2020, designating the qualified candidates for Mayor and Council Member District 2, 4 and 6 in the City of Bonita Springs. Per our Interlocal Agreement for Election Services, the City Council is required to adopt a resolution listing the candidates qualified to hold office. The attached resolution accomplishes such purpose.

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ **YES** ☒ **NO**

IF YES, WHICH STRATEGIC OBJECTIVE?

STAFF RECOMMENDATIONS: Approve Resolution

REVIEWED BY:

City Manager: ______________________

City Attorney: ______________________

City Clerk: ______________________

Department Director: ______________________

COUNCIL ACTION:

☐ **APPROVED**

☐ **DENIED**

☐ **DEFERRED**

☐ **OTHER**

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION N0. 20 -

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA, CALLING FOR AND ORDERING AN ELECTION ON NOVEMBER 3, 2020; DESIGNATING QUALIFIED CANDIDATES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs was incorporated on December 31, 1999 with its initial Charter; and

WHEREAS, the City of Bonita Springs City Council is required by the Interlocal Agreement for Election Services to adopt a resolution listing candidates qualified to hold office; and

WHEREAS, pursuant to the City Charter, City Council has determined that the candidates listed below are eligible to hold office pursuant to federal, state and local law:

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

Section 1. The City Council hereby calls for and orders an election on November 3, 2020.

Section 2. The City Council of the City of Bonita Springs hereby designates the following qualified candidates for Mayor:

Omer Dror
27901 Bonita Village Blvd.
Bonita Springs, Florida 34134

Rick Steinmeyer
26236 Hickory Blvd., #11
Bonita Springs, Florida 34134

Section 3. The City Council of the City of Bonita Springs hereby designates the following qualified candidates for District 2:

Shelley D. Anderson
10630 Goodwin Street
Bonita Springs, Florida 34135

Jess Purdon
11710 Imperial Pines Way
Bonita Springs, Florida 34135

Section 4. The City Council of the City of Bonita Springs hereby designates the following qualified candidates for District 4:

Chris Corrie
4801 Bonita Bay Blvd., #2304
Bonita Springs, Florida 34134

Lynda M. Waterhouse
27930 Riverwalk Way
Bonita Springs, Florida 34134

Section 5. The City Council of the City of Bonita Springs hereby designates the following qualified candidates for District 6:

Mike Danieli
28072 Cavendish Ct.
Bonita Springs, Florida 34135

Fred Forbes
28200 Alfred Moore Ct.
Bonita Springs, FL 34135

Section 6. The Lee County Supervisor of Elections shall conduct the Election.

Section 7. This resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Florida this 15th day of July, 2020.

AUTHENTICATION:

______________________________ ______________________________
MAYOR CITY CLERK

APPROVED AS TO FORM: ________________________
CITY ATTORNEY

Vote:

Purdon Quaremba
Carr Corrie

Gibson Simmons
Forbes

Date filed with City Clerk: ___________________

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	20-07-180

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve Budget Resolution to amend the FY 2020 Budget for the Community Development Block Grant

MEETING DATE: 7/15/2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
☐	PRESENTATIONS	☐	STATUTE	Matt Feeney Assistant City Manager Anne K. Wright, CPA, CGFO Finance Director
☒	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☐	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND: At the time that the FY 2020 Budget was adopted, the amount budgeted for the Community Development Block Grant to be awarded for FY 2020 was estimated as $300,000. This Budget Resolution increases the Grant budget by $139,752 to equal the approved grant amount. This additional funding is from Lee County, who is not charging us any administrative costs as part of the urban county agreement. These grant funds are the annual entitlement funds which we are allocated from HUD through Lee County. The current year budget adopted for this grant was $300,000. This amendment brings the total to $439,752. This additional funding increases the budget for the Multi-use Pathways & Sidewalks project.

Attachments: Budget Resolution

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ **YES** ☐ **NO**
IF YES, WHICH STRATEGIC OBJECTIVE? Financial Transparency

STAFF RECOMMENDATIONS: Approve the attached budget resolution.

REVIEWED BY:

City Manager: ________________
City Attorney: ________________
City Clerk: ________________
Department Director: ________________

COUNCIL ACTION:

☐ **APPROVED**
☐ **DENIED**
☐ **DEFERRED**
☐ **OTHER**

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 20 – ___

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A BUDGET AMENDMENT TO INCREASE THE GRANT FUND AND CAPITAL PROJECTS FUND BUDGETS FOR COMMUNITY DEVELOPMENT BLOCK GRANT REVENUE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 19, 2019, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2020; and

WHEREAS, at the time the FY 2020 Budget was approved, the budget for the amount of Community Development Block Grant (CDBG) revenue was estimated; and

WHEREAS, the actual grant amount is now known and is $139,752 higher than the grant revenue amount budgeted.

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

1.The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon its adoption.

2.The Bonita Springs' City Council authorizes the following budget amendment to increase the amount of the Community Development Block Grant revenue in FY 2020.

	Budget Increase (Decrease)
Grants Fund:	
CDBG Revenue	$ 139,752
Transfer to Capital Projects Fund	139,752
Capital Projects Fund:	
Transfer in from Grant Fund	139,752
Multi-use Pathways & Sidewalks project	139,752

3.This Resolution shall become effective upon adoption by the Bonita Springs City Council.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 15th day of July, 2020.

AUTHENTICATION:

____________________________ ____________________________
Mayor City Clerk

APPROVED AS TO FORM: __________________________
City Attorney

Vote:

Carr	Purdon
Corrie	Quaremba
Forbes	Simmons
Gibson	

Date filed with City Clerk: ______________________

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-07-183

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve Florida Department of Environmental Protection funding agreement and Budget Resolution for the Felts Avenue Bio-Reactor Phase II Project

MEETING DATE: 7/15/2020

	AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**	**REQUESTOR OF INFORMATION:**
☐	PRESENTATIONS	☐	STATUTE	Matt Feeney Assistant City Manager Elly Soto McKuen Senior Project Manager Anne Wright Finance Director
☒	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:

The Florida Department of Environmental Protection (FDEP) announced funding availability on October 25, 2019 for Approaches to Reduce Nutrient Loadings for Harmful Algal Blooms Management and on November 6, 2019, the FDEP announced an Innovative Technology Grant Solicitation for Harmful Algal Blooms.

Staff received a notice of funding award on January 17, 2020 and received the agreement on July 2, 2020. The DEP grant allocates $400,000 with no required match from the City.

This is a new grant for the City, which does not have a current year budget. Attached is a Budget Resolution to amend the FY 2020 Budget to increase the Grant Fund and Capital Projects Fund budgets for the new grant.

Attachment: DEP Standard Grant Agreement; Budget Resolution

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ **YES** ☐ **NO**

IF YES, WHICH STRATEGIC OBJECTIVE? 1) Stormwater Management, 3) Strengthen/Enhance City Finance, 4) Environmental Protection, 5) Community Aesthetics

STAFF RECOMMENDATIONS: Approve Florida Department of Environmental Protection funding agreement and Budget Resolution for the Felts Avenue Bio-Reactor Phase II Project

REVIEWED BY:

City Manager: Arleen M H
City Attorney: ______
City Clerk: ______
Department Director: ______

COUNCIL ACTION:

☐ **APPROVED**
☐ **DENIED**
☐ **DEFERRED**
☐ **OTHER**

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 20 – ___

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A BUDGET AMENDMENT TO INCREASE THE GRANT FUND AND CAPITAL PROJECTS FUND BUDGETS FOR A GRANT FOR THE FELTS AVENUE BIO-REACTOR PHASE II BEING FUNDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 19, 2019, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2020; and

WHEREAS, the City has recently received a grant agreement from the Florida Department of Environmental Protection to fund the Felts Avenue Bio-Reactor Phase II; and

WHEREAS, the grant amount is $400,000 and does not require a City match.

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

1. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon its adoption.

2. The Bonita Springs’ City Council authorizes the following budget amendment to increase the budgets of the Grant Fund and the Capital Projects Fund.

	Budget Increase
Grants Fund:	
Department of Environmental Protection Grant	$ 400,000
Transfer to Capital Projects Fund	400,000
Capital Projects Fund:	
Transfer in from Grant Fund	400,000
Felts Avenue Bio-Reactor Phase II	400,000

3. This Resolution shall become effective upon adoption by the Bonita Springs City Council.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 15th day of July, 2020.

AUTHENTICATION:

______________________________ ______________________________
Mayor City Clerk

APPROVED AS TO FORM: ____________________________
City Attorney

Vote:

Carr Purdon
Corrie Quaremba
Forbes Simmons
Gibson

Date filed with City Clerk: ________________________

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Standard Grant Agreement

This Agreement is entered into between the Parties named below, pursuant to Section 215.971, Florida Statutes:

1. Project Title (Project): **Felts Avenue Bio-Reactor Phase II**
   Agreement Number: **INV005**

2. Parties: **State of Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000** (Department)

   Grantee Name: **City of Bonita Springs**
   Entity Type: **City Government**
   Grantee Address: **9101 Bonita Beach Rd, Bonita Springs, FL 34135**
   FEID: **59-3649914** (Grantee)

3. Agreement Begin Date: **Upon execution.**
   Date of Expiration: **09/30/2023**

4. Project Number: *(If different from Agreement Number)*
   Project Location(s): **Bonita Springs, Florida**

   Project Description: **The Bio-Reactor (denitrification bioreactor) utilizes a bio-retention process for nitrogen removal via an anaerobic "Bio-Reactor" for nitrogen removal from storm water runoff. The concept is a low•impact development technique that requires very little above-ground disturbance. The project involves construction of sub-surface retention beds of woodchips and 185 feet of sub-surface pipe filled with woodchips (carbon source/food for bacteria and use N for respiration process) and pea gravel, and "Eco Vault-DN" concrete storm water denitrification treatment structure with bio-absorption media to create an anaerobic nitrogen removing environment. The woodchips act as a carbon source for anaerobic bacteria to colonize. The bacteria, in turn, strips nitrogen entrained in storm water runoff and converts it into nitrogen gas. The focus of this application is to construct Phase II of the project designed for 24/7 operations.**

5. Total Amount of Funding: **$400,000.00**

Funding Source?	Award #s or Line Item Appropriations:	Amount per Source(s):
☑ State ☐ Federal	**GAA Line Item 1639**	**$400,000.00**
☐ State ☐ Federal		
☐ Grantee Match		
	Total Amount of Funding + Grantee Match, if any:	**$400,000.00**

6. Department's Grant Manager
   Name: **Ed Cambeiro** or successor
   Address: **3900 Commonwealth Blvd.**
   M.S. 24
   Tallahassee, FL 32399
   Phone: **850-245-3176**
   Email: **ed.cambeiro@floridadep.gov**

   Grantee's Grant Manager
   Name: **Matt Feeney** or successor
   Address: **9101 Bonita Beach Rd**
   Bonita Springs, FL 34135
   Phone: **(239) 949-6246**
   Email: **matt.feeney@cityofbonitasprings.org**

7. The Parties agree to comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated by reference:

- ☑ Attachment 1: Standard Terms and Conditions Applicable to All Grants Agreements
- ☑ Attachment 2: Special Terms and Conditions
- ☑ Attachment 3: Grant Work Plan
- ☑ Attachment 4: Public Records Requirements
- ☑ Attachment 5: Special Audit Requirements
- ☐ Attachment 6: Program-Specific Requirements
- ☐ Attachment 7: Grant Award Terms (Federal) *Copy available at https://facts.fldfs.com, in accordance with §215.985, F.S.
- ☐ Attachment 8: Federal Regulations and Terms (Federal)
- ☐ Additional Attachments (if necessary):
- ☑ Exhibit A: Progress Report Form
- ☐ Exhibit B: Property Reporting Form
- ☑ Exhibit C: Payment Request Summary Form
- ☑ Exhibit D: Quality Assurance Requirements for Grants
- ☐ Exhibit E: Advance Payment Terms and Interest Earned Memo
- ☐ Additional Exhibits (if necessary):

8. The following information applies to Federal Grants only and is identified in accordance with 2 CFR 200.331(a)(1):

Federal Award Identification Number(s) (FAIN):	
Federal Award Date to Department:	
Total Federal Funds Obligated by this Agreement:	
Federal Awarding Agency:	
Award R&D?	☐ Yes ☐N/A

IN WITNESS WHEREOF, this Agreement shall be effective on the date indicated by the Agreement Begin Date above or the last date signed below, whichever is later.

City of Bonita Springs **GRANTEE**

Grantee Name

By ______________________________

(*Authorized Signature)* Date Signed

Peter Simmons, Mayor

Print Name and Title of Person Signing

State of Florida Department of Environmental Protection **DEPARTMENT**

By ______________________________

Secretary or Designee Date Signed

Print Name and Title of Person Signing

☐ Additional signatures attached on separate page.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD TERMS AND CONDITIONS
APPLICABLE TO GRANT AGREEMENTS

ATTACHMENT 1

1. Entire Agreement.

This Grant Agreement, including any Attachments and Exhibits referred to herein and/or attached hereto (Agreement), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any terms and conditions included on Grantee's forms or invoices shall be null and void.

2. Grant Administration.

a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
   i. Standard Grant Agreement
   ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
   iii. Attachment 1, Standard Terms and Conditions
   iv. The Exhibits in the order designated in the Standard Grant Agreement

b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.

c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.

d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following: (1) an increase or decrease in the Agreement funding amount; (2) a change in Grantee's match requirements; (3) a change in the expiration date of the Agreement; and/or (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department. A change order to this Agreement may be used when: (1) task timelines within the current authorized Agreement period change; (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department; and/or (3) fund transfers between budget categories for the purposes of meeting match requirements. This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.

e. All days in this Agreement are calendar days unless otherwise specified.

3. Agreement Duration.

The term of the Agreement shall begin and end on the dates indicated in the Standard Grant Agreement, unless extended or terminated earlier in accordance with the applicable terms and conditions. The Grantee shall be eligible for reimbursement for work performed on or after the date of execution through the expiration date of this Agreement, unless otherwise specified in Attachment 2, Special Terms and Conditions. However, work performed prior to the execution of this Agreement may be reimbursable or used for match purposes if permitted by the Special Terms and Conditions.

4. Deliverables.

The Grantee agrees to render the services or other units of deliverables as set forth in Attachment 3, Grant Work Plan. The services or other units of deliverables shall be delivered in accordance with the schedule and at the pricing outlined in the Grant Work Plan. Deliverables may be comprised of activities that must be completed prior to Department making payment on that deliverable. The Grantee agrees to perform in accordance with the terms and conditions set forth in this Agreement and all attachments and exhibits incorporated by the Standard Grant Agreement.

5. Performance Measures.

The Grantee warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Grant Work Plan; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees, subcontractors, and/or subgrantees shall comply with any security and safety requirements and processes, if provided by Department, for work done at the Project Location(s). The Department reserves the right to investigate or inspect at any time to determine whether the services or qualifications offered by Grantee meet the Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose Department's remedies in the event deficiencies in the deliverable cannot be readily measured at the time of delivery.

6. Acceptance of Deliverables.

a. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.

b. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

7. Financial Consequences for Nonperformance.

a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.

b. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.

i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.

ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

iii. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by Department may result in termination of the Agreement.

8. Payment.

a. Payment Process. Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with Section 215.422, Florida Statutes (F.S.).

b. Taxes. The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.

c. Maximum Amount of Agreement. The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.

d. Reimbursement for Costs. The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. 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, which can be accessed at the following web address: https://www.myfloridacfo.com/Division/AA/Manuals/Auditing/Reference_Guide_For_State_Expenditures.pdf.

e. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.

f. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.

g. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.

h. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.

i. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to: www.myfloridacfo.com/Division/AA/Vendors/default.htm.

j. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

9. Documentation Required for Cost Reimbursement Grant Agreements and Match.

If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:

a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.

b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.

c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing $1,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in Chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.
    i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.
    ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.

d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with Section 112.061, F.S.

e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing $1,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form**.**

f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.

g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.

h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

10. Status Reports.

The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form**,** to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly status reports are due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.

11. Retainage.

The following provisions apply if Department withholds retainage under this Agreement:

a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.

b. If Grantee fails to perform the requested work, or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.

c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.

d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

12. Insurance.

a. <u>Insurance Requirements for Sub-Grantees and/or Subcontractors.</u> The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.

b. <u>Deductibles.</u> The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.

c. <u>Proof of Insurance.</u> Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage ***prior to*** performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.

d. <u>Duty to Maintain Coverage.</u> In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.

13. Termination.

a. <u>Termination for Convenience.</u> When it is in the State's best interest, Department may, at its sole discretion, terminate the Agreement in whole or in part by giving 30 days' written notice to Grantee. The Department shall notify Grantee of the termination for convenience with instructions as to the effective date of termination or the specific stage of work at which the Agreement is to be terminated. The Grantee must submit all invoices for work to be paid under this Agreement within thirty (30) days of the effective date of termination. The Department shall not pay any invoices received after thirty (30) days of the effective date of termination.

b. <u>Termination for Cause.</u> The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

c. <u>Grantee Obligations upon Notice of Termination.</u> After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.

d. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.

e. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

14. Notice of Default.

If Grantee defaults in the performance of any covenant or obligation contained in the Agreement, including, any of the events of default, Department shall provide notice to Grantee and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Grantee fail to perform within the time provided, Grantee will be found in default, and Department may terminate the Agreement effective as of the date of receipt of the default notice.

