NOTICE OF PUBLIC MEETING
CITY COUNCIL
CITY OF BONITA SPRINGS
OFFICIAL AGENDA
WEDNESDAY, OCTOBER 7, 2020
5:30 P.M.

BONITA SPRINGS FIRE CONTROL AND RESCUE DISTRICT
27701 BONITA GRANDE DRIVE
BONITA SPRINGS, FL 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 NOON ON OCTOBER 7, 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. Zoning and land use items:

First reading and public hearing of the following Ordinances:

A. An Ordinance of the City of Bonita Springs, Florida, providing for adoption of a comprehensive plan amendment to the Future Land Use Element, to amend the future land use map from City of Bonita Springs resource protection, Lee County Outlying Suburban, and wetlands to Coconut Village and Resource Protection; providing for an amendment to Coconut Village Future Land Use category; providing for intent; providing for severability; providing for an effective date. (Greensheet No. 20-10-300)

B. An Ordinance of the City of Bonita Springs, Florida, rescinding the Development Order for the Bonita Bay Development of Regional Impact in accordance with Section 380.115(2), Florida Statutes; providing for repeal of conflicting Ordinances or Resolutions; and providing for an effective date. (Greensheet No. 20-10-295)

Short recess, if needed.

VII. First Reading and Public Hearing of the following Zoning Ordinances:

A. A Zoning Ordinance of the City of Bonita Springs to rezone 30.51 +/- acres from Commercial Planned Development (CPD), Residential Planned Development (RPD), Mobile Home Planned Development (MHPD), and Agriculture (AG-2) to Residential Planned Development (RPD) and Commercial Planned Development (CPD) to allow a public boat ramp, wet and dry boat slips, a Continuing Care Facility (CCF) containing a maximum of 300 Independent Living Facility (ILF) units and a 75 bed Assisted Living Facility (ALF) or 300 multifamily dwelling units at the northwest corner of Coconut Road and Coconut Point Resort Drive; and providing for an effective date. Zoning Ordinance will be provided via Addendum. (Greensheet No. 20-10-299)

B. A Zoning Ordinance of the City of Bonita Springs to rezone 1.82 +/- acres from Industrial Planned Development (IPD) to Industrial Planned Development (IPD) for two parcels located at 10971 and 10979 Enterprise Avenue, Bonita Springs, Florida 34135; and, providing for an effective date. Zoning Ordinance will be provided via Addendum. (Greensheet No. 20-10-296)

C. A Zoning Ordinance of the City of Bonita Springs amending the existing zoning for the Bonita Village Mixed-Use Planned Development; amending the provisions relating to permitted height along the northern and eastern boundaries of the project, amending the master concept plan, and amending the schedule of deviations; on 19 +/- acres along the north of Bonita Beach Road, east of Imperial River Road, and west of Meadowlark Lane; and, providing for an effective date. Zoning Ordinance will be provided via Addendum. (Greensheet No. 20-10-298)

VIII. Public hearing to consider adoption of the following Amendments to the Bonita Springs Comprehensive Plan.

A. An Ordinance of the City of Bonita Springs, Florida, providing for adoption of a Comprehensive Plan Amendment relating to the downtown redevelopment area amending the Future Land Use Element and Future Land Use Map Series, Transportation, Conservation/Coastal Management, Housing, and Capital Improvement Elements; providing for intent; providing for severability; providing for an effective date. (Greensheet No. 20-10-311)

AND

B. An Ordinance of the City of Bonita Springs, Florida, providing for adoption of a Comprehensive Plan Amendment to amend the Future Land Use Element and Future Land Use Map Series, Transportation Element and Transportation Map Series, and Housing; providing for intent; providing for severability; providing for an effective date. (Greensheet No. 20-10-311)

Short recess, if needed.

IX. 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 a sub-recipient agreement between the City of Bonita Springs and Excel Contractors, LLC for Grant Writing and Support Services. (Greensheet No. 20-10-301)

B. Approve a sub-recipient agreement between the City of Bonita Springs and Woodard & Curran, Inc., for Grant Writing and Support Services. (Greensheet No. 20-10-302)

C. Review of August 2020 Monthly Financial Reports. (Greensheet No. 20-10-291)

D. Review of 2020 Monthly Capital Improvement Projects Report. (Greensheet No. 20-10-287)

E. Approve Budget Resolution to transfer FY 2020 General Fund budget from the Historic Preservation Project and Grant budgets in the General Fund to the Goodbread Grocery (also known as the Dixie Moon) relocation and restoration Capital Project Fund account. (Greensheet No. 20-10-289)

F. Approve award to Antonio Correia for consulting services for Government Access Cable Channel BTV98 pursuant to RFP 20-17. (Greensheet No. 20-10-290)

G. Authorize the third extension of the agreement allowing the Bonita Springs Lions Club to operate a Farmers Market on Wednesdays from 8:00 am-1:00 pm at the Lemon Tree Lot commencing October 14, 2020 – September 30, 2021. (Greensheet No. 20-10-294)

H. Approve the purchase and installation of HD camera equipment and video production system for Council Chambers, to be installed concurrently with the City Hall construction project. (Greensheet No. 20-10-307)

I. Review of Five-Year Financial Projections. (Greensheet No. 20-10-288)

- OPPORTUNITY FOR CITY COUNCIL COMMENTS ON CONSENT AGENDA ITEMS

X. Proclamations and Presentations:

A. Presentation of Florida League of Cities Municipal Achievement Award by Shwanda Barnett with the Florida League of Cities.

B. Proclamation in celebration of Hispanic Heritage Month.

C. Recognition of the Bonita Springs High School varsity football team for their first-ever victory.

Short recess, if needed.

XI. Mayor and Council Member Items:

A. Presentation by Bonita Bay addressing lake management processes and environmental concerns. (Corrie; Greensheet No. 20-10-309)

B. Discussion regarding the Zoning Board. (Quaremba and Corrie; Greensheet No. 20-10-312)

C. A Resolution appointing Members to the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals. (Mayor Simmons; Greensheet No. 20-10-305)

D. A Resolution appointing a Chair to the Board for Land Use Hearings and Adjustments and Zoning Board of Appeals. (Mayor Simmons; Greensheet No. 20-10-293)

XII. First Reading and Public Hearing of the following Ordinances:

A. An Amendment to the Bonita Springs Land Development Code Chapter 4 (Zoning) and 6 (Signs); relating to the Old U.S. 41 Redevelopment Overlay District; Sections 4-866 through Section 4-885 to repeal and replace the Old U.S. 41 Redevelopment Overlay District with the downtown Form-Based Code for the Downtown District; repeal and replace Section 6-116 Permanent Signs on Old U.S. 41 from Bonita Beach Road to Rosemary Street with the new form-based code recommendations; providing for conflicts of law, severability, codification, scrivener's errors, and modifications that may arise from consideration at public hearing and an effective date. Ordinance will be provided via Addendum. (Greensheet No. 20-10-297)

B. An Ordinance of the City Council of Bonita Springs, Florida, adopting the 2020 Five Year Capital Improvement Program Annual Update; providing for legislative findings; providing for severability; providing for exclusion from codification; and providing for an effective date. (Greensheet No. 20-10-286)

C. An Ordinance of the City of Bonita Springs, Florida, amending Chapter 4, Zoning, of the Land Development Code; clarifying development standards relating single and two-family residential developments in Mobile Home Zoning districts; and, providing for severability, conflicts, codification, scrivener's errors; and providing for an effective date. (Greensheet No. 20-10-306)

D. An Ordinance of the City of Bonita Springs, Florida, amending Chapter 4 Zoning, Article VI supplementary district regulations, Division 30 Property Development Regulations, Subdivision III Subdivisions, of the Land Development Code; providing for permitted encroachments relating to mechanical equipment; and, providing for severability, conflicts, codification, scrivener's errors; and providing for an effective date. (Greensheet No. 20-10-308)

XIII. Second Reading and Public Hearing of the following Ordinance:

A. Continued from September 16, 2020: An Ordinance of the City of Bonita Springs, Florida, amending Division 37, Subdivision II, Temporary Uses and Subdivision III. Mobile Food Vendors of the Land Development Code relating to mobile food vendors; providing for severability, conflicts, codification, scrivener's errors; and providing for an effective date. (Greensheet No. 20-10-310)

Short recess, if needed

XIV. City Attorney's Items:

A. Approve addendum to FGCU Riverkeep Agreement. (Greensheet No. 20-08-292)

XV. City Manager's Items:

A. Approve a sub-recipient agreement between Lee County and the City of Bonita Springs for Community Development Block Grant – Coronavirus (CDBG-CV) Entitlement Funds in the amount of $206,313. (Greensheet No. 20-10-304)

B. City's COVID-19 update.

XVI. Mayor and Council Member Reports:

XVII. Approval of Minutes: 09/02/20 & 09/09/20

XVIII. Public comment:

XIX. 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.

NOTE: AGENDAS ARE AVAILABLE FOR VIEW, AND THE MEETING CAN BE VIEWED AT http://www.cityofbonitasprings.org/cms/one.aspx?pageId=13788697 THIS MEETING IS TELEVISED ON COMCAST CHANNEL 98. YOU MAY ALSO VIEW THE MEETING ON HOTWIRE CHANNEL 398; CENTURY LINK/PRISM TV CHANNEL 87; AND SUMMIT BROADBAND CHANNEL 96.

NEXT MEETING: 10/21/20

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-300

AGENDA ITEM SUMMARY

REQUESTED MOTION: First reading of the following ordinance: AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, PROVIDING FOR ADOPTION OF A COMPREHENSIVE PLAN AMENDMENT TO THE FUTURE LAND USE ELEMENT, TO AMEND THE FUTURE LAND USE MAP FROM CITY OF BONITA SPRINGS RESOURCE PROTECTION, LEE COUNTY OUTLYING SUBURBAN, AND WETLANDS TO COCONUT VILLAGE AND RESOURCE PROTECTION; PROVIDING FOR AN AMENDMENT TO COCONUT VILLAGE FUTURE LAND USE CATEGORY; PROVIDING FOR INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☒	STATUTE: 163.3184	John Dulmer, AICP, Community Development Director Jacqueline Genson, AICP Planning and Zoning 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: The request proposes to amend the property's future land use map designation from City of Bonita Springs Resource Protection and Lee County Outlying Suburban and Wetlands to the City of Bonita Springs Coconut Village and Resource Protection Future Land Use Categories as depicted on the proposed Future Land Use Map (Exhibit A). This request also includes a comprehensive plan text amendment to modify the Coconut Village future land use category consistent with the Applicant's two (2) development scenarios.

The City Council approved the transmittal of the comprehensive plan amendments to the state land planning agency on August 5, 2020. All comments from the state land planning agency and other review agencies have been received.

This is the first reading of an Ordinance for the comprehensive plan amendment requests. The first reading of the Ordinance is procedural, where the title block is read into the record. The Applicant and Staff presentation is scheduled for the second reading. The second reading (public hearing) is scheduled for October 21, 2020 in order to afford due process in accordance with state law

This public hearing consists of two separate petitions (1) future land use amendment expanding Coconut Village land use, and (2) text amendment to Coconut Village. Requires two votes.

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

STAFF RECOMMENDATIONS: Advance to second reading on October 21, 2020

REVIEWED BY:

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

COUNCIL ACTION:

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

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 2020 –

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, PROVIDING FOR ADOPTION OF A COMPREHENSIVE PLAN AMENDMENT TO THE FUTURE LAND USE ELEMENT, TO AMEND THE FUTURE LAND USE MAP FROM CITY OF BONITA SPRINGS RESOURCE PROTECTION, LEE COUNTY OUTLYING SUBURBAN, AND WETLANDS TO COCONUT VILLAGE; PROVIDING FOR AN AMENDMENT TO COCONUT VILLAGE FUTURE LAND USE CATEGORY; PROVIDING FOR INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Whereas, the City Council of the City of Bonita Springs, Florida recognizes the need to plan for orderly growth and development; and

Whereas, Chapter 163, Florida Statutes provides for amendment to adopted Comprehensive Plan; and

Whereas, City Council for the City of Bonita Springs adopted the City of Bonita Springs Comprehensive Plan, as amended, in accordance with the Local Government Comprehensive Planning Act; and

Whereas, the proposed amendments to the Future Land Use Map and Coconut Village land use category, attached hereto as Exhibit "A", will promote and protect public health safety and welfare and will help accomplish the goals, objectives and policies of the City Comprehensive Plan; and

Whereas, Florida Statutes §163.3181 further provides an opportunity for individuals to participate in the plan amendment public hearing process; and

Whereas, the City has received and reviewed the proposed Amendment to the City's Comprehensive Plan, and said proposed amendment was reviewed by the City's Local Planning Agency at a duly advertised meeting on July 17, 2020, who recommended denial, and

Whereas, the City Council finds that that the proposed amendment complies with the requirements of Chapter 163, Florida Statutes, Part II, and that the proposed amendments is consistent with the Comprehensive Plan and appropriate to the future land uses within the City; and

Whereas, the City Council of Bonita Springs adopted, pursuant to Chapter 163, Part II, Florida Statutes, after holding statutorily prescribed public hearings for the adoption of the amendment being proposed and at the August 6, 2020 hearing approved a motion to transmit said proposed amendments as more particularly set forth herein.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals. The forgoing recitals are hereby ratified and confirmed as being true and correct and hereby made a part of this Ordinance and adopted as legislative findings.

Section 2. Adoption. The City of Bonita Springs Comprehensive Plan is hereby amended, which amendment consists of revising the Future Land Use Element and Future Land Use Map which is further described as Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Severability. In the event that any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective in accordance with Section 163.3184, F.S.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of October, 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 A

CPA18-54980-BOS & CPA18-54982-BOS

Proposed Future Land Use Text Change and Future Land Use Map

Policy 1.1.10.2: Coconut Village: Intended to accommodate marine, retail, restaurant, hotel, Continuing Care Facilities (CCF) including ancillary medical, skilled nursing care facilities, personal service and similar uses, Independent Living Facility (ILF) units, Assisted Living Facility (ALF) units, multi-family dwelling units, and office uses designed to enhance and protect the public use of, and access to, the marina and waterfront areas of Estero Bay. Development of wet and dry slips, boat ramps and other marine related uses will provide access for public and private club members. This future land use category is applicable to areas along Estero Bay, and shall not be located on any barrier island. Proposed development within this and future land use category shall adhere to innovative design and planning principles that incorporate the protection of the natural resources of Estero Bay while providing ~~the~~ recreational and boating opportunities to the City of Bonita Springs.

a. All new development within the category shall be required to be zoned planned development. All density, intensity, height and types of uses will be established during the planned development rezoning process.
b. Appropriate uses within the future land use category include the following:
    i. Marina and marine accessory uses. Marina uses shall not be solely for private use.
    ii. Limited private club use as defined in planned development process may be allowed.
    iii. Hotels/resorts and ancillary retail, cultural, and public and private recreational uses.
    iv. Residential dwellings ~~when incorporated into a resort complex.~~
    v. CCF, ILF, and ALF units.
c. Development Standards:
    i. Development shall be located to minimize loss of environmentally sensitive areas.
    ii. Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2. If the development includes residential and/or CCF uses, non-residential uses shall be limited to ancillary uses only.
    iii. Residential uses with a resort character and lifestyle may be integrated into resort use and may share in resort amenities.
    iv. Residential density shall be limited to not more than 11.4 ~~6~~ dwelling units per acre, not to exceed 300 multi-family residential units; or a Continuing Care Facility (CCF) containing 300 Independent Living Facility (ILF) units and 75 Assisted Living Facility (ALF) beds, within the approximately ~~17~~ 26.38 acres of gross land area in ~~the~~ this land use category. Where 300 ILF units and 75 ALF beds are developed within a CCF, the residential density shall not exceed 6.4 dwelling units per acre based upon the density equivalency factors in the Land Development Code of two ILF units equal to one residential dwelling unit.
    v. Residential density calculations shall be considered for the gross project acreage regardless of other non-residential uses on the project.
    vi. No buffer shall be required between the CPD/RPD areas.
d. Height.

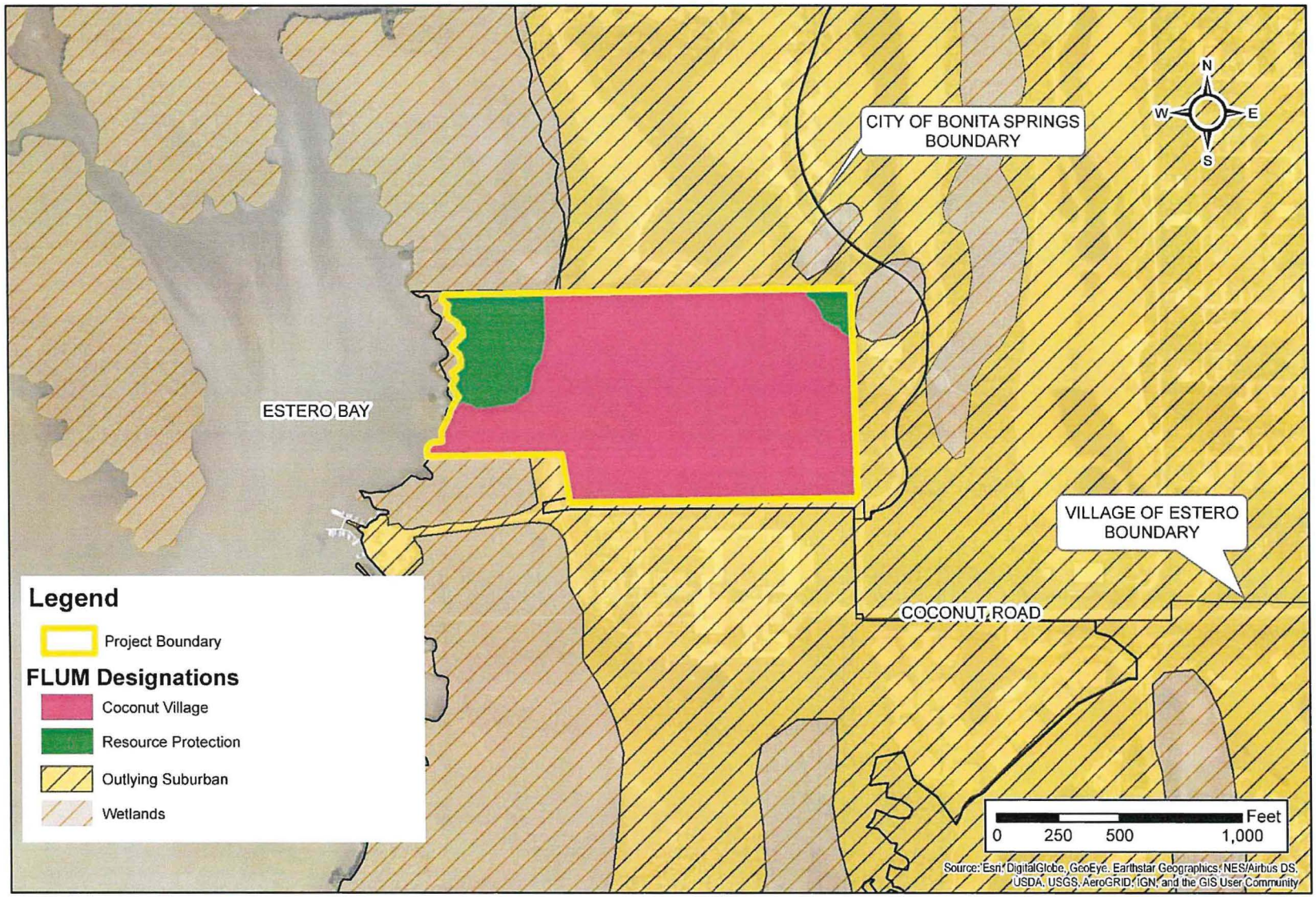
i. Buildings over 75 feet from the base flood (FEMA + 1') elevation to the eaves shall be limited to a locations that do not negatively impact adjacent property view corridors or neighborhood compatibility.

ii. Compatibility with surrounding buildings.

e. Locations shall have access to a transportation network with adequate capacity and sufficient and navigable access to waters of Estero Bay.

f. Coastal High Hazard. Impacts on sheltering and evacuation resulting from development/redevelopment activities within the CHHA shall be mitigated through cooperation and coordination with Lee County Emergency Management Operations at time of local development order and shall be consistent with Chapter 163, Florida Statutes. ~~If the shelter and evacuation mitigation has been provided through the Development of Regional Impact process then no further mitigation is required at the time of local development order.~~

g. At minimum the development must provide the following waterfront public facilities: one (1) publicly accessible boat ramp; ten (10) boat slips for use by the public, one (1) boat slip dedicated to the Estero Fire District; one (1) boat slip dedicated to the Lee County Sheriff's Office; and fifteen (15) boat trailer parking spaces subject to Boat Facility Siting Plan of Lee County consistency review.



WALDROP ENGINEERING FL#8636 #EC26000385
PLANNING | CIVIL ENGINEERING | LANDSCAPE ARCHITECTURE
www.waldropengineering.com

Bayview on Estero Bay

prepared for: LB Estero Bay Investments
A London Bay Company

EXHIBIT IV.A.3.
PROPOSED FUTUTRE LAND USE MAP

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-295

AGENDA ITEM SUMMARY

REQUESTED MOTION: **First reading and public hearing of:** **AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, RESCINDING THE DEVELOPMENT ORDER FOR THE BONITA BAY DEVELOPMENT OF REGIONAL IMPACT IN ACCORDANCE WITH SECTION 380.115(2), FLORIDA STATUTES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES OR RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

MEETING DATE: 9/2/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	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: Bonita Bay wishes to rescind their classification as a Development of Regional Impact (DRI) in accordance with Florida Statute. The final residential building is under construction and the overall project is essentially built-out. The regional and local commitments that were part of the DRI approval have been fulfilled by the developer, thus the DRI is no longer needed. The project will continue to be regulated by Zoning Resolution Z-81-452, as subsequently amended.

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

STAFF RECOMMENDATIONS: **Advance to second reading on October 21, 2020**

REVIEWED BY:

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

COUNCIL ACTION:

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

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE 2020-

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, RESCINDING THE DEVELOPMENT ORDER FOR THE BONITA BAY DEVELOPMENT OF REGIONAL IMPACT IN ACCORDANCE WITH SECTION 380.115(2), FLORIDA STATUTES; PROVIDING FOR REPEAL OF CONFLICTINGORDINANCES OR RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Lee County adopted Ordinance 81-55, approving the Bonita Bay Planned Unit Development, which constitutes the initial development order (State DRI #6-8182-18) for the Bonita Bay Development of Regional Impact ("DRI") pursuant to Chapter 380, *Florida Statutes*, governing the development of approximately 1,400 acres of real property now located within the City; and

WHEREAS, upon the City's incorporation, the City issued a local "Development Order" for the Bonita Bay DRI in accordance with Section 380.06, *Florida Statutes*; and

WHEREAS, the entirety of the Bonita Bay DRI property is within the boundaries of the City of Bonita Springs; and

WHEREAS, Section 380.115(2), *Florida Statutes*, provides that, upon the request of the developer or landowner, the local government with jurisdiction over the previously-approved DRI development order shall rescind such development order upon a showing that all required mitigation related to the amount of development that exists on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization; and

WHEREAS, the developer of the Bonita Bay DRI, has requested rescission of the Development Order in accordance with Section 380.115(2), *Florida Statutes*; and

WHEREAS, all mitigation for any development existing within the Bonita Bay DRI as of the date hereof has been completed; and

WHEREAS, the City Council has determined that Bonita Bay's request to rescind the Bonita Bay DRI Development Order is consistent with Section 380.115(2), *Florida Statutes*, and that rescission is appropriate.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. The recitals set forth above are true and correct and are hereby ratified, confirmed, and made a part of this Ordinance.

Section 2. Bonita Bay Community Association, Inc., is successor in interest to the developer under the DRI and the requested recession of the Bonita Bay DRI Development Order is consistent with Section 380.115(2), *Florida Statutes*, and, thus, rescission is appropriate.

Section 3. The Bonita Bay DRI Development Order is hereby rescinded pursuant to Section 380.115(2), *Florida Statutes*, and shall be of no further force and effect. Such rescission, however, shall in no way affect the requirements and effectiveness of any other development agreements, governmental approvals, permits, development orders, or zoning and land use approvals for the Bonita Bay property. Future development of any vacant and non-developed lands within the Bonita Bay property shall hereafter be governed by the Bonita Bay Planned Unit Development, as amended, the City's Comprehensive Plan and the City's Land Development Code, as applicable, and any other development orders, permits, or similar zoning or land use approvals granted for the subject property.

Section 4. All terms of this Ordinance shall be considered to be dependent upon and inextricably related to all other terms, such that, if any clause, provision, or section of this Ordinance, or any portion thereof, shall be held invalid or unconstitutional by any court of competent jurisdiction, the entire Ordinance shall be rendered void.

Section 5. All existing ordinances or resolutions or parts of existing ordinances or resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall become effective immediately upon approval by the City Council.

[SIGNATURE PAGE FOLLOWS]

Duly Passed and Enacted by the City Council of the City of Bonita Springs, Lee County, Florida, this XX day of MONTH 2020.

AUTHENTICATION:

_____ _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:

Carr	Quaremba
Forbes	Simmons
Gibson	Corrie
Purdon	

Date filed with City Clerk: _____

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-299

AGENDA ITEM SUMMARY

REQUESTED MOTION: First reading of the following Zoning Ordinance: A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS TO REZONE 30.51 +/- ACRES FROM COMMERCIAL PLANNED DEVELOPMENT (CPD), RESIDENTIAL PLANNED DEVELOPMENT (RPD), MOBILE HOME PLANNED DEVELOPMENT (MHPD), AND AGRICULTURE (AG-2) TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) AND COMMERCIAL PLANNED DEVELOPMENT (CPD) TO ALLOW A PUBLIC BOAT RAMP, WET AND DRY BOAT SLIPS, A CONTINUING CARE FACILITY (CCF) CONTAINING A MAXIMUM OF 300 INDEPENDENT LIVING FACILITY (ILF) UNITS AND A 75 BED ASSISTED LIVING FACILITY (ALF) OR 300 MULTIFAMILY DWELLING UNITS AT THE NORTHWEST CORNER OF COCONUT ROAD AND COCONUT POINT RESORT DRIVE; AND, PROVIDING FOR AN EFFECTIVE DATE.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Jacqueline Genson, AICP Planning and Zoning 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:
The case was heard by the Zoning Board on September 15, 2020. This is the first reading of a Zoning Ordinance for the Bayview on Estero Bay RPD/CPD rezoning request. The first reading of the Zoning Ordinance is procedural, where the title block is read into the record. The Applicant and Staff presentation is scheduled for the second reading. The second reading (public hearing) is scheduled for October 21, 2020 in order to afford due process in accordance with the land development code and state law. The Zoning Ordinance will be provided via Addendum by the City Attorney.

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

STAFF RECOMMENDATIONS: Advance to 2nd Reading on October 21, 2020.

REVIEWED BY:

City Manager: ___ **Arleen Hunter**_____
City Attorney: ____**Derek Rooney**_____
City Clerk: ____**Debra Filipek**_____
Department Director: _____

COUNCIL ACTION:

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

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-296

AGENDA ITEM SUMMARY

REQUESTED MOTION: **First reading of the following zoning ordinance:** A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS TO REZONE 1.82 +/- ACRES FROM INDUSTRIAL PLANNED DEVELOPMENT (IPD) TO INDUSTRIAL PLANNED DEVELOPMENT (IPD) FOR TWO PARCELS LOCATED AT 10971 AND 10979 ENTERPRISE AVENUE BONITA SPRINGS, FLORIDA 34135; AND, PROVIDING FOR AN EFFECTIVE DATE.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Mike Fiigon II Senior Planner Department of Community Development
☐	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 of this ordinance. The case was heard by the Zoning Board on September 15, 2020 and received approval with modified conditions. The second reading and public hearing in front of City Council is tentatively scheduled for October 21, 2020. The Zoning Ordinance will be provided via Addendum.

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

STAFF RECOMMENDATIONS: Advance to second reading on October 21, 2020

REVIEWED BY:

City Manager: **Arleen Hunter**
City Attorney: **Derek Rooney**
City Clerk: **Derek Rooney**
Department Director: _____

COUNCIL ACTION:

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

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-298

AGENDA ITEM SUMMARY

REQUESTED MOTION: First reading of the following Zoning Ordinance: A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS AMENDING THE EXISTING ZONING FOR THE BONITA VILLAGE MIXED-USE PLANNED DEVELOPMENT; AMENDING THE PROVISIONS RELATING TO PERMITTED HEIGHT ALONG THE NORTHERN AND EASTERN BOUNDARIES OF THE PROJECT, AMENDING THE MASTER CONCEPT PLAN, AND AMENDING THE SCHEDULE OF DEVIATIONS; ON 19 +/- ACRES ALONG THE NORTH OF BONITA BEACH ROAD, EAST OF IMPERIAL RIVER ROAD, AND WEST OF MEADOWLARK LANE; AND, PROVIDING FOR AN EFFECTIVE DATE.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Jacqueline Genson, AICP Planning and Zoning 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:

The case was heard by the Zoning Board on September 15, 2020. This is the first reading of a Zoning Ordinance for the Bonita Village MPD Amendment request. The first reading of the Zoning Ordinance is procedural, where the title block is read into the record. The Applicant and Staff presentation is scheduled for the second reading. The second reading (public hearing) is scheduled for October 21, 2020 in order to afford due process in accordance with the land development code and state law. The Zoning Ordinance will be provided via Addendum by the City Attorney.

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

IF YES, WHICH STRATEGIC OBJECTIVE?

STAFF RECOMMENDATIONS: Advance to second reading on October 21, 2020.

REVIEWED BY:

City Manager: **Arleen Hunter**

City Attorney: **Derek Rooney**

City Clerk: **Debra Filipek**

Department Director: _____

COUNCIL ACTION:

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

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-311

AGENDA ITEM SUMMARY

REQUESTED MOTION: Public Hearing to adopt, with changes, amendments to the Bonita Springs Comprehensive Plan related its Downtown vision and other updates to the Future Land Use, Transportation, and Housing Elements as directed by the City Council.

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, PROVIDING FOR ADOPTION OF A COMPREHENSIVE PLAN AMENDMENT RELATING TO THE DOWNTOWN REDEVELOPMENT AREA AMENDING THE FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP SERIES, TRANSPORTATION, CONSERVATION/COASTAL MANAGEMENT, HOUSING, AND CAPITAL IMPROVEMENT ELEMENTS; PROVIDING FOR INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, PROVIDING FOR ADOPTION OF A COMPREHENSIVE PLAN AMENDMENT TO AMEND THE FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP SERIES, TRANSPORTATION ELEMENT AND TRANSPORTATION MAP SERIES, AND HOUSING; PROVIDING FOR INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☒	STATUTE: 163.3184	Dr. Margaret E. Banyan, Professor, Florida Gulf Coast University Jacqueline Genson, AICP Planning and Zoning 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: The City Council has retained Florida Gulf Coast University (FGCU) to assist in completing amendments to various elements of the comprehensive plan. The comprehensive plan amendments incorporate City Council direction from the November 6, 2019; December 19, 2019 meeting; February 19, 2020 meeting; and the February 6, 2020 Public Workshop. The downtown amendments include changes to accommodate the downtown redevelopment area vision based on the proposed form-based code. The amendments include objectives and policies in the Future Land Use Element, Transportation Element, Housing Element, Coastal/Conservation Management Element, and the Capital Improvements Element. The general amendments include updates to the Future Land Use, Transportation, and Housing Elements and associated map series.

On August 19, 2020, the City Council approved the transmittal of the amendments to the Florida Department of Economic Opportunity (DEO) through the State Expedited Review Process. Pursuant to City Councils' direction, Staff had incorporated changes relative to the Little Hickory Island, inclusive of the colors pertaining to that future land use element and map changes. The City received a technical assistant comment for the Florida Department of Transportation (FDOT) regarding the identification and level of service for state facilities. Staff has not received any other technical assistance comments from other review agencies that necessitate changes. These items are included in the ordinance and staff report for your review and consideration.

This public hearing consists of two separate amendment requests (1) Downtown (2) General Amendments. Requires two votes.

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

IF YES, WHICH STRATEGIC OBJECTIVE? Transportation, Environmental Protection, and Economic Development

STAFF RECOMMENDATIONS: Commence with the public hearing to consider adoption of the ordinance, with changes.

REVIEWED BY:

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

COUNCIL ACTION:

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

CPA20-68504-BOS and CPA20-68505-BOS

Downtown and General Amendments

Expedited State Review Process

City Initiated Application
and Staff Analysis

City of Bonita Springs
Planning Division
9200 Bonita Beach Road, Suite 109
Bonita Springs, Florida
(239) 444-6150

LPA Public Hearing Date:	March 12, 2020
City Council Transmittal Date:	August 19, 2020
City Council Adoption Date:	October 7, 2020
Project Name:	Downtown and General Amendments

City of Bonita Springs
Planning and Zoning Division
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
EXPEDITED STATE REVIEW

CPA20-68504-BOS and CPA20-68505-BOS

X Text Amendment **X Map Amendment**

This Document Contains the Following Reviews:	
X	Staff Review
X	Local Planning Agency Review and Recommendation
X	City Council Hearing for Transmittal

STAFF REPORT PREPARATION DATE: August 14, 2020, Rev. August 27, 2020 and October 1, 2020

PART I- BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. Applicant: City of Bonita Springs

2. Request: This request is to adopt amendments to the Comprehensive Plan to reflect the City's vision for Downtown. The request amends the Bonita Springs Comprehensive Plan in compliance with state requirements for an expedited review. This request proposes amendments to the Future Land Use Element; Transportation Element, Housing Element, Conservation and Coastal Management Element; and Capital Improvements Element.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. Recommendation: Staff recommends that the City commence with the transmittal process for comprehensive plan amendments ("**Attachment A"**) and if approved, transmit to the Florida Department of Economic Opportunity (FDEO) through the Expedited State Review Process in accordance with Florida State Statute.

2. Basis and recommended findings of fact:
   - The City Council directed staff and consultant DPZ to create a Form Based Code (FBC) that will be adopted in its Land Development Code (LDC) to guide the development of its Downtown area.
   - It is the City's intent to adopt a FBC to guide development.

- Amendments to the Comprehensive Plan are necessary to create consistency with the code.
- Dr. Margaret Banyan presented and sought Council direction for the Comprehensive Plan amendments needed to reflect a vision change for Downtown on November 6, 2020, December 4, 2020, and February 19, 2020.
- This request is to transmit the amendments for the Downtown District and other general amendments.
- The amendments support and compliment other goals and policies within the Bonita Springs Comprehensive Plan.

C. SUMMARY/BACKGROUND DISCUSSION:

1. EXISTING CONDITIONS

The existing Bonita Springs Comprehensive Plan is required to be consistent with its Land Development Code (LDC).

1. AFFECTED ELEMENTS OF THE BONITA PLAN.

The amendments required to ensure that the Bonita Plan is consistent with its LDC include the Future Land Use Element; Transportation Element, Housing Element, Conservation and Coastal Management Element; and the Capital Improvements Element.

D. Public Input:

A public meeting was held on February 6, 2020. Dr. Margaret Banyan presented an overview of the amendments under consideration. Members of the public were invited to provide feedback at three tables consisting of: Downtown and Housing, Future Land Use, and Transportation. The feedback summary and public comment are attached. In addition, Domnal, LLC Property has submitted a letter requesting to be excluded from the City's Future Land Use Designation of DRGR and Resource Protection. It is City's Staff recommendation to bring all the remaining annexed properties into a city designation that is most like that of Lee County. Otherwise, the City could be placed in a position to review zoning petitions based on the Lee County Lee Plan and LDC at time of annexation (circa 2004-2008).

PART II- STAFF ANALYSIS

A. ANALYSIS

Please see the attached Final Report by FGCU, **Attachment B**. The Final Report includes analysis related to both the Downtown and general amendments.

CONSISTENCY WITH THE BONITA PLAN

There are existing goals, objectives, and policies in the Bonita Springs Comprehensive Plan that support and compliment the amendments as proposed.

NOTICE OF PROPOSED ACTION:
This application and its appearance before the Local Planning Agency was noticed for the public. The Local Planning Agency meeting was held on 3-12-20. The LPA findings will be delivered as part of the transmittal presentation to the City Council.

CONCLUSIONS:
The Bonita Springs Comprehensive plan should be amended to implement its vision for Downtown. The general amendments should be transmitted based on prior direction by the City Council.

STAFF RECOMMENDATION
Commence with the transmittal process for comprehensive plan amendments and if approved, transmit to FDEO through the Expedited State Review Process in accordance with Florida State Statute.

ATTACHMENTS: IN AN EFFORT TO CONSERVE PAPER AND RESOURCES, PLEASE VIEW GREENSHEET 20-08-235 FROM THE AUGUST 19, 2020 AGENDA PACKET FOR COPIES OF ATTACHMENTS A-D OR CONTACT COMMUNITY DEVELOPMENT AND/OR THE CLERKS OFFICE.

ATTACHMENTS:

a. Proposed Text and Map Amendments
b. Final Report provided by Florida Gulf Coast University
c. Policy "Cross-Walk" Summary of Downtown Amendments
d. Public input (includes Downtown and Other Amendments)
e. Agency Comments

Submitted by:

Dr. Margaret Banyan
Professor of Public Administration, FGCU

Jacqueline Genson, AICP
Planning and Zoning Manager
Date: October 1, 2020

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: March 12, 2020

A. LOCAL PLANNING AGENCY REVIEW. See March LPA Minutes.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** City Council to find the request consistent with the City of Bonita Springs Comprehensive Plan and transmit the amendment with minor revisions to the Florida Department of Economic Opportunity. The motion passed 5-0.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Local Planning Agency accepted the findings of fact as provided by staff.

C. VOTE:

Chairman Jeff Maturo	**_____Aye_____**
Don Colapietro	**_____ Aye _____**
Rex Sims	**_____Abs_____**
Sam Vincent	**_____Aye_____**
Linda Schwartz	**_____Abs_____**
Robert Bornstein	**_____ Aye _____**
Anthony Rascio	**_____ Aye _____**

PART IV – CITY COUNCIL
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT

DATE OF PUBLIC HEARING: August 19, 2020

A. CITY COUNCIL REVIEW

FGCU provided a presentation to the City Council summarizing the background of the amendments, areas where direction was needed, and discussion relative to Little Hickory Island.

B. CITY COUNCIL RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **COUNCIL ACTION:** Public comment from residents on Hickory Island resulted in discussion and direction to make minor changes to the proposed language for inclusion into the transmittal package. Other public participation included a representative for property owned by Donmal LLC requesting that the City remove their property from the amendments. The City Council acknowledged their position but did not agree with their request. The Applicant still has the ability to submit a privately initiated amendment in the future for the City's review and evaluation.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The City Council accepted the findings of fact as provided by the FGCU. The City Council motioned to approved to transmittal of the amendments, including those changes to relative to Hickory Island, to DEO for review.

C. VOTE:

Mayor Peter Simmons	**Aye**
Amy Quaremba	**Aye**
Jesse Purdon	**Aye**
Laura Carr	**Aye**
Chris Corrie	**Aye**
Mike Gibson	**Aye**
Fred Forbes	**Aye**

PART V – CITY COUNCIL
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF PUBLIC HEARING: October 7, 2020

REQUEST: This request is to adopt comprehensive plan amendments based on City Council direction from the November 6, 2019, December 19, 2019, and February 19, 2020 meetings and the February 6, 2020 Public Workshop. The downtown amendments include changes to accommodate the downtown redevelopment area vision based on the proposed form-based code. The amendments include objectives and policies in the Future Land Use Element, Transportation Element, Housing Element, Coastal/Conservation Management Element, and the Capital Improvements Element. The general amendments include updates to the Future Land Use, Transportation, and Housing Elements and associated map series.

TRANSMITTAL: The City Council motioned to approved to transmittal of the amendments (7/0), including those changes to relative to Hickory Island, to DEO for review.

AGENCY COMMENTS: Florida State Statute 163.3184(4) sets forth the manner in which reviewing agencies, local government, or governmental agencies may comment on comprehensive plan amendments.

The FDEO is responsible for plan review, coordination of reviewing agencies, and preparing comments. The FDEO may provide objections, recommendations, or comments (ORC). Only objections raised in the ORC may be used as a basis for determining whether the plan amendments will be deemed by FDEO to be in compliance.

The FDEO determined the transmittal package was complete on August 31, 2020. On September 25, 2020, the FDEO issued a letter with no objection to the proposed amendments. See **"Attachment E"** for received Review Agency correspondence.

The Florida Department of Transportation (FDOT) also reviewed the request and determined that the proposed amendments have no significant adverse impacts on Transportation resources or facilities of state importance and will not form a basis of challenge. The FDOT provided five (5) technical assistance comments. Only one of comment resulted in changes to the Transportation Element by requesting the City include a map or table showing the existing and projected level of service for state facilities (I-75 and US 41). The other comments supported the complete streets and multi-modal changes, notification of impending changes to the Lee County MPO LRTP, and alerted the City of additional opportunities to promote transit and multi-modal design principles as the City continues to grow.

Other state reviewing agencies such as Lee County and the South Florida Water Management District (SFWMD) found no provision that would result in adverse impacts to their facilities or areas subject to their jurisdiction.

STAFF RECOMMENDATION: Staff recommends that the City Council adopt the amendments, with changes, to the City of Bonita Springs Comprehensive Plan.

B. CITY COUNCIL RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. COUNCIL ACTION:

Section to be completed after the adoption hearing.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

Mayor Peter Simmons _____

Amy Quaremba _____ _____

Jesse Purdon _____

Laura Carr _____

Chris Corrie _____

Mike Gibson _____

Fred Forbes _____

Ron DeSantis
GOVERNOR

FLORIDA DEPARTMENT of ECONOMIC OPPORTUNITY

Dane Eagle
EXECUTIVE DIRECTOR

September 25, 2020

The Honorable Peter Simmons
Mayor, City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, Florida 34135

Dear Mayor Simmons:

The Department of Economic Opportunity ("Department") has reviewed the proposed comprehensive plan amendment for the City of Bonita Springs (Amendment No. 20-04ESR) received on August 28, 2020. The review was completed under the expedited state review process. We have no comment on the proposed amendment.

The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the City is reminded that:

- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the City. **If the City receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption**.

- **The second public hearing,** which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.

- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the City that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

If you have any questions concerning this review, please contact Scott Rogers, Planning Analyst, by telephone at (850) 717-8510 or by email at scott.rogers@deo.myflorida.com.

Sincerely,

James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/sr

Enclosure(s): Procedures for Adoption

cc: Jacqueline Genson, Planning and Zoning Manager, City of Bonita Springs
Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

FOR EXPEDITED STATE REVIEW

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, **in color format,** clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

> "The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.

From: Oblaczynski, Deborah <doblaczy@sfwmd.gov>
Sent: Thursday, September 24, 2020 2:20 PM
To: Jacqueline Genson <jgenson@cityofbonitaspringscd.org>
Cc: Ray Eubanks (ray.eubanks@deo.myflorida.com) <ray.eubanks@deo.myflorida.com>; Barbara Powell (barbara.powell@deo.myflorida.com) <barbara.powell@deo.myflorida.com>; Margaret Wuerstle (mwuerstle@swfrpc.org) <mwuerstle@swfrpc.org>; DEO Planning Group Email (DCPexternalagencycomments@deo.myflorida.com) <DCPexternalagencycomments@deo.myflorida.com>
Subject: City of Bonita Springs, DEO #20-4ESR Comments on Proposed Comprehensive Plan Amendment Package

Dear Ms. Genson:

The South Florida Water Management District (District) has completed its review of the proposed amendment package from City of Bonita Springs' (City). The amendment package includes of text amendments revising the Comprehensive Plan to reflect the City's vision for Downtown. The proposed changes do not appear to adversely impact the water resources within the District; therefore, the District has no comments on the proposed amendment package.

The District requests that the City forward a copy of the adopted amendments to the District. Please contact me if you have any questions or need additional information.

Sincerely,

Deb Oblaczynski
Policy & Planning Analyst
Water Supply Implementation Unit

Please be advised I am working from home until further notice. I can be contacted at:
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, FL 33406
Email: doblaczy@sfwmd.gov or
Cell Phone: 561-315-1474

From: "Jenkins-Owen, Sharon" <SJenkins-Owen@leegov.com>
Date: September 22, 2020 at 3:26:18 PM EDT
To: Jacqueline Genson <jgenson@cityofbonitaspringscd.org>
Cc: "Dunn, Brandon" <BDunn@leegov.com>
Subject: City of Bonita Springs: CPA20-68504 & 68505-BOS_DEO_Transmittal

Good afternoon Jackie,

Lee County has no comments regarding the **Bonita Springs Downtown plan amendment and the general plan amendments that were transmitted to DEO** (CPA20-68504 & 68505-BOS)..

Thanks,
Sharon

Sharon Jenkins-Owen, AICP
Planner, Principal
Lee County DCD Planning Section
1500 Monroe Street
Fort Myers, Florida 33901
SJenkins-Owen@leegov.com
239.533.8535

Florida Department of Transportation

RON DESANTIS
GOVERNOR

10041 Daniels Parkway
Fort Myers, FL 33913

KEVIN J. THIBAULT, P.E.
SECRETARY

September 23, 2020

Ms. Jacqueline Toemmes Genson, AICP
Planning and Zoning Manager
City of Bonita Springs Community Development
9220 Bonita Beach Road, Suite 109
Bonita Springs, Florida 34135

Subject: Bonita Springs, 20-04ESR
Proposed Comprehensive Plan Amendment (CPA)
Expedited State Review Process – FDOT Review Letter

Dear Ms. Genson:

Pursuant to Section 163.3184(3), Florida Statutes (F.S.), in its role as a reviewing agency as identified in Section 163.3184(1)(c), F.S., the Florida Department of Transportation (FDOT) reviewed the proposed amendment Bonita Springs 20-04ESR.

AMENDMENT BACKGROUND INFORMATION:
The City initiated text and map amendments (locally known as Downtown - CPA20-68504-BOS and General Amendments - CPA20-68505-BOS) includes changes to accommodate the downtown redevelopment area vision based on form-based code and includes amendments to objectives and policies in the Future Land Use Element, Transportation Element, Housing Element, Coastal/Conservation Management Element, and the Capital Improvement Element. The general amendments also include updates to the Future Land Use, Transportation and Housing Elements and associated map series.

The following is a summary of the proposed changes to each element of the Comprehensive Plan with applicable review comments.

- ***Future Land Use Element:***

  General: Renames the area(s) from "Old 41 Redevelopment Overlay" to "Downtown District."

  Amends Policy 1.1.2.b.2 and Policy 1.1.2.c.2 to remove the maximum density with bonus option of 20 dwelling units (DUs) per acre within the Downtown District and increases the maximum standard density from 15 DUs per acre to 20 DUs per acre.

Amends Policies 1.1.2.b.4(e) to change the preparer of the most current Hurricane Tide Atlas from the Southwest Regional Planning Council to the Florida Department of Emergency Management (FDEM).

Amends Policy 1.1.10.3 for annexed areas that have not been formally placed in the City of Bonita Springs Future Land Use Category (FLUC). The County future land use designation carries forward until the City has assigned a FLUC to such properties.

Amends Policy 1.1.11 to rename the "Old 41 Redevelopment Overlay" to "Downtown District," add the reference to the Downtown District Map, removes the Old 41 Redevelopment Overlay map, and implement the vision with the adoption of a Form Based Code (FBC) into the City's Land Development Code (LDC) and specified permitted use in the LDC.

Amends Policy 1.1.11.a removes language regarding permitted land uses and adds that the form and land uses within the Downtown District are set forth by the City's LDC and the Terry Street Subdistrict.

Amends Policy 1.1.11.b.1 changes the maximum density within the Downtown District from a range of 5.8 to 15 DUs/acre to 20 DUs/acre and references the LDC for additional specificity on densities.

Policy 1.1.11.b.2 regarding affordable housing bonus density is removed.

Policy 1.1.11.b.3 is renumbered to 1.1.11.b.2 and adds text to encourage vertical mixed-use and to remove commercial square footage when determining residential density when both land uses are in the same building.

Policy 1.1.11.b.4 is renumbered to 1.1.11.b.3 and adds additional text to clarify the base from which the height of the structures is measured.

Policy 1.1.11.b..5 Terry Street Subdistrict removes reference to the US 41 Corridor Redevelopment Master Plan.

Policy 1.1.11.b.7 regarding the Fells Avenue Sub-district is removed in its entirety.

Policy 1.1.20 changes the Wetland identification source from Lee County GIS to FLUCCS data from the South Florida Water Management District.

Policy 1.1.26 removes the reference to Figure 11 from the Rural Agricultural Overlay District.

Amendment adds new Policies 1.1.28 and 1.1.29 for the Little Hickory Island Neighborhood Commercial and Multi-Family Residential land use categories, respectively.

Amends Objective 1.2 to add item "f" to develop and adopt a Form Base Code (FBC) in the City's LDC to promote revitalization consistent with Policy 1.1.11.

Amends Policy 1.2.1 to change reference from Old US 41 Corridor Redevelopment Master Plan to Downtown District.

Policies 1.2.2, 1.2.3, and 1.2.4 are removed in its entirety.

Policy 1.3.2 is modified to consider adopting additional recommendation contained in the Bonita Beach Road Visioning Corridor Study by Toole Design Group dated November 1, 2016.

Objective 1.16 and Policy 1.16.5 adds additional text to identify the Bonita Beach Road Visioning Study by Toole Design Group dated November 1, 2016 for the Bonita Beach Road Corridor.

Policy 1.17.1 changes the referenced Figure from 10 to 6 for the CSX/Seminole Gulf rail corridor.

The following maps were updated:

- Future Land Use Map updated from 2012 to 2040
- Existing and Planned Potable Water Wells and Well Head Protection Areas Map
- Beaches, Shores, Estuarine Systems, Water Bodies, and Wetlands Map, changed to Wetlands, Seagrass Beds and Waterbodies Map
- Soil Associations Map
- Flood Plains Map changed to Flood Zones/Flood Plains of the Flood Insurance Rate Map (FIRM) Map
- Historical Resources Map

The following map was added:

- Downtown District Boundary Map

Amendment removes the following maps:

- Old 41 Redevelopment Map – Addendum to Future Land Use Map
- Coconut Village Map – Addendum to Future Land Use Map
- Preliminary Delineation of Potential Transportation Concurrency Area (TCEA) (not adopted) and "Old 41 Redevelopment Overlay Area
- Rural Agriculture Overlay District Map

- ***Transportation Element:***

  Amends Objective 1.1 to update the forecast year from 2020 to 2040, consistency with the most current Long-Range Transportation Plan (LRTP) and the Adopted Five-Year Work Program of the Florida Department of Transportation.

  Policy 1.1.2 adopts the Lee County Metropolitan Planning Organization (MPO) 2040 Financially Feasible LRTP series as part of the Transportation Map Series for the City's Transportation Element.

  Policy 1.1.4 amends the text to state that the adopted Level of Service (LOS) of the local roadway may be reevaluated by the City upon completion of annual transportation network studies.

  Policy 1.1.6 adds additional text regarding constrained facilities, aesthetics, and walkability. The constrained facility of Old US 41 limits was added as well as all roadways with the Downtown District. Furthermore, text was added, which stated that all development utilizing a constrained roadway shall provide multimodal or alternative transportation improvements per the City's LDC.

  Policy 1.1.8 regarding the exemption of public transit facilities from transportation concurrency requirements was removed from the FLUE and added as a new Policy 1.7.6 under the Transportation Element.

  Policy 1.1.9 added a new item "d" which exempts development within the Downtown district and each Bonita Beach Road Network Zone from access management/connection spacing and Policies 1.19 (a), (b) and (c).

  Policy 1.1.10 added additional text to the development review process to ensure safe, efficient, and convenient for all modes (bicycle, pedestrian, and on-site automobile traffic).

  Policy 1.1.12 added additional text to maintain and improve the mobility and accessibility of all users throughout the City.

  Objective 1.2 added additional text regarding increasing mobility for all modes of travel within the City to be consistent with the City of Bonita Springs Resolution 14-043, which establishes a "Complete Streets Policy."

  Policy 1.2.1 was removed in its entirety regarding the initiation of a transportation network study particularly designed to address the needs of intracity traffic and the development of a balanced roadway system.

Policy 1.2.2 was renumbered to 1.2.1 and modified minimum considerations for any road extension, water crossing, or transportation improvement. Changes included the addition of monetary costs and return on investment, neighborhood walkability and quality, traffic and multimodal benefits, and safety impacts.

Policy 1.2.3 was renumbered to 1.2.2 regarding the City's use of its systemic data collection program to assist in determining local traffic needs and the impact of proposed improvements.

Policy 1.2.5 was renumbered to 1.2.4 and is amended as "The City shall address issues and problems with current transportation concurrency practices (whether peak hour peak direction LOS needs to be augmented with AADT LOS, etc.) and establish traffic and multimodal performance standards".

Policy 1.3.1 adds text to minimize the cost and maximize the benefits for new or expanded transportation facilities or other improvements.

Policy 1.3.3 was amended as "For those neighborhoods where too much through traffic compromises safety or neighborhood walkability, the City shall study, and implement when warranted, neighborhood traffic control devices and other traffic calming measures to protect residential areas from the harmful impacts of excessive traffic".

Objective 1.5 and Policies 1.5.1 to 1.5.3 regarding the investigation, and initiated if warranted, to designate a TCEA were removed in its entirety

Policy 1.7.4 which states that "The City shall review requests for development orders and building permits for compliance with the Bikeways/Walkways Facilities Plan, the Bicycle and Pedestrian Master Plan, and the Bonita Beach Road Visioning Study, and the bikeways and pedestrian ways requirements in the Land Development Code" was removed in its entirety and added under new Policy 1.10.1.

Objective 1.10 and Policies 1.10.1-2 were added to address a multimodal system that is safe, accessible for all ages and abilities, economically sustainable, energy-efficient, context-sensitive, and enhances a sense of place by coordinating implementation tools, review standards, plans, and funding.

Policy 1.10.2 added that the "City shall investigate the opportunity to plan for and implement a Mobility Plan and Fee Study with the goal of coordinating land use and transportation planning and funding."

Objective 1.11 and Policies 1.11.1-5 were added to ensure land use and transportation coordination and planning in the Downtown District Overlay.

Objective 1.12 and Policy 1.12 were added to ensure appropriate evacuation during emergencies and references the Lee Evacuation Routes and Zones Map published by the FDEM as the City's evacuation routes.

The following maps were updated:

Existing Function Classification Roadways Map

- Road System Maintenance Responsibility Map
- Future Transit Routes and Other Transportation Facilities replaced to Existing and Future Transit Routes Map
- Future Bikeways/Walkways Map was replaced with Long-Range Bicycle/Pedestrian Master Plan

The following maps were added

- Bonita Springs Long-Range Transportation Plan 2040

Amendment removes the following maps

- Future Local and Regional Evacuation Routes Map
- Preliminary Delineation of Potential Transportation Concurrency Area (TCEA) (Not Adopted) and "Old 41" Redevelopment Overlay Area
- Projected 2010 Peak Hour Levels of Service
- Projected 2014 Peak Hour Levels of Service
- Projected 2019 Peak Hour Levels of Service
- Number of Proposed Lanes
- Proposed Three Oaks Extension Alternate 6
- Existing and Programmed Plus Needed Road Network – 2009
- Existing and Programmed Plus Needed Road Network – 2014

- ***Housing Element:***

Policy 1.3.2 is updated to reflect maximum standard density within the Downtown District of 20 DUs per acre and removes the maximum bonus density option.