15. Events of Default.

Provided such failure is not the fault of Department or outside the reasonable control of Grantee, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

a. The commitment of any material breach of this Agreement by Grantee, including failure to timely deliver a material deliverable, failure to perform the minimal level of services required for a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Agreement;
b. The commitment of any material misrepresentation or omission in any materials, or discovery by the Department of such, made by the Grantee in this Agreement or in its application for funding;
c. Failure to submit any of the reports required by this Agreement or having submitted any report with incorrect, incomplete, or insufficient information;
d. Failure to honor any term of the Agreement;
e. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Grantee by a state or other licensing authority;
f. Failure to pay any and all entities, individuals, and furnishing labor or materials, or failure to make payment to any other entities as required by this Agreement;
g. Employment of an unauthorized alien in the performance of the work, in violation of Section 274 (A) of the Immigration and Nationality Act;
h. Failure to maintain the insurance required by this Agreement;
i. One or more of the following circumstances, uncorrected for more than thirty (30) days unless, within the specified 30-day period, Grantee (including its receiver or trustee in bankruptcy) provides to Department adequate assurances, reasonably acceptable to Department, of its continuing ability and willingness to fulfill its obligations under the Agreement:
    i. Entry of an order for relief under Title 11 of the United States Code;
    ii. The making by Grantee of a general assignment for the benefit of creditors;
    iii. The appointment of a general receiver or trustee in bankruptcy of Grantee's business or property; and/or
    iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

16. Suspension of Work.

The Department may, in its sole discretion, suspend any or all activities under the Agreement, at any time, when it is in the best interest of the State to do so. The Department shall provide Grantee written notice outlining the particulars of suspension. Examples of reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Grantee shall comply with the notice. Within 90 days, or any longer period agreed to by the parties, Department shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or (2) terminate the Agreement. If the Agreement is terminated after 30 days of suspension, the notice of suspension shall be deemed to satisfy the thirty (30) days' notice required for a notice of termination for convenience. Suspension of work shall not entitle Grantee to any additional compensation.

17. Force Majeure.

The Grantee shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Grantee or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Grantee's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Grantee. In case of any delay Grantee believes is excusable, Grantee shall notify Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within five days after the date Grantee first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY**. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from Department 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 Grantee shall perform at no increased cost, unless Department determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to Department, in which case Department may: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to Department with respect to products subjected to allocation; (2) contract with other sources (without recourse to and by Grantee 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 Agreement in whole or in part.

18. Indemnification.

a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
    i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
    ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.
b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.
c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.
d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

19. Limitation of Liability.

The Department's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement. Such liability is further limited to a cap of $100,000.

20. Remedies.

Nothing in this Agreement shall be construed to make Grantee liable for force majeure events. Nothing in this Agreement, including financial consequences for nonperformance, shall limit Department's right to pursue its remedies for other types of damages under the Agreement, at law or in equity. The Department may, in addition to other remedies available to it, at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it.

21. Waiver.

The delay or failure by Department to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of Department's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.

b. Pursuant to Sections 287.133 and 287.134, F.S., the following restrictions apply to persons placed on the convicted vendor list or the discriminatory vendor list:

   i. Public Entity Crime. A person or affiliate 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 Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

   ii. Discriminatory Vendors. An entity or affiliate 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.

   iii. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list or the discriminatory vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and posts the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

23. Compliance with Federal, State and Local Laws.

a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.

b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.

c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

24. Scrutinized Companies.

a. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

b. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
c. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

25. Lobbying and Integrity.

The Grantee agrees that no funds received by it under this Agreement will be expended for the purpose of lobbying the Legislature or a State agency pursuant to Section 216.347, F.S., except that pursuant to the requirements of Section 287.058(6), F.S., during the term of any executed agreement between Grantee and the State, Grantee may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that agreement. The Grantee shall comply with Sections 11.062 and 216.347, F.S.

26. Record Keeping.

The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department's Inspector General, or other authorized State official, Grantee shall provide any type of information the Inspector General deems relevant to Grantee's integrity or responsibility. Such information may include, but shall not be limited to, Grantee's business or financial records, documents, or files of any type or form that refer to or relate to Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: http://dos.myflorida.com/library-archives/records-management/general-records-schedules/).

27. Audits.

a. Inspector General. The Grantee understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.
b. Physical Access and Inspection. Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
    i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;
    ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
    iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.
c. Special Audit Requirements. The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.330 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: https:\\apps.fldfs.com\fsaa.

d. Proof of Transactions. In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.

e. No Commingling of Funds. The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.

  i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.

  ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.

  iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

28. Conflict of Interest.

The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

29. Independent Contractor.

The Grantee is an independent contractor and is not an employee or agent of Department.

30. Subcontracting.

a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.

b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.

c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.

d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.

e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.

f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.

g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

31. Guarantee of Parent Company.

If Grantee is a subsidiary of another corporation or other business entity, Grantee asserts that its parent company will guarantee all of the obligations of Grantee for purposes of fulfilling the obligations of Agreement. In the event Grantee is sold during the period the Agreement is in effect, Grantee agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of Grantee.

32. Survival.

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Agreement.

33. Third Parties.

The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of Grantee, its agents, servants, and employees, nor shall Grantee disclaim its own negligence to Department or any third party. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Department consents to a subcontract, Grantee will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

34. Severability.

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

35. Grantee's Employees, Subcontractors and Agents.

All Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under Agreement must comply with all security and administrative requirements of Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement.

36. Assignment.

The Grantee shall not sell, assign, or transfer any of its rights, duties, or obligations under the Agreement, or under any purchase order issued pursuant to the Agreement, without the prior written consent of Department. In the event of any assignment, Grantee remains secondarily liable for performance of the Agreement, unless Department expressly waives such secondary liability. The Department may assign the Agreement with prior written notice to Grantee of its intent to do so.

37. Execution in Counterparts and Authority to Sign.

This Agreement, any amendments, and/or change orders related to the Agreement, may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Terms and Conditions
AGREEMENT NO. INV005

ATTACHMENT 2

These Special Terms and Conditions shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, these more specific terms shall apply.

1. Scope of Work.
The Project funded under this Agreement is *Felts Avenue Bio-Reactor Phase II.* The Project is defined in more detail in Attachment 3, Grant Work Plan.

2. Duration.
a. Reimbursement Period. The reimbursement period for this Agreement will include DEP-approved, grant-related work performed from July 1, 2019, through grant expiration.
b. Extensions. There are extensions available for this Project.
c. Service Periods. Additional service periods may be added in accordance with 2.a above and are contingent upon proper and satisfactory technical and administrative performance by the Grantee and the availability of funding.

3. Payment Provisions.
a. Compensation. This is a cost reimbursement Agreement. The Grantee shall be compensated under this Agreement as described in Attachment 3.
b. Invoicing. Invoicing will occur as indicated in Attachment 3.
c. Advance Pay. Advance Pay is not authorized under this Agreement.

4. Cost Eligible for Reimbursement or Matching Requirements.
Reimbursement for costs or availability for costs to meet matching requirements shall be limited to the following budget categories, as defined in the Reference Guide for State Expenditures, as indicated:

Reimbursement	Match	Category
☐	☐	Salaries/Wages
		Overhead/Indirect/General and Administrative Costs:
☐	☐	a. Fringe Benefits, N/A.
☐	☐	b. Indirect Costs, N/A.
☒	☐	Contractual (Subcontractors)
☐	☐	Travel, in accordance with Section 112, F.S.
☐	☐	Equipment
☐	☐	Rental/Lease of Equipment
☐	☐	Miscellaneous/Other Expenses
☐	☐	Land Acquisition

5. Equipment Purchase.
No Equipment purchases shall be funded under this Agreement.

6. Land Acquisition.
There will be no Land Acquisitions funded under this Agreement.

7. Match Requirements
There is no match required on the part of the Grantee under this Agreement.

8. Insurance Requirements

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. Grantee shall provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

a. Comprehensive General Liability Insurance.
The Grantee shall provide adequate comprehensive general liability insurance coverage and hold such liability insurance at all times during the Agreement. The minimum limits shall be $200,000 for each person and $300,000 per occurrence.

b. Commercial Automobile Insurance.
If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The minimum limits shall be as follows:

$200,000/300,000	Automobile Liability for Company-Owned Vehicles, if applicable
$200,000/300,000	Hired and Non-owned Automobile Liability Coverage

c. Workers' Compensation.
The Grantee shall comply with the workers' compensation requirements of Chapter 440, F.S.

9. Quality Assurance Requirements.

The Grantee shall develop and implement quality assurance practices consisting of policies, procedures, specifications, standards, and documentation sufficient to produce data of quality adequate to meet Project objectives and to minimize loss of data due to out-of-control conditions or malfunctions. All sampling and analyses performed under this Agreement must conform with the requirements set forth in Chapter 62-160, Florida Administrative Code, and the Quality Assurance Requirements for Department Agreements, attached hereto and made part hereof as Exhibit D, Quality Assurance Requirements for Grants.

10. Retainage.

No retainage is required under this Agreement.

11. Subcontracting.

The Grantee may subcontract work under this Agreement without the prior written consent of the Department's Grant Manager except for certain fixed-price subcontracts pursuant to this Agreement, which require prior approval. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement.

12. State-owned Land.

The work will not be performed on State-owned land.

13. Office of Policy and Budget Reporting.

There are no special Office of Policy and Budget reporting requirements for this Agreement.

14. Additional Terms.

None.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
GRANT WORK PLAN
DEP AGREEMENT NO. INV005

ATTACHMENT 3

PROJECT TITLE: Felts Avenue Bio-Reactor Phase II.

PROJECT LOCATION: Geographic Location of Project: 27515 Felts Avenue, Bonita Springs, Florida 34135 (south of the Imperial River)
Size of Project Impact (area needed to build project): Approximately 40,000 linear feet
Size of Area Being Treated: 70.28 square miles
Latitude (decimal degrees): 26 20 17.34N
Longitude (decimal degrees): 81 46 38.29W
Waterbody: Imperial River Watershed; WBID 3258-E Imperial River
TMDL for nitrogen: TMDL Report: Active TMDL for Nitrogen Removal
BMAP: BS-09

PROJECT BACKGROUND: The Imperial River watershed covers approximately 70.2 square miles (44,960 acres), of which 35 square miles (22,539 acres) are surface waters. Oak Creek and Leitner Creek flow into the upstream portion of the Imperial River. The freshwater portion of the river watershed is approximately 10% urban, 48% wetlands and 26% agriculture. The remaining 16% of land use consists of rangeland, upland forest, water, transportation, utilities, and mining activities.

As the Imperial River runs through the City of Bonita Springs, it receives extensive amounts of urban runoff along most of its length (FDEP 2003). The river was verified as impaired for Dissolved Oxygen (DO) based on data indicating that the exceedance rate of the state's DO criterion for Class III freshwater is greater than or equal to 10%; with Nitrogen identified as the causative pollutant. The majority of the anthropogenic Total Nitrogen (TN) loadings to the Imperial River comes from urban stormwater, agricultural runoff and historical sheet flows from north and east of the City of Bonita Spring impact area.

The City of Bonita Springs is required to achieve 9,903 pounds of nitrogen reduction in the Imperial River's Freshwater Basin by the year 2027. Additional basin stakeholders are committed to additional reductions of 50,221 pounds, within the same timeframe, to achieve a TMDL of 0.74 mg/l for nitrogen in the basin.

PROJECT DESCRIPTION: The City of Bonita Springs constructed, with funding assistance from the Florida Department of Environmental Protection (DEP Grant Agreement SO772) and the South Florida Water Management District, the Felts Avenue Bio-Reactor and has recently tested it using a local surface water source. The testing indicated that the Bio-Reactor was very effective in the removal of nitrate. Phase I testing has garnered the following testing results:

- Nitrate (NO3) removal efficiency rate ranged from 77% to >98%
- Average influent contained 0.253 mg/l of NO3
- Average effluent contained less than 0.014 mg/1 of NO3
- The Bio-Reactor performed well with hydraulic residency times varying from 0.5 to 1.09 days

Based on Phase I testing of the Bio-Reactor, the City learned that the Bio-Reactor works best with a constant flow of water at a controllable flow rate and at water surface elevations within the chambers to optimize nitrogen removal. The Bio-Reactor is located south of the Imperial River, a natural stream channel that acts as a major drainage way for anthropogenically nutrient enriched waters.

The implementation of Phase II of the Bio-Reactor will put the system into continuous operation 24 hours a day, 7 days a week to make full use of the Phase I constructed and tested Bio-Reactor. This will be accomplished by pumping surface water from the local Watershed (Imperial River), pre-filtering the water, achieving nitrate removal with the Bio-Reactor, and then returning the water back to the Watershed. It is intended to provide a cost-effective/low impact solution for the removal of nitrogen and to serve as basis from which to design additional and/or larger Bio-Reactors to improve the water resources of the State of Florida. This project is part of the City's nutrient reduction allocation for the BMAP.

Phase II has not been designed and the permitting process has not started. The proposed construction timeline is outlined below:

Design and Permitting: 6 months
Bidding/Subcontracting: 4 months
Construction/Implementation: 12 months
Testing, System Optimization and Verification of Success: 11 months
No. of Months for Reporting: 3 months

Task 1: Survey, Design, Planning, and Permitting

Description: The City (Grantee) or its consultant will review the necessary hydrologic and hydraulic data from the Phase 1 bio-reactor project to create a baseline for flows and capacity. The City's consultant will obtain relevant permit data of the project site and surrounding area, i.e., City of Bonita Springs right-of-way permit, South Florida Water Management District permit and utility data and will contact any relevant federal and state staff to review designs to determine permit review challenges which may influence cost or schedule of the project.

Deliverable(s): The Grantee will submit 1) an electronic copy of the pre-construction contract with design/build; 2) preliminary drawings; and 3) a probable cost-estimate of the design.

Performance Standard: The Department's Grant Manager will review the deliverables to verify that they meet the specifications in the Grant Work Plan and this task description. Upon review and written acceptance by the Department's Grant Manager of all deliverables under this task, the Grantee may proceed with payment request submittal.

Payment Request Schedule: Grantee may submit a payment request for cost reimbursement quarterly, and no more often than monthly, upon Department approval of task deliverables.

Task 2: Project Bidding and Construction

Description: The Grantee will utilize either a design/build contractor previously hired through a Competitive Contract Negotiation Act (CCNA) bidding process or through a project specific competitive bidding process for the project (Request for Proposal/Bid). FDEP has reviewed the City's bidding process and standard construction contract agreement. The contractor will construct the Phase 2 improvements as outlined in the construction plans upon receipt of the City's Notice to Proceed. The contractor will be given a specified amount of time to complete the project. The amount of time needed to complete the project will be determined at the end of the design of the project.

Deliverable: The Grantee will submit 1) Final construction plans; 2) permit from reviewing agencies; 3) fully executed guaranteed maximum price contract and Notice to Proceed between Grantee and design/build contractor or project contractor; 4) Dated color-photographs of the site before, during, and upon construction completion; and 5) the Grantee will provide as-built certification with a signed statement from a Florida Licensed Professional Engineer indicating construction has been completed in accordance with the design and acceptance of the completed project.

Performance Measure: The Department's Grant Manager will review the deliverables to verify that they meet the specifications in the Grant Work Plan and this task description. Upon review and written acceptance by the Department's Grant Manager of all deliverables under this task, the Grantee may proceed with payment request submittal.

Payment Request Schedule: Grantee may submit a payment request for cost reimbursement quarterly, and no more often than monthly, upon Department approval of task deliverables.

Task 3: Quality Assurance Project Plan

Task Description: The Grantee will prepare, submit, and receive approval on a Quality Assurance Project Plan (QAPP) prior to commencement of any monitoring associated with the project. The QAPP must specify the sampling procedures, locations, instruments, frequencies, and parameters to be sampled. The Grantee will use the format provided by the Department's Grant Manager, if applicable. The following lists the expected deliverable details that are associated with the quality assurance requirements of this Grant:

1. An initial planning review technical audit as specified in Section 5.b.i. of **Exhibit D** shall be completed by the Grantee after the second completed sampling and analysis event, but no later than the fourth. The Grantee shall submit a report of this initial planning review audit within one month of the review, and that report shall include a statement of usability as described in Section 5.b.iii. of **Exhibit D**.
2. Ongoing planning review technical audits shall be conducted annually thereafter for the remainder of the Grant, if applicable to the duration of the Grant, as described in Section 5.b.ii. of **Exhibit D**. The Grantee shall submit a report of each annual planning review audit with a statement of usability (Section 5.b.iii), within one month of the review.
3. The Grantee shall submit the Grant Quality Assurance Plan (QA Plan) as described in Section 6 of **Exhibit D** to the DEP Grant Manager no later than 120 days *prior to the commencement of field and laboratory activities*. Failure to submit the QA Plan in this required timeframe shall result in a delay of approval to begin work until the document has been submitted to the Department and approved (or conditionally approved) by the DEP Grant Manager.
   (i) The Grantee may submit a version of the QA Plan to the Department for approval no more than three times. If the Grantee fails to obtain approval for the QA Plan after the third (final) submission to the Department, the DEP Grant Manager may suspend or terminate the Grant per the remedies included in the Grant.
   (ii) Within 45 days of receipt of the QA Plan by the Department, the Department shall review and either approve the QA Plan or provide comments to the Grantee as to why the QA Plan is not approved. If further revisions are needed, the Grantee shall then have 15 days from the receipt of review comments to respond. The Department shall respond to all revisions to the QA Plan within 30 days of receipt of any revisions.
   (iii) If the review of the QA Plan by the Department is delayed beyond sixty (60) days after the QA Plan is received by the Department, through no fault of the Grantee, the Grantee shall have the option, after the QA Plan is approved, of requesting an extension in the term of the Grant for a time not to exceed the period of delayed review and approval. This option must be

exercised at least sixty (60) days prior to the current termination date of the Grant. The Department shall then determine whether the request for an extension is allowed.

(iv) If any significant changes in sampling project design, changes in the project analyte list, changes in procedures or test methods, changes in equipment, or changes in key personnel occur, the Grantee shall submit appropriate revisions of the QA Plan to the DEP Grant Manager for review in writing. The proposed revisions may not be implemented until they have been approved (or conditionally approved) by the DEP Grant Manager. If the Grantee fails to submit the required revisions, the DEP Grant Manager may suspend or terminate the Grant per the remedies included in the Grant.

Deliverable 3: 1) The Grantee will submit the Draft QAPP electronically in Word format to the Department's Grant Manager (upon request, the Grantee will provide a hardcopy of the Draft QAPP to the Department's Grant Manager); and 2) the Grantee will submit the Final Department-approved QAPP submitted electronically in Word format to the Department's Grant Manager (upon request, the Grantee will provide a paper copy of the Final QAPP to the Department's Grant Manager).

Performance Standard: The Department's Grant Manager will ensure review of the draft QAPP for compliance with this Agreement and the quality assurance requirements, to ensure sufficient monitoring is planned to measure project effectiveness, and provide comments to the Grantee as needed prior to Final QAPP submittal. The Department's Grant manager will review the Final QAPP to ensure that draft comments have been incorporated and the Final QAPP is in compliance with this Agreement and the quality assurance requirements.

Task 4: Operations and Monitoring

Description: Following each sampling activity, the laboratory and field data will be interpreted, and a progress report will be sent to the City for review. The report will include, but not limited to, graphical and tabular summary of water and flow data collected along with a brief narrative of the nitrogen load reductions. At the end of the scheduled sampling events, the data will be compiled, and recommendations/results will be made.

Loading calculations and flow measurements will be established from the control structures at the influent and effluent of each treatment train. The water elevations will be recorded over time and the flow will be calculated.

Deliverable: 1) The Grantee will submit copies of the laboratory/field data and the progress report sent to the City upon approval; and 2) at the end of the scheduled sampling events, the Grantee will submit the final data and recommendations/results.

Performance Measure: The Department's Grant Manager will review the deliverables to verify that they meet the specifications in the Grant Work Plan and this task description. Upon review and written acceptance by the Department's Grant Manager of all deliverables under this task, the Grantee may proceed with payment request submittal.

Payment Request Schedule: Grantee may submit a payment request for cost reimbursement quarterly, and no more often than monthly, upon Department approval of task deliverables.

Task 5: Draft Final Report and Final Report

Task Description: The Grantee will prepare a Draft Final Report summarizing the results of the project, including all tasks in the Grant Work Plan, and describing how the project site has been returned to the pre-project condition. The report will review both influent and effluent flows and capture the outcome and results for such components as, but not limited to nitrate (NO3) removal, nitrate, total nitrogen, dissolved oxygen levels, and temperature. The Final Report must include at a minimum:

- Project location and background, project description and timeline, grant award amount and anticipated benefits.
- Financial summary of actual costs versus the budget, along with any changes required to the budget. Include any match or locally pledged contributions provided, along with other related project work performed outside of this Agreement to identify the overall project cost.
- Discussion of project schedule versus actual completion, including changes required to the schedule, unexpected site conditions and adjustments, significant unexpected delays and corrections, and/or other significant deviations from the original project plan.
- Summary of activities completed as well as those not completed and why, as well as a brief summary of any additional phases yet to be completed.
- Photo documentation of work performed (before, during and after), appropriate figures (site location, site plan[s], etc.), appropriate tables summarizing data/information relevant to Grant Work Plan tasks, and appropriate attachments relevant to the project.
- Discussion of whether the anticipated benefits have been/will be realized (e.g., why a Best Management Practice approach did or did not exceed the expected removal efficiency).
- Summary of monitoring activities completed and any not completed and why, monitoring results, and an interpretation of data based on planned versus realized results.

Deliverable 5: 1) An electronic copy of the Draft Final Report in Word format submitted to the Department's Grant Manager for review prior to submission of the Final Report. Upon request, the Grantee will provide a hardcopy of the Draft Final Report; and 2) upon review and comment of the Draft Final Report, an electronic copy of the Final Report in Word format submitted to the Department's Grant Manager to include DEP draft review comments. Upon request, the Grantee will provide a hardcopy of the Final Report.

Performance Standard: The Department's Grant Manager will review the submitted Draft Final Report to verify that it meets the specifications in the Grant Work Plan and this task description, and provide any comments to the Grantee for incorporation into the Final Report.

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PROJECT TIMELINE: The tasks must be completed by the corresponding task end date and all deliverables must be received by the designated due date.

Task/ Deliverable No.	Task or Deliverable Title	Task Start Date	Task End Date	Deliverable Due Date/ Frequency
1	Survey, Design, Planning, and Permitting	07/01/2020	01/31/2021	6 months
2	Project Bidding and Construction	02/28/2021	05/31/2022	16 months
3	Quality Assurance Project Plan	01/31/2021	02/28/2021	1 month
4	Operations and Monitoring	06/01/2022	07/31/2023	14 months
5	Draft and Final Report	06/01/2022	07/31/2023	14 months

BUDGET DETAIL BY TASK:

Task No.	Budget Category	Budget Amount
1	Contractual Services	$50,000
	Total for Task:	**$50,000**
2	Contractual Services	$299,276
	Total for Task	**$299,276**
3	Contractual Services	$50,724
	Total for Task	**$50,724**
	Total:	**$400,000**

PROJECT BUDGET SUMMARY: Cost reimbursable grant funding must not exceed the category totals for the project as indicated below. Grantee may invoice quarterly, and no more often than monthly.

Category Totals	Grant Funding, Not to Exceed, $
Contractual Services Total	$400,000
Total:	**$400,000**

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Public Records Requirements

Attachment 4

1. Public Records.

a. If the Agreement exceeds $35,000.00, and if Grantee is acting on behalf of Department in its performance of services under the Agreement, Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.

b. The Department may unilaterally terminate the Agreement if Grantee refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

For the purposes of this paragraph, the term "contract" means the "Agreement." If Grantee is a "contractor" as defined in section 119.0701(1)(a), F.S., the following provisions apply and the contractor shall:

a. Keep and maintain Public Records required by Department to perform the service.

b. Upon request, provide Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.

c. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.

d. Ensure that 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 the contract term and following completion of the contract if the contractor does not transfer the Public Records to Department.

e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department's custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.

f. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT:**

Telephone: **(850) 245-2118**
Email: public.services@floridadep.gov
Mailing Address: **Department of Environmental Protection**
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

Rev. 4/27/2018

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Audit Requirements
(State and Federal Financial Assistance)

Attachment 5

The administration of resources awarded by the Department of Environmental Protection *(which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient *(which may be referred to as the "Recipient", "Grantee" or other name in the agreement)* may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 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 DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient 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 recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient 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 Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. 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 recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.

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

3. A recipient that expends less than $750,00 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient 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 mist be paid from recipient resources obtained from other federal entities.

4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at www.cfda.gov

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of $750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient 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) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, 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. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than $750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient 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, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at https://apps.fldfs.com/fsaa for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at http://www.leg.state.fl.us/Welcome/index.cfm, State of Florida's website at http://www.myflorida.com/, Department of Financial Services' Website at http://www.fldfs.com/and the Auditor General's Website at http://www.myflorida.com/audgen/.

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), Florida Statutes, 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, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 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 recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512

   A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at http://harvester.census.gov/facweb/

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department of Environmental Protection at one of the following addresses:

By Mail:
Audit Director
Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:
FDEPSingleAudit@dep.state.fl.us

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 (http://flauditor.gov/) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:
Audit Director
Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:
FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection 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) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

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

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program A	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				$	
Federal Program B	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				$	

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program A	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.:(eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program A	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program B	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program A	State Awarding Agency	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
INV005	Florida Department of Environmental Protection	2019-2020	37.103	Innovative Technologies	$400,000	140895
State Program B	State Awarding Agency	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

Total Award	$400,000	

Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [www.cfda.gov] and/or the Florida Catalog of State Financial Assistance (CSFA) [https://apps.fldfs.com/fsaa/searchCatalog.aspx], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]. The services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Progress Report Form

Exhibit A

DEP Agreement No.:	**INV005**		
Grantee Name:	City of Bonita Springs		
Grantee Address:	9101 Bonita Beach Rd, Bonita Springs, FL 34135		
Grantee's Grant Manager:	Matt Feeney	**Telephone No.:**	(239) 949-6246
Reporting Period:			
Project Title:	Felts Avenue Bio-Reactor		

Provide the following information for all tasks and deliverables identified in the Grant Work Plan: a summary of project accomplishments for the reporting period; a comparison of actual accomplishments to goals for the period; if goals were not met, provide reasons why; provide an update on the estimated time for completion of the task and an explanation for any anticipated delays and identify by task.
NOTE: Use as many pages as necessary to cover all tasks in the Grant Work Plan.

<u>The following format should be followed:</u>
Task 1:
Progress for this reporting period:
Identify any delays or problems encountered:

This report is submitted in accordance with the reporting requirements of DEP Agreement No. INV005 and accurately reflects the activities associated with the project.

Signature of Grantee's Grant Manager

Date

Rev. 5/30/2017

Exhibit C
PAYMENT REQUEST SUMMARY FORM

DEP Agreement No.: INV005 Agreement Effective Dates: ______________________

Grantee: City of Bonita Springs Grantee's Grant Manager: Matt Sweeney

Mailing Address: 9101 Bonita Beach Rd, Bonita Springs, FL 34135

Payment Request No. _____________________ Date of Payment Request: _________________

Performance Period (*Start date – End date*): ____

Task/Deliverable No(s). ______________ Task/Deliverable Amount Requested: $_____________

GRANT EXPENDITURES SUMMARY SECTION

CATEGORY OF EXPENDITURE *(As authorized)*	**AMOUNT OF THIS REQUEST**	**TOTAL CUMULATIVE PAYMENT REQUESTS**	**MATCHING FUNDS FOR THIS REQUEST**	**TOTAL CUMULATIVE MATCHING FUNDS**
Salaries/Wages	**$ N/A**	**$**	**$N/A**	**$N/A**
Fringe Benefits	**$ N/A**	**$**	**$N/A**	**$N/A**
Indirect Cost	**$ N/A**	**$**	**$N/A**	**$N/A**
Contractual (Subcontractors)	**$**	**$**	**$N/A**	**$N/A**
Travel	**$ N/A**	**$**	**$N/A**	**$N/A**
Equipment (Direct Purchases)	**$ N/A**	**$**	**$N/A**	**$N/A**
Rental/Lease of Equipment	**$ N/A**	**$**	**$N/A**	**$N/A**
Miscellaneous/Other Expenses	**$ N/A**	**$**	**$N/A**	**$N/A**
Land Acquisition	**$ N/A**	**$**	**$N/A**	**$N/A**
TOTAL AMOUNT	**$**	**$**	**$N/A**	**$N/A**
TOTAL TASK/DELIVERABLE BUDGET AMOUNT	**$**		**$N/A**	
Less Total Cumulative Payment Requests of:	**$**		**$N/A**	
TOTAL REMAINING IN TASK	**$**		**$N/A**	

GRANTEE CERTIFICATION

Complete Grantee's Certification of Payment Request on Page 2 to certify that the amount being requested for reimbursement above was for items that were charged to and utilized only for the above cited grant activities.

Grantee's Certification of Payment Request

I, ____ , on behalf of the

(Print name of Grantee's Grant Manager designated in the Agreement)

City of Bonita Springs, do hereby certify for DEP Agreement No. **INV005** and Payment Request No. ___ that:

- ☑ The disbursement amount requested is for allowable costs for the project described in Attachment A of the Agreement.
- ☑ All costs included in the amount requested have been satisfactorily purchased, performed, received, and applied toward completing the project; such costs are documented by invoices or other appropriate documentation as required in the Agreement.
- ☑ The Grantee has paid such costs under the terms and provisions of contracts relating directly to the project; and the Grantee is not in default of any terms or provisions of the contracts.

Check all that apply below:

- ☐ All permits and approvals required for the construction, which is underway, have been obtained.
- ☐ Construction up to the point of this disbursement is in compliance with the construction plans and permits.
- ☐ The Grantee's Grant Manager relied on certifications from the following professionals that provided services for this project during the time period covered by this Certification of Payment Request, and such certifications are included:

Professional Service Provider (Name / License No.)	Period of Service (mm/dd/yy – mm/dd/yy)

Grantee's Grant Manager Signature	Grantee's Fiscal Agent Signature
Print Name	Print Name
Telephone Number	Telephone Number

INSTRUCTIONS FOR COMPLETING
PAYMENT REQUEST SUMMARY FORM

DEP AGREEMENT NO.: This is the number on your grant agreement.
AGREEMENT EFFECTIVE DATES: Enter agreement execution date through end date.
GRANTEE: Enter the name of the grantee's agency.
GRANTEE'S GRANT MANAGER: This should be the person identified as grant manager in the grant Agreement.
MAILING ADDRESS: Enter the address that you want the state warrant sent.
PAYMENT REQUEST NO.: This is the number of your payment request, not the quarter number.
DATE OF PAYMENT REQUEST: This is the date you are submitting the request.
PERFORMANCE PERIOD: This is the beginning and ending date of the performance period for the task/deliverable that the request is for (this must be within the timeline shown for the task/deliverable in the Agreement).
TASK/DELIVERABLE NO.: This is the number of the task/deliverable that you are requesting payment for and/or claiming match for (must agree with the current Grant Work Plan).
TASK/DELIVERABLE AMOUNT REQUESTED: This should match the amount on the "*TOTAL TASK/DELIVERABLE BUDGET AMOUNT"* line for the "*AMOUNT OF THIS REQUEST*" column.

GRANT EXPENDITURES SUMMARY SECTION:

"AMOUNT OF THIS REQUEST" COLUMN: Enter the amount that was expended for this task during the period for which you are requesting reimbursement for this task. This must agree with the currently approved budget in the current Grant Work Plan of your grant Agreement. Do not claim expenses in a budget category that does not have an approved budget. Do not claim items that are not specifically identified in the current Grant Work Plan. Enter the column total on the "*TOTAL AMOUNT*" line. Enter the amount of the task on the "*TOTAL TASK BUDGET AMOUNT*" line. Enter the total cumulative amount of this request **and** all previous payments on the "*LESS TOTAL CUMULATIVE PAYMENT REQUESTS OF*" line. Deduct the "*LESS TOTAL CUMULATIVE PAYMENT REQUESTS OF*" from the "*TOTAL TASK BUDGET AMOUNT*" for the amount to enter on the "*TOTAL REMAINING IN TASK*" line.

"TOTAL CUMULATIVE PAYMENT REQUESTS" COLUMN: Enter the cumulative amounts that have been requested to date for reimbursement by budget category. The final request should show the total of all requests; first through the final request (this amount cannot exceed the approved budget amount for that budget category for the task you are reporting on). Enter the column total on the "*TOTALS*" line. **Do not enter anything in the shaded areas.**

"MATCHING FUNDS" COLUMN: Enter the amount to be claimed as match for the performance period for the task you are reporting on. This needs to be shown under specific budget categories according to the currently approved Grant Work Plan. Enter the total on the "*TOTAL AMOUNT*" line for this column. Enter the match budget amount on the "*TOTAL TASK BUDGET AMOUNT*" line for this column. Enter the total cumulative amount of this and any previous match claimed on the "*LESS TOTAL CUMULATIVE PAYMENTS OF*" line for this column. Deduct the "*LESS TOTAL CUMULATIVE PAYMENTS OF*" from the "*TOTAL TASK BUDGET AMOUNT*" for the amount to enter on the "*TOTAL REMAINING IN TASK*" line.

"TOTAL CUMULATIVE MATCHING FUNDS" COLUMN: Enter the cumulative amount you have claimed to date for match by budget category for the task. Put the total of all on the line titled "*TOTALS*." The final report should show the total of all claims, first claim through the final claim, etc. **Do not enter anything in the shaded areas.**

GRANTEE'S CERTIFICATION: Check all boxes that apply. Identify any licensed professional service providers that certified work or services completed during the period included in the request for payment. **Must be signed by both the Grantee's Grant Manager as identified in the grant agreement and the Grantee's Fiscal Agent.**

NOTES:
If claiming reimbursement for travel, you must include copies of receipts and a copy of the travel reimbursement form approved by the Department of Financial Services, Chief Financial Officer.

Documentation for match claims must meet the same requirements as those expenditures for reimbursement.