- ***Conservation/Coastal Management Element:***

Adds Policy 5.2.11, which exempts the Downtown District from Policies 5.2.3, and 5.2.4 regarding reduced density categories and infill.

Adds Policy 6.1.6, which exempts the Downtown District from Policies 6.1.1, 6.1.4, and 6.1.5 regarding Coastal Management Area Expenditures.

- ***Capital Improvements Element:***

  Policy 1.2.10 regarding possible TCEAs was removed in its entirety.

FDOT REVIEW COMMENT:
Based on the review of the proposed CPA, FDOT determined the proposed amendment has no significant adverse impacts on Transportation resources or facilities of state importance and will not form a basis of challenge.

FDOT TECHNICAL ASSISTANCE COMMENTS:
FDOT welcomes the opportunity to partner with and provide technical assistance to the City of Bonita Springs to create multimodal transportation facilities to serve all users. In addition to the comment above, FDOT is providing technical assistance comments consistent with Section 163.3168(3), Florida Statutes. The technical assistance comments can strengthen the local government's comprehensive plan in order to foster a vibrant, healthy community or are technical in nature and designed to ensure consistency with the Community Planning Act in Chapter 163, Part II, F.S. The technical assistance comments will not form the basis of a challenge.

Technical Assistance Comment #1
FDOT appreciates the City amending Objective 1.2 of the Transportation Element to be consistent with the City of Bonita Springs Resolution 14-043, which establishes a "Complete Streets Policy."

FDOT also appreciates the City amending Objective 1.10 and Policies 1.10.1-2 and 1.1.12 of the Transportation Element to address a multimodal system that is safe, accessible for all ages and abilities, economically sustainable, energy-efficient, and context-sensitive.

Technical Assistance Comment #2

- Based on F.S. 163.3177 (6) (b)1(a), the City's Transportation Element should include: "the existing transportation system levels of service and system needs and the availability of transportation facilities and services."

  FDOT recommends that the City include a table or map showing the existing LOS for the state facilities within the City limits, including I-75 (a Strategic Intermodal System (SIS) facility) and US 41. FDOT will be able to provide this information for inclusion within the Transportation Element.

- Based on F.S. 163.3177 (6) (b)1(d), the City's Transportation Element should include: "the projected transportation system levels of service and system needs to be based upon the future land use map and the projected integrated transportation system." Figure 3 – City of Bonita Springs Long Range Transportation Plan included within the

Transportation Element does not show the LOS for the state facilities, including I-75 and US 41.

FDOT recommends that the City include a table or map showing the 2040 LOS for the state facilities within the City limits, including I-75 (an SIS facility) and US 41. FDOT will be able to provide this information for inclusion within the Transportation Element.

Additionally, FDOT recommends updating the Transportation Element to reflect the planned improvements for the state facilities, including I-75 and US 41 from the Lee County MPO 2040 LRTP. The LRTP Needs Plan includes the six (6) to eight (8) lane widening of I-75 within the City limits as well as an interchange improvement at I-75 and Bonita Beach Road. In addition, the Right-of-Way phase for the I-75 Managed Lanes project within the City limits is included in the SIS Long Range Cost Feasible Plan FY 2029-2045.

Technical Assistance Comment #3

FDOT understands that Objective 1.1 of the Transportation Element was updated to change the forecast year from 2020 to 2040, and Policy 1.1.2 of the Transportation Element was updated to adopt the Lee County MPO 2040 Financially Feasible LRTP series as part of the Transportation Map Series for the City's Transportation Element.

FDOT recommends that the City updates the Transportation Element during its next update cycle to reflect the Lee County MPO 2045 LRTP (currently scheduled for adoption in December 2020).

Technical Assistance Comment #4

Consistent with Transportation Element Objective 1.7, FDOT encourages the City to continue to coordinate with Lee County Transit (LeeTran) and evaluate the need for new or increased transit service in those areas that meet the housing density increase requirements within the Downtown District. FDOT supports this type of collaboration, as enhanced transit facilities promote transit usage and reduce automobile dependency on the local and regional roadway network.

Technical Assistance Comment #5

The land uses / development patterns drive the development of transportation systems along with their safe and efficient operation. In an effort to decrease overall passenger vehicle trips on the roadway network, FDOT supports the planning and development of well-planned, dense, interconnected, and mixed-use communities that promote the use of multimodal alternatives, such as transit and bicycle/pedestrian facilities. These types of development aid in mitigating potential transportation impacts on the roadway network, promote safety and economic development and improve the quality of life for all residents

in the City. FDOT offers several initiatives to assist the City in creating quality developments while protecting future mobility on the regional roadway network, including "Complete Streets", modern roundabouts, and a commitment to bicycle and pedestrian safety.

The Department respectfully requests a copy of the adopted plan along with the supporting data and analysis. Please provide the adopted plans within two weeks of adoption, in order to assist in facilitating review within the required 30-day time frame from adoption, as required by Statutes (Expedited State Review Amendment Process Section 163.3184(3) and (5), Florida Statutes).

Thank you for providing FDOT with the opportunity to review and comment on the proposed amendment. If you have any questions or need to discuss this letter further, please contact me at (239) 225-1959 or vitor.suguri@dot.state.fl.us.

Sincerely,

Vitor Suguri

Vitor Suguri
Community Planner
FDOT District One

cc: D. Ray Eubanks, Florida Department of Economic Opportunity
Margaret A. Wuerstle, Southwest Florida Regional Planning Council
Sharon Jenkins-Owen, Lee County

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 2020 –

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, PROVIDING FOR ADOPTION OF A COMPREHENSIVE PLAN AMENDMENT RELATING TO THE DOWNTOWN REDEVELOPMENT AREA AMENDING THE FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP SERIES, TRANSPORTATION, CONSERVATION/COASTAL MANAGEMENT, HOUSING, AND CAPITAL IMPROVEMENT ELEMENTS; PROVIDING FOR INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Whereas, the City Council of the City of Bonita Springs, Florida recognizes the need to plan for orderly growth and development; and

Whereas, Chapter 163, Florida Statutes provides for amendment to adopted Comprehensive Plan; and

Whereas, City Council for the City of Bonita Springs adopted the City of Bonita Springs Comprehensive Plan, as amended, in accordance with the Local Government Comprehensive Planning Act; and

Whereas, the proposed amendments to the future land use element and land use map series relating to downtown redevelopment, as well as transportation, conservation/coastal management, housing and capital improvement elements, attached hereto as Exhibit "A", will promote and protect public health safety and welfare and will help accomplish the goals, objectives and policies of the City Comprehensive Plan; and

Whereas, Florida Statutes §163.3181 further provides an opportunity for individuals to participate in the plan amendment public hearing process; and

Whereas, the City has received and reviewed the proposed Amendment to the City's Comprehensive Plan, and said proposed amendment was reviewed by the City's Local Planning Agency at a duly advertised meeting on March 12, 2020, who recommended approval, and

Whereas, the City Council finds that that the proposed amendment complies with the requirements of Chapter 163, Florida Statutes, Part II, and that the proposed amendments is consistent with the Comprehensive Plan and appropriate to the future land uses within the City; and

Whereas, the City Council of Bonita Springs adopted, pursuant to Chapter 163, Part II, Florida Statutes, after holding statutorily prescribed public hearings for the adoption of the amendment being proposed and at the August 19, 2020 hearing approved a motion to transmit said proposed amendments as more particularly set forth herein.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals. The forgoing recitals are hereby ratified and confirmed as being true and correct and hereby made a part of this Ordinance and adopted as legislative findings.

Section 2. Adoption. The City of Bonita Springs Comprehensive Plan is hereby amended, which amendment consists of revising the Future Land Use, Transportation, Conservation/Coastal Management, Housing, and Capital Improvements Elements and Future Land Use Map series which are further described in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Severability. In the event that any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective in accordance with Section 163.3184, F.S.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of October, 2020.

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM: _____

City Attorney

Vote:

Carr	Quaremba
Forbes	Simmons
Gibson	Corrie
Purdon	

Date filed with City Clerk: _____

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 2020 –

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, PROVIDING FOR ADOPTION OF A COMPREHENSIVE PLAN AMENDMENT TO AMEND THE FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP SERIES, TRANSPORTATION ELEMENT AND TRANSPORTATION MAP SERIES, AND HOUSING; PROVIDING FOR INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Whereas, the City Council of the City of Bonita Springs, Florida recognizes the need to plan for orderly growth and development; and

Whereas, Chapter 163, Florida Statutes provides for amendment to adopted Comprehensive Plan; and

Whereas, City Council for the City of Bonita Springs adopted the City of Bonita Springs Comprehensive Plan, as amended, in accordance with the Local Government Comprehensive Planning Act; and

Whereas, the proposed amendments to the future land use element and land use map series, as well as transportation, transportation maps series, and, attached hereto as Exhibit "A", will promote and protect public health safety and welfare and will help accomplish the goals, objectives and policies of the City Comprehensive Plan; and

Whereas, Florida Statutes §163.3181 further provides an opportunity for individuals to participate in the plan amendment public hearing process; and

Whereas, the City has received and reviewed the proposed Amendment to the City's Comprehensive Plan, and said proposed amendment was reviewed by the City's Local Planning Agency at a duly advertised meeting on March 12, 2020, who recommended approval, and

Whereas, the City Council finds that that the proposed amendment complies with the requirements of Chapter 163, Florida Statutes, Part II, and that the proposed amendments is consistent with the Comprehensive Plan and appropriate to the future land uses within the City; and

Whereas, the City Council of Bonita Springs adopted, pursuant to Chapter 163, Part II, Florida Statutes, after holding statutorily prescribed public hearings for the adoption of the amendment being proposed and at the August 19, 2020 hearing approved a motion to transmit said proposed amendments as more particularly set forth herein.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals. The forgoing recitals are hereby ratified and confirmed as being true and correct and hereby made a part of this Ordinance and adopted as legislative findings.

Section 2. Adoption. The City of Bonita Springs Comprehensive Plan is hereby amended, which amendment consists of revising the Future Land Use, Transportation, Housing Elements and Future Land Use Map and Transportation Map series which are further described in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Severability. In the event that any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective in accordance with Section 163.3184, F.S.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of MONTH, 2020.

AUTHENTICATION:

_____ _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:

Carr	Quaremba
Forbes	Simmons
Gibson	Corrie
Purdon	

Date filed with City Clerk: _____

Policy Number	Policy Name	Summary of Change	Justification	Page	Downtown / Optional
Future Land Use Element					
Vision	Vision element	Name change to Downtown District	Consistency	1	Downtown
1.1.2 (a)	Density, Affordable Housing Density Bonus	Adds LDC acronym	Grammar correction	2	Other
1.1.2.(b)(2)	Bonus density table and detail	Name change and removal of bonus density option	Consistency; Council Direction	3	Downtown
1.1.2.(b)(4)(e)	Density, Affordable Housing Density Bonus, and Wetlands Transfer of Density	Updated reference	Consistency	4	Other
1.1.2.(c)(2)	Density, Affordable Housing Density Bonus, and Wetlands Transfer of Density	Grammatical	Grammar correction	4	Other
1.1.2.(c)(2)	Density, Affordable Housing Density Bonus, and Wetlands Transfer of Density (Table)	Name change and removal of Downtown bonus density option	Council direction	5	Downtown
Policy 1.1.10.1 (5)(a)	Urban Fringe Community District	Remove the term, "Edge"	Grammar correction	11	Other
Policy 1.1.10.1 (5)(b)	Urban Fringe Community District	Change "spaces" to "space"	Grammar correction	11	Other
Policy 1.1.10.1 (7)	Urban Fringe Community District	Spells out RPD to Residential Planned Development	Grammar correction	14	Other
Policy 1.1.10.2 (d)(i)	Coconut Village	Remove "a"	Grammar correction	15	Other
Policy 1.1.10.3	Annexed Areas	Clarify policy language	Outside counsel direction	15	Other
Policy 1.1.11 (a)-(b)	"Old 41" Town Center Mixed-Use Redevelopment Overlay Area	New policy language describing Downtown District area, vision, form, uses, map, density, etc; Strikes previous "Old 41" title, map, use, density, and bonus density details; strikes Felts Ave subdistrict; Density and Terry Street Subdistrict policy options to be decided at City Council 3/18/20 meeting (Option 1 retains Terry Street subdistrict; Option 2 removes Terry Street subdistrict)	Downtown amendments	16 - 23	Downtown
Policy 1.1.20	Resource Protection	Source of data changed to South Florida Water Management District; Lee County no longer maintains wetland information	Consistency	26	Other
1.1.26	Rural Agriculture Overlay District	Map incorporated into Future Land Use Map; reference to Figure removed	Consistency	27	Other
Objective 1.2	*unnamed	Downtown name change	Consistency	29	Downtown
Objective 1.2(f)	*unnamed	Adds Form Based Code as tool for Downtown District	Implementing Downtown	28	Downtown
Policy 1.2.1	*unnamed	Name change	Consistency	28	Downtown

Policy 1.2.2	*unnamed	Outdated policy. City has since adopted code enforcement standards	Outdated	28	Other
Policy 1.2.3	*unnamed	Policy referring to outdated CRA area struck	Implementing Downtown	28	Downtown
Policy 1.2.4 (previous policy)		Outdated policy. Density provisions for these areas in the former Old 41 Overlay are memorialized in the back up staff report and data and analysis.	Implementing Downtown	28	Downtown
Policy 1.3.2	*unnamed	Updated reference to study name: "Visioning" Study	Consistency	29	Other
Policy 1.7.10 (g)	*unnamed	Name change to Downtown District	Consistency	32	Downtown
Policy 1.12.1	*unnamed	Spells out WCIND (West Coast Inland Navigation District)	Clarifying	35	Other
Policy 1.13.3	*unnamed	Name change	Consistency	35	Downtown
Objective 1.16	Bonita Beach Road Corridor and Bonita Beach Road Corridor Quadrant Map	Updated reference to study name: "Visioning" Study	Consistency	36	Other
Policy 1.16.5	*unnamed	Updated reference to study name: "Visioning" Study	Consistency	36	Other
Policy 1.17.1	*unnamed	Updated map number of CSX Seminole Gulf rail corridor	Consistency	37	Other
Policy 1.17.4	*unnamed	Name change	Consistency	37	Downtown
	Future Land Use Map	Updated.	Annexation and Consistency	45	Other
	Downtown District Map	New	Consistency	46	Downtown
	Old 41 Redevelopment Map-Addendum to Future Land Use Map	Strike - outdated	Consistency	47	Downtown
	Existing and Planned Potable Water Wells and Well Head Protection Areas	Updated	Consistency	50	Other
	Beaches, Shores, Estuarine Systems, Water Bodies and Wetlands	Replaced with Wetland, Seagrass Beds, and Waterbodies	Updated	51-52	Other
	Evaluated Wetlands Outside of Planned Developments	Replaced with Wetland, Seagrass Beds, and Waterbodies	Updated	51-52	Other
	Soil Associations	Updated - New data available.	Updated	54	Other
	Floodplains	Updated - New data available. Map renamed	Updated	56	Other
	Locations of Historically Significant Properties	Updated - New data available. Map renamed to Historic Structures	Consistency	59	Other
	TCEA	Strike - outdated	Consistency	60	Other
	Rural Agriculture Overlay District	Strike-Incorporated into FLUM	Consistency	61	Other
	Coastal High Hazard Area	Renumbered	Consistency	62	Other

Transportation Element					
Objective 1.1	*unnamed	Update planning horizon and reference	Consistency	1	Other
Policy 1.1.1	*unnamed	Update references to maps	Consistency	1	Other
Policy 1.1.2	*unnamed	Update planning horizon and reference	Consistency	1	Other
Policy 1.1.4.	*unnamed	Outdated policy. Updated to reflect current	Consistency	2	Other
Policy 1.1.5	*unname	Updated reference to newest Traffic County Document (change at adoption)	Consistency	2	Other
Policy 1.1.6 (new)	*unamed	Added new policy to reflect FDOT existing level of service data source to reflect existing conditions per FDOT request (change at adoption)	Consistency	2	Other
Policy 1.1.6 (new Policy 1	*unnamed	Reflects street design for Downtown and adds ability to mitigate road failure with multi-modal improvements; renumbered to Policy 1.1.7	Implementing Downtown	2	Downtown
Policy 1.1.8	*unnamed - public transit facilities	Moved to proper place and policies renumbered	Clarity	2	Other
Policy 1.1.9 (d)	*unnamed-connections to streets	Exempt Downtown from standard design approach	Implementing Downtown	2	Downtown
Policy 1.1.10(d)	*unnamed	Added efficiency and bike ped to policy	Complete Streets	3	Other
Policy 1.1.12	*unnamed	Added mobility and accessibility	Complete Streets	3	Other
Policy 1.1.12 Table	system/demand mngt strategies	Updated name to Imperial Parkway; clarified language; a Grammatical correction; added incentives for carpooling / programs	Consistency	5	Other
Policy 1.1.13	*unnamed-development timeliness	Added other construction types besides roads	Complete Streets	5	Other
Objective 1.2	*unnamed-mobility objective	Added Complete Streets reference	Complete Streets	5	Other
Policy 1.2.1 (c)	*unnamed-mobility policy	Struck out of date language refers to transportation network study that has already been completed	Consistency	5 & 6	Other

Policy 1.2.2 (a), (d), (e), (g	*unnamed-road extensions	Policy renumbered to 1.2.1. Added return on investment, neighborhood quality, multimodal benefits, and safety as evaluation tools for road extension investments	Transportation safety and neighborhood quality	6	Other
Policy 1.2.3	*unnamed-data collection policy	Renumbered to 1.2.2; amended to reflect current system of data collection	Consistency	6	Other
Policy 1.2.5	*unnamed-concurrency practices	Policy renumbered. Expands performance standards to multi-modal projects	Complete Streets	6	Other
Policy 1.3.1	*unnamed-transportation facility cost/benefit ratio	Clarify meaning of cost/benefit ratio; expanded to all transportation facilities (not just alignments)	Clarity	7	Other
Policy 1.3.3	*unnamed - neighborhood traffic	Clarifies meaning of "problem"	Clarity; enhances neighborhood quality	7	Other
Policy 1.3.4	*unnamed-traffic network	Adds safety	Transportation safety	7	Other
Objective 1.5 (Policies 1.5.1, 1.5.2, 1.5.3)	*unnamed-TCEA Objective and policies	TCEA no longer relevant as Transportation concurrency requirements are no longer mandatory. TCEA area replaced with new policies for Downtown transportation strategies	Downtown; Concurrency changes	8	Other
Policy 1.6.3	*unnamed-incentives to large employers	expanded to transportation programs (as well as facilities)	Complete Streets	8	Other
Policy 1.6.5	*unnamed-CSX	Updated reference to Map Number	Consistency	8	Other
Policy 1.6.8	*unnamed-FDOT SIS policy	Correct typo (from Pian to Comprehensive Plan)	Consistency	9	Other
Policy 1.6.9 (new)	*unnamed-FDOT state facilities	Updated per FDOT request to reflect future conditions on state facilities (change made for adoption)	Consistency	10	Other
Policy 1.7.4	*unnamed-Development orders regarding multi-modal	Policy 1.7.4 was embedded in a transit objective. New objective created and policy updated	Clarity	10	Other
Policy 1.7.5 (j)	*unnamed	Updated name change to Downtown District	Downtown name change	10	Downtown
Policy 1.7.6	*unnamed	Moved public transit facility policy	Clarity	10	Other
Policy 1.8.1	*unnamed	Updated name change to Downtown District and reflects desired approach to Bonita Beach Road	Downtown name change	11	Downtown

Objective 1.10 (New)	*unnamed-multi-model development	Creation of new Objective to meet Complete Streets approach, including addition of a mobility fee policy	Complete Streets	11	Other
Policy 1.10.1 (Moved)	*unnamed-Development orders regarding multi-modal	Moved from old Policy 1.7.4 and updated references	Clarity	11	Other
Policy 1.10.2	*unnamed-Mobility Plan and Fee	Creation of new policy to reflect opportunity to development mobilty Plan and fee structure for innovative funding	Transportation safety, funding, complete streets	11	Other
Objective 1.11	*unnamed-Downtown street planning and design	Incorporated Downtown street planning and design	Downtown approach	11	Downtown
Policy 1.11.1	*unnamed-infill and redevelopment	allows for alternative transportation for infill development	Downtown approach	11	Downtown
Policy 1.11.2	*unnamed-downtown street design	allows for unique design for downtown streets consistent with Form Based Code	Downtown approach	11	Downtown
Policy 1.11.3	*unnamed-parking requirements	allows for on site parking reductions to meet vision for downtown	Downtown approach	11	Downtown
Policy 1.11.4	*unnamed-street classifications	allows for street classification zones to be consistent with Form Based Code	Downtown approach	11	Downtown
Policy 1.11.5	*unnamed-truck traffic	allows for Old 41 in downtown area to limit truck through traffic	Downtown approach	12	Downtown
Objective 1.12	*unnamed-evacuation	New objective to ensure evacuation routes are clarified	Consistency	12	Other
Policy 1.12.1	*unnamed-evacuation	New policy to adopt Lee Evacuation Routes map by reference	Consistency	12	Other
Maps	Functional Classification	Replaced and Updated Functional Classification Map	updated	14	Other
	Road System Maintenace	Replaced and Updated Road System Maintenance Responsibility	updated	15	Other
	Long Range Transportation Plan (LRTP)	Using MPO data and City priorities, created City Long Range Plan, updated MPO LRTP Map to reflect City priorities. Incorporated Quadrant Zone Map. Outdated Lee MPO Figure 8 Number of proposed lanes removed	updated	19	Other
	Transit	Updated map with existing and future routes	updated	20	Other

	Long Range Bicycle/Pedestrian Master Plan	Updated Future Bikeways/Walkways map with most current Long Range Bicycle/Pedestrian Master Plan	updated	22	Other
	Evacuation Routes	removed and adopted by reference	Consistency	23	Other
	TCEA	removed. TCEA area and map had not been adopted by the City	Consistency	24	Downtown
	Projected 2010 Peak Hour Levels of Service	Map not required. LOS measurements are referenced in Policy 1.1.4 of the Transportation Element	outdated	25	Other
	Projected 2014 Peak Hour Levels of Service	Map not required. LOS measurements are referenced in Policy 1.1.4 of the Transportation Element	outdated	26	Other
	Projected 2019 Peak Hour Levels of Service	Map not required. LOS measurements are referenced in Policy 1.1.4 of the Transportation Element	outdated	27	Other
	Three Oaks Extension Alternative 6	Outdated map	outdated	29	Other
	CSX/Seminole Gulf Rail Corridor	renumbered	updated	30	Other
	Existing and Programmed Plus Needed Road Network-2009	removed. Outdated	outdated	31	Other
	Existing and Programmed Plus Needed Road Network-2014	removed. Outdated	outdated	32	Other
	Network Zone Map	renumbered	updated	33	Other
	Bonita Beach Road Quadrant Map	renumbered	updated	34	Other
Housing Element					
1.3.2(b)(Table)	*unnamed - affordable housing density	renamed Downtown; updated density. To be discussed by Council 3/18/20	Downtown vision	3	Downtown
Coastal and Conservation Element					
Policy 5.2.11	*unnamed-Coastal Management Area	Exempted Downtown from Coastal Management Element provisions	Downtown vision	4	Downtown
Policy 6.1.6	*unnamed - Coastal Management Area Expenditures	Exempted Downtown from Coastal Management Element expenditure provisions	Downtown vision	5	Downtown
Policy 8.2.1	*unnamed-historic resources	renamed Downtown	Downtown vision	14	Downtown
Capital Improvement Element					

Policy 1.2.10	*unamed-TCEA	strike - TCEA had not been adopted. TCEA no longer relevant as Transportation concurrency requirements are no longer mandatory. TCEA area replaced with new policies for Downtown transportation strategies	Downtown vision	10	Downtown

BONITA SPRINGS TOMORROW: THE VISION

There is great diversity in the backgrounds, ages, economic status, ethnic origins, and life styles of the citizens who live and work together while making Bonita Springs their home. Few of today's Bonita Springs residents were born here. The great majority made a deliberate and life altering choice to relocate here, in most cases because of very specific things they liked about the community when they came and, perhaps even more importantly, because of what they saw and hoped Bonita Springs would continue to be or would change into in the future. Such being the case, Bonita Springs is blessed with a very high percentage of citizens who hold strong and clear beliefs about what the future of our City should be.

Over the course of several public workshops and community visioning sessions, a broad cross-section of this diverse population was given the opportunity to share and support their individual points of view. Certain paramount themes emerged as having a strong majority support among the groups. On these important issues and goals for the future, personal differences of circumstance amongst the participants was not as significant a force as the commonality of what brought each of them to this uniquely pleasant location in the first place.

A very substantial majority of the citizens of today's Bonita Springs are in strong, basic agreement with regard to several important goals for the Bonita Springs of tomorrow.

Their vision and sentiment is that the future City of Bonita Springs should be:

1. A community of human scale, one in which we can afford to live and with which we can identify as individuals.
2. A community that actively practices its appreciation of the great natural environment that has been given to us and educates new arrivals and the young about the stewardship it requires. It should be a "green" City because of its protection of the natural systems, pristine beaches and greenways, through environmental consciousness, stringent pollution controls, and recycling. Bonita Springs should be a Florida leader in the area of municipal protection of the environment.
3. A "walkable" community that is pedestrian friendly, with interconnecting sidewalks, pathways, and publicly available transit systems accessing all neighborhoods. Vehicular traffic should move easily through a continuous, attractive street system with planted medians, featuring flowering indigenous landscape and strategically placed statuary. Welcoming features should clearly announce to travelers the location of the City limits. U. S. 41 and Bonita Beach Road should be beautiful commercial parkways to be enjoyed by Bonita Springs residents as well as those traveling through the City.
4. A community with outstanding parks and recreational facilities. Parks and natural resources should be easily accessed through a continuous system of safe, shaded walkways and bicycle paths which connect homes, shopping, and workplaces. Public access to vistas of the estuary, river, and creeks should be preserved and linear parks should wind through the natural and developed areas of the City.
5. A community with a "heart", a social center. The redevelopment of the Old U. S. 41 Redevelopment area, also known as the Downtown District, into a vibrant "Old Town" hopefully will exceed all current expectations. The area, including Depot Park Square, can be a focus for both daytime and evening activity and a meeting place for families, teens, singles, and senior citizens. At this center of Bonita Spring's historic origin, there should be a unique mix of restaurants, retail shops and services, publicly sponsored activities, and entertainment, all complemented by the ambiance of the surrounding neighborhoods and the Imperial River.

GOALS, OBJECTIVES AND POLICIES

Goal 1: A balanced land use pattern that promotes a high quality of life and allows for a variety of land uses, densities and intensities and the preservation and stabilization of existing neighborhoods; encourages mixed use development; promotes an efficient transportation system; preserves the natural environment and economic vitality of the community; and, is consistent with the availability of essential services.

Objective 1.1: Designate on the Future Land Use Map a full range of land use categories of varying density consistent with the natural and built-up environment and with existing and developing growth patterns, topography and soils conditions, and the availability of essential services. Development orders shall be issued by the City only for new development or redevelopment that is consistent with the Future Land Use Map and associated Future Land Use Designations set forth in the following policies.