Exhibit D

Department of Environmental Protection
Quality Assurance Requirements for Research Grants
Research Field & Lab Services

1. **GENERAL REQUIREMENTS AND DEFINITIONS**
   a. As applicable to the Scope of Services (i.e., grant work plan) described in the grant, the research performed under this Grant shall conform to the requirements set forth in Chapter 62-160, Florida Administrative Code (F.A.C.).
   b. Hereinafter, "DEP" or "Department" refers to the Florida Department of Environmental Protection.
   c. "Grantee" shall refer to the grantee, subcontractors, subgrantees, or any entity procured to conduct work under the Grant.
   d. "Sample" and "sampling" refers to the collection of sample media (e.g., water, sediment, soils, chemical wastes) or biological organisms, and/or analysis, observation or measurement activities conducted in the field or in a laboratory that will be performed under the terms of the Grant.
2. **FIELD PROCEDURES AND TEST METHODS**
   a. The field Standard Operating Procedures (SOPs) and/or test methods to be used for contracted field research (including any written modifications thereof) shall be those approved by the Department, as described in the Grant Quality Assurance Plan (hereinafter, "QA Plan," see Section 9, below). Any additional information applicable to the SOPs and/or test methods and/or other procured field activities shall also be described in or attached to the QA Plan.
   b. The Grantee shall specify the calibration and quality control (QC) requirements to be met for all procured field research (as applicable), and shall provide these requirements in the field SOPs and/or test methods and/or other information as described in 2.a. above.
   c. Additional quality control expectations:
      (i) Field procedures and/or test methods shall provide results that meet all applicable Grant data quality objectives.
      (ii) All field testing procedures shall follow the testing methods as approved for the Grant and described in 2.a., above.
      (iii) The Grantee shall adhere to the quality control requirements specified in the field SOPs and/or test methods and associated documents described in 2.a., above, and as otherwise specified in these QA Requirements.
      (iv) The Grantee shall calculate any applicable field sample results per the procedures specified in the field SOPs and/or test methods approved for the Grant, as described in 2.a., above.
3. **FIELD REPORTING, DOCUMENTATION AND RECORDS RETENTION**
   a. All field records as outlined in Rule 62-160.240, F.A.C., and applicable to the field research described in the Grant and associated QA Plan (see Section 9, below), any other records indicated in the Grant Scope of Services or QA Plan, and any other documentation and reports associated with work performed for the Grant, shall be retained by the Grantee for a minimum of five years after the generation or completion of the records; or, copies of all relevant records shall be provided to the Department Grant Manager for retention. Longer retention times as specified in the Grant, if applicable, shall supersede the above minimum retention requirement.
   b. The field records shall include relevant information for the procedures described in 2.a., above.
   c. All field data and supporting information shall be reported for the Grant according to applicable requirements in Rule 62-160.240, F.A.C.

d. Any documentation or reports specifically identified in the Grant as deliverable work products shall be retained as in 3.a., above.
e. All field records generated or retained by the Grantee that are associated with Grant work shall be linked per applicable sample or site identification, including sample collection and/or field measurement location and field event, and shall be organized so that any information can be quickly and easily retrieved for inspection, copying or distribution.
f. All reports shall be submitted to the DEP Grant Manager and shall include all report deliverables specified by the Grant, its exhibits, the QA Plan, and any information required by Rule 62-160.240, F.A.C., (as described in 3.a. and 3.c., above), where applicable to the field research conducted under the Grant.
g. The Department reserves the right to request some or all of the field information in an electronic format, and all reporting deliverables shall be submitted to the Department in the format(s) specified in the Grant and/or Scope of Services, and/or as described in the approved QA Plan (see Section 9).
h. Upon request by the Department Grant Manager, or as required by the Grant, copies of original reports or field records shall be submitted to the DEP Grant Manager, where applicable.
i. In addition to any field reports provided per Grant deliverable requirements and subsections c., d., f., g., and h., above, the Grantee shall submit any of the field information and/or records associated with the contracted field research as described in this section (Section 3) upon request by the DEP Grant Manager, including any of the following that are applicable to the Grant work:
    - Site name and location information
    - Field identification for each sample container and the associated analytes (test methods) for which the container was collected
    - Date and time of sample collection
    - Sample collection depth, if applicable
    - Sample collection method identified
    - Indication of filtered samples, when applicable
    - Field test measurement results:
        - Parameter name
        - Measurement method
        - Result
        - Result unit
    - Appropriate Data Qualifier Codes for specific sample results, per Table 1 of Chapter 62-160, F.A.C.
    - Narrative comments providing explanations, descriptions and/or discussions of: field conditions impacting quality control (QC) for sample collections, unacceptable field measurements, field-testing meter calibration verification failures, or other problems related to the sampling event, and corrective/preventive actions taken for the items noted (e.g., for blank contamination or meter calibration failure)
j. Unequivocal documentation links between each reported field QC measure (e.g., QC blanks, duplicates or replicates, calibration verification, other research QC measure) and the associated sample result(s) shall be maintained for all applicable measurements and/or other data.

4. **LABORATORY PROCEDURES AND TEST METHODS**

a. The laboratory Standard Operating Procedures (SOPs) and/or test methods (including any modifications thereof) to be used for the contracted analytical research shall be those approved by the Department, as described in the QA Plan (Section 9, below). Any additional information applicable to the SOPs and/or test methods shall also be described in or attached to the QA Plan.

b. If applicable to the Grant Scope of Services, the laboratory shall report Practical Quantitation Limits (PQLs) and/or Method Detection Limits (MDLs), or other specified limits of detection and/or quantitation with the results of sample analyses for the Grant. MDLs and/or PQLs shall only be required for test methods that are technically amenable to the determination of MDLs and/or PQLs. For those test methods where the determination of MDLs and/or PQLs are not technically feasible, the laboratory shall report a value or increment representing the lower limit of the working range of the test method, however determined by the laboratory. The laboratory shall indicate whether the reported limit represents a limit of detection or quantitation, if applicable. In all cases, limits of detection and quantitation other than MDLs and PQLs shall be explicitly defined and evaluated by the laboratory. All limits shall be as listed in the applicable laboratory test method, SOP, Quality Manual or other Grant exhibit, or as listed in the QA Plan. The reported limits shall meet the data quality objectives for analytical sensitivity and quantitation applicable to the Grant work.

c. When reporting limits of detection and/or quantitation are applicable to the Grant work, the laboratory shall report all sample results analyzed at or above the MDL or other defined limit, and shall qualify all results below the laboratory PQL or other defined limit, using the appropriate data qualifier codes in Table 1 in Rule 62-160.700, F.A.C.

d. The laboratory shall specify the laboratory's calibration and quality control (QC) requirements to be met for all research analyses, and shall provide these requirements in the laboratory SOPs and/or test methods and/or other documents, as described in 4.a. above.

e. Additional laboratory quality control expectations:
   (i) The selected laboratory test methods shall provide results that meet applicable Grant data quality objectives.
   (ii) All laboratory testing procedures shall follow the analytical methods as approved for the Grant and described in 4.a., above.
   (iii) The laboratory shall adhere to the quality control requirements specified in the laboratory test methods and associated documents described in 4.a., above, and as otherwise specified in these QA Requirements.
   (iv) The laboratory shall calculate all sample results according to the procedures specified in the analytical test methods approved for the Grant, as described in 4.a., above.

5. **LABORATORY REPORTING, DOCUMENTATION AND RECORDS RETENTION**

a. All laboratory records as outlined in Rule 62-160.340, F.A.C., and applicable to the analytical research described in the Grant and QA Plan (see Section 9, below), any other records indicated in the Grant or its exhibits, and any other documentation and reports associated with work performed for the Grant, shall be retained by the laboratory for a minimum of five years after the generation or completion of the records; or, copies of all relevant records shall be provided to the Department Grant Manager for retention. Longer retention times as specified in the Grant, if applicable, shall supersede the above minimum retention requirement.

b. The laboratory records shall include relevant information for the procedures described in 4.a., above.

c. All laboratory data and supporting information shall be reported for this Grant according to applicable requirements in Subsection 62-160.340(3), F.A.C., (except that the requirements to generate reports that comply with Rule 64E-1.005, F.A.C., and the NELAC Institute [TNI] Standards are waived), and applicable requirements in Subsections 62-160.340(5) – (8), F.A.C., (except that requirements in the TNI Standards for amended laboratory reports are waived; however, any amended laboratory reports resubmitted by the Grantee shall be prominently marked as amended or revised).

d. Any documentation or reports specifically identified in the Grant as deliverable work products shall be retained as in 5.a., above.
e. All laboratory records retained by the laboratory that are associated with work performed under the Grant shall be organized so that any information can be quickly and easily retrieved for inspection, copying or distribution.
f. All laboratory reports shall be submitted to the DEP Grant Manager and shall include all report deliverables specified by the Grant and/or its exhibits, the QA Plan, and any information required by Rule 62-160.340, F.A.C., (as described in 5.a. and 5.c., above), where applicable to the analytical research conducted under this Grant.
g. The Department reserves the right to request some or all laboratory information in an electronic format, and all reporting deliverables shall be submitted to the Department in the format(s) specified in the Grant and/or Scope of Services, and/or as described in the approved QA Plan (see Section 9).
h. Upon request by the Department Grant Manager or as required by the Grant, copies of original laboratory reports shall be submitted to the Grant Manager, where applicable.
i. In addition to any reports of sample results provided per Grant deliverable requirements and subsections c., f., g., and h., above, the Grantee shall submit any of the laboratory information and/or records associated with the contracted research as described in this section (Section 5) upon request by DEP, including any of the following:
    - Laboratory sample identification (ID) and associated Field ID
    - Analytical/test method
    - Parameter/analyte name
    - Analytical result (including dilution factor)
    - Result unit
    - Applicable DEP Data Qualifier Codes per Table 1 in Rule 62-160.700, F.A.C.
    - Result comment(s) to include corrective/preventive actions taken for any failed QC measure (e.g., QC sample result, calibration failure) or other problem related to the analysis of the samples
    - Date and time of sample preparation (if applicable)
    - Date and time of sample analysis
    - Results of laboratory verification of field preservation of received samples
    - Sample matrix
    - MDL, Limit of Detection (LOD) or other defined limit of detection or working range
    - PQL, Limit of Quantitation (LOQ) or other defined limit of quantification or working range
    - Field and laboratory QC blank results:
        - Laboratory QC blank analysis results as required by the test method or laboratory QC procedures (e.g., method blank)
        - Results for trip blanks, field blanks and equipment blanks, as applicable to the project and as specified in the Grant Scope of Services or other exhibits, or in the QA Plan (Note: The listed field-QC blanks are defined in DEP SOP FQ 1000)
    - Results for field duplicates (or replicates), as applicable to the project and as specified in the Grant, other Grant exhibits or in the QA Plan
    - Results for other QC and calibration verification results, as applicable to the specific test methods and laboratory QC procedures used for the contracted research, including, but not limited to:
        - Results of sample matrix spikes, laboratory duplicates or matrix spike duplicates
        - Results of surrogate spike analyses
        - Results of laboratory control samples (LCS)

- Results of calibration verifications
- Results of other research QC procedures and measures
- Acceptance criteria used to evaluate each reported quality control measure

j. Unequivocal documentation links between each reported laboratory quality control measure (e.g., QC blanks, matrix spikes, LCS, duplicates, calibration verification, other QC measure) and the associated sample result(s) shall be maintained for all contracted analyses.

6. **TECHNICAL AUDITS BY THE DEPARTMENT**
   Pursuant to Rule 62-160.650, F.A.C., the Department may conduct audits of field and laboratory activities. In addition to allowing Department representatives to conduct onsite audits of contracted work in the field or at Grantee facilities, upon request by the Department, field and laboratory records pertinent to the contracted research as described above (see Sections 3 and 5, above) shall be provided by the Grantee. If an audit by the Department results in a determination that the reported data are not usable for the purpose(s) of the Grant, do not meet the data quality objectives specified by the Grant, do not meet other applicable Department criteria described in the Grant, its exhibits, the QA Plan (see Section 9, below) or these QA Requirements, do not meet applicable data validation criteria outlined in Rule 62-160.670, F.A.C., or are not otherwise suitable for the intended use of the data (however applicable), the DEP Grant Manager shall pursue remedies available to the Department pursuant to the terms of the Grant.
7. **QUALITY SYSTEMS AUDITS**
   The Grantee shall ensure that any required field or laboratory quality system audits are performed per the Grantee's Quality Manual or other relevant internal quality assurance documents. The results of these audits shall be documented in the Grantee's records. Copies of the audit reports or results for the audits shall be provided to the DEP Grant Manager upon request.
8. **STATEMENTS OF USABILITY**
   When reporting contracted field or analytical research results, the Grantee shall provide statements about data usability as necessary to address the topics in subsections a. – c., below, relative to the Grant data quality objectives and any data quality indicators that may be specified in the Grant, its exhibits, the QA Plan (see Section 9, below), or these QA Requirements.
   a. All applicable data quality acceptance and usability criteria for the Grant, as specified in the procedures, test methods, QA Plan, Quality Manual(s), other Grant exhibits, or these QA Requirements shall be met.
   b. All quality control measures shall be evaluated according to the acceptance criteria listed in the applicable procedures, test methods, QA Plan, Quality Manual(s), other Grant exhibits or these QA Requirements.
   c. All sample results shall be evaluated according to all applicable usability criteria specified in the procedures, test methods, QA Plan, Quality Manual(s), other Grant exhibits, or these QA Requirements.
9. **QA PLAN**
   a. The Grantee shall prepare a detailed project proposal or sampling and analysis plan (hereafter, QA Plan) that discusses the information contained in Rule 62-160.600, F.A.C., as summarized in the following list of topics (as applicable):
      - purpose and intended use of data;
      - description of work to be conducted;
      - data reporting and storage procedures;
      - training required to conduct work;
      - sampling sites, populations or organisms, analytes and schedules, as applicable to the research;
      - sampling and analytical methods;

- quality control activities;
- evaluation of the research project design to meet Grant research objectives; and
- statistical and/or other procedures and criteria for evaluation of experimental data.

b. The Grantee shall prepare the QA Plan following the Research QA Plan Template provided by the Grant Manager. If the topics in 9.a. above are addressed in other documents such as study plans, journal articles, internal SOPs, or other technical literature, those documents may be referenced in the QA Plan, and then must be provided with the QA Plan to the Grant Manager. Electronic file copies or links for the documents are acceptable. The Department will not be responsible for the Grantee's cost of providing any copyrighted materials.

c. The Grantee shall submit the QA Plan and any referenced documents to the DEP Grant Manager as specified in the Grant Scope of Services.

d. Work may not begin for specific Grant tasks until approval (or conditional approval) has been received by the Grantee from the DEP Grant Manager. Sampling and analysis for the Grant may not begin until the Grant QA Plan has been approved (or conditionally approved).

e. Once approved, the Grantee shall follow the procedures and methods described in the Grant QA Plan and any other relevant quality assurance documents applicable to these QA Requirements, including, but not limited to:
   - Ensuring that all stated quality control measures are collected, analyzed and evaluated for acceptability;
   - Using only the methods and procedures approved in the QA Plan; and
   - Using only the equipment approved in the QA Plan.

f. If any significant changes in the research project design, changes in the project analyte list, changes in procedures or test methods, changes in equipment, changes in Grantee organizations or changes in key personnel occur, the Grantee shall submit appropriate revisions of the QA Plan to the DEP Grant Manager for review, within timeframes specified in the Grant Scope of Services. The proposed revisions may not be implemented until they have been approved (or conditionally approved) by the DEP Grant Manager, as documented through written or electronic correspondence.

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	**20-07-186**

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve the 2020-2021 Interlocal Agreement for Stray Animal Control Services between Lee County and the City of Bonita Springs.

MEETING DATE: 7/15/2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
☐	PRESENTATIONS	☐	STATUTE	Carly Sanseverino Staff Attorney
☒	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:

Attached is the 2020-2021 Interlocal Agreement for Stray Animal Control Services between Lee County and the City of Bonita Springs. The term of the Agreement is from October 1, 2020 through September 30, 2021. This year's annual fee of $126,826.00 is an allocated percentage (by municipal jurisdiction) of the County's net expenses for the most recent year in which a full year's expenses are available (Fiscal Year 2018-2019). Last years contract was in the amount of $125,134.

Attachment: Interlocal Agreement

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ **YES** ☒ **NO**
IF YES, WHICH STRATEGIC OBJECTIVE?

STAFF RECOMMENDATIONS: **Approve the Interlocal agreement**

REVIEWED BY:

City Manager: [signature] ____________________
City Attorney: ____________________
City Clerk: ____________________
Department Director: ____________________

COUNCIL ACTION:

☐ **APPROVED**
☐ **DENIED**
☐ **DEFERRED**
☐ **OTHER**

Lee County
Southwest Florida

BOARD OF COUNTY COMMISSIONERS

June 16, 2020

Christopher Campbell
Code Enforcement Supervisor
Bonita Springs Neighborhood Services
27300 Old 41 Rd.
Bonita Springs, FL 34135

Dear Mr. Campbell,

Enclosed please find the 2020-2021 Interlocal Agreement between Lee County and the City of Bonita Springs for Stray Animal Control Services. Please make three copies, have all three signed by the appropriate individuals, and return them to me at the address below. Once we receive approval from the Board of County Commissioners, we will supply you with an original for your records.

Should you have any questions regarding this document please do not hesitate to contact me.

Sincerely,

Sandra Tapfumaneyi
Director
Lee County Domestic Animal Services
5600 Banner Drive
Fort Myers, FL 33912
(239) 533-9200
STapfumaneyi@leegov.com

Lee County
Southwest Florida

2020-2021 INTERLOCAL AGREEMENT FOR STRAY ANIMAL CONTROL SERVICES

This 2020-2021 Inter-local Agreement for Stray Animal Control Services *("Agreement")* is made and entered into this _____ day of _______________, _______ by and between LEE COUNTY, Florida, a political subdivision of the State of Florida *("County")* and the CITY OF BONITA SPRINGS, a municipal corporation of the State of Florida *("City")*.

WHEREAS, pursuant to Section 163.01, Florida Statutes, the County has the authority to enter into agreements for sharing of certain governmental powers and obligations; and

WHEREAS, the City wants to contract with the County to provide stray animal control services; and

WHEREAS, the County agrees to provide stray animal control services to the City utilizing the County's Domestic Animal Services in accordance with the terms of this Agreement;

NOW, THEREFORE, in consideration of the foregoing, and of the mutual covenants and conditions set forth herein, the City and the County, both intending to be legally bound, hereby agree to the following terms and conditions:

1. Initial Term of the Agreement: The initial term of this Agreement is from October 1, 2020 through September 30, 2021.

2. Extension/Renewal: This Agreement may be extended/renewed for successive one year periods. As a condition of the County's extension/renewal, the amount of Compensation to be paid to the County may be increased or decreased. The City has the right to accept or reject such an adjustment in the amount of Compensation.

3. Compensation to County: The annual fee of $126,826.00 is based upon the County's net expenses for the most recent year where a full year's actual expenses are available (Fiscal Year 2018-2019). The City also agrees to compensate the County for Capital Improvement Projects based upon the percentage of annual total number of stray animals allocated by jurisdiction.

4. Regulations Utilized: The City agrees to utilize the County's Animal Control Ordinance, section numbering and external fee manual for citations of violations.

5. Quarterly Invoicing: The County will invoice the City on a quarterly basis for services provided, and the City will make payment in accordance with the following:

Quarter	Period Covered	Invoice Date	Payment Due Date
1st	Ending December 31, 2020	January 2, 2021	February 15, 2021
2nd	Ending March 31, 2021	April 2, 2021	May 15, 2021
3rd	Ending June 30, 2021	July 2, 2021	August 15, 2021
4th	Ending September 30, 2021	October 2, 2021	November 15, 2021

Late payments shall be subject to a one percent (1%) administrative fee.

6. Termination: Either party may terminate this Agreement by providing sixty (60) days written notice to the other part of their intention to terminate this Agreement by providing such notice to the address set out below.

7. Written Notice and Correspondence: Written notice of termination, extension, amendment or other correspondence must be provided via regular mail, postage prepaid, as follows:

To the City: Christopher Campbell Code Enforcement Supervisor of Neighborhood Services City of Bonita Springs 27300 Old 41 Rd. Bonita Springs, FL 34135	To the County: Sandra Tapfumaneyi, Director Lee County Domestic Animal Services P.O. Box 398 Fort Myers, FL 33902

8. Effective Date: This Agreement will become effective on the date written above, and any subsequent amendments thereto shall be filed with the Clerk of the Circuit Court, City Clerk and Lee County.

9. Operational Policies and Rules: Management, policy and fiscal measures will be established and maintained by the County to implement stray animal control field and shelter services to enforce animal control laws, rules and regulations as they relate to domestic dogs, cats and ferrets.

10. Certain Types of Animals Excluded: Agricultural (domestic livestock and fowl), exotics and any other wildlife are specifically excluded from the jurisdiction of the County's Domestic Animal Services and are not covered under the terms of this Agreement. Inquiries or service calls for these types of animal should be referred to other proper authorities. Also excluded from this Agreement is the transport of deceased animals from City property or private residences. The County will accept deceased domestic animals for proper disposal at Animal Services from the City authorized employees during open business hours of Monday-Saturday, 8 AM to 4 PM excluding County approved holidays.

11. Establishment of Fees: The County has established and will maintain a schedule for both fees and fines for all services that are charged to the public. The fee schedule is approved by the Lee County Board of County Commissioners and is included in the County's External Fees and Charges Manual. These fees will be charged directly to the citizens and are payable upon receipt of the service. The County reserves the right to adjust fees and fines as necessary.

12. Applicable Rules: Certified animal control officers will be utilized to provide stray animal control services in accordance with applicable State statutes and County ordinances.

13. Hours of Operation: Hours of operation are as follows:

A. Administrative Hours: Monday through Saturday, 8 a.m to 4 p.m.

B. Field Operations Hours:

Full Field Service (7 days a week):	8 a.m. to 8 p.m.
Limited/Emergency Field Service (7 days a week)*:	8 p.m. to 11:30 p.m.

Impoundment of confined injured animals, animals associated with an arrest/detainment of an owner, or a death investigation:	24 hours a day

*Limited/Emergency Field Services only as defined in Section 16 during County approved holidays

14. Participation in County Programs: The City agrees to participate in the County's Pet Licensing Program. Due to the pet overpopulation problem in Lee County, the restricted pet licensing program will provide low-cost spay/neuter, microchip and vaccination services for Lee County pet owners who qualify for eligibility based on receipt of public assistance programs. The program(s) should be accessible to all areas served by the County's Domestic Animal Services and should be targeted to provide the most effective results for the lowest available costs. Outside contractors, discount certificates and other programs may be included in these programs along with any program provided directly by the County's Domestic Animal Services.

    Notwithstanding the above, The City of Bonita Springs may continue to operate its Trap, Neuter and Release program for feral cats, at its own expense.

15. Record Keeping: The County will maintain books, records and documents directly pertinent to the performance under this Contract in accordance with generally accepted accounting principles and consistently applied.

16. Calls for Service: Calls for service will be assessed and prioritized at the sole discretion and judgment of the County's Animal Control Officers.

    Limited/Emergency Service Calls: The following calls for service (appearing in no specific order) are classified as "limited/emergency" in nature and will take precedence over non-emergency calls for service.

    a. Rescue of stray injured domestic cats, dogs and ferrets.
    b. Rescue of domestic cats, dogs and ferrets that are inhumanely trapped or unnaturally restrained.
    c. Rescue or take custody of living domestic cats, dogs and ferrets involved in motor vehicle accidents or which impede traffic.
    d. Assistance to citizens where a bite or attack has occurred by a stray domestic cat, dog or ferret, and the animal remains at scene and is a threat to citizens or their property.
    e. Assistance where any dangerous dog has escaped and is posing an immediate threat to citizens or property.
    f. Assistance to law enforcement for emergencies including the pick-up and transport of an injured domestic cat, dog or ferret at the scene related to a law enforcement incident.
    g. Patrol areas where a threatening or menacing animal has been reported and still at large in the area.
    h. Nuisance dog barking complaints will be referred to the appropriate law enforcement agency within the jurisdiction.

    Non-emergency Calls: All other calls of a non-emergency nature, and not referenced above, will be responded to as quickly as possible dependent upon available manpower and emergency calls taking precedence. Non-emergency calls may include, but are not limited to, matters such as investigation of State Statute and County ordinance violations relating to animals.

17. Disposition of Unclaimed Stray and Surrendered Animals: The disposition of unclaimed stray and

surrendered animals will be in accordance with State Statute and County Ordinance.

18. Notice of Ordinance/Regulation Changes: The County will provide the City with a minimum of thirty (30) days notification of any proposed ordinance or policy changes approved by the Lee County Board of County Commissioners.

19. Utility Service Fees: All utilities for County facilities will be paid by the County by Lee County Domestic Animal Services operating budget. Facility utilities include cost or fees for electricity, water, sewer, solid waste disposal and telephone service.

20. Statistical Report: Upon request, the County shall provide a yearly statistical report on calls for service and impoundments for fiscal year 2018-2019, which are the basis for the determination of fees charged. The City may request custom reports, other than the report referenced above, and the County may asses a fee to cover County staff costs to produce such custom reports.

21. Dispatch Services: Trained County personnel will be utilized to serve as dispatchers. The dispatch personnel will dispatch calls over the County's two-way 800 MHZ radio system and/or dispatched electronically through the Chameleon Software System during normal business hours. Animal control officers will receive text pages from the answering service to respond to after-hour calls for emergencies. The City will be granted the same access to the County's two-way 800 MHZ radio system as afforded to the other municipalities and the Lee County Sheriff. During nights, weekends and holidays, animal control officers will be operating on the Lee County Sheriff's Office radio frequency for safety monitoring. The City may access services by contacting Lee County Sheriff's Office Dispatch at (239) 477-1202 or by calling Lee County Domestic Animal Services at (239) 533-7387 (Option #2).

22. Rabies: The County will follow State Statute and/or Health Department rules or regulations relating to the Rabies Administration Program, including ten-day quarantine for rabies observation and/or testing of stray animals that have bitten and/or scratched a human.

23. Adoption, Sterilization, Microchips and Vaccinations: An adoption program will be maintained as part of the administrative and kennel functions of Domestic Animal Services.

24. Sterilization and Micro-chipping Requirements: All cats and dogs adopted shall be required to be sterilized and permanently identified through an implanted microchip.

25. Vaccination and Licensing: Appropriate vaccinations and licensing will be required based on species, age and other relevant factors.

26. County Facility Provided Services: The following services will be provided for all animals brought into the County's facility:

a. Proper identification and recording of stray animals using established policies and procedures.
b. Health evaluation for stray animals with injury, illness, temperament or other additional conditions.
c. Emergency medical care as required.
d. Authorized preventative care.
e. Check [and treat] for parasites and groom or clean if needed.
f. Preventative treatment for intestinal parasites; heartworm, feline leukemia and AIDS testing, and vaccinations.

g. Appropriate housing of animals.
h. Complete inventory of animals in the shelter.
i. All animals brought into the facility will be fed and watered in a manner diet-appropriate for their breed, species and physical condition.
j. Proper cleaning on a daily basis of all areas where animals are housed and treated.

27. Additional Program Availability: The County will provide the following services as part of this Agreement for Lee County residents:

a. Low-Cost Spay/Neuter Programs
b. Adoption Services
c. Owner Surrender Services (based on available capacity)
d. Investigation of State Statute and County Ordinance violations Relating to Animals including Cruelty Investigations
e. Necropsy of Deceased Animals for Law Enforcement Agency Investigations When Requested
f. Community Pet Pantry Program (providing veterinary care and pet food supplies for financially disadvantaged pet owners)
g. Housing and Disposal of Stray Animals
h. Pet Behavior Hotline
i. Foster Program
j. Return to Owner and Lost & Found Services
k. Pet Placement Partnership Referral Services
l. Animal Care Trust Fund for Treatment of Sick and Injured Animals
m. Humane Euthanasia of Stray Sick, Injured or Aggressive Animals
n. Rabies Quarantine of Stray Animals that have Bitten or Scratched a Human
o. Educational Program to Promote Responsible Pet Ownership
p. Disclosure of Information Related to Applicable State Statutes and Local Ordinances
q. Disclosure of Information Emphasizing the importance of Spay/Neuter to Prevent Pet Overpopulation

Please note that these programs may be adjusted and/or eliminated as needed at the discretion of the County.

28. Limitation on the County's Liability: The County will only be liable for money damages in tort for any injuries to or losses of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of any official or employee of the County while acting within the scope or the official's or employee's office or employment under circumstances under which a private person would be held liable in accordance with the general laws of the State of Florida, subject to the limitations as set out in Section 768.28 Florida Statutes, as it may be amended or revised from time to time.

29. Entire Agreement: This Agreement sets for the all agreements, terms, conditions and understandings between the City and the County, and there are no other agreements, customs, usages, terms, conditions or understandings, oral or written, express or implied, other than as set forth herein. Additionally, all negotiations or acts made prior to the execution hereof are deemed to be merged, integrated and superseded by this Agreement.

30. Amendment of this Agreement: Notwithstanding any of the provisions contained herein, this Agreement

may be amended by mutual agreement of the City and the County, and any such amendment must be in writing to be effective.

31. Severability: Should any provision contained within this Agreement be determined by a court of competent jurisdiction to be unenforceable, such a determination will not affect the validity or enforceability of any other section or part herein.

IN WITNESS WHEREOF, the parties hereto have caused this presence to be executed by their duly authorized officers and their official seals hereto affixed, on the day and year as written below.

ATTEST:

By: ______________________________
CITY CLERK

Date: ______________________________

CITY OF BONITA SPRINGS

By: ______________________________
MAYOR OF BONITA SPRINGS

Date: ______________________________

APPROVED AS TO LEGAL FORM:

By: ______________________________
CITY ATTORNEY

Date: ______________________________

ATTEST:
LINDA DOGGETT, CLERK

By: ______________________________
Deputy Clerk

Date: ______________________________

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: ______________________________
Chairman

Date: ______________________________

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

By: ______________________________
Lee County Attorney's Office

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-07-187

AGENDA ITEM SUMMARY

REQUESTED MOTION: Authorize staff to advertise RFP for Letters of Interest from Artists and other similar type vendors for use of Artist Cottage #5 at Riverside Park.

MEETING DATE: 7/15/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Nicole Perino Parks and Recreation Director
☒	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

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.

On July 31, 2020, Artist Cottage #5 will become vacant. Once the RFP is advertised and Letters of Interest are submitted, the Art in Public Places Board will review the submissions and provide a ranking of the top three submissions and provide a recommendation to City Council.

Attachment: Draft RFP

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ YES ☐ NO
IF YES, WHICH STRATEGIC OBJECTIVE? #8 Economic Development

STAFF RECOMMENDATIONS: Authorize staff to advertise RFP for Letters of Interest from Artist and similar type vendors for use of Artist Cottage #5 in Riverside Park.

REVIEWED BY:

City Manager: ______________________
City Attorney: ______________________
City Clerk: ______________________
Department Director: ______________________

COUNCIL ACTION:

- ☐ **APPROVED**
- ☐ **DENIED**
- ☐ **DEFERRED**
- ☐ **OTHER**

CITY OF BONITA SPRINGS
REQUEST FOR LETTERS OF INTEREST FOR
RIVERSIDE PARK COTTAGE USE AGREEMENT
RFP 20-

The City of Bonita Springs is continuously seeking proposals for artists and other similar type vendors who seek to use City space in one (1) of the historic and recently refurbished fishing cottages located at Riverside Park, 27300 Old U.S. 41, Bonita Springs, FL 34135. The fishing cottages are 12' x 26' (312 sq. ft.) and are equipped with air conditioning, electric and water (to be included in the monthly fee for use). Bathroom access will be the same as public. The cottage will be filled on an ongoing basis when there is a vacancy from proposers who have submitted to this proposal.

It is the intent of the City to enter into Use Agreements with artists and other similar type vendors for use of the cottages. The City is interested in the public being able to observe a "village" of artists and/or craftsmen in a historic area which is undergoing redevelopment activities. Vendors will be required to be open for business during City organized special events. Other hours of operation to be determined by vendor.

The City sets the monthly fee for annual terms, to be determined by City Council based on fair market value of the space. A copy of the current rate is available from the Parks and Recreation Director, serving as the City's representative. City Council is not interested in selling any of the cottages.

If you are an artist or other vendors interested in leasing one of the cottages, please send the City of Bonita Springs a Letter of Interest in the following format:

- Letter of Interest shall be sealed, submitted and plainly marked on the outside of the envelope RFP 20- LETTER OF INTEREST: RIVERSIDE PARK COTTAGE USE AGREEMENT.

- Vendors should submit the proposal on or before __________________ to Debbie Filipek, City Clerk, City of Bonita Springs, 9101 Bonita Beach Road, Bonita Springs, Florida 34135.

- Any Letters of Interest received after the specified time will not be considered

- Faxed documents will not be accepted. Letters of Interest should be on 8½" x 11" page paper, not to exceed ten (10) pages. Paper should be white, so that photographs and text are easily reproducible.

- Vendors are expected to fully inform themselves as to the requirements in the Standard Instructions in this Letter of Interest.

- All questions pertaining to this Request for Proposals must be submitted in writing by email at Nicole.perino@cityofbonitasprings.org or by mail to the attention of Nicole Perino, Parks and Recreation Director, City of Bonita Springs, 9101 Bonita Beach Road, Bonita Springs, FL 34135, telephone (239) 992-2556, fax (239) 992-1205.

Standard Instructions

1. LOI will be evaluated to determine which Vendors are most appropriate based on the City of Bonita Springs having an area for the public to be able to observe a "village" of artists and/or craftsmen in the park. If all of the requested information is not provided in the Proposal, the Proposal may be deemed non-responsive and may be eliminated from further consideration. Therefore, the information outlined below must be provided on 8½" x 11" page paper, not to exceed ten (10) pages (single sided) in length:

    a. Description of type of vendor and/or concession;
    b. Type of Business – Sole Proprietor, Partnership, Corporation, etc.;
    c. Discussion of past vendor/work related experience;
    d. A description of the type of art, craft, etc. that the vendor is proposing to demonstrate and potentially sell in the cottage.
    e. If you will be using a kiln, please give a description of the kiln including its components and type.
    f. A commitment and financial capability to pay the monthly fee of $300 per month September – May and $200 per month June - August to use the cottage with a possible increase based on market rate or inflation index each year.
    g. A timetable of when the Vendor can commence operations at the Cottage.
    h. Any chemicals or mechanical components which may be hazardous, flammable or otherwise dangerous to the public.
    i. Qualifications and experience of outside Vendors or sub-Vendors regularly engaged by the Vendors under consideration;
    j. Proof of payment of Lee County Business Tax Receipt (formerly occupational license tax) if available or statement of intent to obtain;
    k. Proposal for duration of lease including but not limited to requested duration – full time, part time, weekend, seasonal, and commitment to work the special events
    l. Any additional information provided by the Vendor which demonstrates nature of the proposal.
    m. Current tenant of the artist cottage will be given additional consideration based on their prior performance as a tenant.

2. All questions pertaining to this Request for Proposals must be submitted in writing by email at Nicole.perino@cityofbonitasprings.org or by mail to the attention of Nicole Perino, Parks and Recreation Director, City of Bonita Springs, 9101 Bonita Beach Road, Bonita Springs, FL 34135, telephone (239) 992-2556, fax (239) 992-1205.

3. Vendors are expected to fully inform themselves as to the requirements of the Letter of Interest (LOI). Failure to do so will be at their own risk. A vendor shall not expect to secure relief on the plea of error or lateness. Any LOI not containing all material information requested herein may be rejected at the City's sole discretion. However, the City reserves the right to request any omitted information from any Vendors or to clarify any information submitted. The Vendor agrees that

the submission of the LOI represents the Vendor's acceptance of the terms and conditions as set forth in this request for LOI.

4. The City is not responsible for any expenses incurred in preparing and submitting a LOI or taking any action in the selection process or for the cost of any services performed by any firm prior to the execution of a contract with the City.

5. The City reserves the right to reject any and all Letters of Interest, in whole or in part, with or without cause, to waive any informalities and technicalities, and to award the contract on such terms it deems to be in the best interests of the City.

6. UNDER NO CIRCUMSTANCES SHOULD ANY PROSPECTIVE VENDORS, OR ANYONE ACTING FOR OR ON BEHALF OF A PROSPECTIVE VENDOR. SEEK TO INFLUENCE OR GAIN THE SUPPORT OF ANY MEMBER OF THE CITY COUNCIL OR THE CITY STAFF FAVORABLE TO THE INTEREST OF ANY PROSPECTIVE VENDORS. LIKEWISE, CONTACT WITH THE CITY COUNCIL OR CITY STAFF AGAINST THE INTERESTS OF OTHER PROSPECTIVE VENDORS IS PROHIBITED. ANY SUCH ACTIVITIES MAY RESULT IN EXCLUSION OF THE PROSPECTIVE VENDOR FROM CONSIDERATION BY THE CITY.

7. Use Agreements will be awarded to a Vendor(s) for the use of one (1) cottage. The vendor will be required to maintain appropriate insurance (including professional liability insurance). The City of Bonita Springs shall be named as additional insured and be provided thirty (30) day prior written notice of any material change or cancellation of policies. Evidence of such coverage must be provided to the City of Bonita Springs prior to award of the agreement. All contracts and agreements will contain a hold harmless clause for the protection of the City of Bonita Springs.

8. Responses should be prepared simply and economically, and should provide straightforward and concise responses, which satisfy the requirements of this Request for Letters of Interest. Emphasis should be placed on the completeness and clarity of the content. The City of Bonita Springs shall not be liable for any expenses incurred in the preparation or presentation of the responses.