Policy 1.1.1: Legal Effect - The density and intensity limits and land use restrictions described in the following land use categories are legally binding immediately upon adoption of this Comprehensive Plan. During the preparation of the Land Development Code that will fully implement this plan, conflicts may arise with previous regulations, development approvals or zoning districts. The Administrative Section following these Goals, Objectives and Policies describes how such conflicts will be resolved.

Policy 1.1.2: Density, Affordable Housing Density Bonus, and Wetlands Transfer of Density

a. While each individual land use category may include a maximum allowable density for residential uses, the actual allowable density for any given property will be stated in the Land Development Code (LDC) based on, but not necessarily limited to, consideration of the following factors:

1. Compatibility with surrounding existing land uses and future land use patterns;
2. Vehicular access and existing and planned roadway patterns;
3. Availability of public services and facilities; and,
4. Environmental considerations

b. The City shall include in its Land Development Regulations a provision for a housing density bonus to encourage private developers to include housing for low and very low income families in their development projects. This provision shall be based on the following guidelines:

1. The number of additional units resulting from the granting of bonus density shall not exceed the number of rental or owner-occupied housing units allocated specifically to low and very low income households within the project

(a) A low income household is defined as a household whose annual income does not exceed 80% of the countywide median as defined by the Department of Housing and Urban Development (DHUD).

(b) A very low income household is defined as a household whose annual income does not exceed 50% of the countywide median as defined by the Department of Housing and Urban Development (DHUD).

2. The maximum bonus density, in excess of the maximum density otherwise allowable within the future land use category, available to a given project shall be as set forth in the following schedule:

Maximum Density Per Land Use And Maximum Density With Bonus Density

Land Use Category	Maximum Standard Density	Maximum Density With Bonus
Estate Residential	.33 units/acre	.33 units/acre
Low Density Residential	1.3 units/acre	1.3 units/acre
Suburban Density Residential	3 units/acre	5 units/acre
Moderate Density Residential	5.8 units/acre	7 units/acre
Moderate Density Mix/PUD	6 units/acre	9 units/acre
Urban Fringe Community	2.54 to 2.77 units/acre	2.54 to 2.77 units/acre
Medium Density One & Two Family	11.6 units/acre	11.6 units/acre
Medium Density Residential-MF	6 units/acre	10 units/acre
High Density Residential-Multifamily	10 units/acre	15 units/acre
~~"Old 41" Town Center Mixed Use Redevelopment~~Downtown District~~[1]~~	~~15 units/acre~~20 units/acre	~~20 units/acren~~ N/A
High Density Mixed Use	10 units/acre	15 units/acre

~~[1]Bonus Density provisions in the Old U.S. 41 Corridor Redevelopment Area apply to areas designated (Townhouses), Medium Residential, Multi-Family Residential, Hospitality and Mixed Use on the Old 41 Corridor Redevelopment Master Plan Overlay, including the Imperial River Landing. (See policy 1.1.11.b)~~

3. The City may include a provision for a cash contribution to a housing trust fund dedicated to the provision of housing for low and very low income households in lieu of the allocation of on-site units to low and very low income households.

4. Any project for which a density bonus provision is applied must meet the following criteria:

   (a) the resulting development does not have substantially increased intensities of land use along its perimeter unless it is adjacent to an existing or approved development of a similar intensity;

(b) the additional traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector or arterial road;

(c) existing and committed public facilities are not so overwhelmed that a density increase would be contrary to the overall public interest;

(d) there will be no decrease in required open space, buffering, landscaping and preservation areas or cause adverse impacts on surrounding land uses; and,

(e) storm shelters or other appropriate mitigation is provided if the development is located within the Category 1 Storm Surge Area for a land-falling storm as defined by the most current Hurricane Storm Tide Atlas for Lee County prepared by the ~~Southwest Florida Regional Planning Council~~Florida Department of Emergency Management.

c. Development in freshwater wetlands located in residential land use categories shall be limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in freshwater wetlands identified on Figure 4, Evaluated Wetlands, in the Future Land Use Map Series shall be one unit per 20 acres, except:

1. One single-family residence will be permitted on lots meeting the single-family residence provision contained in the Administrative Section of the Future Land Use Element; and.

2 Transfer of density provision - Owners of identified freshwater wetlands may transfer densities to contiguous uplands under common ownership as displayed in the following table at the maximum rate indicated. The table is cumulative in that the amounts shown are what is permitted under the land use, permitted with an affordable housing bonus and that permitted as a transfer. T~~t~~he area receiving the density transfer will be, thereafter, compatible with existing or planned development on adjacent lands and not negatively impact sensitive upland habitats and species.

Density Transfer - Wetlands to Uplands Per Upland Acre (All Numbers Reflect Dwelling Units Per Acre)

Future Land Use Category	Standard Maximum Density	Maximum Additional Bonus Density	Maximum Additional Density With Transfer
Estate Residential	.33	0	0
Low Density Residential	1.3	0	0
Suburban Density Residential	3	0	0
Moderate Density Residential	5.8	0	0
Mod. Den. Res. PUD	3	3	0

Moderate Density Mix/PUD	6	3	1.5
Medium Density One & Two Family	11.6	0	0
Medium Density Residential-MF	6	4	2
Urban Fringe Community	2.54 to 2.77	0	0
High Density Residential-Multifamily	10	5	2.5
~~"Old 41" Town Center Mixed-Use Redevelopment~~Downtown District	~~15~~ 20	~~5~~n/a	~~2.5~~ n/a
High Density Mixed Use	10	5	2.5
General Commercial, Interchange Commercial and Industrial	10	5	0

(Ord. No. 06-18, § 1, 12-6-06; Ord. No. 09-05, § 1, 4-15-09)

Policy 1.1.3: Height - While each individual land use category may include a maximum allowable height, the actual allowable height for any given property will be stated in the Land Development Code based on consideration of compatibility with surrounding existing land uses and future land use patterns.

Policy 1.1.4: Allowable Uses - The listing of appropriate land uses in each of the individual land use categories identifies those uses generally expected to be appropriate. However, other uses which are similar in character, intensity and impacts to those listed may also be deemed to be appropriate.

Policy 1.1.4.1: Gross acreages in Future Land Use Categories – The approximate gross area identified for each future land use category is as of June 7, 2017. The City may update the approximate gross area calculations from time to time as part of major updates to the comprehensive plan, such update is not required for individual future land use map amendments.

Policy 1.1.4.2 Estate Residential - Intended to accommodate a very rural style of single family living allowing for development at a maximum density of one unit for every three acres and approximately 0 acres of gross land area in the land use category; group homes and foster care facilities; public schools and other public, semi-public and recreational uses on a limited basis.

a. Appropriate residential housing types include conventional and modular constructed single family homes on permanent foundation.

b. Maximum allowable height of structures shall be 35 feet from the base flood elevation to the eaves.

(Ord. No. 09-05, § 1, 4-15-09; Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.5: Low Density Residential - Intended to accommodate and preserve semi-rural type single-family residential development at a maximum density of up to 1.3 dwelling units per gross acre and approximately 1.482 acres of gross land area in the land use category; group homes and foster care facilities; public schools and other public, semi-public and recreational uses on a limited basis.

a. Appropriate residential housing types include conventional and modular constructed single-family homes on permanent foundations. Clustering shall be employed to avoid clearing and other development impacts on wetlands or rare and unique upland habitats.

b. Maximum allowable height of structures shall be 35 feet from the base flood elevation to the eaves.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.6: Suburban Density Residential - Intended to accommodate and preserve single-family development at a maximum density of three dwelling units per acre; planned unit developments with single and multi-family units at a maximum density of 3 units per acre and approximately 0 acres of gross land area in the land use category; group homes and foster care facilities; public schools and other public, semi-public and recreational uses on a limited basis.

a. Appropriate residential housing types include conventional and modular constructed single-family homes on permanent foundations.

b. Maximum allowable height of all residential structures shall be 35 feet from the base flood elevation to the eaves.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.7: Moderate Density Residential - Intended to accommodate and preserve single-family residential development at a maximum density of up to 5.8 dwelling units per gross acre and approximately 1,977 acres of gross land area in the land use category; planned unit developments at a maximum density of six units per acre; group homes and foster care facilities; public schools and other public, semi-public and recreational uses on a limited basis.

a. Appropriate residential housing types include conventional and modular constructed single-family homes on permanent foundations.

b. Maximum allowable height of structures shall be 35 feet from the base flood elevation to the eaves.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.8: Medium Density Residential - Intended to accommodate areas with a mix of single-family, duplex and town homes residential development at a maximum density of up to 11.6 dwelling units per gross acre and approximately 1,056 acres of gross land area in the land use category; group homes and foster care facilities; public schools and other public, semi-public and recreational uses on a limited basis.

a. Appropriate residential housing types include conventional and modular constructed single-family and duplex structures on permanent foundations.

b. As an alternative to a duplex structure, and in order to encourage dispersing affordable housing throughout the community, one accessory dwelling, such as a garage apartment or accessory apartment, may be located on a single lot occupied by one single-family structure, provided development of the lot remains within the maximum allowable density. Conditions on accessory dwelling units may be required within the Land Development Regulations to prevent over crowding and to ensure compatibility.

c. Maximum allowable height of structures shall be 55 feet from the base flood elevation to the eaves.

(Ord. No. 06-18, § 1, 12-6-06; Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.8.1: Medium Density Multi-Family Residential - Intended to accommodate multi-family, modular and manufactured housing, and existing mobile home and recreational vehicle parks up to a maximum density of 10 units per gross acre and approximately 1,341 acres of gross land area in the land use category; group homes and foster care facilities, public schools and other public, semi-public and recreational uses on a limited basis. This land use category is applied primarily to existing properties developed with multi-family or mobile home/recreational vehicle parks located within the Coastal Management Area (CMA), or lands formerly afforded a land use designation of Urban Community in the Lee Plan, or properties adjacent to existing or planned major roadways.

a. Appropriate residential housing types include conventional and modular constructed single-family and duplex structures, on permanent foundations, cluster housing, zero lot line, townhouses, multi-family structures, and mobile homes or recreational vehicles in existing mobile home or recreational vehicle parks.

b. Residential density shall be limited to not more than six units dwelling units per acre. If affordable housing is provided, residential density may be increased by up to four additional dwelling units per acre. This density range is consistent with the density previously afforded under the Urban Community land use designation in the Lee Plan.

c. Commercial uses may be appropriate provided they are primarily intended to serve the residents of a mixed use project and are sensitive to nearby residential uses.

d. Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves, except that no new structures or modification of existing structures located on the islands west of the mainland may be constructed in excess of 35 feet in height.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.9: High Density Residential - Intended to accommodate multi-family, modular and manufactured housing, and existing mobile home and recreational vehicle parks up to a maximum density of 15 units per gross acre and approximately 194 acres of gross land area in the land use category; group homes and foster care facilities, public schools and other public, semi-public and recreational uses on a limited basis.

a. Appropriate residential housing types include conventional and modular constructed single-family and duplex structures on permanent foundations, cluster housing, zero lot line, townhouses, and multi-family structures.

b. Residential density shall be limited to not more than 10 dwelling units per acre. In the case of multi-family, if affordable housing is provided, residential density may be increased by up to five additional dwelling units per acre.

c. Commercial uses may be appropriate provided they are primarily intended to serve the residents of a mixed-use project and are sensitive to nearby residential uses.

d. Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves, except that no new structures or modification of existing structures located on the islands west of the mainland may be constructed in excess of 35 feet in height.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.10: Moderate Density Mixed-Use/Planned Development - Intended to accommodate and provide continued flexibility of development within mixed use and residential planned developments of up to nine dwelling units per gross acre and approximately 8,671 acres of gross land area in the land use category, having been granted development orders prior to the adoption of the City's Comprehensive Plan.

a. Appropriate uses within this category include the full range of residential uses; residential amenities such as private golf courses and other recreation facilities; limited commercial and light industrial uses; group homes and foster care facilities; schools and other public and semi-public uses.

b. Residential density shall be limited to not more than six units per gross upland acre and one unit per 20 gross acres of wetland, except as otherwise provided for under Policy 1.1.2 relating to transfer of density from freshwater wetlands. If affordable housing is provided, residential density may be increased by up to three additional units per acre of upland area.

c. In areas located within the Coastal Management Area (CMA), density may not be increased beyond that already approved prior to the adoption of this Comprehensive Plan.

d. Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves.

e. Residential uses may comprise up to 100% of the acreage in a planned development.

f. In mixed-use planned developments:

1. Residential uses shall comprise not less than 20% of the acreage;

2. The aggregate of commercial and light industrial uses shall comprise not more than 45% of the total acreage;

3. Light industrial uses shall comprise not more than 20% of the total acreage;

4. Public and semi-public uses shall comprise not more than 65% of the total acreage; and

5. For properties of less than two (2) acres, residential uses may be combined at various proportions with commercial and non-residential uses.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.10.1: Urban Fringe Community District. Intended to accommodate and provide flexibility for development in areas exhibiting substantial environmental resource protection lands combined with transitional urban characteristics. In order for land to be considered for this designation, land requested to be placed in this category shall be a minimum of 100 acres within the 1,165 acres of gross land area in the land use category. Development within this category would be allowed from 2.54 to 2.77 gross dwelling units per acre. Land developed within this Urban Fringe Community District must adhere to the following innovative design and planning principles.

1. All new development within the Urban Fringe Community District shall be required to be zoned as a Planned Development.

2. Development within this Urban Fringe Community District will be required to cluster in order to minimize loss of native vegetation and wetland function. Developments within the Urban Fringe District are permitted to be clustered at higher than gross density as long as the gross density and maximum number of units are not exceeded for the total acreage within the Urban Fringe District. Significant natural systems, or wetlands which require preservation in order to comply with Local, State and Federal Permitting, shall be placed in the Resource Protection Future Land Use category and for purposes of the Urban Fringe Community District, shall be included in gross acreage for density calculations.

3. Development within the Urban Fringe Community District is encouraged to provide a mix of uses, including a mix of residential types, recreational amenities, civic spaces and convenience and commercial uses intended to serve residents and their guests in order to minimize trips outside the Urban Fringe Community District .

4. Development is encouraged to provide creative site designs, and clustering is required to provide for greater common open space and mixed-use development. The planning flexibility provided through the planned development process shall encourage and facilitate creative design techniques.

   a. Residential Development. These areas shall include single and/or multiple family home site acreage, and shall include, but not be limited to, single-family attached and detached; duplexes and two-family units; and town homes and other multi-family dwelling types.

   b. Non-residential Development. These areas will include vehicular and pedestrian ways, commercial and institutional areas, club houses and associated facilities, utility buildings, maintenance areas, tennis courts and associated non-residential uses.

   c. Residential and Non-residential Development acreage may account for no more than 60% of the gross area within the Community Fringe District. Intensity/density standards for all uses within this category are set forth in the Intensity/Density Table below:

Percent Aggregate Land Use Mix Within the Mixed Use Future Land Use Map Category

Land Uses in Mixed Use	Minimum % Land Use Mix	Maximum % Land Use Mix	Maximum Density/Intensity
Residential	45%	58%	2.77 gross du/ac (3300—3600 du [1])
Commercial/Non-residential [2]	2%	15%	.35 FAR
Open Space	40%	53%	.25 FAR

[1] Gross density pursuant to Policy 1.1.10.1

[2] Commercial uses, excluding recreational facilities (including, but not limited to, the clubhouse and ancillary facilities), will be limited to 5 total acres.

d. Open Spaces. These areas will include preserved natural areas, buffers lakes, parks, golf courses, nature trails, retention areas, conservation areas, scenic resources, green belts, wetlands and associated areas and must account for a minimum of 40% of the Property within the Urban Fringe Community District. Golf course fairways will account for no more than fifty percent (50%) of the open space of the subject Urban Fringe Community District.

e. The owners will employ management strategies in and around any golf course to address the potential for pesticide/chemical pollution of the groundwater and surface water receiving areas. The owners will comply with the goals of the Audubon Cooperative Sanctuary Program for Golf Courses. The management practices will include:

i. The use of slow release fertilizers and/or carefully managed fertilizer applications which are timed to ensure maximum root uptake and minimal surface water runoff or leaching to the groundwater;

ii. The practice of integrated pest management when seeking to control various pests, such as weeds, insects, and nematodes. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is not acceptable. The management program will minimize, to the extent possible, the use of pesticides, and will include the use of the United States Department of Agriculture Soil Conservation Services Soil Pesticide Interaction Guide to select pesticides that have a minimum potential for leaching or loss to due runoff depending on the site-specific soil conditions. Application of pesticides within 25 feet of any Corkscrew Regional Ecosystem Watershed, or other adjacent public preserve lands, is prohibited;

iii. The coordination of the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any pesticides and nutrients;

iv. The utilization of a golf course manager who is licensed by the State to use restricted pesticides and who will perform the required management functions. The golf course manager will be responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater; and

v. The storage, mixing and loading of fertilizer and pesticides will be designed to prevent/minimize the pollution of the natural environment.

f. Any required perimeter buffer zones pursuant to Policy 1.1.10.1(5)(c)(iv) must be replanted with vegetation after construction. Revegetation must adhere to the following:

i. Seventy five percent of the total number of replanted trees used in buffers and landscaping must be indigenous, and fifty percent of the replanted shrubs must be indigenous;

ii. Plant material must conform to the standards for Florida Number 1 or better as given in Grades and Standards for Nursery Plants 1973, and Grades and Standards for Nursery Plants, Part II, Florida Department of Agriculture and Consumer Services, Tallahassee.

iii. Australian pine, cajeput, Brazilian pepper, downy rose myrtle, Cuban laurel, melaleuca, bishopwood, castor bean, common papaya, common snakeplant, day jessamine, hunters robe, Queensland umbrella tree, trailing wedelia may not be used as part of the revegetation of the property after construction.

g. The shorelines of any stormwater management lakes must be sinuous in configuration, and must be sloped or bermed. The littoral zones around the ponds must be planted with native wetland herbaceous plants, and trees or shrubs can be included within the herbaceous plants. At least four species must be planted. The minimum required number of plants will be one plant per linear foot of lake shoreline as measured at the control elevation water level. The littoral shelf should provide a feeding area for water dependent avian species.

h. Height. Maximum allowable height for residential structures shall be 60 feet from the base flood elevation to the eaves.

i. In order to minimize adverse impacts that construction may have on wildlife, natural environmental values, and water quality, the developer will institute appropriate measures such as full compaction of any fill material placed around newly installed structures. In addition, clubhouse(s), golf course maintenance building(s), vehicular service areas and amenity centers that include outdoor pools, tennis courts, etc., must be located a minimum of 350 feet from the boundaries of the Urban Fringe Community District that abut a conservation area. This restriction does not apply to residential buildings. Further, a conservation easement of 100 feet in length shall be placed over Zone 1, which is described in Policy 1.1.10.1.5(c)(vi)(A), which is described in Policy 1.1.10.1.5(c)(vi)(A). The easement shall allow for landscaping, water management activities, passive recreational uses and other uses as set forth in Policy 1.1.10.1.5(c)(vi)(A).

j. Because domestic animals can create conflicts with indigenous wildlife, no free-ranging domestic animals are permitted within the Urban Fringe Community District. All applicants for a local development order shall include a provision in their covenants and restrictions that prohibit free-ranging domestic animals. Such covenants and restrictions shall also address the implementation of a bear-proof garbage can program to minimize wildlife attractants.

5. All major Resource Protection areas over 20 acres in size shall be provided public vehicular access on non-gated roadways.

a. All naturally occurring wetlands, which have not been significantly degraded, must be designated as preserve areas and be subject to a conservation easement similar to that set forth in Section 704.06, Florida Statutes. Limited uses in preserve areas such as nature trails, bike paths, cart paths, boardwalks and the like will be allowed when permitted by appropriate State and Federal agencies. The use of wetland areas for water management, to the extent allowed by law, will not be precluded. Wetland areas being used as water management areas within the Urban Fringe Community District may be relocated if all approvals are obtained from appropriate local, State and Federal agencies and (2) where the affected wetland functions are replaced on property within the Urban ~~Edge~~ Fringe Community District.

b. Where feasible, open space areas will be designed so as to provide connections between wetlands, preserve areas, and buffers on property within the Urban Fringe Community District. The design of these open space~~s~~ areas will seek to provide areas which will be integrated with on-site and adjacent preserve properties so as to enhance habitat for small mammals and wading birds. Golf courses, when constructed and maintained in compliance with this paragraph will be considered to be functional open space to the extent set forth above.

c. The design of functional open space areas must incorporate the following design features:

i. A surface water management system that mimics the functions of the natural system, in accordance with the following:

A. All development proposals within the Urban Fringe Community District must recognize areas where soils, vegetation, hydrogeology, topography, and other factors indicate that water flows or ponds; and require that these areas be utilized to the maximum extent possible, without significant structural alteration, for on-site stormwater management; and require that these areas be integrated into area-wide coordinated stormwater management schemes.

B. Where no natural features of flow or ponding exist on a site within the Urban Fringe Community District, the City will require that water management structures be designed and constructed in such a manner as to mimic the functions of natural systems. Special engineering and design standards for such structures will be incorporated into revised development regulations.

C. Within the Urban Fringe Community District where traditional drainage structures exist (ditches, canals, dikes, etc.), the City may permit their continued existence and maintenance, but will discourage their expansion or extension.

D. Where feasible within future urban areas, surface water management plans are encouraged that mimic the functions of natural systems, notwithstanding the type or intensity of development permitted.

E. The South Florida Water Management District must review any Development to ensure that adequate provision is made for a flowway through the proposed Urban Fringe Community District. Any changes to any ACOE or Environmental Resource Permit in effect at the time of the adoption of this Plan Amendment must ensure adequate provision for the transport of off-site flows through the property to the south, and shall address the creation of wading bird habitat.

F. The policies above (1.1.10.1.5(c)(i))are not intended to prohibit any permittable surface water management solution that is consistent with good engineering practices and adopted environmental criteria.

ii. Any Australian pine, cajeput, Brazilian pepper, downy rose myrtle, Cuban laurel, melaleuca, bishopwood, castor bean, common papaya, common snakeplant, day jessamine, hunters robe, queensland umbrella tree, trailing wedelia existing on the site at the time of the issuance of a development order must be removed.

iii. The vegetation that surrounds, or is within the open space areas should have the capacity to provide habitat for a diversity of wild life.

iv. For any area that drains to the Imperial River Basin, a surface water management system that is consistent with the Kehl Canal/Imperial River Basin study prepared by Agnoli, Barber & Brundage dated 1995 for the SFWMD.

v. Uses including, but not limited to, picnic areas, trails, benches, boardwalks, golf courses, water management systems, biking/jogging/equestrian trails, vita courses, bird viewing blinds/tower and interpretative facilities will be permitted within functional open areas.

vi. All development must incorporate buffers to protect adjacent natural areas from the impacts of development. The purpose of the buffer is the protect natural resources from the activities and impacts of development on property within the Urban Fringe Community District. The buffers shall be established in Zones according to the following:

A. *Zone 1* will be a minimum of 100 feet wide and will extend completely along all portions of the eastern and southern boundary of the Urban Fringe Community District. These are the areas of the Urban Fringe Community District which are adjacent to the Collier County Line. The buffer will consist of selected native upland forest plant species such as south Florida slash pine, live oak, laurel oak, and saw palmetto. Selected species will be tolerant of drought conditions, and will not require fertilizers and pesticides to promote growth and survival. Exotic plant species will be controlled by the periodic application of herbicides and mechanical removal. Wetland forest species will be used in situations where wetland functions remain on the Urban Fringe Community District and where soil and moisture conditions are suitable.

Zone 1 will incorporate the existing water management reservoirs which are located along the southern boundaries of the Urban Fringe Community District. These reservoirs will not require additional buffering. There will be no structures erected in Zone 1, however, passive recreation such as hiking, bird watching and nature study will be permitted. Construction of lakes in Zone 1 will be allowed. Existing berms and ditches will be allowed to remain in Zone 1.

B *Zone 2* will be adjacent to Zone 1 and will encompass an area that is at least 50 feet wide. This area will be free of lights and other structures such as fences, pools and sheds. The permanent placement of generators, pumps, and other fixed motors will be prohibited. Homesites may extend into Zone 2, but no portion of the residence itself may extend into this zone. If residential lots are incorporated into this zone, those portions of yard acreage will be planted and maintained in a fashion similar to that proposed for Buffer Zone 1. Passive recreation such as hiking, jogging, biking, and walking will be allowed along designated trails and boardwalk system. Golf courses and lakes may extend into this zone, but may not incorporate lights or structures other than drainage structures and cart paths. All golf course acreage in Zone 2 will be free of lights and structures and the use of golf carts will be permitted. If water, sewer or electrical lines are placed in Zone 2 they must be buried.

C. *Zone 3* will be parallel to Zone 2 and will consist of residences and other infrastructure development in a 100-foot wide band. Exterior lighting in this zone may not project toward adjacent preserve land. Measures such as directional lighting, reduced-height light supports and other light abatement technology will be used.

6. Land areas amended to the Urban Fringe Community District will be tracked by the City of Bonita Springs to address the following for all property within the Urban Fringe Community District:

i. maximum number of dwelling units,

ii. maximum square footage of commercial,

iii. locations of public sites, and

iv. maximum amounts of non-public recreational uses to be provided.

a. Every development within the Urban Fringe Community District shall enter into a Developer's Agreement with the City of Bonita Springs prior to issuance of a Development Order, in accordance with § 163.3220—3243, Florida Statutes or by any other mutually agreed upon legal instrument. The intent of the Developer's Agreement or appropriate legal instrument is to identify timing, density for the project, etc. to ensure that development matches the information tracked by the City.

b. The Developer's Agreement or appropriate legal instrument will require an annual review in accordance with § 163.3220—3243.

c. The Developer's Agreement or appropriate legal instrument will inform subsequent purchasers (excluding single lots not being subdivided) who will adhere to the requirements contained within the Developer's Agreement or appropriate legal instrument.

7. As individual zonings to Residential Planned Development (RPD) are submitted to the City they shall include as a minimum the following information:

   a. A showing of the amount of units as a part of the maximum approved for the parent parcel.

   b. A Traffic Analysis submitted in accordance with the City's TIS requirements verifying that adequate capacity currently exists or will exist prior to the issuance of any Certificates of Occupancy.

8. Any lands included or amended into the Urban Fringe Community District category must demonstrate the non-existence of urban sprawl by:

   a. Submitting a fiscal impact study demonstrating a net fiscal benefit to the City.

   b. Directing new growth to areas where public facilities exist, are planned within the City or County Five Year Capital Improvement Plan, or are committed to through a Developer Agreement, or otherwise assured to be funded by the appropriate agency.

   c. Providing assurances through fiscal and other means that an amendment to the Urban Fringe Community District category will expedite any additionally needed infrastructure improvements so as to not adversely impact the surrounding community outside this District.

   d. Requiring all development to be connected to central water and sewer.

   e. Assure that an amendment to the Urban Fringe Community District category meets the conditions outlined in F.S. 163.3162(4) for demonstrating the non-existence of urban sprawl, including assuring that land uses and intensities of use are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. Parcels larger than 640 acres must include appropriate new urbanism concepts such as those described in F.S. 163.3162(4).