9. Federal, state, county, and local laws, ordinances, rules and regulations that in any manner affect the items covered herein shall apply. Lack of knowledge by the Vendors is no cause for relief from responsibility. Vendors are to be in full compliance with the following laws, specifically including, but not limited to: 1) Conflict of Interest; 2) City of Bonita Springs; 3) Government-in-the-Sunshine Laws; 4) Florida Public Records Law; 5) State of Florida Rules and Regulations; and, 7) ADA Rules and Regulations.

10. **PUBLIC RECORDS - RESPONSES TO THIS RFP ARE PUBLIC RECORDS AVAILABLE FOR INSPECTION BY THE PUBLIC PURSUANT TO FLORIDA STATUTES §119.07.**

11. The City of Bonita Springs shall not be responsible for delays caused by the United States Postal Service, overnight express mail services, or for delays caused by any other occurrence.

12. The issuance of this RFP constitutes only an invitation to present Letters of Interests. The City of Bonita Springs reserves the right to determine, in its sole discretion, whether any aspect of the response satisfactorily meets the criteria established in the RFP, the right to seek additional information and/or clarification from any firm submitting a response, the right to negotiate with any firms or individuals submitting a response, and the right to reject any or all responses with or without cause.

13. In the event that the RFP is withdrawn by the City of Bonita Springs for any reason including, but not limited to, the failure of any of those things or events set forth herein to occur, the City of Bonita Springs shall have no liability for any costs or expenses incurred in connection with this RFP or otherwise.

Vendors Evaluation

1. All submitted LOIs will be reviewed by the Bonita Springs Art in Public Places Board (APPB) based on the information received. Based on this review, the APPB will identify the names of the most qualified vendors, by ranking, for City Council concurrence and acceptance.

2. Prior to ranking, the APPB may request the vendors to give an oral presentation. The vendor will be notified of the time and place of oral presentations. <u>ORAL PRESENTATIONS MAY BE WAIVED BY THE APPB.</u> If no oral presentations are requested, the APPB selection shall be based on the LOI submitted. If oral presentations are conducted, the vendors may be questioned by the APPB and City staff during the oral presentations.

3. The City reserves the right to reject any and all Letters of Interest.

4. Only those Vendors submitting Letters of Interest including all pertinent information as requested and which meet the requirements herein will be considered for Use Agreements, with the City filling vacancies on a space available basis.

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-07-188

AGENDA ITEM SUMMARY

REQUESTED MOTION: Authorize staff to submit a grant application to the Florida Department of Economic Opportunity (FDEO) Community Development Block Grant – Mitigation (CDBG-MIT) General Planning Support Grant

MEETING DATE: 7/15/2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
☐	PRESENTATIONS	☐	STATUTE	Matt Feeney Assistant City Manager Elly Soto McKuen Senior Project Manager
☒	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:

On May 15, 2020, the DEO announced a new funding source from the FDEO's Rebuild Florida program. The newly created U.S. Housing and Urban Development (HUD) Community Development Block Grant Mitigation (CDBG-MIT) announced $633 million has been allocated to the State of Florida. This program allows local governments to apply for grant funding for long term mitigation projects to restore and improve future mitigation projects that will reduce or eliminate future hazard risks to the community due to hurricane or large storm events. The program is only available to those city and county governments within the Most Impacted and Distressed (MID) areas, as defined by HUD and DEO in the 2019 State of Florida Mitigation Action Plan. During phase 1 of the funding cycle, DEO has allocated $20 million for General Planning Support. Lee County and all cities located within the County are MID areas.

The application cycle opened on May 15, 2020 and the deadline to submit the CDBG-MIT General Planning Support application to DEO is July 31, 2020. There is no match requirement for this application. The improvements for this funding program will have 12 years to complete all identified projects.

Staff suggests submitting a General Planning Support application to review unmet stormwater needs in the community. The analysis could evaluate the effectiveness of various stormwater management and flood mitigation alternatives in order to reduce flood risk and durations of flooding as a result of future storm events for various locations in the City. Some components of the study/management plan could include hydrologic and hydraulic modeling and project specific determinations for development.

Attachments: FDEO Grant Announcement

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ **YES** ☐ **NO**

IF YES, WHICH STRATEGIC OBJECTIVE? 1) Stormwater Management, 3) Strengthen /enhance City Finances, 4) Environmental Protection

STAFF RECOMMENDATIONS: Authorize staff to submit a grant application to the FDEO CDBG-MIT General Planning Support

REVIEWED BY:

City Manager: ______________
City Attorney: ______________
City Clerk: ______________
Department Director: ______________

COUNCIL ACTION:

☐ **APPROVED**
☐ **DENIED**
☐ **DEFERRED**
☐ **OTHER**

CDBG MITIGATION

FLORIDA DEPARTMENT of ECONOMIC OPPORTUNITY

CDBG Mitigation Survey: RebuildFlorida.gov
CDBG Mitigation Federal Register Notice: 84 FR 45838

U.S. Housing and Urban Development's (HUD) definition of mitigation:

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.

Summary

- $633,485,000 in total HUD Community Development Block Grant Mitigation (CDBG-MIT) funds allocated to Florida which will be administered by the Florida Department of Economic Opportunity Office of Disaster Recovery.
- In total, 51 Florida counties are currently eligible for CDBG-MIT funding.
  - Due to 2016 and 2017 (Hurricanes Hermine, Matthew, and Irma) disasters.
- At least 50% of this allocation must address mitigation needs in the HUD-designated Most Impacted and Distressed (HUD MID) counties and ZIP codes, as shown below:
  - Brevard, Broward, Clay, Collier, Duval, Hillsborough, Lee, Miami Dade, Monroe, Orange, Osceola, Palm Beach, Polk, St. Johns, St. Lucie, and Volusia counties; 32084, 32091,32136,32145,32771, 33440,33523,33825,33870, 32068, 33935, and 34266 Zip Codes.
- Remaining 50% may address mitigation needs in State MID counties.
- At least 50% of CDBG-MIT funds must benefit low- and moderate-income (LMI) persons.
- Must spend 50% of allocation in six (6) years and 100% in twelve (12) years.
- CDBG-MIT state action plan due to HUD: **February 3, 2020.**

Highlights

- CDBG-MIT funds do not require a disaster "tie-back."
- CDBG-MIT funds cannot be used for emergency response services. May be used for mitigation activities to enhance the resilience of facilities.
- HUD emphasized importance of broad-based, local, and regional mitigation priorities that will have long-lasting effects on community risk reduction.
- HUD expects grantees to enhance the impact of HUD-funded investments with "more stringent building and zoning codes which will help to limit damage from future severe weather events." This is an eligible cost under CDBG–DR or CDBG–MIT funding.
- Heavy dependence on State and Local Hazard Mitigation Plans.
- May expend funds outside of MID areas if the funds will mitigate within the MID areas.

Public Engagement

- At least three (3) public hearings — one (1) prior to the public comment period.
  - 45-day public comment period.
  - Citizen advisory committee.
  - Webinars.
  - Stakeholder Meetings

For more information visit RebuildFlorida.gov

CDBG MITIGATION

2016 Eligible Florida counties as declared in DR-4280 and/or DR-4283

Nassau	Brevard	Levey
Duval	Indian River	Citrus
St. Johns (HUD MID)	Leon	Hernando
Putnam	Wakulla	Pasco
Flagler	Taylor	Pinellas
Volusia	Dixie	Manatee

2017 Eligible Florida counties and ZIP codes as declared in DR-4337 and/or DR-4341

Alachua	Hardee	Orange (HUD MID)
Baker	Hendry	Osceola (HUD MID)
Bradford	Hernando	Palm Beach (HUD MID)
Brevard (HUD MID)	Highlands	Pasco
Broward (HUD MID)	Hillsborough (HUD MID)	Pinellas
Charlotte	Indian River	Polk (HUD MID)
Citrus	Lafayette	Putnam
Clay (HUD MID)	Lake	Sarasota
Collier (HUD MID)	Lee (HUD MID)	St. Johns
Columbia	Levy	Seminole
DeSoto	Manatee	St. Lucie (HUD MID)
Dixie	Marion	Sumter
Duval (HUD MID)	Martin	Suwannee
Flagler	Miami-Dade (HUD MID)	Union
Gilchrist	Monroe (HUD MID)	Volusia (HUD MID)
Glades	Nassau	
Hamilton	Okeechobee	

HUD MID ZIPS: 32084, 32091, 32136, 32145, 32771, 33440, 33523, 33825, 33870, 32068, 33935, and 34266

For more information visit RebuildFlorida.gov

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-07-179

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve Budget Resolution to establish a budget for the CDBG-DR Voluntary Buy-out Program

MEETING DATE: 7/15/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Matt Feeney Assistant City Manager Anne K. Wright, CPA, CGFO Finance Director
☒	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☐	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND: An agreement between the City and the Florida Department of Economic Opportunity (FDEO) was fully executed on April 7, 2020 (BSC 20-004-049) for the Quinn/Downs/Dean Neighborhood Voluntary Buyout Program. The City has recently received an executed grant agreement from the Florida Department of Economic Opportunity's CDBG-DR Voluntary Home Buyout Program to fund the purchase of qualifying properties in the Quinn/Downs/Dean Street (West of Imperial Parkway) area. This additional funding requires a budget for a new capital improvement project for the Quinn/Downs/Dean Street (West of Imperial Parkway) area project.

Attachments: Budget Resolution

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ **YES** ☐ **NO**

IF YES, WHICH STRATEGIC OBJECTIVE? Financial Transparency

STAFF RECOMMENDATIONS: Approve the attached budget resolution.

REVIEWED BY:

City Manager: ______________________

City Attorney: ______________________

City Clerk: ______________________

Department Director: ______________________

COUNCIL ACTION:

☐ **APPROVED**
☐ **DENIED**
☐ **DEFERRED**
☐ **OTHER**

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 20 – ___

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A BUDGET AMENDMENT TO INCREASE THE GRANT FUND AND CAPITAL PROJECTS FUND BUDGETS FOR A GRANT FROM THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY'S VOLUNTARY HOME BUYOUT PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 19, 2019, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2020; and

WHEREAS, the City has recently received an executed grant agreement from the Florida Department of Economic Opportunity's Voluntary Home Buyout Program to fund the purchase of qualifying properties in the Quinn/Downs/Dean Street (West of Imperial Parkway) area; and

WHEREAS, the grant amount is $5,000,000 and does not require a City match.

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

1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon its adoption.

2. The Bonita Springs' City Council authorizes the following budget amendment to increase the budgets of the Grant Fund and the Capital Projects Fund.

	Budget Increase
Grants Fund:	
DEO Grant Revenue from Voluntary Home Buyout Program	$5,000,000
Transfer to Capital Projects Fund	5,000,000
Capital Projects Fund:	
Transfer in from Grant Fund	5,000,000
Voluntary Home Buyout Project (Imperial Bonita Estates/Quinn/Downs/Dean Area)	5,000,000

3. This Resolution shall become effective upon adoption by the Bonita Springs City Council.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 15th day of July, 2020.

AUTHENTICATION:

____________________________ ____________________________
Mayor City Clerk

APPROVED AS TO FORM: ____________________________
City Attorney

Vote:

Carr	Purdon
Corrie	Quaremba
Forbes	Simmons
Gibson	

Date filed with City Clerk: ________________________

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-07-190

AGENDA ITEM SUMMARY Order authorizing Temporary Outdoor Seating

REQUESTED MOTION: Adopt Resolution and Proposed Order

MEETING DATE: 7/15/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Derek Rooney, City Attorney and John Dulmer, Community Development Director
☐	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☒	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:

On April 29, 2020, Governor DeSantis issued Executive Order 20-112 adopting the recommendations in Phase 1 of the plan published by the Task Force to Re-Open Florida. Section 3(B) of the Order establishes new occupancy standards for restaurants and food establishments which includes a focus expanded outdoor seating in order to maintain social distancing and patron safety.

The City of Bonita Springs land development code already allows outdoor seating by permit, however in order to facility recovery and comply with the requirements of Executive Order 20-112, the City Council adopted Resolution 20-27 creating "safe harbor" order allowing restaurants and food establishments to provide outdoor seating without need for a City permit provided the establishment registers with the City and complies with the proposed order's requirements. Resolution 20-27 requires renewal within 45 days of adoption and is set to expire on June 20, 2020.

Since the adoption of Resolution 20-27 the Governor has through subsequent executive orders expanded the indoor capacity of restaurants and food establishments. Because there is still a present need to provide for additional seating and options to allow sufficient social distancing it is recommended that the Council renew its outdoor seating order for an additional until the conclusion of the current state of emergency beginning with Executive Order 2020-52 and its extensions.

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ **YES** ☒ **NO**
IF YES, WHICH STRATEGIC OBJECTIVE?

STAFF RECOMMENDATIONS: Adopt Resolution.

REVIEWED BY:

City Manager: [signature] ______________________
City Attorney: ______________________
City Clerk: ______________________
Department Director: ______________________

COUNCIL ACTION:

☐ **APPROVED**
☐ **DENIED**
☐ **DEFERRED**
☐ **OTHER**

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 20- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONITA SPRINGS, FLORIDA, EXTENDING RESOLUTION 20-27 DECLARING THAT THE CITY IS SUSPENDING PORTIONS OF ITS LAND DEVELOPMENT REGULATIONS AND ADOPTING INTERIM REGULATIONS TO PROVIDE TEMPORARY RELIEF IN RESPONSE TO COVID-19; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, both the World Health Organization and federal Centers for Disease Control and Prevention (CDC) recognized the novel and virulent danger posed by COVID-19, declaring it a worldwide pandemic; and

WHEREAS, Ron DeSantis, Governor of Florida issued Executive Order 20-52 declaring a public health emergency due the public threat of COVID-19; and

WHEREAS, on March 13, 2020, the City Council began taking active steps to contain the spread of COVID-19 in accordance with state and federal guidance, including the declaration of a local state of emergency; and

WHEREAS, the Governor has issued a series of Executive Orders limiting both businesses and the public interactions consistent with his authority under Chapter 252, Florida Statutes, in order to slow the spread of COVID-19; and

WHEREAS, the based on the current data collected by the Florida Department of Health, the Governor has, beginning Executive Order 20-112, and will continue to issue Executive Orders lifting restrictions as Florida achieves positive health benchmarks; and

WHEREAS, the City Council desires to provide relief to businesses and residents consistent with guidance from state and federal officials to promote safe and efficient business operations and an economic recovery; and

WHEREAS, Section 3(B) of Emergency Order 20-112 provides for outdoor seating at restaurants and food establishments for consumption of food and beverages on the premises; and

WHEREAS, on May 14, 2020 and June 3, 2020 Governor DeSantis issued Emergency Orders 20-123 and 20-139, respectively, each expanding the provisions of Emergency Order 20-112 providing for seating at restaurants and food establishments for consumption of food and beverages on the premises; and

WHEREAS, on May 6, 2020 the City Council adopted Resolution 20-27 providing a temporary safe harbor and outdoor seating registration program consistent with the aforementioned orders; and

WHEREAS, the Sections 252.38 and 252.45, Florida Statutes, the City Council is empowered to both waiver formalities otherwise required by law and to adopt rules necessary for emergency management purposes; and

WHEREAS, the City desires to place all affected parties on notice parties who are considering reopening their businesses impacted by COVID-19, that the City Council hereby adopts the following temporary order with respect to outdoor seating at restaurants and food and drink establishments.

NOW, THEREFORE, be it resolved by the City Council of the City of Bonita Springs, Florida:

SECTION ONE. The above recitals are true and correct and are incorporated herein by this reference.

SECTION TWO. The City Council of the City of Bonita Springs hereby extends the interim development regulations of Resolution 20-27 to provide standards and procedures for the temporary outdoor seating at restaurants within the City limits in furtherance of Executive Orders 20-112, 20-123 and 20-139.

SECTION THREE. This Resolution shall take effect immediately upon adoption. This temporary order shall expire upon the earlier of either the termination of the current state of emergency enacted under Executive Order 2020-52 as extended or upon action of the City Council to repeal or supersede this Resolution.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida this 15th day of July, 2020.

AUTHENTICATION:

______________________________ ______________________________
Mayor City Clerk

APPROVED AS TO FORM: ______________________________
City Attorney

VOTE:

Carr	Simmons
Forbes	Corrie
Gibson	Purdon
Quaremba	

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	20-07-191

AGENDA ITEM SUMMARY Executive Order on Quasi-Judicial Virtual Meetings

REQUESTED MOTION: Approve the Proposed Resolution

MEETING DATE: 7/15/2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
☐	PRESENTATIONS	☐	STATUTE	Derek Rooney City Attorney
☐	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	OTHER AGREEMENT	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☒	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:

Due to the continuing state of emergency relating to COVID-19 and the life threating conditions for the residents of the City the City has refrained from holding of any advisory or quasi-judicial boards and committee meetings as such meetings often draw large public participation. Notwithstanding, property owners have the right to proceed with development applications in a timely manner and the public has the right to participate.

Consistent with Governor DeSantis Executive Order 20-69 suspending and Florida Statute requiring the presence of an in person quorum for local government bodies.

On May 20, 2020 the City Council adopted Resolution/Order 20-32 allowing the use of communications media technology for advisory boards. Given the current renovations to City Hall and that many advisory boards do not yet feel comfortable meeting in person we recommend extending Resolution 20-32, at least as an option, until the termination of Executive Order 20-69.

Attached: Draft Executive Order

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ **YES** ☒ **NO**
IF YES, WHICH STRATEGIC OBJECTIVE?