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.10.2: Coconut Village: Intended to accommodate marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the marina and waterfront areas of Estero Bay. Development of wet and dry slips, boat ramps and other marine related uses will provide access for public and private club members. This future land use category is applicable to areas along Estero Bay, and shall not be located on any barrier island. Proposed development within this and future land use category shall adhere to innovative design and planning principles that incorporate the protection of the natural

resources of Estero Bay while providing the recreational and boating opportunities to the City of Bonita Springs.

a. All new development within the Coconut Village category shall be required to be zoned planned development. All density, intensity, height and types of uses will be established during the planned development rezoning process.

b. Appropriate uses within the Coconut Village future land use category include the following:

   i. Marina and marine accessory uses. Marina uses shall not be solely for private use.

   ii. Limited private club use as defined in planned development process may be allowed.

   iii. Hotels/resorts and ancillary retail, cultural, and public and private recreational uses.

   iv. Residential dwellings when incorporated into a resort complex.

c. Development Standards:

   i. Development shall be located to minimize loss of environmentally sensitive areas.

   ii. Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.

   iii. Residential uses with a resort character and lifestyle may be integrated into resort use and may share in resort amenities.

   iv. Residential density shall be limited to not more than 6 dwelling units per acre within the approximately 17 acres of gross land area in the land use category.

   v. Residential density calculations shall be considered for the gross project acreage regardless of other uses on the project.

d. Height.

   i. Buildings over 75 feet from the base flood elevation to the eaves shall be limited to ~~a~~ locations that do not negatively impact adjacent property view corridors or neighborhood compatibility.

   ii. Compatibility with surrounding buildings.

e. Locations shall have access to a transportation network with adequate capacity and sufficient and navigable access to waters of Estero Bay.

f. Coastal High Hazard. Impacts on sheltering and evacuation resulting from development/redevelopment activities within the CHHA shall be mitigated through cooperation and coordination with Lee County Emergency Management Operations at time of local development order. If the shelter and evacuation mitigation has been provided through the Development of Regional Impact process then no further mitigation is required at the time of local development order.

(Ord. No. 14-23, § 1, 10-15-14; Ord. No. 17-08, § 1, 6-7-17)

Editor's note— Ord. No. 14-23, § 1, adopted October 15, 2014, amended the Comprehensive Plan by adding a new policy to be numbered 1.1.11. In order to prevent the duplication of policy numbers, the new provisions have been designated as 1.1.10.2 at the discretion of the editor.

Policy 1.1.10.3: Annexed Areas: Areas that have been annexed, but have not been formally placed in a City of Bonita Springs Future Land Use category, will carry forward their existing or underlying unincorporated county future land use designation until such time

that the City has assigned a future land use category to such propertiesformally adopted Objectives, Policies, or Strategies affecting the property.

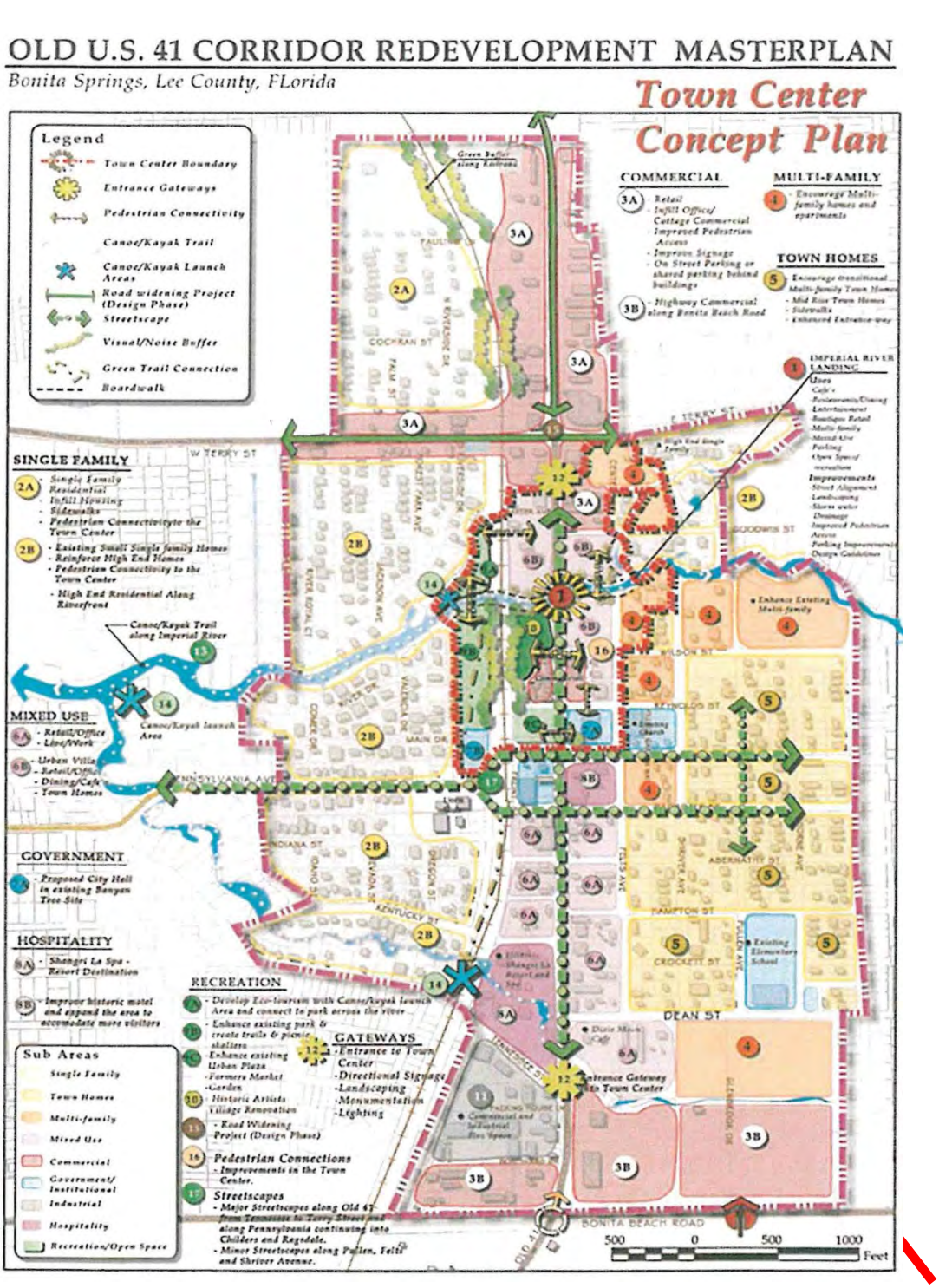
(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.11: "Old 41" Town Center Mixed-Use Redevelopment Overlay Area: The City shall adopt the Old 41 Corridor Redevelopment Master Plan and re-designate the area previously known as the "Old 41" Town Center Mixed-Use Redevelopment Overlay Area to reflect the boundaries contained therein, which are generally located from Rosemary Drive to Bonita Beach Road between Tennessee Street/Williams Road and Dortch Avenue. Permitted uses are discussed herein and illustrated with specificity on the Old U.S. 41 Corridor Redevelopment Master Plan. The "Old 41" Town Center Mixed-Use Redevelopment Overlay Area is intended for mixed-use redevelopment as a residential, commercial, cultural and community, hospitality, industrial, recreational, and governmental center focused around the aesthetic and recreational value of the Imperial River and supported by "walk-to-town" neighborhoods. The following guidelines shall apply to planning and development within the "Old 41" Town Center Mixed-Use Redevelopment Overlay Area. This area shall hereinafter be known as the "Old U.S. 41 Corridor Redevelopment Area."

Policy 1.1.11: Downtown District: The City shall adopt the Downtown District Map and re-designate the area previously known as the "Old 41" Town Center Mixed-Use Redevelopment Overlay Area to hereinafter known as the “Downtown District.” The Downtown District Map, Figure 2, reflects the boundaries generally located from Tropical Drive to Bonita Beach Road between Tennessee Street/Williams Road and Dortch Avenue. The Downtown District is intended to promote the development of a mixed use downtown with a variety of building types and uses that support viable and diverse local business and cultural institutions, walkable and complete streets, predictable standards, business investment, attractive small-town urban character, and context-based development. To implement this vision, the City of Bonita Springs will adopt a Form-Based Code into the City’s LDC. Permitted uses are specified in the Downtown District Plan as set forth in the City’s Land Development Code (LDC).

[Note: Portions of policy 1.1.11 are retained but rewritten to ensure readability. This note is for discussion purposes only. This note is not to be included in policy adoption].

a. The permitted form and land uses in the Old U.S. 41 Corridor Redevelopment Area DistrictDowntown District are designated by the following Old U.S. 41 Corridor Redevelopment Master Plan, as amended by the Felts Ave Subdistrict Downtown Plan that appears in the LDCas set forth in the City’s LDC and that described in the Terry Street Subdistrict.and the Terry Street Subdistrict:



~~1. Single Family Residential: Permitted uses include traditional single family developments and accessory buildings, as well as any other uses permitted in Policy 1.1.5. Density may not exceed 5.8 units per acre.~~

~~2. Medium Density Residential (Townhouses): Appropriate residential housing types include conventional and modular constructed single-family and duplex structures on permanent foundations, cluster and zero lot line development.~~

3. Multi-Family Residential: intended to accommodate higher-density, multi-family housing and town homes, and to permit other uses permitted in Policy 1.1.8. Total density may not exceed 15 units per acre.

4. Commercial. Commercial uses are permitted in accordance with the permitted uses in Policy 1.1.14 and as follows, according to the Old U.S. 41 Corridor Redevelopment Master Plan Overlay:

a. Commercial District 3a is intended for small to medium sized business, containing street frontage. The City shall implement urban design guidelines for the streetscape and building facades.

b. Commercial District 3b is the high-traffic Bonita Beach Road commercial corridor and is intended for higher intensity uses.

5. Mixed-Use: Mixed-use developments are intended to permit a mix of residential uses, not to exceed 20 units per acre, with commercial, light industrial and public and semi-public uses to provide live-work opportunities for residents within the area. Individual mixed-use buildings shall be limited to properties of two acres or more and shall only be approved as a planned development. Such uses shall accommodate retail or commercial uses and residential units in the same building. Determination of the appropriate land use types, densities and intensities shall be based upon compatibility with adjacent and surrounding properties; the need for transition between projects; and the ability to maintain established levels of service. The mix of uses shall be governed by the following guidelines:

USE	MINIMUM	MAXIMUM
Residential	35%	None
Commercial	None	65% of the overall intensity of the project.
Other Non-residential uses	None	35% of the overall intensity of the project.

6. Public/Governmental: Public uses are intended to congregate public facilities at the Old U.S. 41 Corridor Redevelopment Area and encourage pedestrian activity and establish the Town Center as a destination for local citizens. Permitted uses are in accordance with Policy 1.1.18.

a. The City will pursue development of a public library in the Town Center area by seeking funding through the Department of State Library Construction Grant program.

7. Hospitality: Intended to encourage the restoration and/or expansion of existing historic hotels and resorts for the purpose of providing hospitality services or residential development at a density not to exceed twenty (20) dwelling units per acre.

8. Recreation: Recreational uses are intended to provide an additional attraction to draw residents and visitors to the Town Center area, and to provide green space for the residents and to buffer the visual impact of the railroad right-of-way. Permitted uses in this category shall be in accordance with Policy 1.1.17.

~~9. Industrial: This is intended to provide commercial and industrial mixed use space, with the commercial uses fronting the street on Old 41 and hiding the industrial properties in the rear. Permitted uses shall include light industrial, warehousing, recreation, heavy commercial and public and semi-public uses.~~

b. The following requirements shall apply to the ~~Old U.S. 41 Corridor Redevelopment Area:~~ Downtown District:

1. Density. The ~~uses~~ maximum density within the ~~Old U.S. 41 Corridor Redevelopment Master Plan~~Downtown District is ~~are~~ limited to ~~the following residential densities:~~ 20 du/acre. The City of Bonita Springs Downtown Plan in the City's LDC provides additional specificity on densities.

~~Use~~	~~Density~~
~~Single-family residential~~	~~5.8 du/ac~~
~~Medium Density Residential (Townhouses)~~	~~6 du/ac~~
~~Multi-family residential~~	~~10 du/ac~~
~~Commercial~~	
~~Mixed Use~~	~~15 du/ac~~
~~Hospitality~~	~~15 du/ac~~

The maximum ~~densities~~ density set forth in Policy 1.1.11.~~a. and~~ b.1 ~~are~~ is not applicable to the Terry Street Subdistrict. The maximum densities allowable within the Terry Street Subdistrict are identified in Policy 1.1.11. b. ~~6~~5.

~~2. Affordable Housing Bonus Density.~~

~~A. The City shall include in its Land Development Regulations a provision for a housing density bonus to encourage private developers to include housing for low and very low income families in their development projects. This provision shall be based on Policy 1.1.2.b.1, 3 and 4, as well as the following guidelines:~~

~~i. Single family developments are not eligible for the density bonus.~~

~~ii. Medium density developments (townhouses) are eligible for a density bonus of four (4) dwelling units per acre.~~

~~iii. Other residential uses are eligible for a density bonus of five (5) dwelling units per acre.~~

~~B. In addition to the criteria set forth in Policy 1.1.2, the City shall provide density bonuses for developers who provide one or more of the following:~~

~~i. Public river access.~~

~~ii. Unique design solutions.~~

~~iii. Contribution to the cost of proposed infrastructure or other improvements of the Old U.S. 41 Corridor Redevelopment Area.~~

~~3~~2. To encourage vertical mixed-use, when residential and commercial uses are contained within one building, the City ~~may elect to~~ will exclude commercial square footage ~~located on the first floor of the building~~ when determining the number of residential units otherwise allowable. This provision is not applicable to properties located within the Terry Street Subdistrict.

Mixed-use developments are intended to permit a mix of residential uses, not to exceed ~~15~~ 20 units per acre, with commercial, light industrial and public and semi-public uses to provide live-work opportunities for residents within the area. Such uses shall accommodate retail or commercial uses and residential units in the same building. ~~Determination of the appropriate land use types, densities and intensities shall be based upon compatibility with adjacent and surrounding properties; the need for transition between projects; and the ability to maintain established levels of service~~The appropriate form in mixed use areas ~~is guided by the~~shall comply with the standards set forth in the City's LDC.

Note: Portions of 1.1.11 (b)(2) (above) were moved from 1.1.11(a)5. This note is for discussion purposes only and language is not for policy adoption).

~~4~~3. Maximum allowable height of structures shall be 65 feet ~~from~~as measured from 12 inches above the crown of the frontage road ~~the base flood elevation to the eaves~~.

~~5~~4. Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.

5. Terry Street Subdistrict. The boundary of the Terry Street Subdistrict is that portion of the Town Center area bounded on the south by Goodwin Street and Baxter Avenue and west of Leitner Creek.

The purpose of the Terry Street Subdistrict is to encourage development or redevelopment which blends densities, intensities, and uses ~~permitted by the Old U.S. 41 Corridor Redevelopment Master Plan. The blending of uses includes the movement of densities, intensities, and uses permitted within the subareas depicted on the Old U.S. 41 Corridor Redevelopment Master Plan.~~ Such redevelopment shall be pursuant to a unified planned zoning district for a mixed use planned development.

a. A proposed mixed use development must be submitted and reviewed under a unified planned development rezoning application, and the boundary for such proposed development must be contiguous, excluding any separation by a public right-of-way, and shall be located completely within the Terry Street Subdistrict.

b. The maximum density of the planned development shall be 20 units to the acre. The total acreage of the proposed mixed use development may be utilized for the purpose of calculating gross residential density. Allowable density shall be determined on a case-by-case basis subject to compatibility with surrounding properties and appropriate transition to lands located outside of the Terry Street Subdistrict. The maximum density shall not be increased pursuant to a conversion of commercial floor area and/or any density bonus provisions, including, but not limited to, an affordable housing density bonus.

c. Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 0.5. The total acreage of the proposed mixed use development may be utilized for the purpose of calculating commercial FAR.

d. Maximum allowable height of structures shall be limited to 55 feet. Allowable height shall be determined on a case-by-case basis subject to compatibility with surrounding properties and appropriate transition to lands located outside of the Terry Street Subdistrict. For the purposes of this Subdistrict, height shall be measured as the vertical distance from 18" above the adjacent roadway to the eave line of the building.

7. ~~Felts Avenue Sub-district: The Felts Avenue Sub-district lies south of the Imperial River, east of Felts Avenue, south to Dean Street and extends east for approximately ½ block. The purpose of the Felts Avenue Sub-district is to provide for a transitional area between intense commercial uses and medium density residential areas within the Old US 41 Redevelopment Overlay District Future Land Use Category. This area will provide for protection of adjacent lower intensity neighborhoods to the east from the impacts of more intense commercial areas to the west. Felts Avenue is a transitional area within the City's downtown redevelopment area and has an existing land use pattern of medium density residential consisting of single family and multi-family residential dwelling units, religious facility uses, and vacant residential and municipal lands.~~

~~a. In order to encourage downtown infill development, professional and home office uses, light retail and commercial uses, restaurants, recreational and cultural art related uses, and residential uses at intensities compatible with the surrounding neighborhood shall be permitted within the Felts Avenue Sub-district. All redevelopment or development must be at a size, scale and character similar to the nearby residences to the east. This designation is not intended for large scale, parking intensive uses that are incompatible with the scale, proportion, intensity and character of the adjacent neighborhood.~~

~~b. Existing uses within the Sub-district are permitted in accordance with the City's Land Development Code.~~

~~c. Density. The uses within the Felts Avenue Sub-district are limited to the following residential densities:~~

~~d. To facilitate the economic use of property while ensuring a desirable transitional area between the Old 41 commercial corridor and the adjacent single-family residential neighborhood, non-residential uses shall be permitted in accordance with the following conditions:~~

~~1. Intensity and Permitted Uses. Those uses including professional and home offices, light retail and commercial, civic, recreational and cultural facilities shall be permitted at intensities compatible with the surrounding neighborhood per 6.c of this policy. While this area may be composed of a single type of use, a mixture of land uses is encouraged.~~

~~a. The Felts Avenue Sub-district Land Development Code regulations shall include standards which encourage the maintenance of existing neighborhood character, density and scale, while allowing compatible uses.~~

~~b. Infill development, redevelopment, and substantial improvements for commercial uses of existing structures within this subarea shall maintain the character and scale of single-family homes and shall conform to the Design Standards for non-residential and residential uses in the Felts~~

~~Avenue Sub-district and the Old U.S. 41 Redevelopment Overlay District, as provided in Chapter 4 of the Land Development Code.~~

~~c. In order to protect low-density residential neighborhoods from encroachment, this designation is limited to properties identified on the Future Land Use Map. The subject area generally defines a depth of lot. Creative building and site design may be required.~~

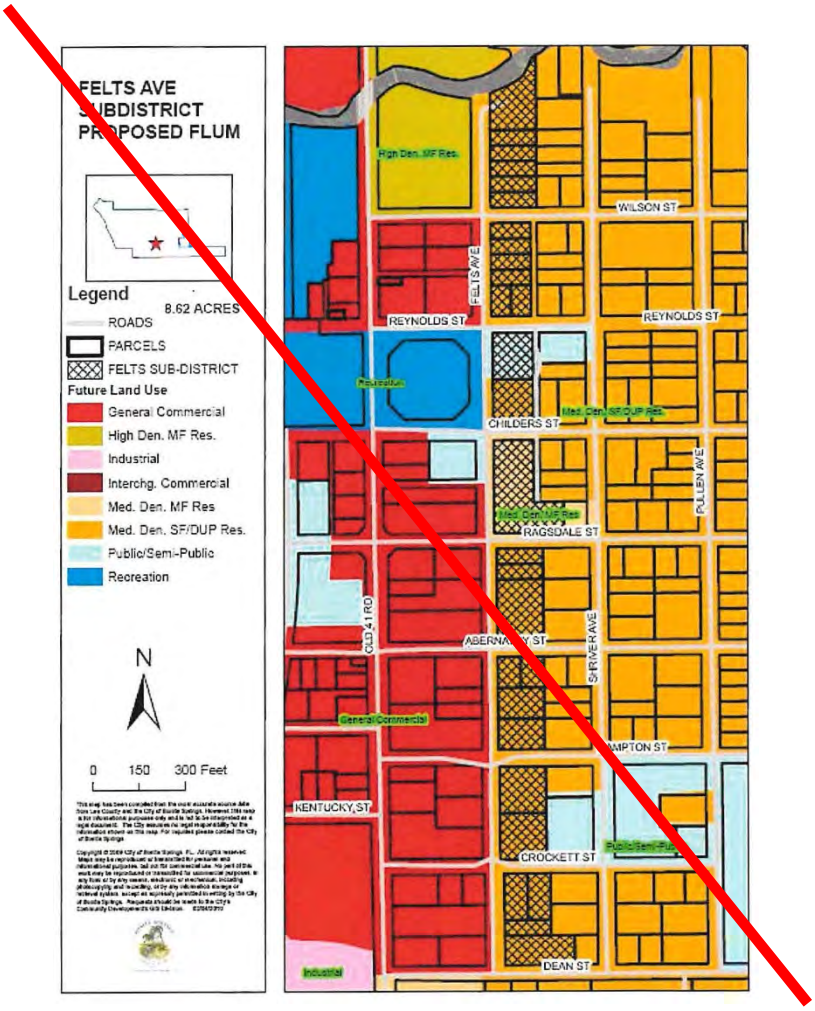
~~2. Development Standards. The location of buildings, building additions, parking, stormwater retention and vehicular access shall be subject to the Felts Avenue Sub-district and the Old U.S. 41 Redevelopment Overlay District Land Development Code regulations. All new non-residential development shall comply with the water quality and best management practices in the Conservation/Coastal Management Element.~~

~~3. Pedestrian Connections. The City shall cooperate with property owners and local business owners to improve the pedestrian network, including the creation of a continuous sidewalk along the east side of Felts Avenue.~~

~~4. Historic Structures. For properties that may be designated as historic by the Bonita Springs Historical Preservation Board and City Council, any redevelopment or alterations to the structures must follow the standards of the Land Development Code prior to receiving architectural or development order approval.~~

~~5. Signage. Special provisions will be placed in Chapter 6 of the Land Development Code to prohibit signs on any building elevation or yard facing a residential dwelling or the Imperial River, except for nameplates and directory signs conforming to the standards for office uses facing a residential zoning district.~~

~~6. Concurrency. Redevelopment or development of vacant parcels must demonstrate that facilities and services are available concurrent with the impacts of development, or when development orders and permits can be specifically conditioned on the availability of the facilities and services necessary to serve the proposed redevelopment or development. Property owners shall ensure the provision of adequate public facilities to service all anticipated development or redevelopment of any property within this area meet concurrency standards as mandated by the Capital Improvements Element.~~



(Ord. 10-07, § 2, 7-21-10; Ord. No. 06-18, § 1, 12-6-06; Ord. No. 18-09, § 1, 6-20-18)

Policy 1.1.12: High Density Mixed-Use/Village - Intended to encourage the development of parcels under unified ownership in the form of planned developments with a mix of residential uses up to 15 units per acre within the approximately 317 acres of gross land area in the land use category, together with commercial, light industrial and public and semi-public uses that will provide services to, and work-live opportunities for, residents within the project.

a. Appropriate uses within this category include the full range of residential uses either freestanding or in combination with recreational amenities, limited commercial and light industrial uses developed in a manner sensitive to nearby residential uses, group homes and foster care facilities, schools and other public and semi-public uses.

b. Residential density shall be limited to not more than 10 dwelling units per acre. If affordable housing is provided, residential density may be increased by up to five additional dwelling units per acre.

c. Appropriate commercial uses include limited retail, service and office commercial provided they are primarily intended to serve and/or employ residents of the mixed-use project and the project is developed as a planned development. In mixed-use planned developments, commercial uses shall not exceed 10% and light industrial uses shall not exceed 5%, of the intensity of the entire project.

d. To encourage mixed use, when residential and commercial uses are contained within one building, the City may elect to exclude commercial square footage located on the first floor of the building when determining the number of residential units otherwise allowable.

e. Maximum allowable height of structures in this land use category shall be 75 feet from the base flood elevation to the eaves, except that no new structures or modification of existing structures located on the islands west of the mainland may be constructed in excess of 35 feet in height.

f. Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.13: Neighborhood Convenience Node - Intended to accommodate locations for low intensity commercial concentrations serving nearby residential neighborhoods in order to relieve automobile traffic on the City's major roadways.

a. Neighborhood convenience nodes may be appropriate within a planned residential development or at a freestanding location situated on, or with direct access to, an arterial or collector roadway.

b. The location and development shall be designed primarily to meet the convenience commercial needs of those who are likely to travel more than one mile to reach existing commercial concentrations.

c. The most appropriate uses include the following: convenience market without gas; laundry; dry cleaning; barber/beauty/nail salon; shoe repair; restaurant; medical, insurance, travel and real estate offices; and, similar uses intended to provide for nearby residents' everyday needs, as well as residential use above ground floor nonresidential use, and public and semi-public uses.

d. The following limitations on intensity shall apply:

Maximum site area: 2 acres

Maximum FAR: 0.25

Maximum height: 2 stories

e. No neighborhood convenience node shall be identified or approved by a Small Scale Development Activity Plan Amendment until such time as the implementing regulations, which may include requirements for a unified design, are incorporated into the adopted Land Development Code.

Policy 1.1.14: General Commercial - Intended to accommodate a wide range of commercial uses serving the general population of the City. This designation recognizes, but is not specifically limited to, properties that have been developed, have received development approval or have been zoned for commercial use prior to the adoption of the Comprehensive Plan.

a. Appropriate uses include a wide range of commercial retail and service uses for residents and visitors; hotels/motels; offices; light industrial uses; schools; recreation; public and semi-public uses; multi-family uses up to 10 units per acre within the approximately 1,468 acres of gross land area in the land use category; and mixed residential and commercial use in planned developments.

b. If affordable housing is provided, residential density may be increased by up to five additional units per acre.

c. Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves except that no new structures or modification of existing structures located on the islands west of the mainland may be constructed in excess of 35 feet in height.

d. Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.15: Interchange Commercial - Intended for uses that serve the traveling public such as automobile service/gas stations, hotel/motel, restaurants and gift shops; and a broad range of tourist-oriented, general commercial, light industrial, commercial office, and multi-family residential up to 10 dwelling units per acre within the approximately 385 acres of gross land area in the land use category.

a. If affordable housing is provided, residential density may be increased by up to five additional dwelling units per acre.

b. Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves.

c. Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.16: Industrial - Intended to primarily accommodate light industrial, research, warehousing and office uses.

a. Appropriate uses include heavy commercial, light industrial, warehousing, recreation, public and semi-public uses, and mixed-use planned development with residential density limited to 10 dwelling units per acre within the approximately 463 acres of gross land area in the land use category.

b. If affordable housing is provided, residential density may be increased by up to five additional dwelling units per acre.

c. Accessory commercial uses serving employees within the complex may be allowed provided the commercial uses are integrated within the industrial complex and do not exceed 5% of the intensity of the entire project.

d. Residential use shall be allowed only in mixed-use planned developments, and shall not exceed 20% of the intensity of the entire project

e. Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves.

f. Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.17: Recreation - Intended to recognize and accommodate existing public recreational facilities and private recreational facilities associated with, but located outside of, planned developments. Public and semi-public uses, excluding schools, are also considered appropriate within the approximately 672 acres of gross land area in this land use category.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.18: Public and Semi-public - Intended to recognize existing locations of, and provide sites for, public and semi-public uses such as institutional or governmental buildings, schools, libraries, non-profit recreational facilities, and public and private utilities within the approximately 151 acres of gross land area in the land use category.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.19: Conservation - Intended for uplands and wetlands that are owned and used for long-range conservation purposes within the approximately 257 acres of gross land area in the land use category. This category includes public lands required to be used for conservation purposes by some form of legal mechanism such as a statutory requirement, funding or grant conditions.

a. Appropriate uses include wildlife preserves; wetland and upland mitigation areas and banks; natural resource based parks, their associated support facilities and services, and ancillary uses for environmental research and education; historic and cultural preservation; and water conservation lands such as aquifer recharge areas, flow ways, and potable water well fields.

b. Uses in wetland conservation areas shall not adversely affect the ecological or hydrologic function of the wetlands.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.20: Resource Protection - Intended to recognize the environmental sensitivity of sizeable, privately owned, vacant lands located outside of developed areas or approved planned developments and identified as wetlands using ~~the Lee County GIS files~~FLUCCS data from the South Florida Water Management District.

a. Appropriate uses are limited to residential use at a density of not greater than one unit per 20 gross acres and recreational uses within the approximately 1,904 acres of gross land area in the land use category that will not adversely affect the ecological or hydrologic functions of the wetlands.

b. Specific locations of wetlands or rare and unique upland habitats not so designated on the Future Land Use Map may still be subject to development limitations associated with provisions contained in other Goals, Objectives and Policies contained in this Comprehensive Plan.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.21: Density Reduction Groundwater Resource (DRGR) - Intended to recognize geographic areas that provide significant recharge to aquifer systems associated with existing potable water wellfields or future wellfield development. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Allowable land uses are limited to conservation uses; agriculture; residential uses at a maximum density of one dwelling unit per 10 gross acres within the approximately 4,230 acres of gross land area in the land use category (approximate acreage includes annexed Lee County DRGR lands); public uses; non-profit recreational uses and essential services needed for the health safety and general welfare of the community such as lift stations, utility lines, equipment and appurtenances necessary for such systems to furnish adequate levels of service. Policy 1.1.21 does not apply to those annexed DRGR lands that have not yet been assigned a City of Bonita Springs future land use category. Those annexed areas are subject to Policy 1.1.10.3.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.22: In order to minimize incompatibility when commercial, industrial or more intensive land uses share a common boundary with residential land uses, lower intensity uses shall be located adjacent to residential uses and the Land Development Code shall include provisions for buffering in the form of fences, walls, vegetation or spatial buffers to minimize the impacts upon the residential use.