STAFF RECOMMENDATIONS: Adopt Resolution/Order

REVIEWED BY:

City Manager: Arleen M H
City Attorney: ____________________
City Clerk: ____________________
Department Director: ____________________

COUNCIL ACTION:
☐ **APPROVED**
☐ **DENIED**
☐ **DEFERRED**
☐ **OTHER**

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 20- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONITA SPRINGS, FLORIDA, EXTENDING RESOLUTION 0-32 PROVIDING FOR THE UTILIZATION OF COMMUNICATIONS MEDIA TECHNOLOGY IN LAND USE PROCEEDINGS AND PROVIDING FOR PUBLIC PARTICIPATION IN RESPONSE TO COVID-19; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, both the World Health Organization and federal Centers for Disease Control and Prevention (CDC) recognized the novel and virulent danger posed by COVID-19, declaring it a worldwide pandemic; and

WHEREAS, Ron DeSantis, Governor of Florida issued Executive Order 20-52 declaring a public health emergency due the public threat of COVID-19; and

WHEREAS, on March 13, 2020, the City Council began taking active steps to contain the spread of COVID-19 in accordance with state and federal guidance, including the declaration of a local state of emergency on March 17, 2020 with Resolution 20-14, which has been renewed every seven days as necessary thereafter; and

WHEREAS, the Governor has issued a series of Executive Orders limiting both businesses and the public interactions consistent with his authority under Chapter 252, Florida Statutes, in order to slow the spread of COVID-19; and

WHEREAS, Article I, Section 24 of the Florida Constitution guarantees a right of public access to all meetings of any collegial public body, and Section 286.011, Fla. Stat., commonly referred to as Florida's "Sunshine Law," requires such meetings to be publicly noticed in advance, open to the public, and documented by minutes that are promptly recorded; and

WHEREAS, land use proceedings are considered quasi-judicial in nature and require additional evidentiary and due process considerations including a reasonable opportunity to participate and submit evidence into the record beyond general public comment opportunities; and

WHEREAS, recognizing the compelling need to protect life while at the same time maintaining the functioning and continuity of government, the Governor issued Executive Order 20-69, as extended, suspending requirements that local governing bodies have a quorum physically present in a specific public place to conduct public meetings and specifically authorizing the use of communications media technology ("CMT"), as provided in Section 120.54(5)(b)2., Florida Statutes, to conduct meetings of local governing bodies; and

WHEREAS, on May 20, 2020 the City Council adopted Resolution/Order 20-32 implementing the use of CMT during the declared state of local emergency due to COVID-19 to conduct meetings of its boards and committees allowing operations to continue while protecting the health and safety of elected officials, staff, and the general public; and

WHEREAS, the City Council desires to extend Resolution 20-32 which would otherwise expires on July 4, 2020; and

WHEREAS, the Sections 252.38 and 252.45, Florida Statutes, the City Council is empowered to both waiver formalities otherwise required by law and to adopt rules necessary for emergency management purposes; and

WHEREAS, these rules provide an adequate alternative avenue for the public to participate in public meetings and public hearings, including as parties to quasi-judicial matters;

NOW, THEREFORE, be it resolved by the City Council of the City of Bonita Springs, Florida:

SECTION ONE. The above recitals are true and correct and are incorporated herein by this reference.

SECTION TWO. This Resolution shall take effect immediately upon adoption. This temporary order and Resolution 20-32 shall upon termination of the local state of emergency or Executive Order 20-69, whichever occurs sooner.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida this 15th day of June, 2020.

AUTHENTICATION:

______________________________	____________________________
Mayor	City Clerk

APPROVED AS TO FORM: ________________________________
City Attorney

VOTE:

Carr	Simmons
Forbes	Corrie
Gibson	Purdon
Quaremba	

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-07-192

AGENDA ITEM SUMMARY

REQUESTED MOTION: Discussion of requested information from staff regarding past expenditures related to City Hall maintenance and repairs, as well as comparative market information, and direction to staff regarding proposal from Wright Construction Group in an amount not to exceed $1,972,685 for City Hall Renovations.

MEETING DATE: 7/15/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Arleen Hunter City Manager Meg Weiss Director of Administrative Services
☐	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☐	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☒	CITY MANAGER ITEMS			

BACKGROUND:

On July 1, 2020, City Council received a presentation from Wright Construction providing a summary of the final project, timeline and guaranteed maximum price (GMP) of $1,972,685 for the City Hall major repairs and other necessary renovations. Per Council's request, attached please find a brief history and summary of the project.

Attached is a proposal from Wright Construction for the GMP for the City Hall Renovation in the amount of $1,972, 685. The work is outlined in the Fee Proposal attached.

If approved, attached is a Budget Transfer between Capital Project Fund accounts to fund City Hall major repairs for $1,239,559. Upon approval by City Council, staff will prepare STA No. 3 for the Mayor's signature.

Attachment: Summary of project
Request for Information regarding City Hall
Fee Proposal from Wright Construction
Budget Transfer Resolution

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ **YES** ☒ **NO**
IF YES, WHICH STRATEGIC OBJECTIVE?

STAFF RECOMMENDATIONS: Receive information and provide direction on contract and resolution.

REVIEWED BY:

City Manager: ______________________
City Attorney: ______________________
City Clerk: ______________________
Department Director: ______________________

COUNCIL ACTION:

☐ **APPROVED**
☐ **DENIED**
☐ **DEFERRED**
☐ **OTHER**

In 2016, City staff began discussing the need for a CIP for City Hall maintenance after reviewing the excessive maintenance expenses on the HVAC system.

During the 2017-2018 budget cycle, City Hall Maintenance Updates/Repairs CIP was identified and budgeted to replace a portion of the HVAC system. Additionally, funds were budgeted for exterior paint and stucco repair, interior paint, and carpeting, which were all original from the 2004 City Hall renovations.

In October 2018, the City began working with Matern Professional Engineering, Inc. to assess the full HVAC system as well as to evaluate the air distribution and control challenges within the building.

The City projected additional expenses for the following fiscal year to replace the Aaon units as a portion of the HVAC system, as well as the roof replacement.

During the 2018-2019 budget cycle, funds were approved for security upgrades to City Council Chambers as well as aesthetic modifications.

During the budget workshop in October 2019, the importance of funding the CIP for City Facilities maintenance needs was discussed. The budgeted amounts were based on direct replacement of portions of current systems and roof that were not functioning correctly. Security upgrades to City Council Chambers were also included in this discussion.

In October 2019, City Council approved an STA for services with Matern to redesign the HVAC system and to begin moving forward with the project. As the project evolved, the out year planned modifications and repairs to City Hall were also discussed. These items include security upgrades, lighting, carpet, paint, roof, etc. It was then determined with the consultants' review that it would be more cost efficient and less disruptive to city business to complete all the identified items at one time.

The current scope includes a full replacement of the HVAC and the roof, as opposed to patchwork. Additionally, upon the advice of security consultants and LCSO, security upgrades are being implemented in multiple City facilities. The original discussion of security only contemplated Council Chambers, all of City Hall.

The current scope also includes ADA upgrades to City Hall, which were not previously considered during these discussions of HVAC and roof.

Request for Information regarding City Hall
July 9, 2020

1. What is the estimated current value of the city hall property? According to the Lee County Property Appraiser's website, the 2019 assessed value was $1,296,075. According to market research conducted by CBRE based upon the review of 15 comparable sales in the area from Naples to Fort Myers, the average price per square foot is $244. Therefore, City Hall's estimated market value is approximately $3,275,700.

2. What is the estimated value of the city hall property when the renovations are completed? The majority of the contemplated renovations are considered to be base building and maintenance-related, which CBRE has advised will preserve and maintain the building's current value.

3. Will anyone be willing to buy a building that is set up as a city hall or is the land the primary value for the property? CBRE has advised that any corporate entity that buys a building in fee simple acquisition is likely to conduct their own renovations as they see fit. The location of City Hall along a major thoroughfare does hold significant value within itself.

4. How much room will you have for additional employees once the renovations are done? Is that after paper files have been digitized? CBRE has advised that, in accordance with local market information, the average density for this type of office space is 3 persons per 1,000 square feet. Therefore, the building currently has sufficient space for the existing positions that report to City Hall. The contemplated reconfiguration of the second floor will potentially provide for additional work stations as well.

5. How long after renovations would you expect to be able to use city hall before we need more space? The major renovations are covered under warranty for 15-20 years. Prior to the expiration of warranty, City Council will need to evaluate the investment of replacing the air conditioning and the roof prior to end of life, or alternatively, consider the relocation of City Hall.

6. How bad is the HVAC system – will it last another year? The contracted mechanical engineer has advised the City that the HVAC system is at end of life and has already surpassed its expected life. The system is currently running on one of the two required AON units, and only four out of the eleven condensers are functioning correctly. The building also has air distribution issues, which causes some offices to be warmer while the Council Chambers is noticeably cold. Additionally, as of last week, our maintenance staff reported an issue with the only remaining AON unit.

7. How bad is the roof – will it last another year? What happens if we have a major storm while the roof is being repaired? According to the contracted architect, there is a possibility that the roof could potentially last another year, but it would require patchwork throughout

the additional year to address consistent leaking. Additionally, the existing roof has an expired warranty.

In the event of a storm, any damage to the building stemming therefrom would be covered under the builder's risk insurance. The contractor has stated that he has extensive experience replacing roofs during the rainy season. For example, replacing school roofs during summer break so as not to interrupt academic activities.

8. Do we have assurances that once the property just east is developed that cars can park in their lot when people attend meetings at city hall? Per Council's direction, staff has initiated informal discussions in which the adjacent property owner has expressed amenability to a joint parking agreement. It should be noted that the adjacent property is in the preliminary phases of planning and permitting for development of the property.

9. Do you have to rent space while construction is underway? If so, what is the cost? No, we will not be renting space during construction.

10. Are you concerned that staff will be in danger of COVID-19 from construction workers if they stay at work during the renovations? Staff will have alternative work locations during the renovations. The contractors, subcontractors, and any City employees on premises will continue to follow CDC guidelines for protection against COVID-19.

11. What did the city pay for the building when it was purchased? The contract states an acquisition price of $1,000,000.

12. How much did the city spend to renovate the old bank into a city hall? Building permit COM2003-01518, which was issued for the commercial alteration and interior remodel, including buildout and renovations, indicates an estimated valuation of $950,000.

13. Was the building built in 1985 – and is now 35 years old? The Lee County Property Appraiser's website indicates that the first building permit was issued in 1981.

14. How much has the city spent on upgrades – not repairs – since the first renovation? In 2015, the construction remodeling of Conference Room 118 cost approximately $13,000. There have been no additional upgrades. For reference, the carpeting, lighting fixtures, and most of the interior paint have not been updated since the original renovation.

15. And finally, I would like to know if you think having all departments together within walking distance of each other would make for a better city government? While staff functions efficiently in their current locations, such relocation would be a policy decision for Council's consideration.

June 18, 2020

City of Bonita Springs
9101 Bonita Beach Rd. SE
Bonita Springs, Florida 34135

Attention: Ms. Meg Weiss
Director of Administrative Services
Regarding: Bonita Springs City Hall Renovations

Dear Ms. Weiss:

Wright Construction Group would like to thank you for this opportunity to provide you with our GMP Proposal based on the Progress Set of drawings and Specifications dated 4/22/2020.

We propose to provide equipment, labor, materials, subcontractor participation, and supervision as required to perform the following Scope of Work:

- Provide all Project Requirements necessary to complete the project
- Provide all Safety, Staging, Traffic Control, Barricades, Dust Control, and Protection and Restoration of existing Finishes.
- Relocate or maintain Fire Alarm and other systems to remain operational during construction
- Price is based on a 22 Week Construction Schedule
- A 7% Owner's Contingency is included

- Summary of Work

Div. 01 Environmental Testing:
a. Provide standard testing and report for hazardous materials

Div. 02 Demolition:
a. Provide all demolition shown on the bid plans including finishes to be replaced.
b. Provide saw cutting for all underground utilities, slab removal & duct risers.
c. Provide GPR or X-Ray for slabs as necessary to verify if there are conflicts
d. Provide GPR or X-Ray at beams before drilling for channel fasteners
e. Remove all concrete and masonry as noted
f. Provide demolition as required for new Plumbing, Electrical and HVAC

Div. 03 Concrete:
a. Patch and repair slab for new underground sanitary piping in Women's Room 118.
b. Patch and repair slab foe new underground sanitary pipi for Breakroom 117 sink.
c. Provide new elevated concrete slab and ADA ramp for reconfigured dais in Council Chambers 113.
d. Provide new ADA Ramp on the east elevation of the building.

e. Provide a new ADA ramp on the west elevation of the building.
f. Fill abandoned duct penetrations in existing second floor slab after HVAC demolition.
g. Provide (2) interior concrete pads for new air handling units by others.
h. Include patching of exterior concrete where lighting conductors from lightning control system.

Div. 04 Masonry:

a. Sawcut, prepare and install new masonry opening in the existing exterior wall on the east elevation.
b. Provide masonry stem walls at the west ramp.
c. Grout new exterior door frame in existing opening where the swing is reversed for door opening 101B on the west elevation.

Div. 05 Metals:

a. Provide and install (2) pre-finish aluminum wall mounted railings for ADA ramp at the new dais.
b. Provide and install new pre-finished aluminum railings on the west elevation ADA ramp.
c. Provide and install new pre-finished aluminum railings on the east elevation ADA ramp.
d. Furnish and install new ships access ladder to new roof hatch opening.
e. Furnish and install new 5"X5"X1/4" wall mounted angles for solid surface sills at rolling fore doors.
f. Provide and install new fire riser screens in the rear stairwell.
g. Provide and install new steel channels for new roof access opening.
h. Provide new 8"X6"X3/8" lintel for the exterior door that is being installed on the east elevation.
i. Furnish and install new slab support angles for new duct riser slab penetrations in the 2nd floor slab.
j. Includes labor and materials to modify the existing railings in the rear stair so the rails meet ADA requirements.
k. Includes infilling of 14 sf of q deck where the existing roof hatch is removed.
l. Provide and install angle and decking to patch slabs where existing duct risers are removed.

Div. 06: Millwork:

a. Provide new casework, countertops and wood paneling in the reception and lobby areas.
b. Provide new casework and counters in office area behind the reception area.
c. Provide and install (5) new solid surface windowsills at the overhead fire doors.
d. Provide and install new council members dais in Council Chambers 113.
e. Provide new hardwood wall cap at new low screen wall at the ADA ramp in Council Chambers 113.

f. Provide new casework and counters at Break Room 117.

Div. 07 Thermal and Moisture Protection:

a. Batt insulation installed in metal stud walls
b. Sealants provided and installed by each trade
c. Provide and install a new (2) ply modified torch applied modified bitumen roofing system with related flashings.

Div. 08 Doors and Windows

a. Provide and install new hollow metal frames and doors and wood doors.
b. Provide all required door hardware.
c. Provide new transaction window at reception area.
d. Provide (5) new rolling overhead fire doors.
e. Provide construction keying

Div. 09 Drywall and Stucco:

a. Provide wall types A-E as specified on the drawings.
b. All new drywall soffits and ceilings.
c. Fire treated in wall blocking.
d. Unloading distribution and installation of all hollow metal door frames.
e. Patching of existing walls and exterior stucco.
f. Knockdown finish on all new interior partitions.
g. Level 4 finish on all drywall soffits and ceilings.
h. Re-framing/repair of drywall sill and jambs where overhead fire doors are installed.

Div. 09 Acoustical Ceilings:

a. Furnish and install acoustical ceiling grid and tile systems as specified
b. Repair or replace any ceiling grid or tile in areas to remain that are impacted by construction.

Div. 09 Flooring:

a. Furnish and install Carpet Tile Type C1.
b. Furnish and install new 4” rubber base at all rooms.
c. Include minor floor preparation.
d. Include moisture testing and mitigation at new slab areas.
e. Include patching of existing ceramic tile floors and walls disturbed during construction.

Div. 09 Painting:

a. Paint all interior partitions new and existing.
b. Paint all soffits and drywall ceilings.
c. Paint all stair risers, stringers, and railings.
d. Paint exterior walls where impacted due to new construction.
e. Include touch-up of interior walls after construction is completed.
f. Provide and install all caulking/sealants not specific to other trades.

Div. 10 Specialties:

a. Furnish and install fire extinguishers and cabinets as indicated.
b. Furnish and install new toilet accessories.

Div. 12 Furnishings:

a. Provide new horizontal louver blinds by Hunter Douglas at (40) exterior windows.

Div. 21 Fire Protection:

a. Furnish and install complete sprinkler system modifications as required for the renovation.
b. All heads in Council Chamber 113 to be moved as needed for center of tile.
c. Shop drawing and hydraulic calculations

Div. 22 Plumbing.

a. All plumbing demolition.
b. All new plumbing including new underground sanitary sewer, including tie-in to existing.
c. Provide all specified plumbing fixtures.
d. Include relocation of exiting bathroom lavatories to meet ADA requirements.
e. Provide a cane detection skirt for the existing drinking fountain in the main lobby.
f. Include new roof drains with primary and secondary storm drainage piping.
g. Pipe insulation as specified.

Div. 23 HVAC Systems:

a. Cut cap & drop all existing ductwork and equipment to the floor for removal by the demolition contractor.
b. Provide and install air handling units 1 & 2 & (4) condensers.
c. Provide (2) new redundant drives.
d. Furnish and install new VAV boxes.
e. Provide new in-line exhaust fans for toilet rooms.
f. Provide all specified ductwork and diffusers.
g. Provide all refrigerant piping valves & accessories.
h. Provide new DDC controls package.
i. Provide commissioning and balancing by independent contractors.
j. Provide and install specified louvers.

k. Include all duct and piping insulation.

Div. 26 Electrical:

a. Cut cap and drop all lighting and equipment and devices to the floor for removal by others.
b. Provide all new LED fixtures and lighting controls per the drawings.
c. Provide temporary power and lighting per OSHA Standards.
d. Furnish and install new lightning control systems.
e. Furnish and install new fire alarm devices.
f. Include all panels, feeders, and gear.
g. Include back boxes raceways and strings for low voltage security and tele/data wiring installed by others.
h. Include wiring of all new HVAC equipment provided by others.
i. Provide new wiring devices per locations on the electrical drawings.

Div. 31 Earthwork

a. Provide excavation grading & backfill associated with the new ramps on the east and west elevations of the building.
b. Sawcut and remove pavement at designated parking spaces, regrade and re-install pavement to meet ADA requirements.
c. Salvage and re-install existing wheel stops.
d. Provide ADA signs for parking spaces.
e. Include pavement markings.

Div. 33 Exterior Improvements

a. $10,000 allowance carried to repair existing landscaping disturbed by the installation of new ramps on the east and west elevations and the lightning control system

Our **Guaranteed Maximum Price [GMP]** to perform the scope of work identified in this proposal, including the deductive alternates noted above is: **$1,972,685.00 one million nine hundred seventy-two thousand six hundred eight and eighty-five dollars.**

Please contact me with any questions or comments regarding this proposal.

Respectfully submitted,

Scott Loiacano
Senior Project Manager

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 20 – ___

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A BUDGET TRANSFER TO TRANSFER BUDGET BETWEEN CAPITAL PROJECT FUND ACCOUNTS TO FUND CITY HALL MAJOR REPAIRS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 19, 2019, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2020; and

WHEREAS, the City Hall is in need of major repairsand renovations; and

WHEREAS, unspent budget is available to be transferred from other Capital Improvement Projects, which are funded by the General Fund.

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

1. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon its adoption.

2. The Bonita Springs’ City Council authorizes the following budget transfer relating to projects within the Capital Projects Fund:

	Budget Increase (Decrease)
City Facilities Major Repairs	$1,239,559
Multi-use Pathways & Sidewalks	(443,233)
Bonita Beach Road Vision Implementation	(796,326)

3. This Resolution shall become effective upon adoption by the Bonita Springs City Council.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 1st day of July, 2020.

AUTHENTICATION:

____________________________ ____________________________
Mayor City Clerk

APPROVED AS TO FORM: ____________________________
City Attorney

Vote:

Carr	Purdon
Corrie	Quaremba
Forbes	Simmons
Gibson	

Date filed with City Clerk: ________________________

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	20-07-178

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve Budget Transfer Resolution to adjust the Grant funding amount and the General Fund funding amount for the Pine Lake Preserve Re-Hydration Project

MEETING DATE: 7/15/2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
☐	PRESENTATIONS	☐	STATUTE	Matt Feeney Assistant City Manager Anne K. Wright, CPA, CGFO Finance Director
☐	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☐	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☒	CITY MANAGER ITEMS			

BACKGROUND: An agreement between the City and the Florida Department of Environmental Protection (FDEP) was fully executed on June 18, 2020 (BSC 20-06-071) for the construction of the Pine Lake Preserve Re-Hydration project. The executed grant agreement is for a grant of $580,000, which is $132,500 lower than the current FY 2020 budget for this grant. The grant requires a General Fund match of 370,000, which is $132,500 higher than the current FY 2020 budget. This Budget Transfer Resolution adjusts these budgeted amounts to agree with the executed grant agreement.

The additional General Fund funding is being transferred from the Hurricane Irma account within the General Fund, which has an unspent budget balance of $156,000.

Attachments: Budget Transfer Resolution

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ **YES** ☐ **NO**

IF YES, WHICH STRATEGIC OBJECTIVE? Financial Transparency

STAFF RECOMMENDATIONS: Approve the attached budget transfer resolution.

REVIEWED BY:

City Manager: Arlen M H [signature]

City Attorney: ______________________

City Clerk: ______________________

Department Director: ______________________

COUNCIL ACTION:

☐ **APPROVED**

☐ **DENIED**

☐ **DEFERRED**

☐ **OTHER**

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 20 – ___

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A BUDGET TRANSFER TO ADJUST THE BUDGETS IN THE GRANT FUND AND THE CAPITAL PROJECTS FUND TO AGREE WITH THE EXECUTED GRANT AGREEMENT FOR PINE LAKE PRESERVE RE-HYDRATION FUNDING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 19, 2019, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2020; and

WHEREAS, the City has executed a Grant Agreement for Pine Lake Preserve Re-hydration; and

WHEREAS, the executed grant agreement is $132,500 lower than the grant amount in the current FY 2020 budget, and requires a $132,500 higher General Fund match than the current FY 2020 budget; and

WHEREAS, unspent budget is available to be transferred from another account in the General Fund for this purpose.

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

1. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon its adoption.

2. The Bonita Springs’ City Council authorizes the following budget transfer relating to projects within the Capital Projects Fund:

	Budget Increase (Decrease)
General Fund:	
Hurricane Irma	$ (132,500)
Transfer to Capital Projects Fund	132,500
Grants Fund:	
Pine Lake Preserve Re-hydration Grant	(132,500)
Transfer to Capital Projects Fund	(132,500)
Capital Projects Fund:	
Transfer in from Grant Fund	(132,500)
Transfer in from General Fund	132,500

3. This Resolution shall become effective upon adoption by the Bonita Springs City Council.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 15th day of July, 2020.

AUTHENTICATION:

____________________________ ____________________________

Mayor City Clerk

APPROVED AS TO FORM: ____________________________

City Attorney

Vote:

Carr	Purdon
Corrie	Quaremba
Forbes	Simmons
Gibson	

Date filed with City Clerk: ________________________

CITY COUNCIL
CITY OF BONITA SPRINGS
OFFICIAL AGENDA
WEDNESDAY, JULY 1, 2020
5:30 P.M.
CITY HALL
9101 BONITA BEACH ROAD
BONITA SPRINGS, FLORIDA 34135
MINUTES

NOTE: AGENDA REVISED TO EXTEND THE DATE TO SUBMIT EMAILS

Public comment available via email and in person

Please e-mail the City at CITYMEETINGS@CITYOFBONITASPRINGS.ORG in order to:

1. Submit your comment in writing prior to the meeting or to submit any documentation or evidence that you would like the City Council to consider during the meeting; or

2. Provide your name and telephone number to participate by phone for public comment during the meeting. A City staff member will contact you prior to the meeting with call-in instructions. Email must be received by NOON ON WEDNESDAY JULY 1ST to participate in public comment by phone.

Please include the meeting date in the subject line of your e-mail. All submitted written comments will become part of the official record of the meeting.

Interested parties may also attend the public hearing to provide comments in accordance with the City's code or as those provisions may be modified by the City Council. All CDC and FDOH guidelines pertaining to COVID-19 shall be observed at all times.

click here to watch the meeting online, or visit the city's website at www.cityofbonitasprings.org and click "how do I?" and then click "watch a meeting live" to access the live stream.

I. Call to Order

Mayor Peter Simmons called the meeting to order at 5:30 P.M.

II. Invocation:

City Manager Arleen Hunter furnished the invocation.

III. Pledge of Allegiance

Council Member Jesse Purden led in the Pledge of Allegiance.

IV. Public comment on agenda items

City Manager Hunter informed Council of public comments received.

Daniel Cox attended via Zoom, attorney for the Bayside Community Development District and the Bay Creek Community Development District, participated via telephone to address the stormwater assessment Ordinance and a lawsuit they filed to challenge the program. City Manager Arleen Hunter addressed public comments received via email. Emails were received from John Spear who addressed beach closures; Dwight Esmon regarding City Hall renovations; Linda Schwartz regarding the location of City Council meetings, etc.

Council Member Chris Corrie objected to the public comments be read aloud and to the meeting being held today and motioned to delay for one week. Council Member Forbes seconded. Discussion ensued.

The motion was amended to allow discussion on beaches, but failed 2-5 (Mayor Simmons and Council Members Quaremba, Purdon, Carr and Gibson opposed)

City Manager Hunter continued to address emails received from Barbara Ogle regarding face masks, beaches and City Hall; and Daniel Cox who reserved his right to call in.

V. Consent Agenda: (Note: Items on the Consent Agenda will be considered as one unless a specific item is removed by a Council Member for separate discussion.)

Council Member Quaremba motioned to approve. Council Member Corrie to comment on item A. Council Member Quaremba to comment on items A. and B.

Council Member Quaremba motion to approve items B., C. and D.; Council Member Forbes seconded; and the motion carried unanimously.

A. Approve Budget Transfer Resolution to fund the "not to exceed" amounts due to Mosaic at Oak Creek Development, LLC under a Transportation Impact Fee Credit Agreement approved by City Council on April 15, 2020. (Greensheet No. 20-07-167)

Council Member Corrie explained that his question regards the Budget Resolution, which he explained. Pulling funding from Sun Trail and Bonita Beach Road Vision implementation His question is how many of these "placeholder" budget items are there. He's trying to understand the total amount is in the CIP budget that they can use elsewhere. City Manager Hunter responded. They can address during the budget process, to go through each CIP and designate as planning, design, or construction.

Council Member Corrie explained that his concern is that these funds are used to pay something. It seems that if it went through a process to put in CIP that they should reverse that to take them out of the CIP so people understand why they are choosing them to pay the Mosaic settlement agreement. Council Member Purdon addressed the Mosaic project, which people do not like. As they have completed all their obligations he supports approval.

Council Member Corrie motioned to approve; Mayor Simmons seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 20-51**

B. Consider a request by Gulf Coast Garden Club to place a Blue Star Memorial Highway Marker on the Northwest corner of the Banyan tree property by Old 41 Road and Reynolds Street right of way. (Greensheet No. 20-07-168)

C. Notification to Mayor and City Council regarding the potential purchase of retrofit kits for conversion of the City's decorative street lights to LED. (Greensheet No. 20-07-175)

D. Approve budget Resolution to transfer budget between Capital Project Fund accounts to fund security equipment for the Riverside Park Bandshell. (Greensheet No. 20-07-171) **ADOPTED RESOLUTION NO. 20-49**

- <u>Opportunity for City Council comments on Consent Agenda Items</u>

Council Member Quaremba informed Council that she met with Suzy Valentine regarding the Blue Star Memorial being placed along 41, which didn't work. They met in relation to a location at the western portion of Old 41, near the Banyan Tree. She is appreciative of them working this out.

VI. Proclamations and Presentations:

A. Adopt stormwater utility fee adjustment and mitigation credit program and presentation. (Greensheet No. 20-07-173)

Tim Hancock, with Stantec Consulting, furnished a PowerPoint presentation (copy in Clerk's file) to address credits, the application process, stormwater fee credits, the mitigation credit application, the application fee, and the stormwater management system maintenance agreement. At the request of Mayor Simmons, City Attorney Rooney addressed the associated lawsuit.

Council Member Purdon addressed his issue which is with the credits and payment of credits. It's 50 across the board, or 20 across the board, or it's not. One of his major issues with it is simply the credits, as $50 is a lot of money to people in his district. He is going to vote against this. Council Member Corrie feels this is a fair approach. People on the eastern side in his district sees this as a critical program with respect to a stormwater mitigation plan. Discussion ensued.

Mr. Cox participated via phone, addressed what was adopted is a special assessment, which has a slightly different test, which he addressed. Mr. Cox asked that Council defer action on this to work with the City Attorney and Stantec. Discussion followed.

<u>PUBLIC COMMENTS:</u>

Rick Steinmeyer suggested tabling this item.

Council Member Corrie motioned to approve; Council Member Forbes seconded.

Mayor Simmons table to flush out lawsuit and the number of residents this would affect. City Attorney Rooney explained, noting that Council is voting now for a relief mechanism for communities affected by the fee. Council can zero out the fee, repeal utility, during their budget process.

The motion passes 4-3 (Mayor Simmons, and Council Members Gibson and Purdon opposed)

B. Presentation by RG Architects and Wright Construction on the City Hall Renovations project including the Guaranteed Maximum Price (GMP). Accept proposal from Wright Construction Group for STA No. 3 to the Construction Manager at Risk Continuing Services Agreement in the amount not to exceed $1,972,685 for City Hall Renovations. Approval of a budget transfer between Capital Project Fund accounts to fund City Hall major repairs. (Greensheet No. 20-07-172)

A representative with RG Architects furnished an overview and addressed five items – the mechanical system, re-roofing, security, ADA compliance, and architectural upgrades. Time line of five months.

Council Member Corrie looked at previous minutes but did not find any public discussion about the scope. He feels that they owe it to the public to explain what we're doing, how we got there, where we are at, what will we achieve, what will it solve and not solve – make the process transparent.

City Manager Arleen Hunter addressed the A/C. The CIP included out years for roof to be addressed. The infrastructure needed for security has not been discussed publically. Discussion was held.

Council Member Corrie motioned to continue to explain to public how we got here, where we're at, what will achieve, what it's going to solve and not solve; Mayor Simmons seconded.

Council Member Forbes requested it included LED lighting and the cost of replicating this building with improvements.

Mayor Simmons clarified the motion to continue for two weeks for public input, Q&A, and to continue the discussion.

Council Member Purdon referred to ADA, the roof, A/C and security and to provide the bare bones cost to get it up to speed.

The motion passed 5-2 (Council Members Carr and Gibson opposed)

VII. Mayor and Council Member items:

ADDENDUM: Discussion regarding beach closures over holiday weekend. (Corrie; Greensheet No. 20-07-176)

Council Member Corrie furnished an overview. He is concerned about not only people coming from the east coast, but also with people coming from Collier County. His thought is to perhaps issue a resolution asking Lee County to mirror what Collier County has done and adopt a provision to limit the hours. He request asking Staff to draft a letter for the Mayor to sign for Lee County to have the same hours as Collier County. In response to Council Member Quaremba, City Manager Hunter addressed a report she received from Captain Lee.

Council Member Purdon addressed Commissioner Taylor in Collier County, who he feels was out of line regarding visiting our beaches. Council Member Quaremba stated her community doesn't allow any guests are their beach, but there are people who do not have those choices. She understands the concern. Council Member Carr stated there is more testing, and mortality rates are far lower and there hasn't been any spikes. It is now to be like a bad cold. Council Member Quaremba stated that in New York they are distributing masks to those not wearing them. Even though they have a mandatory rule there, they aren't enforcing it. Council Member Forbes would be in favor of leaving beaches open. This would only be for this weekend because the other beaches are closed. Council Member Corrie addressed a report he received regarding St. Petersburg. Council Member Purdon stated that he spoke to Commissioner Hammond and contact tracing has been traced to house parties and gated community gathers. He further explained, noting that closing the beach will have zero effect on stopping the virus.

PUBLIC COMMENT:

Dwight Esmon supports following the same rules as Collier County. He referred to his email, and reiterated the three questions reflected in his email regarding City Hall (copy in Clerk's file) regarding the value after the renovation. He also questions how long the building will be usable. There are three questions in his email that needs to be addressed. He also suggested asking Omer what he thinks about this process. He also suggested moving the meetings back to the church.

Council Member Corrie to send a letter to the Lee County Commission to close the beaches; Council Member Forbes seconded. Council Member Corrie explained that the motion is to ask Lee County to follow the same rules as Collier County, and ask them to only be open for certain hours – the same as Collier County. He doesn't have a problem with keeping the parking open.

The motion failed 2-5 (Mayor Simmons, and Council Members Gibson, Quaremba, Purdon and Carr dissenting).

ADDENDUM: Discussion regarding possibly cancelling a City Council meeting this summer. (Carr; Greensheet No. 20-07-177)

Council Member Carr provided an overview and City Attorney Rooney stated that the City's charter requires there to be only one meeting per month, but informed Council of a concern with several large land use items that need to be coming forward, which he addressed. Council Member Purdon spoke against one meeting a month as there are too many items coming up. Council Member Quaremba would rather have lighter agendas to allow them to discuss items thoroughly. She suggested one of the meetings being a retreat. Council Member Gibson supports the normal schedule. Mayor Simmons informed Council he will not be at the next meeting, as Deputy Mayor Gibson will Chair.

A. Approve Resolution appointing Jurgen (Jay) Welsch as Chairman of the Historic Preservation Board. (Carr; Greensheet No. 20-07-170)

Council Member Carr furnished an overview, informing Council that Jay Welsch has agreed to be Chair of the Historic Preservation Board, and further addressed. Council Member Quaremba supports the appointment, but suggested a policy that requires members to be residents of the City. City Manager Hunter stated there are currently two vacancies on the Board. Council Member Purdon referred to Charlie Strader and Cullum Hasty, who he would be happy to reach out to.

Council Member Carr motioned to approve; Council Member Quaremba seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 20-50**

VIII. City Attorney's items:

A. Reject both bids received in response to RFB 20-01 – Digitizing Plans, Files and documents, and grant permission to reissue as a Request for Qualifications. (Greensheet No. 20-07-174)

City Attorney Rooney provided an overview, noting that staff would like to re-advertise immediately to allow those who responded to clarify their issues.

Council Member Quaremba motioned to reject all bids and for staff to re-bid; Mayor Simmons seconded; and the motion carried unanimously.

City Attorney Rooney referred to the next couple of meetings and the need to secure a larger facility. After a brief discussion, staff to see what they can find.

IX. City Manager items:

A. Budget Planning Discussion. (Greensheet No. 20-07-169)

Anne to email out projections on new revenue. Let her know of any projects for July 27 budget meeting.

B. City's update regarding COVID-19

City Manager Hunter provided an update on COVID-19.

X. Mayor and Council Member reports:

Council Member Purdon addressed beach parking passes, and feels it's in our best interest to try to provide our residents with stickers. He would like to move forward on this. He also addressed the signs at the high school, located in Imperial Parkway, as he would like to reinitiate conversations.

Council Member Quaremba addressed the city's upcoming fireworks and suggested a PSA. She also addressed a project the Heritage Foundation was conducting for people on why it's great to be an American.

Mayor Simmons furnished thanks to all who helped in getting the $750,000 legislative funding for Imperial Bonita Estates, Quinn, Downs, and Dean Street west of Imperial Parkway Drainage Improvement Project. Council Member Quaremba suggested a thank you letter for all of Council to sign to Governor DeSantis, Capitol Strategies, Representative Rodrigues and Senator Passidomo.

Council Member Carr addressed language reflected in June 3rd and June 17th Minutes that didn't correctly reflect Council's discussion that was held. Specially section VII. A. of the June 3rd Minutes, and language on page 4 of the June 17th Minutes.

XI. Approval of Minutes: 06/03/17 & 06/17/20

Approved, as noted above.

XII. Public Comment: None

XIII. Adjournment.

There being no further items to discuss, the meeting adjourned at 9:05 P.M.

Respectfully submitted,

____
Debra Filipek, City Clerk

APPROVED:
CITY COUNCIL

Date: ____________________________
AUTHENTICATED:

____
Peter Simmons, Mayor