Policy 1.1.23: The City shall study and develop incentives for commercial development to provide workplace housing; such as allowing major employers and hotels to achieve greater density/intensity if on-site affordable housing is provided for employees.

Policy 1.1.24: In order to limit further strip commercial development, new major roadways in the City will be protected from over-commercialization.

Policy 1.1.25: Within one year of adoption of the Comprehensive Plan the City will prepare Land Development Regulations which implement the Comprehensive Plan and which, at a minimum:

a. Regulate the subdivision of land to promote compatibility among adjoining uses and reduce the potential for urban sprawl by encouraging infill and redevelopment.

b. Regulate the use of land and water consistent with this Element by including provisions:

1. for a range of zoning districts of varying intensities matched to purpose of each district.

2. to encourage the location of lesser intensity nonresidential uses adjacent to residential uses;

3. for spatial and/or vegetative buffers, walls or fences, or other appropriate measures that will ensure compatibility between residential uses and more intensive nonresidential uses, to ensure compatibility of adjacent land uses;

4. to prevent overcrowding by limiting building and impervious coverage and requiring adequate open space.

c. Protect environmentally sensitive lands, including wetlands and rare and unique upland habitat by including provisions that limit the development footprint, requiring development only under the Planned Development provisions of the Land Development Code, and requiring use of clustering and other innovative and appropriate development techniques which shift structures and infrastructure to nonsensitive areas.

d. Illustrate the acceptable types, dimensions and locations of signs to identify businesses.

e. Prevent or reduce damage from periodic flooding by limiting development within the 100-year floodplain, prohibiting new mobile home parks within the CMA, and establishing a maximum impervious surface coverage for residential and nonresidential uses.

f. Ensure safe and convenient on-site traffic flow and vehicle parking needs through provisions that limit curb cuts, promote shared parking, encourage parking located to the rear of buildings, and facilitate pedestrian and bicycle access.

g. Include in the requirements for development approval, consideration of topography and soil conditions to ensure that adjoining properties are protected from stormwater impacts of adjacent development and that environmentally sensitive lands are protected from the impacts of development.

Policy 1.1.26: Rural Agriculture Overlay District: The Rural Agriculture Overlay District lies generally north of Shangri-la Road, east of Old US 41, south of the City's northern boundary, and west of Interstate 75~~, as depicted on Figure 11~~. The purpose of the Rural

Agriculture Overlay District is to provide for agricultural uses in the identified rural residential areas of the City.

a) This area has an existing land use pattern of larger lots with lower density residential development consisting of single family dwelling units, varying types of ancillary agricultural uses, and vacant residential lands. Densities and intensities in this area are not to exceed the future land use classification designation except for those lots of record being permitted through a minimum use determination.

b) Agricultural uses as a principal use are allowed in this overlay district as a permitted use subject to the standards provided in the land development code.

(Ord. No. 12-15, § 1, 10-17-12)

Policy 1.1.27: Conservation Fringe. This category is intended to recognize geographic areas that a) include an existing vested mining operation; and b) are adjacent or proximate to lands with significant environmental resource and habitat values. As of the date of the adoption of the Conservation Fringe District, zero (0) acres have been designated as Conservation Fringe District; although the City anticipates that approximately 1,343 acres may ultimately be designated as Conservation Fringe District. The City recognizes that existing mines provide a regional supply for lime rock needs and help to minimize the impacts of new mines on the environment, surrounding land uses and roadways. Once mining is completed, the reclamation / redevelopment of the land must occur such that it is compatible with the adjacent or proximate environmental lands. Allowable land uses are limited to conservation uses; agriculture; excavation (existing vested mining operation only); residential uses at a maximum density of 0.522 dwelling units per gross acre along with accessory amenity building and private recreational areas; public uses; non-profit public recreational uses, limited to passive recreational and educational activities such as but not limited to hiking, nature trails and similar activities requiring few or no on-site facilities which will be further defined within a planned development zoning category; and essential services needed for the health, safety, and general welfare of the community such as lift stations, utility lines, potable/non-potable wells and equipment and appurtenances necessary for such systems to furnish adequate levels of service. Notwithstanding Future Land Use Element Policy 1.1.2.c and Conservation/Coastal Management Element Policy 15.1.5, wetland and resource protection acres are eligible to be counted as part of the gross acreage for density purposes, but all density must be clustered on the permitted upland portion and/or disturbed land of an approved master concept plan for the reclamation/redevelopment plan. Contiguous property to the existing vested mining operation may be included in the Conservation Fringe District, up to a maximum of 7% of the existing vested mining operation area for residential purposes only. The cumulative total number of units for all properties designated as Conservation Fringe District shall not exceed a maximum of 700 units. Development within this Conservation Fringe District must adhere to the following innovative design and planning conditions:

1. The property (including contiguous property if applicable) shall be rezoned to a Planned Development. If the property is already zoned Planned Development, the Planned Development shall be amended to comply with the requirements of this Policy no later than completion of the existing mining operation (if applicable) but no later than 12/31/2041.

2. The Planned Development rezoning shall include a minimum of 60% open space calculated over the net project area, not including existing mining lakes and public road right-of-way, and shall implement the following, to the maximum extent feasible:

    a. Restoration and accommodation of existing and historical regional flow ways;

    b. Restoration and accommodation of existing and historic groundwater levels;

    c. Restoration and preservation of wetlands;

    d. Restoration and preservation of indigenous upland habitats; and

    e. Where applicable, provision of critical wildlife connections to adjacent conservation areas.

3. A proposed enhanced lake management plan for lakes created by mining activities shall be provided at the time of the Planned Development rezoning. The enhanced lake management plan shall be in addition to any previously approved lake management or reclamation plan for the property, and shall include, at a minimum, the following:

    a. Application of best management practices for fertilizers and pesticides;

    b. Provision for erosion control and lake bank stabilization;

    c. Establishment of lake maintenance requirements; and

    d. Establishment of an education program for any homeowners' association for the property regarding such issues as restricted lake uses, fertilizer use, lake bank planting requirements, and best management practices.

4. Through the Development Order process, a site specific ecological and hydrological restoration plan shall be developed, which shall include, at a minimum, the following:

    a. Excavation and grading plans;

    b. Analysis of hydrological improvements and water budget for both land surface and subsurface; and

    c. For areas previously farmed or impacted by mining activities and proposed for preservation or conservation, replanting plans, habitat restoration plans, success criteria, and long-term monitoring and maintenance plans.

5. A Conservation Easement for each preservation area shall be platted as part of a master plat for the property and dedicated to the appropriate maintenance entity which has been approved by the City.

6. Indigenous management plans shall address human-wildlife coexistence and buffers between development areas and preservation/conservation areas.

7. Landscaping shall use Florida Friendly Planting with low irrigation requirements in Common Elements.

8. A minimum of 1.5 inches of water quality treatment shall be provided for the developed areas of the project.

9. Stormwater runoff shall be directed into treatment areas prior to discharge to mining lakes that provide additional storage for 0.5 inches of runoff for the developed area. This pretreatment of stormwater prior to entering the mining lakes will not be required if additional protective measures can be demonstrated that the stormwater discharge from the project exceeds City and State requirements.

10. Existing vested mining uses shall be eliminated within an appropriate phasing schedule as part of the Planned Development rezoning approval but no later than 12/31/2041.

11. Existing or proposed public potable water wells shall be protected.

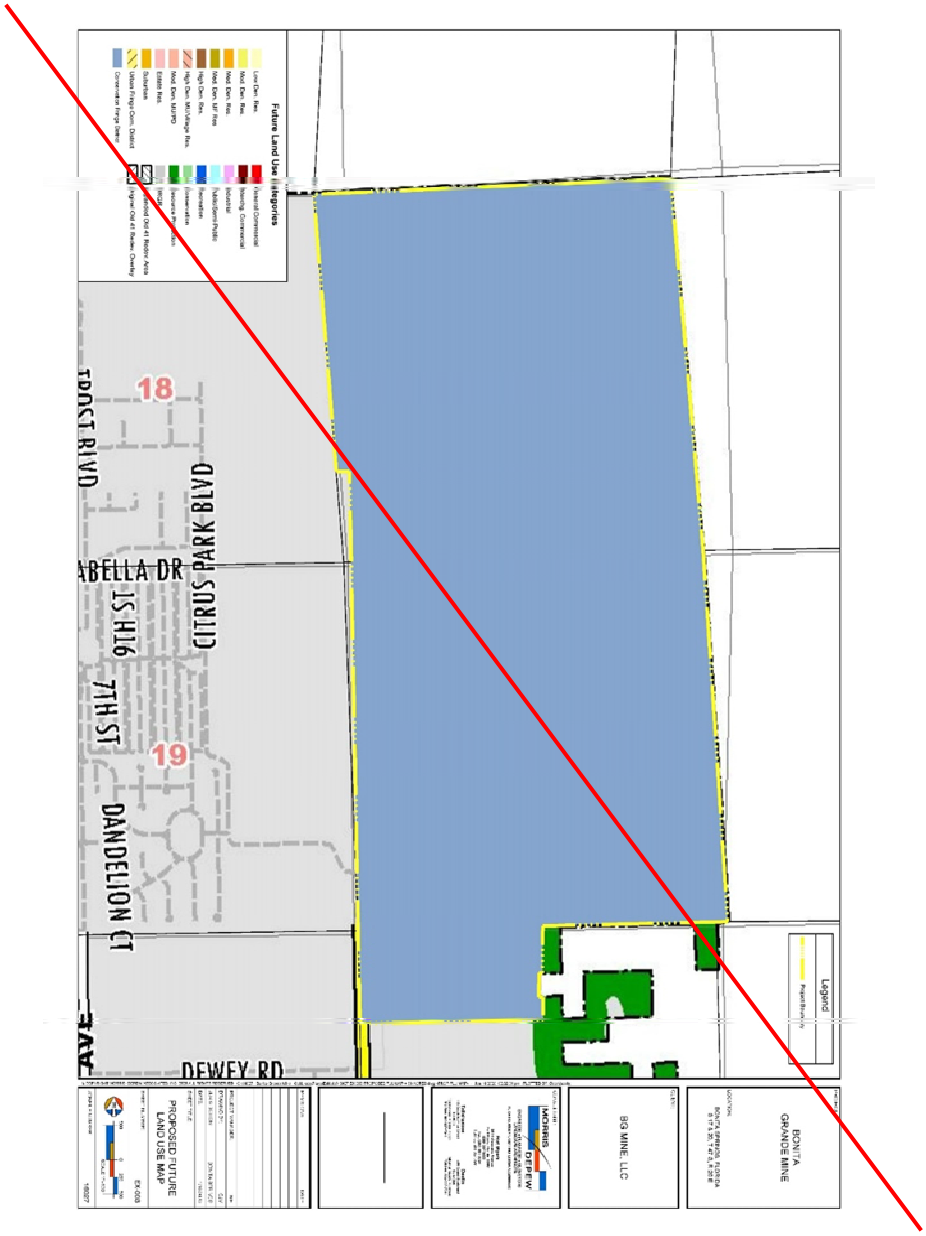
12. On-site and off-site improvements to transportation infrastructure needed to mitigate the traffic impacts of the Planned Development rezoning shall be provided, subject to any prior agreements. These improvements shall use, insofar as is practical, low impact roadway design, linear filter marsh retention elements, and other "green" roadway design features as applicable.

13. The Planned Development project shall connect to public water and sewer service provided by Bonita Springs Utilities and shall connect to reclaimed water if available.

14. Written verification as to adequate public services for the Planned Development rezoning shall be obtained from the Bonita Springs Fire Control & Rescue District, the Lee County Sheriff's Office, the Lee County Emergency Medical Services, and the Lee County School District.

15. The proposed Planned Development rezoning shall not result in material, detrimental impacts to existing or future potable water supply resources.

16. Golf course use is prohibited.



[Note: Policy 1.1.27 was added by Ordinance 20-02 on May 20, 2020. It may not have been updated in Municode. However, the map that was added by ordinance has been updated into the proposed land use map and should, thereby, be removed from the text. This note is for clarification purposes. This note should not be included for the purpose of policy adoption.]

Final densities and non-residential uses shall be determined as part of the Planned Development rezoning process and shall be based upon a demonstration of compatibility of the proposed development with adjacent and proximate development.

Policy 1.1.28: Little Hickory Island Neighborhood Commercial - Intended to accommodate uses that support the neighborhood and the needs of residents and local visitors. This land

use category is applied to existing properties located on Little Hickory Island with an approximate acreage of +/- 3.22 acres. Appropriate uses include general retail, hotels/motels, restaurants, personal services, offices, parks/plazas, on and off-site recreation facilities, and other civic uses. The Little Hickory Island Neighborhood Commercial land use category is limited as follows:

a) All listed commercial and nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.

b) Single or multi-family residential uses up to 10 units per acre is allowed.

c) If affordable housing is provided, residential density may be increased by up to five additional units per acre.

d) Maximum allowable height of structures shall be 35 feet from the base flood elevation to the eaves. Modification of existing structures may not be constructed in excess of 35 feet in height.

e) Development in this land use category must also comply with other provisions in this Comprehensive Plan, such as those associated with development in the CMA or coastal areas.

f) Assembly of parcels shall not be allowed in this land use category.

Policy 1.1.29: Little Hickory Island Multi-Family Residential – Intended to accommodate single-family, multi-family, condominiums, and other residential-type housing, such as time-shares. This land use category is applied to existing properties located on Little Hickory Island with an approximate acreage of +/- 6.3 acres. The land use category is also appropriate for uses that would contribute to neighborhood livability, such as parks, civic uses, and on and off-site recreation facilities. Appropriate residential housing types include conventional constructed single-family and duplex structures, on permanent foundations, cluster housing, townhouses, and multi-family structures. This future land use category limits development as follows:

a) Residential density shall be limited to not more than 10 units dwelling units per acre. If affordable housing is provided, residential density may be increased by up to five additional dwelling units per acre.

b) Maximum allowable height of new or modified structures shall be 35 feet from the base flood elevation to the eaves.

c) Development in this land use category must also comply with other provisions in this Comprehensive Plan, such as those associated with development in the CMA or coastal areas.

d) Assembly of parcels shall not be allowed in this land use category.

Objective 1.2: The City shall take the following steps to eliminate blighting influences and foster redevelopment in the Downtown District~~"Old 41" area~~:

a. Develop urban design guidelines that characterize the human scale, sense of place, and levels and types of activities envisioned for the revitalized area.

b. Develop incentives for creative mixed-use developments where appropriate.

c. Develop provisions to encourage preservation and adaptive reuse of historic structures.

d. Develop provisions to encourage renovations and compatible in-fill development.

e. Develop provisions for the employment of traditional neighborhood design in redevelopment efforts.

f. Develop and adopt a Form Based Code in the City's LDC to promote revitalization consistent with Policy 1.1.11.

Policy 1.2.1: ~~This~~ The City shall enforce the regulations contained herein and in the ~~Old U.S. 41 Corridor Redevelopment Master Plan~~Downtown District.

~~**Policy 1.2.2:** The City will adopt the Standard Housing Code and ensure its vigorous enforcement, either through local effort or under an arrangement whereby the City reimburses Lee County.~~

~~**Policy 1.2.3:** The City will continue to coordinate with Lee County to pursue the designation of the Old U.S. 41 Corridor Redevelopment Area as a Community Redevelopment Area ("CRA").~~

~~**Policy 1.2.4:** Property known as Riverside Park (formally Whittle Property) legally described as HEITMANS BONITA SPRINGS PB6 PG24 ALL BLKS 1+A+ BLK 2 LTS 1+2+POR 3-5+POR LTS 13-17+18+24 DESC IN OR3361 PG 494 + VAC R/W is presentlywas designated as General Commercial (Future Land Use) and is was located in the former Old 41 Redevelopment Area. This property consists consisted of approximately 2.81 acres with approximately 66% of the acreage within the CMA. Properties designated as General Commercial can were allowed to be developed at a maximum of 15 dwelling units per acre. Consistent with Plan Amendment Cycle 2006-1 this entire property will bewas redesignated to Recreation, thereby decreasing the density that was allowed within the CMA portion of the Old 41 Redevelopment Area by 28 units. These units may bewere transferred to the Imperial Landing property (a.k.a Bamboo Mobile Home Site) in the former Old 41 Redevelopment Area.~~

(Ord. No. 06-18, § 1, 12-6-06)

Objective 1.3: Improve the visual and aesthetic appearance of the City through the development and implementation of urban design, architectural and landscape guidelines.

Policy 1.3.1: The City shall prepare an Urban Design/Community Design Element to be incorporated into the Plan. This Element would be intended to describe and depict how the various physical parts of the City will work together to create the special character and livability of the community as expressed in its Vision Statement.

Policy 1.3.2: The City shall consider adopting ~~the~~ additional recommendations that may be contained in the Bonita Beach Road Visioning ~~Corridor~~ Study by Toole Design Group dated November 1, 2016.

Policy 1.3.3: The City shall review all applications for development orders or building permits to ensure that they comply with the Land Development Code.

(Ord. No. 09-05, § 1, 4-15-09)

Objective 1.4: Existing uses that are incompatible with the range, intensity and location of land uses identified on the City's Future Land Use Map shall be considered "inconsistent with the Plan" and allowed to continue but shall be reduced by attrition. No new uses shall be permitted that are inconsistent with the Future Land Use Map and land use restrictions associated with the individual land use categories.

Policy 1.4.1: Existing inconsistent uses shall be allowed to continue until voluntarily removed, but shall not be increased in size or intensity, and once voluntarily removed or abandoned shall not be reinstated.

Objective 1.5: Post-Disaster Redevelopment - Provide for the organized and healthy reconstruction of Bonita Springs after a major storm by showcasing successful local examples of flood-proofing, and by requiring redevelopment activities to meet stricter standards for flood- and wind-resistance.

Policy 1.5.1: Following a natural disaster, land may be redeveloped in accordance with the Future Land Use Map or, at the landowner's option, in accordance with the following "build-back" policy. This policy applies only where development is damaged by high-tide events, storm surge, flash floods, stormwater runoff, fire, hurricane or other natural disasters, and allows for the following options:

a. Buildings/development damaged less than 50% of their replacement cost (measured at the time of damage) may be rebuilt to their original condition, subject only to current building and life safety codes; however, this threshold is reduced to 20% for buildings previously damaged by flooding of $50,000 or more under the National Flood Insurance Program.

b. Buildings/development damaged more than 50% of their replacement cost may be rebuilt to their legally documented actual use, density, intensity, size, height, and style provided the new construction complies with:

1. federal requirements for elevation above the 100-year flood level;
2. any building code requirements for flood-proofing;
3. current building and life safety codes;
4. Coastal Construction Control Line requirements; and,
5. any required zoning or other development regulations (other than use, density, intensity, size, height or style) except where compliance with such regulations would preclude reconstruction otherwise intended by this policy.

c. Redevelopment of damaged property is not allowed for a more intense use or at a density higher than the original lawful density except where such higher density is permitted under this plan and the City's land development regulations.

d. To further implement this policy, the City may establish blanket reductions in non-vital development regulations (e.g., buffering, open space requirements, etc.) to minimize the need for individual variances prior to reconstruction. The Land Development Code may also establish procedures to document actual uses, density, and intensities, and compliance with regulations in effect at the time of construction, through such means as photographs, diagrams, plans, affidavits, permits, appraisals, tax records, etc.

(Ord. No. 17-08, § 1, 6-7-17)

Objective 1.6: Pre-Disaster Buildback Policy - Owners of existing developments that exceed current density or height limits may also be permitted to replace it at up to the existing lawful density or intensity prior to a natural disaster. Landowners may request this option through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The City will approve, modify, or deny such a request based on the conformance of the specific proposal with this Comprehensive Plan, including its land use and design policies, pedestrian orientation, and natural resource criteria.

Objective 1.7: To maintain, protect, and where feasible restore, the City's natural environment and resources, and to protect the City's historic resources.

Policy 1.7.1: In order to best protect ground water resources, by year-end 2004, the City shall have completed a study to identify the types and intensity of uses that should be allowed within the DRGR area, and to determine the most effective and appropriate techniques to ensure the maintenance of adequate quantity and quality of surface and groundwater

resources. The study shall include, but shall not be limited to, evaluation of the following factors in the study area:

a. Subsurface and surface water resources.

b. Existing uses and those having received approval prior to the adoption of the City's Comprehensive Plan.

c. Soils, wetlands, habitats and species and their quantity and quality.

d. The Imperial River and its historical and present floodways and flow ways.

e. Drainage and stormwater patterns and flooding.

f. The long term water and wastewater supply and disposal needs and plans of Bonita Springs Utilities.

g. Resource protection measures applicable and contained in the City's Comprehensive Plan and land development regulations.

h. Allowable uses and their density and intensity.

i. Existing and planned infrastructure in and affecting the area.

j. SFWMD and County ownership in and projects affecting the area.

k. Potential positive or negative effects of possible new land uses on the resource base(s) and new or amended best environmental management practices needed by the City to further its control.

Policy 1.7.2: Upon completion of the study referred to in Policy 1.7.1, the City shall amend its Comprehensive Plan to identify the uses considered most appropriate in the DRGR and the resource protection measures and practices necessary to ensure its continued viability.

Policy 1.7.3: The City shall establish a stream protection overlay zone to improve protection for the Imperial River, Oak Creek, Leitner Creek, and the Bayside drainage area of Little Hickory Island. The overlay zone shall require the use of Best Management Practices, as established in Objective 9.3 of the Conservation/Coastal Management Element, for new development and redevelopment and will target pollution control and water conservation education to existing residents. In the meantime, new development shall be required to ensure that the volume of stormwater runoff shall be no greater than that existing prior to development and that the quality of stormwater runoff shall be at least as good as that existing prior to development. Impacting these watersheds, new development will be required to adopt Best Management Practices approved by the City which will minimize runoff and reduce pollutants and are consistent with the Best Management Practices adopted by the City under Objective 9.3 of the Conservation/Coastal Management Element of this Comprehensive Plan, [reference Rules 62-4.242, 62-302, and 40E-4, F.A.C. and the South Florida Water Management District's *Basis of Review for ERP Applications.]*

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.7.4: The City shall consider establishment of a stream protection overlay zone for Spring Creek. In the meantime, new development shall be required to ensure that the volume of stormwater runoff shall be no greater than that existing prior to development and that the quality of stormwater runoff shall be at least as good as that existing prior to development. [reference Rules 62-4.242, 62-302, and 40E-4, F. A. C. and the South Florida Water Management District's *Basis of Review for ERP Applications.*]

Policy 1.7.5: During the preparation of its Land Development Regulations the City shall consider expanding regulations and permitting procedures related to wetland protection measures, including the following:

a. The City's role in permitting related to that of the South Florida Water Management District, and the Corps of Engineers and the desirability and feasibility of increasing the City's role.

b. Regulations the City could include in its Land Development Regulations to increase wetland protection consistent with the provisions of Sections 373.016, .023, and .414, Florida Statutes.

Policy 1.7.6: The City shall protect its environmentally critical areas by requiring the use of Planned Development in locations exhibiting characteristics of environmentally critical areas including: (1) Areas designated as Resource Protection on the Future Land Use Map; (2) other wetlands identified on the map of Evaluated Wetlands in the Future Land Use Map Series, and; (3) rare and unique upland habitats, including sand scrub, coastal scrub and pine flatwoods identified on the Vegetation and Habitats Map contained in the Conservation/Coastal Management Element, where these habitats can be categorized as mature due to the absence of severe impacts caused by logging, drainage and exotic infestation.

Developments shall incorporate clustering or other innovative and appropriate development techniques to avoid clearing and other impacts associated with the development footprint by shifting infrastructure and other structures to appropriate nonsensitive locations.

Policy 1.7.7: The City shall include in its Land Development Regulations a provision to allow transfer of density from wetlands to developable contiguous uplands under common ownership, provided the area receiving the density transfer will be, thereafter, compatible with existing or planned development on adjacent lands and not disrupt sensitive upland habitats.

Policy 1.7.8: The City shall continue to use the Florida Department of State, Division of Historical Resources "Florida Master Site File" and Lee County's local register of historic places as the method of maintaining a record of local historically significant housing. Identification of other potential candidates for historical designation shall be accomplished in the following manner:

a. Structures located within "Old Mainland Bonita Springs" for which applications for demolition, additions or renovations are submitted shall be reviewed by the City to determine whether or not the structure meets the criteria established by the Florida Department of State for inclusion in the Master Site File.

b. If the Department of State's criteria are met, the City will nominate the structure for inclusion on the Master Site File and/or the National Register of Historic Places as applicable.

Policy 1.7.9: The City shall continue to protect its historic and prehistoric resources by reviewing the Planned Development provisions in its development code to ensure they include provisions that require new development to identify and preserve such resources.

Policy 1.7.10: The City shall take steps to ensure that its heritage of historically significant structures is preserved.

a. Designating a City "Historic Preservation" Board to reinitiate historic preservation within its municipal boundaries.

b. Adopting a municipal Historic Preservation Ordinance.

c. Becoming a "Certified Local Government" in order to provide access to relevant historical preservation funds.

d. Cooperating with the Bonita Springs Historical Society and owners of designated historically significant housing to obtain funding, through the various programs operated by Lee County, for rehabilitation or restoration.

e. Considering incentives to encourage the preservation of locally identified historic structures including provisions in its Land Development Regulations or through mechanisms such as creative adaptive reuse, relocation of the structure, tax relief or tax abatement.

f. Pursuing funding sources for historic preservation including state grants, federal grants, tax benefits, partnerships with local banks, and revolving funds.

g. Providing for the preservation of historically significant structures when preparing Design Standards for the ~~"Old 41" Corridor Redevelopment Master Plan of the City~~Downtown District.

h. Contracting for consultation, technical assistance, and on-going staff support for the City's historic preservation program when deemed necessary by City Council.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.7.11: Upon completion of the City's Parks and Recreation Master Plan, the City will begin a sign program to identify appropriate historic and prehistoric resources.

Objective 1.8: Ensure that population densities in the Coastal Management Area are not increased beyond that allowed prior to the adoption of this Comprehensive Plan.

Policy 1.8.1: This Comprehensive Plan has used, and all future City Evaluation and Appraisal Review (EAR) and updates shall use, the Region's Hurricane Evacuation Plan for analysis purposes.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.8.2: The City shall, upon receiving a request by the SWFRPC, provide the City's population and other needed City data necessary to update Southwest Florida Regional Planning Council's (SWFRPC) Statewide Regional Evacuation Study for the Southwest Florida Region.

Policy 1.8.3: The City shall continue to meet or better the Region's 18-hour, and Lee County's 24-hour, goals for evacuation time.

Objective 1.9: Coordinate future land uses by encouraging the elimination or reduction of uses that are inconsistent with the Local Hazard Mitigation Strategy report recommendations.

Policy 1.9.1: The City shall continue to participate in the Local Hazard Mitigation Strategy Working Group.

Policy 1.9.2: The City shall continue to:

a. Enforce its "Flood Damage Prevention Ordinance" to reduce flood hazards in all areas of special flood hazard.

b. Seek cooperative funding for the retrofit, relocation or acquisition of the seven repetitive loss properties in the City.

c. Support the South Florida Water Management District's efforts to increase the storage capacity for stormwater in the Imperial River and Spring Creek watersheds.

d. Give high priority to projects that improve the ability of current drainage systems to convey or divert stormwater flooding from the Imperial River.

e. Attempt to improve the City's Building Code Effectiveness Rating System to reduce homeowner policy rates for new construction.

Objective 1.10: Coordinate with any appropriate resource planning and management plan prepared pursuant to Chapter 380, F.S. and approved by the Governor and Cabinet.

Policy 1.10.1: Within one year of the approval by the Governor and Cabinet of a resource planning and management plan under Chapter 380, F.S., the City shall incorporate into its Land Development Regulations measures that will further the intent of the management plan.

Objective 1.11: Development orders and permits for new development or redevelopment shall be issued only if public facilities and services for potable water, sanitary sewer, solid waste, and stormwater management are necessary to meet the City's adopted Level of Service (LOS) standards are available concurrent with the impacts of the development. Development orders and permits for new development or redevelopment that do not meet the adopted LOS standards for transportation, parks, and schools facilities and services will be issued provided the project meets the concurrency requirements as outlined in the Capital Improvements Element of this Comprehensive Plan.

Policy 1.11.1: In order to ensure the availability of public facilities and services necessary to support development concurrent with its impacts, prior to the issuance of a development order or permit, the City shall make and record determinations that there is adequate capacity to meet the following Levels of Service (LOS) standards:

a. Potable Water Facilities: Within certified, franchised or designated service areas an available supply, treatment and delivery of 250 gallons per day per equivalent residential connection (ERC) and delivery of potable water at a minimum pressure of 40 pounds per square inch (psi) at the meter anywhere in the system.

b. Sanitary Sewer Facilities: Within certified, franchised or designated service areas an available capacity to treat and dispose of a volume of wastewater equal to 200 gallons per day per equivalent residential connection (ERC), except that facilities serving only mobile home residential structures shall have a capacity of 150 gallons per day and facilities serving only travel trailer residential structures shall have a capacity of 120 gallons per day.

c. Facilities for Disposal of Solid Waste: The minimum acceptable level of service standard for availability of solid waste disposal facilities shall be 7 pounds per capita per day.

d. Stormwater Management Facilities:

1. Existing Infrastructure/Interim Standard

During a 3-day storm event (rainfall) accumulation of 13.7 inches or less (3-day, 100 year storm as defined by SFWMD), one lane of evacuation routes should remain passable (defined as less than 6 inches of standing water over the crown). Emergency shelters and essential services should not be flooded.

During a 3-day rainfall accumulation of 11.7 inches or less (3-day, 25-year storm as defined by SFWMD), all lanes of evacuation routes should remain passable. Emergency shelters and essential services should not be flooded.

During coastal flooding of up to 4.0 feet above mean sea level, all lanes of evacuation routes should remain passable. Emergency shelters should not be flooded.

2. Regulations of Private and Public Development. The quality of water to be discharged from new surface water management systems is, and shall remain, subject to state and regional permitting programs that determine compliance with state water quality standards. Stormwater management systems in new private

and public developments (excluding improvements to existing roads) shall be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25-year, 3-day storm). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in Chapters 62-4, 62-40 and 62-302, and the rule 40E-4, F.A.C. New developments shall be designed to avoid increased flooding of surrounding areas.

e. Parks and Recreation Facilities:

1. Regional Parks: 6 acres per 1,000 resident and seasonal population.

2. Community Parks: 1 acre per 1,000 resident and seasonal population.

f. Roadway Facilities: The minimum acceptable peak hour/peak season/peak direction roadway levels of service shall be as follows:

I-75	D
Freeways (non FIHS)	D
Arterials*	E
Collectors*	E
Local roads	D
*Applies to both major and minor arterial/collector	

g. The project will not increase the time necessary to evacuate the City, in the event of a hurricane, to greater than 18 hours; or,

h. The development order or permit is specifically conditioned on the availability of the necessary facilities and services for each of the above and that said facilities are authorized when the project is authorized.

(Ord. No. 09-01, § 1, 2-18-09; Ord. No. 09-05, § 1, 4-15-09; Ord. No. 17-08, § 1, 6-7-17)

Objective 1.12: Designate sites that will allow for environmentally safe disposal of dredge spoil.

Policy 1.12.1: The City will consult with Lee County, the West Coast Inland Navigation District (WCIND) and appropriate agencies on a case-by-case basis to establish criteria for selection of environmentally safe and economically practical sites for dredge disposal.

Policy 1.12.2: In the interim, the City will continue to contract with Lee County and the WCIND for dredge disposal.

Objective 1.13: To coordinate the location of new and expanded sites for public educational facilities in accordance with 235.193, F.S. and 163.3177(6)(a)(3)(d), F.S. and to maintain and enhance joint planning processes and procedures for coordination and development of public school facilities concurrent with residential development and other services.

Policy 1.13.1: The City shall support and facilitate coordination with the Lee County School District for the location and development of public education facilities.

Policy 1.13.2: The City shall coordinate with School District staff in the siting of school facilities so that their locations are consistent with the City's Comprehensive Plan.

Policy 1.13.3: Public educational facilities of shall be an allowable use within the following land use categories: Low Density Residential, Moderate Density Residential, Medium Density Residential, High Density Residential, High Density Mixed-Use/Village, Moderate Density Mixed Use/Planned Developments, General Commercial, ~~"Old 41" Mixed Use Redevelopment~~Downtown District, and Public and Semi-Public.

Policy 1.13.4: The City shall ensure that sufficient land is available proximate to urban residential areas, and within the land use categories in which public schools are allowed, to meet the projected need for public schools in coordination with the Lee County School Board.

Policy 1.13.5: The City shall, to the extent possible, endeavor to seek to collocate schools with public facilities such as parks, libraries and community centers.

Policy 1.13.6: The City shall participate in discussions with both the Lee County and Collier County School Boards to determine how to most effectively and efficiently serve the educational needs of the residents of Bonita Springs.

Objective 1.14: The City shall discourage the proliferation of urban sprawl by maintaining or increasing densities, consistent with flood hazard considerations, between Old U. S. 41 and I-75 to encourage in-fill and redevelopment.

Policy 1.14.1: The City will conduct the study referenced in Policy 1.7.1 to determine the land uses most appropriate in the DRGR area.

Policy 1.14.2: The City will allocate moderate to high densities adjacent to compatibly developed areas of the City to encourage in-fill, development and redevelopment west of I-75.

Objective 1.15: Establish regulations for the reduction of greenhouse gas emissions and for solar and other energy saving techniques.

Policy 1.15.1: By the end of 2012, the City shall implement new site lighting regulations in the Land Development Code. The purpose of these new regulations is to minimize light pollution and reduce energy consumption associated with lighting of such facilities while ensuring that the safety of residents and visitors is not compromised.

Policy 1.15.2: By the end of 2012, the City shall create guidelines within its Land Development Code to facilitate the development of "green buildings" in Bonita Springs without forcing excessive costs or other burdens upon developers, building owners or occupants. The guidelines will be applicable to all new residential and nonresidential buildings.

(Ord. No. 09-05, § 1, 4-15-09)

Objective 1.16: Bonita Beach Road Corridor and Bonita Beach Road Corridor Quadrant Map: Establish regulations to implement the Bonita Beach Road ~~Vision~~ Visioning Study by Toole Design Group dated November 1, 2016 for the Bonita Beach Road Corridor, which is generally located between the Gulf of Mexico and the City limits to the East. The corridor serves as the main gateway to the City, and is intended for an interconnected mix of uses including commercial, civic, residential, and mixed-use development, with emphasis on compatibility, a human-scale of development, walkability and bike-ability, and a vibrant and aesthetically-pleasing streetscape.

Policy 1.16.1: Implement a cohesive set of provisions in the Land Development Code to provide enhanced standards for new development along the Bonita Beach Road Corridor

relating to site design, access, land use, landscaping, parking requirements, interconnectivity, and mobility.

Policy 1.16.2: Provide for the protection and enhancement of viewsheds along Bonita Beach Road through design features and elements that emphasize the gateway character of this corridor.

Policy 1.16.3: Ensure that publicly-owned land and right-of-way is attractively and appropriately landscaped with a consistent design theme.

Policy 1.16.4: Promote use of aesthetically pleasing architectural standards, accessory structures, and additional hardscape and landscape features to create a strong sense of place along Bonita Beach Road.

Policy 1.16.5: New development and redevelopment projects shall be designed and developed to coordinate land uses, site design, access, and required infrastructure improvements with the mobility network identified in the Bonita Beach Road ~~Vision~~ Visioning Study by Toole Design Group dated November 1, 2016.

Policy 1.16.6: Evaluate new development and redevelopment projects along the Bonita Beach Road Corridor in relationship to the "Bonita Beach Road Corridor Quadrant Map" and "Corridor Network Zones Map" to encourage appropriate land use, site design techniques, interconnectivity, and multi-modal access.

(Ord. No. 17-06, § 1, 5-3-17)

Objective 1.17: Support walkable development patterns around transit stations.

Policy 1.17.1: The CSX/Seminole Gulf rail corridor, as shown on Figure ~~10~~ 6 of the Future Transportation Map Series, is currently used for rail freight and communication lines. This corridor is also suitable for additional transportation purposes such as hiking/biking/walking trails, commuter rail, light rail, or bus rapid transit. Transportation Element policies describe Bonita Springs' intentions for this corridor to remain intact and dedicated to multiple transportation purposes.

Policy 1.17.2: At the earliest opportunity, the City will amend its Future Land Use Map to designate the rail corridor into its own category. The allowable uses in this category will be established by the City consistent with existing permitted uses as well as those identified in Policy 1.17.1.

Policy 1.17.3: The City supports transit-oriented development (TOD) around future transit stations for commuter rail, light rail, or bus rapid transit service. TOD patterns provide higher densities and intensities in a physical form that emphasizes walkability and connectivity and provides a broad range of uses, reducing reliance on vehicle trips and parking lots.

Policy 1.17.4: The City will consider a new land-use planning process for transit-oriented redevelopment around potential future transit stations along the CSX/Seminole Gulf rail corridor. Stations could be placed in the ~~Old 41 Town Center~~Downtown District and near Strike Lane. Model procedures for station area planning and implementation are provided in the Florida TOD Guidebook, published by Florida DOT ~~in~~ dated December 2012.

(Ord. No. 17-07, § 1, 6-7-17)

Editor's note— Ord. No. 17-07, § 1, adopted June 7, 2017, amended the Future Land Use Element by adding a new Objective 1.16. In order to avoid duplication of Objective numbers, the objective has been renumbered as 1.17 at the discretion of the editor.

OBJECTIVES AND POLICIES NOT APPLICABLE

AVAILABILITY OF LAND FOR UTILITY FACILITIES

No objective to ensure the availability of suitable land for utility facilities is necessary or applicable to the City of Bonita Springs. Bonita Springs Utilities, a private utility company, provides the vast majority of potable water and sanitary sewer services to the City. It presently owns sufficient land to accommodate future planned expansions capable of serving the City through the planning period. Solid waste disposal is provided by Lee County with adequate lands located outside the City.

Upon adoption of the Bonita Springs Comprehensive Plan ("Comp Plan" or "Plan"), all development and all actions taken in regard to development orders shall be consistent with the Plan as adopted. All land development regulations enacted or amended after the effective date of the Comp Plan shall be consistent with the Comp Plan, except that the Bonita Springs City Council may, in its sole discretion, permit development with a greater density for projects that were submitted and under review prior to October 16, 2002, if such density was permitted under the Lee Plan and only if similar and compatible to the adjoining property. Land development regulations in existence as of the effective date of the Comp Plan that are inconsistent with the Comp Plan shall be amended through the public hearing process to conform to the goals, objectives, and policies of the Comp Plan.

Notwithstanding any other provision of this Comp Plan, an application for a development approval may be approved if an applicant has demonstrated development rights that are vested under the standards of this section. Persons or entities whose interests are directly affected by this Comp Plan have the right to request an administrative interpretation of the Plan as it affects their specific interest. Applicants must seek administrative relief by first requesting the City of Bonita Springs to grant an administrative interpretation of the Plan before they may file an action in a court of competent jurisdiction.

Such an interpretation, under the procedures and standards set forth below, shall thereafter be binding on the City of Bonita Springs and the person or entity, their heirs, assigns and any subsequent successors. Such administrative interpretations are intended to expedite and reduce disputes over Plan interpretations, provide predictability in Plan interpretations, resolve certain map or boundary disputes, and avoid unnecessary litigation. Once rendered, an administrative interpretation may be challenged by the filing of a Petition for Writ of Certiorari in Circuit Court.

A. *Subject Matter of Administrative Interpretations* Administrative interpretations shall be provided only as to the matters set forth below. In no event shall administrative interpretations hereunder involve questions of the consistency of development or land use regulations with the Comp Plan. Administrative interpretations shall be limited to:

1. Whether the single-family residence provision as hereinafter defined applies and the applicant desires a written opinion for future use, or with a concurrent building permit application.

2. Whether an area has been (or should have been) designated Wetlands on the basis of a clear factual error. A field check shall be made prior to the issuance of such an interpretation

3. Clarification of future land use map boundaries as to a specific parcel of property.

4. Conflicts between existing land development approvals and this Comp Plan. Florida Statutes § 163.3167(5) recognizes the vested status of Development of Regional Impacts, or local development orders where the development has commenced and is developing in good faith. Florida Statutes § 163.3164 defines a development order as any order granting, denying, or granting with conditions an application for a development permit. A development permit includes any building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. No application for administrative determination is required for developers of Developments of Regional Impact that are developing in accordance with an approved Development of Regional Impact development order or related development orders and permits, as they are deemed consistent with the Plan, except for vested rights determinations of buildings that exceed 75 feet in height.

5. Within 365 days from adoption of this Comp Plan, any legal owner, or beneficial owner with the authorization of the legal owner, whose interest is directly affected by the Comp Plan provisions, and owners and developers adversely affected by the Plan limitation on the height of buildings to 75 feet above flood elevation must apply for an administrative interpretation that their proposed structure is vested in accordance with the standards for administrative interpretations as set forth below. The duration for vesting of any structures

under this provision is limited to the life of the Development of Regional Impact development order or any local development order or development approval, or any extension thereto. An application for a determination of vested rights with respect to the 75 foot height limitation shall be filed on or before November 25, 2003 or the alleged vested right shall be deemed abandoned. Notwithstanding, all other vested rights applications may be filed at any time.

B. *Procedures for Administrative Interpretations* Anyone seeking an administrative interpretation shall submit an application to the City. The City Manager, or designee, will issue administrative interpretations for applications pursuant to Section A above, except that the City Attorney shall issue administrative interpretations for (1) single-family provisions for future use or a concurrent building permit application was not approved by the City Manager, or designee and (2) vested rights determination of any existing land development approvals or limitations including vested rights to construct building that exceed 75 feet in height above flood elevation. The application shall include all the information necessary to support the request. The applicant has the burden of demonstrating that the application is appropriate as to Section A above, and that it meets the standards set forth in Section C below. The City Attorney, or the City Manager or designee, whichever is applicable, will review each application, and issue a written administrative interpretation, which may be appealed by the applicant to City Council.

C. *Standards for Administrative Interpretations* In making the proposed determination, the City will consider, in furtherance of the guidelines contained in the Comprehensive Plan, the following criteria:

1. Wetland designations, and map boundaries: Is there a clear factual error or discrepancy?

2. Single-family residence provision

a. Applicability. Notwithstanding any other provision of this Plan, any entity owning property or entering or participating in a contract for purchase agreement of property, which property is not in compliance with the density requirements of the Comp Plan, shall be allowed to construct one single-family residence on said property PROVIDED THAT:

(1) Date Created:

(a) The lot or parcel shall have been created and recorded in the official Plat Books of Lee County prior to the effective date of the original Lee County Comp Plan (December 21, 1984), and the configuration of said lot has not been altered; OR

(b) A legal description of the lot or parcel was lawfully recorded in the Official Record books of the Clerk of Circuit Court prior to December 21, 1984; OR

(c) The lot was lawfully created after December 21, 1984, and the lot area was created in compliance with the said Comp Plan, as it existed at that time.

(2) Minimum Lot Requirements: In addition to meeting the requirements set forth above, the lot or parcel shall:

(a) Have a minimum of 4,000 square feet in area if it was created prior to June 27, 1962; OR

(b) Have a width of not less than 50 feet and an area of not less than 5,000 square feet if part of a subdivision recorded in the official Plat Books of Lee County after June 27, 1962, and prior to December 21, 1984; OR

(c) Have a minimum of 7,500 square feet in area if it was created on or after June 27, 1962, and prior to December 21, 1984, if not part of a subdivision recorded in the official Plat Books of Lee County; OR

(d) Have been in conformance with the zoning regulations in effect at the time the lot or parcel was recorded if it was created after December 21, 1984; OR

(e) Have been approved as part of a Planned Unit Development or Planned Development.

(3) Access and Drainage: In addition to meeting the requirements set forth above:

(a) The road that the lot or parcel fronts on must have been constructed and the lot shall be served by drainage swales or equivalent drainage measures. The road must have, at a minimum, a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use; OR

(b) The lot or parcel must be located within a subdivision that was approved under Florida Statutes Chapter 177, as long as the subdivision improvements have been made or security for their completion has been posted by the subdivider.

If the lot or parcel cannot meet the requirement of access and drainage, this requirement shall not apply to the extent that it may result in an unconstitutional taking of land without due process.

(1) Construction Regulations. Subsequent to a property owner establishing the right to build a single-family residence on a lot through the procedures set forth in this Plan, the following policies shall prevail:

-1- The residential structure shall be in compliance with all applicable health, safety, and welfare regulations, as those regulations exist at the time the application for construction of residence is submitted.

-2- Lots or parcels which qualify for the right to construct a residence and which contain wetlands shall be subject to special provisions of the Wetlands Protection Ordinance.

-3- If two or more contiguous lots or parcels have each qualified for the right to build a single-family residence, the property owner is permitted and encouraged to reapportion properties if the result of the reappointment is a lot or lots which come closer to meeting the property development regulation standards for the zoning district in which it is located and as long as no property becomes non-conforming or increases in its non-conformity as a result of the reapportionment and as long as the density will not increase.

-4- If a lot or parcel has qualified for the right to construct a single-family residence, nothing herein shall be interpreted as prohibiting the combining of said lot or parcel with other contiguous property provided the density will not increase.

-5- If two or more contiguous properties have each qualified for the right to construct a single-family residence and if the lots or parcels are located in a zoning district which permits duplex or two-family dwellings, the property owner(s) may combine the lots to build a single duplex or two-family building in lieu of constructing two single-family residences.

-6- Transferability: This right shall run with the land and be available to any subsequent owner if the property that qualifies for the single-family provision is transferred in its entirety.

3. Vested rights clarification of any existing land development approvals or limitations to the height of buildings to 75 feet above flood elevation.

a. The vested rights determination shall be limited to rights acquired prior to adoption of the Comprehensive Plan or amendment thereto and shall vest only that development

specifically and expressly contemplated by the valid "official act" of the City. An "official act" of the City shall include official acts of the City's predecessor, Lee County. An official act includes, but is not limited to the issuance of any development order or development permit as defined by § 163.3164, F.S.

b. The applicant shall have the burden of proof, by a preponderance of the evidence, to demonstrate that he meets the standards of (1), or in the alternative, meets the standards of (2), (3) and (4) below.

(1) There is an "official act" (as enumerated below) of the City or its predecessor, Lee County. Any one of the following may constitute an "official act" of the City or Lee County for purposes of the vested rights determination:

(a) A building permit issued prior to the effective date of the Comprehensive Plan or land development regulations in effect at the time of filing of the vested rights application; or,

(b) One or more development permits, as defined by § 163.3164, F. S., or approvals for development issued by the City or Lee County; or

(c) A subdivision plat recorded in the official records of Lee County, which fulfills the criteria set forth in F. S. § 380.05(18), is an "official act."

(2) This particular applicant:

(a) Relied upon the official act in "good faith" (For example, the applicant must not have had notice or knowledge of a pending change in zoning, allowable uses or density, etc., such as if notice of the change was published, or there are active and documented efforts to develop and approve the proposed change at the time the property was purchased or expenses were incurred); and

(b) Had a reliance that was "reasonable" (for example, an act of purchasing the property, entering into contracts or incurring additional obligations after the transmitted Comprehensive Plan was or became effective does not constitute reasonable reliance.)

(3) This particular applicant incurred such substantial obligations and expenditures that it would be highly inequitable or unjust to require that the development conform with the Comprehensive Plan in effect at the time of the filing of the vested rights application; and

(4) Development of the project for which the applicant seeks a vested rights determination has made a substantial change in position in good faith.

4. Where appropriate and necessary, administrative interpretations of wetland determinations and map boundary determinations shall be incorporated into the Plan during the next amendment cycle.

D. *Limitations on vested rights determinations.*

1. In furtherance of those guidelines listed in the Comprehensive Plan, a proposed vested rights determination shall also contain the following:

a. A finding that the applicant has met the burden of proof for the vested rights determination; and

b. A clear statement to specify the applicant's vested development rights; and

c. A clear statement to the applicant that construction, when commenced, must continue in good faith.

d. A vested rights determination is limited to the life of the Development of Regional Impact, or other local development order or development permit, or any extension thereto.

2. The vested rights determination shall be limited to rights acquired prior to adoption of the Comprehensive Plan. The vested rights determination shall vest only that development specifically and expressly permitted by the "official act" of the City Council, Lee County or their staff.

E. *Appeals of Administrative Interpretations.* The following procedures shall apply in appealing administrative interpretations:

1. An administrative interpretation may be appealed to the City Council by filing a written request within fifteen (15) days after receipt of the written administrative interpretation, which shall be sent to the applicant by certified mail return receipt requested.

2. The City Council shall conduct a hearing to be held within thirty (30) days after the date of receipt of a written request for an appeal. No additional evidence shall be considered by the City Council, other than what is provided in the record. The Council may adopt, overturn, or amend the administrative interpretation based on the standards set forth herein. City Council must render a written decision within thirty (30) days of the hearing.

3. All appeals from the action of the City Council shall be to Circuit Court. The appeal must be filed within forty-five (45) days after the written decision is rendered by the City Council.

Prior to filing any claims under the Bert J. Harris, Jr., Private Property Rights Protection Act, an applicant must exhaust his or her administrative remedies under this Administrative Section before a cause of action or "action of a governmental entity" will accrue or be deemed ripe. Such exhaustion shall not include a filing of an appeal or a Petition for Writ of Certiorari in Circuit Court.

F. *Comprehensive Plan Annotations Committee.* The City Manager, Planning Director and City Attorney, or their designees, may sit as the Comprehensive Plan Annotations Committee. The Comprehensive Plan Annotations Committee will interpret provisions in the Plan in a manner that insures that the legislative intent of the adopting City Council is understood and applied by subsequent City Councils, employees, private property owners and any other affected person. When the Comprehensive Plan Annotations Committee makes an annotation, it will do so in accordance with the generally accepted rules of statutory construction, sound legal advice and compiled in writing in a document that should be a companion to the Comprehensive Plan.

An annotation can be requested by a member of the Comprehensive Plan Annotations Committee, the City Council, any employee responsible for administering that portion of the plan, the Local Planning Agency or Zoning Adjustment Board, or by an applicant affected by that portion of the plan.

The Comprehensive Plan Annotations Committee will prepare its recommended annotation for the Local Planning Agency for review and then forward it to the City Council with any comments and recommendations of the Local Planning Agency, as it deems appropriate.

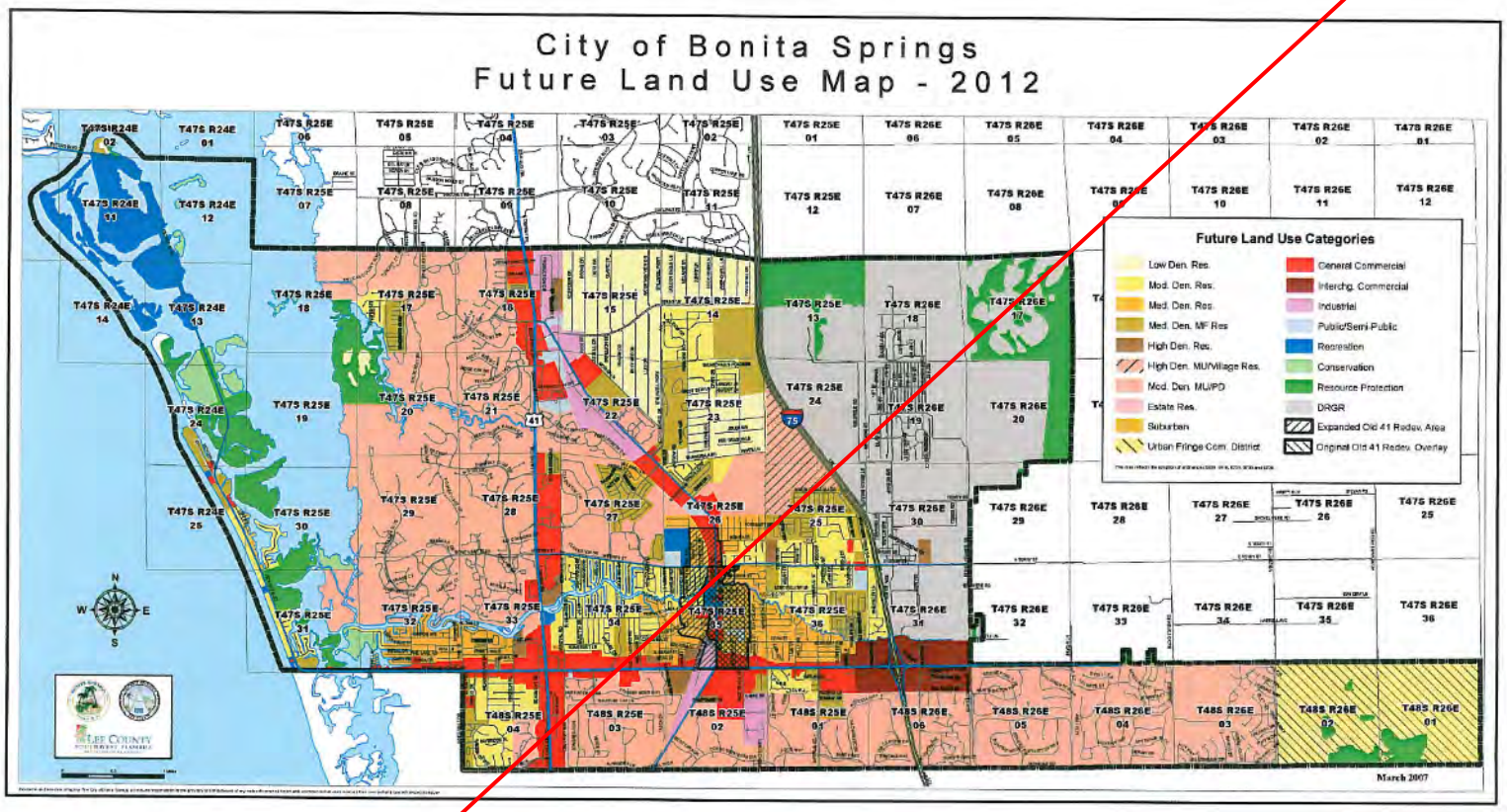
Bonita Springs City Council shall render a final decision as to the annotation, which shall be approved by resolution. The City Clerk shall keep all resolutions containing annotations and have them compiled into single document, appropriately indexed. The document shall be updated regularly and the latest version furnished to any person requesting copies of the Comprehensive Plan itself.

Any provision of the plan specifically construed in accordance with an annotation may not be re-interpreted or modified except by a formal plan amendment. Once adopted in accordance with these procedures, the annotation shall have the full force of local law and all persons are placed on constructive notice of it.

G. *Administrative Challenges.* Any affected person may file a petition with the Division of Administrative Hearings pursuant to 120.569 F.S. and 120.57, F.S. to request a formal hearing to challenge whether the Comprehensive Plan or plan amendment are in compliance with 163.3184(1)(b), F.S. "In compliance" means consistent with the requirements of §§ 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

H. At the request of an applicant, an application for zoning changes that would be required to property enact a proposed plan amendment shall be considered concurrent with the proposed plan amendment. Any zoning changes approved concurrent with a Plan amendment will be contingent on the comprehensive plan amendment becoming effective.

(Ord. No. 17-08, § 1, 6-7-17)



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Yellow highlighting indicates annexation/other amendments

~~Red strike-through~~ and underlining indicates Downtown Amendment(s)

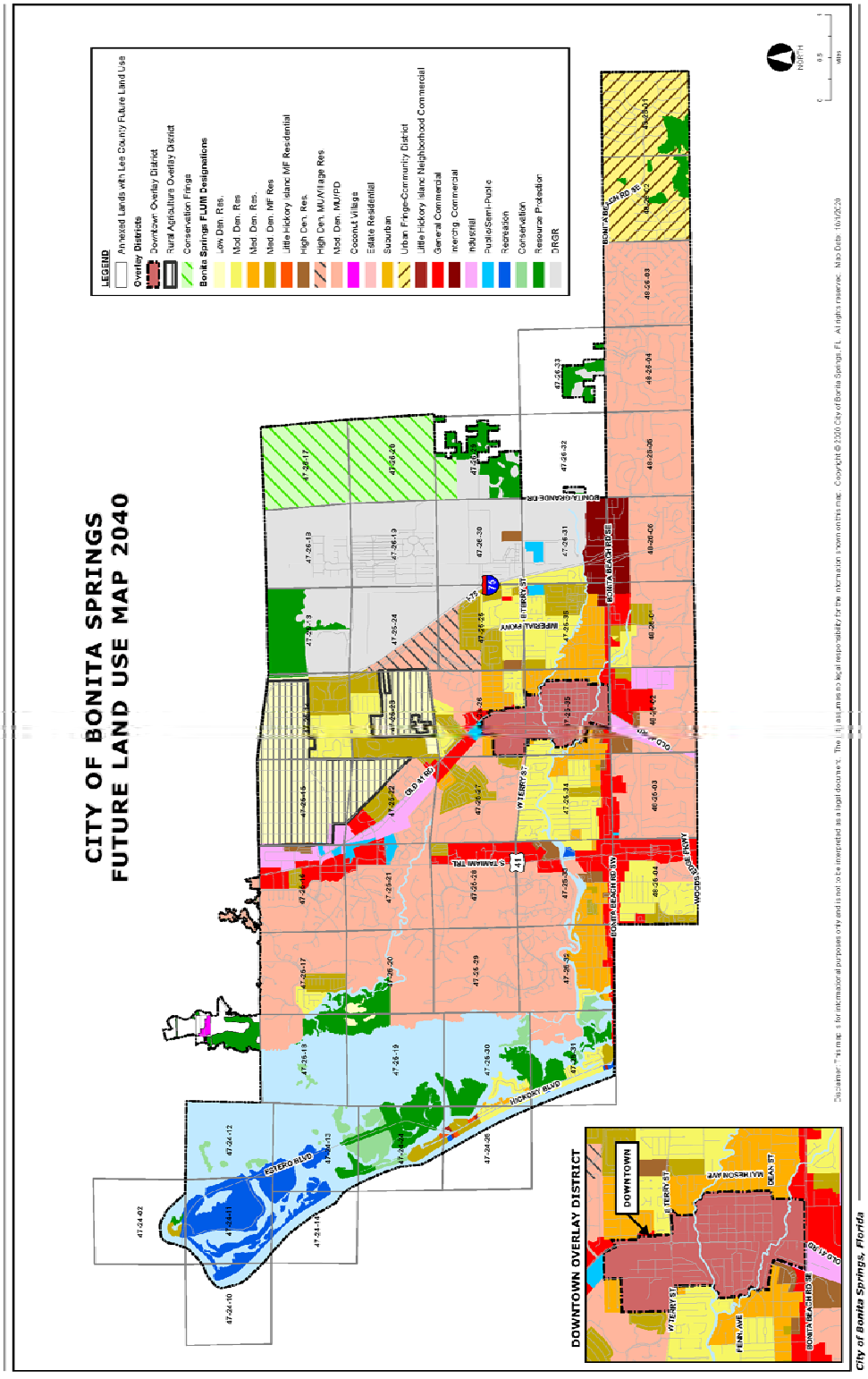


Figure 1: City of Bonita Springs Future Land Use Map 2040

Yellow highlighting indicates annexation/other amendments

~~Red strike~~ through and underlining indicates Downtown Amendment(s)

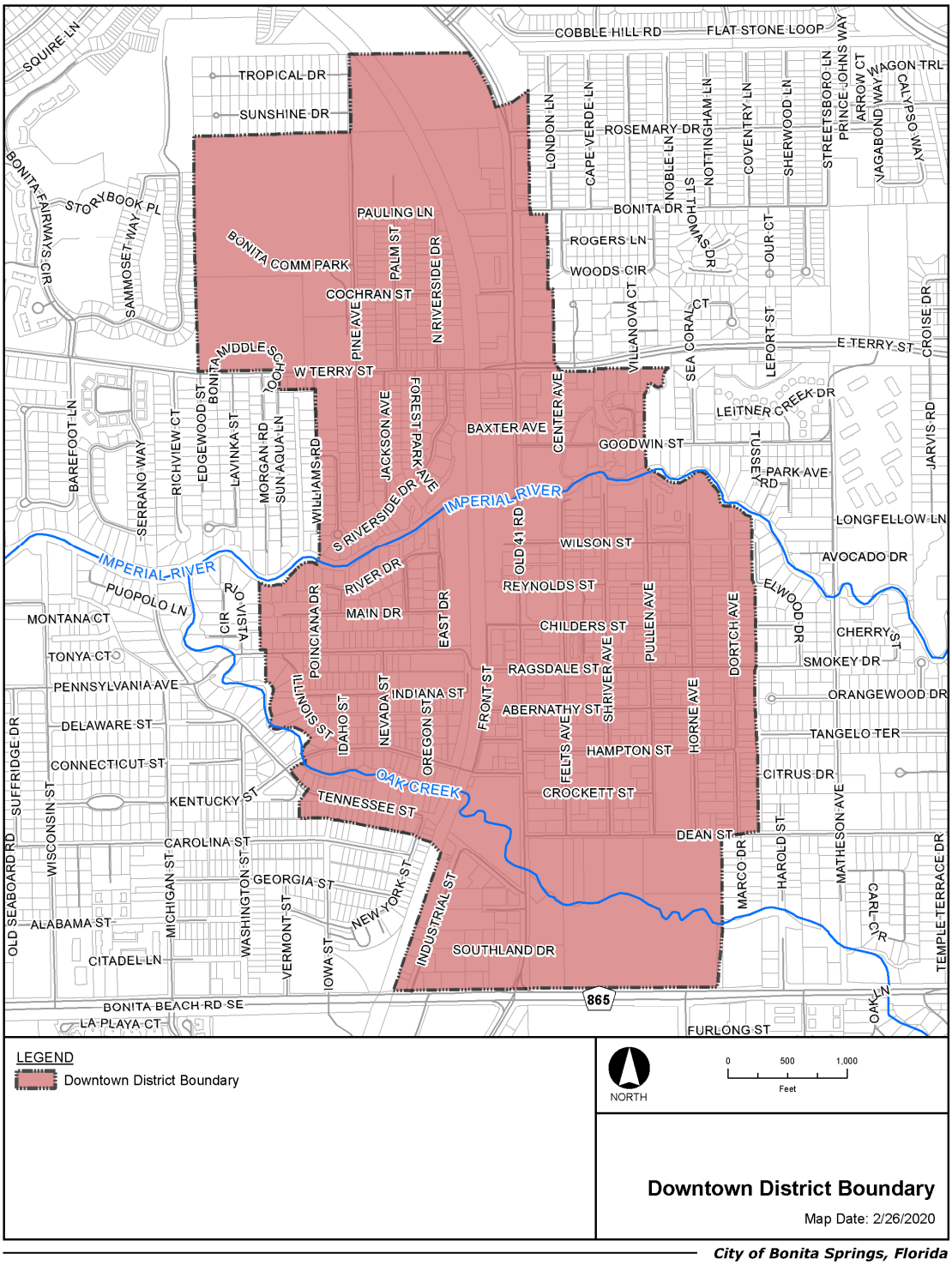
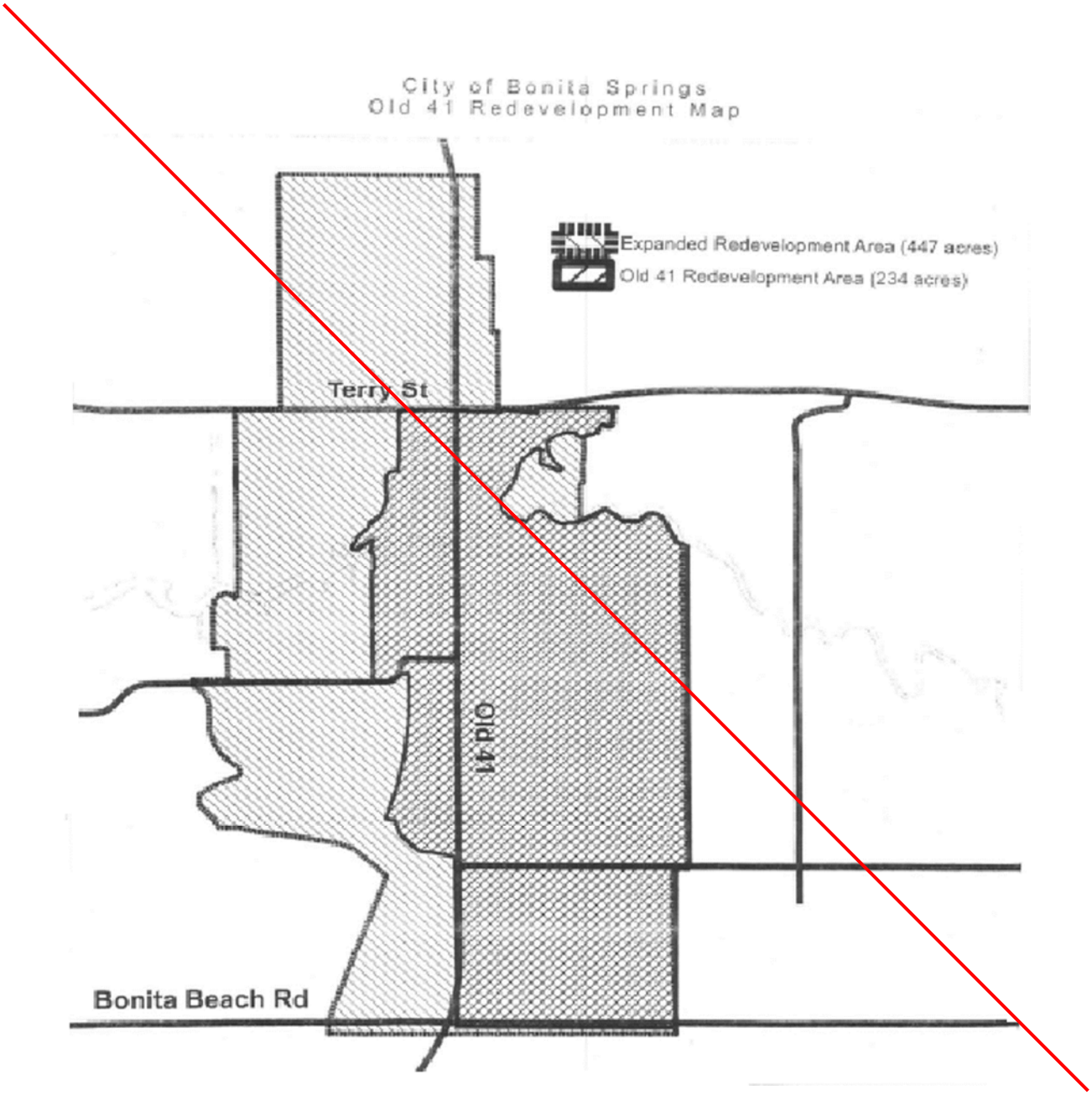
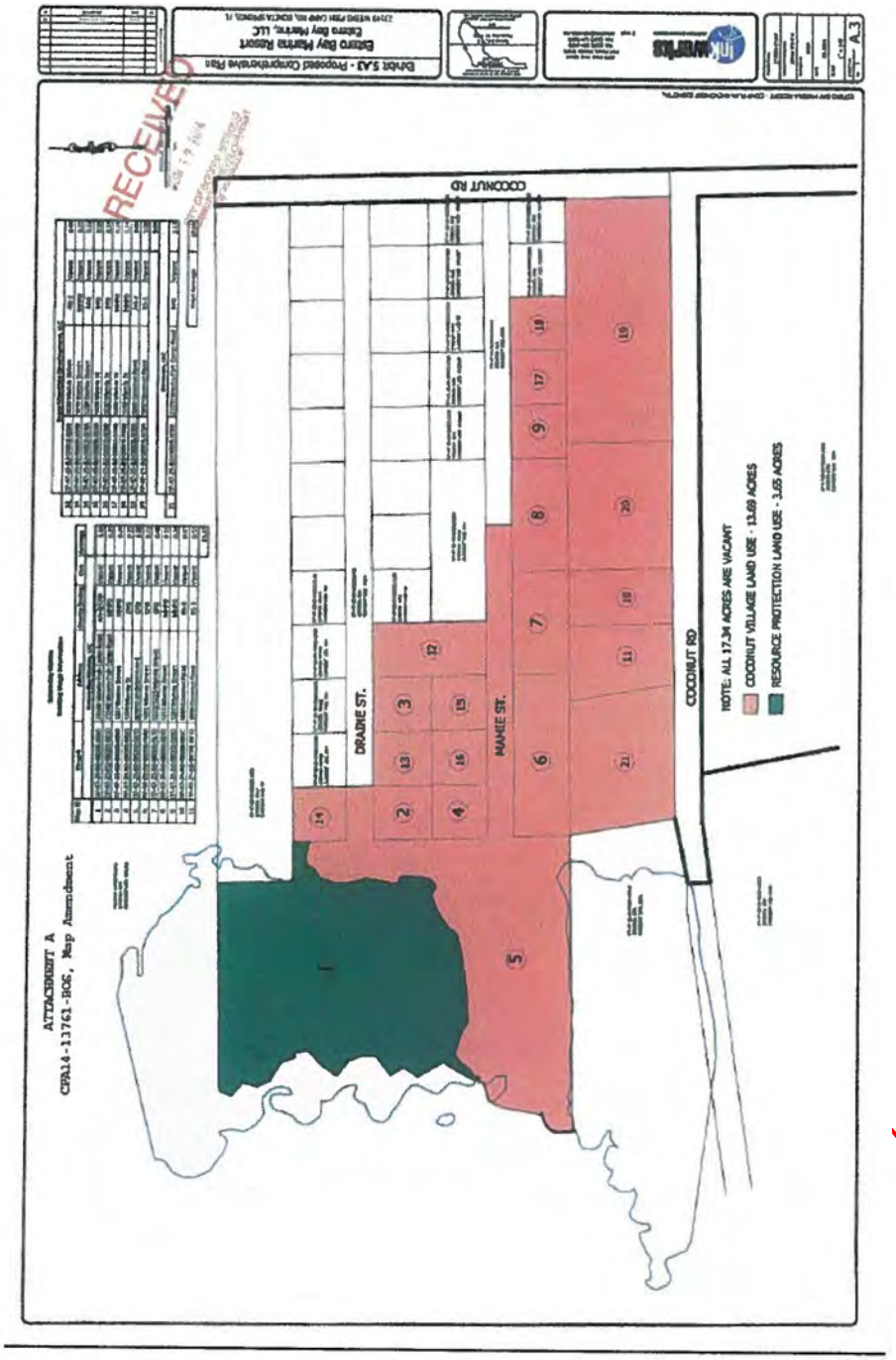


Figure 2: Downtown District

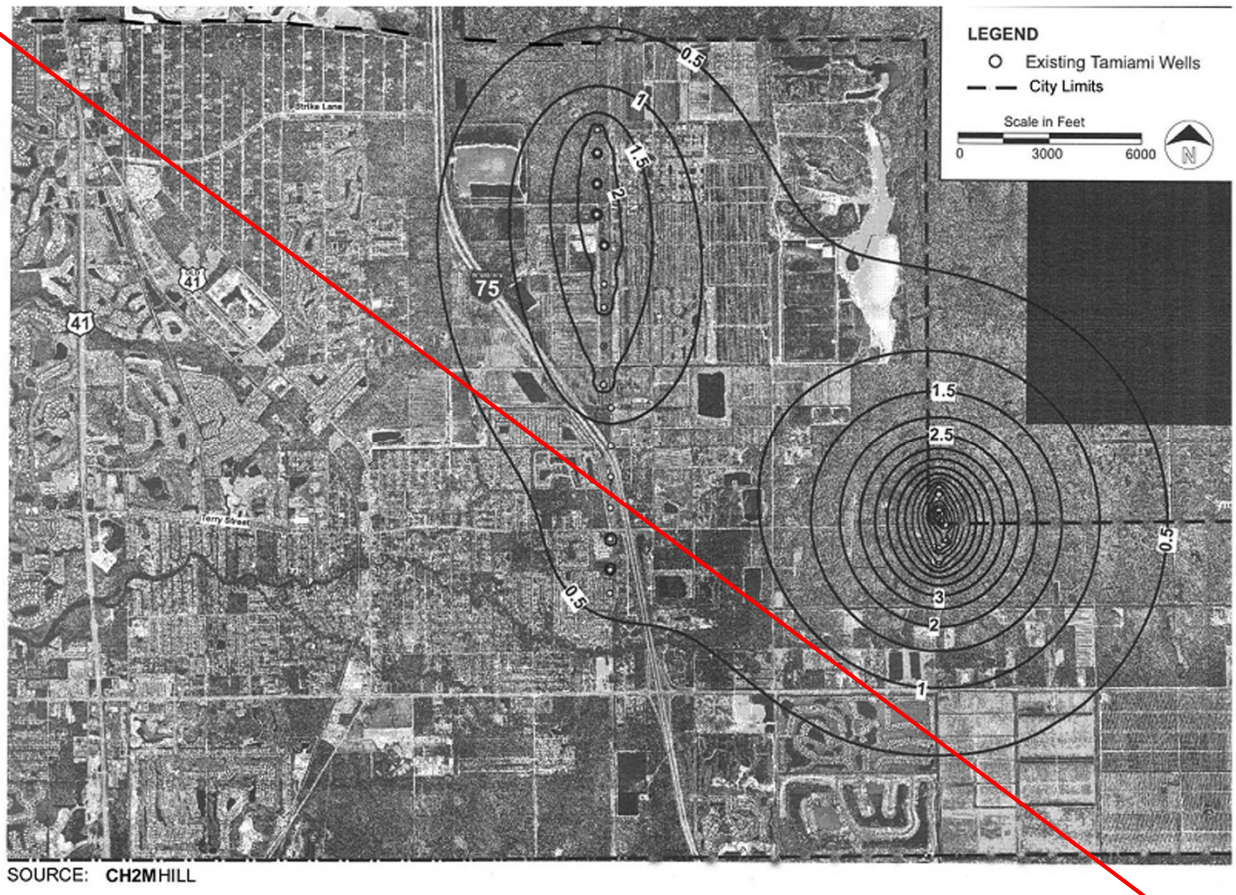


Old 41 Redevelopment Map - Addendum to Future Land Use Map



Coconut Village Map - Addendum to Future Land Use Map

(Ord. No. 14-23, § 2, 10-15-14)



~~*Figure 2. Existing and Planned Potable Water Wells and Well Head Protection Areas*~~

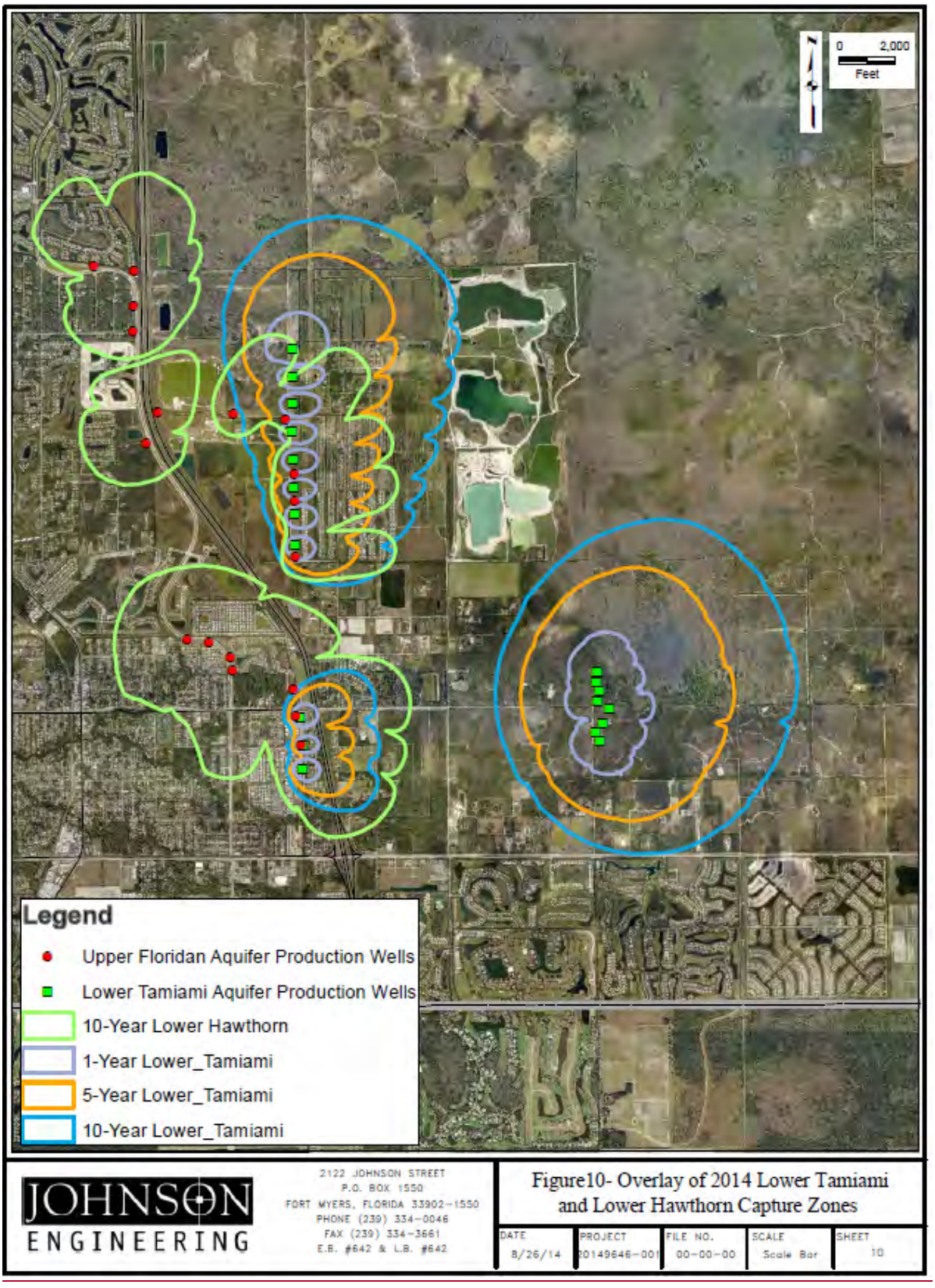
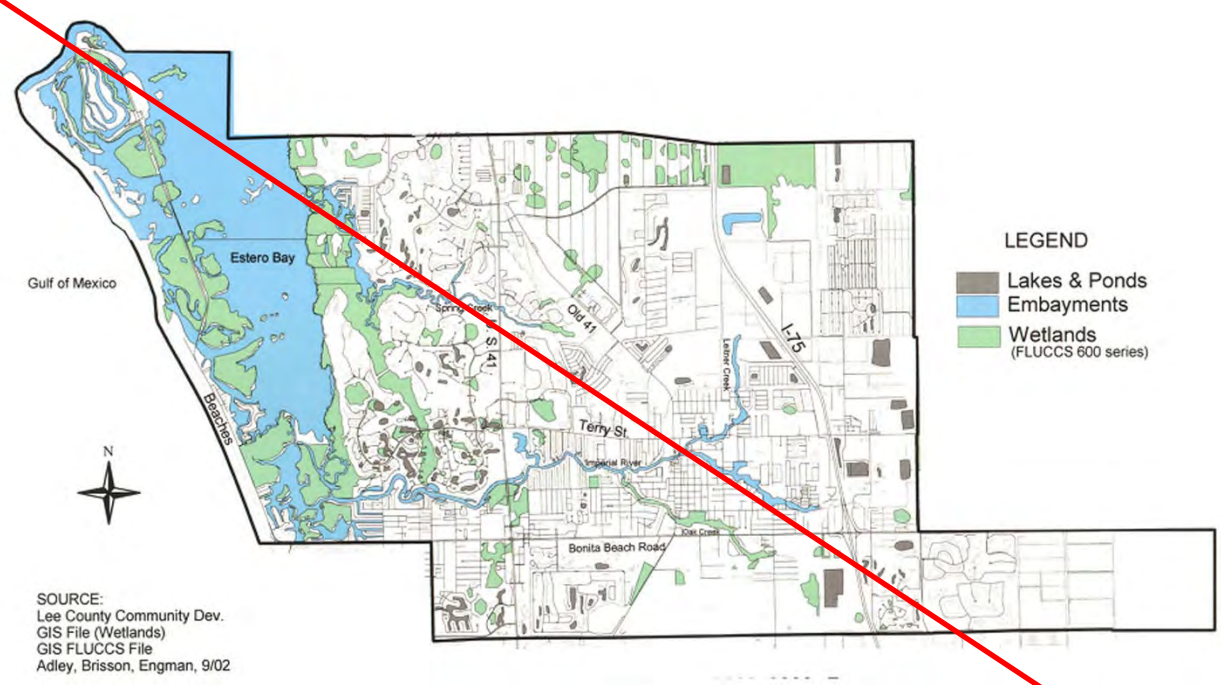
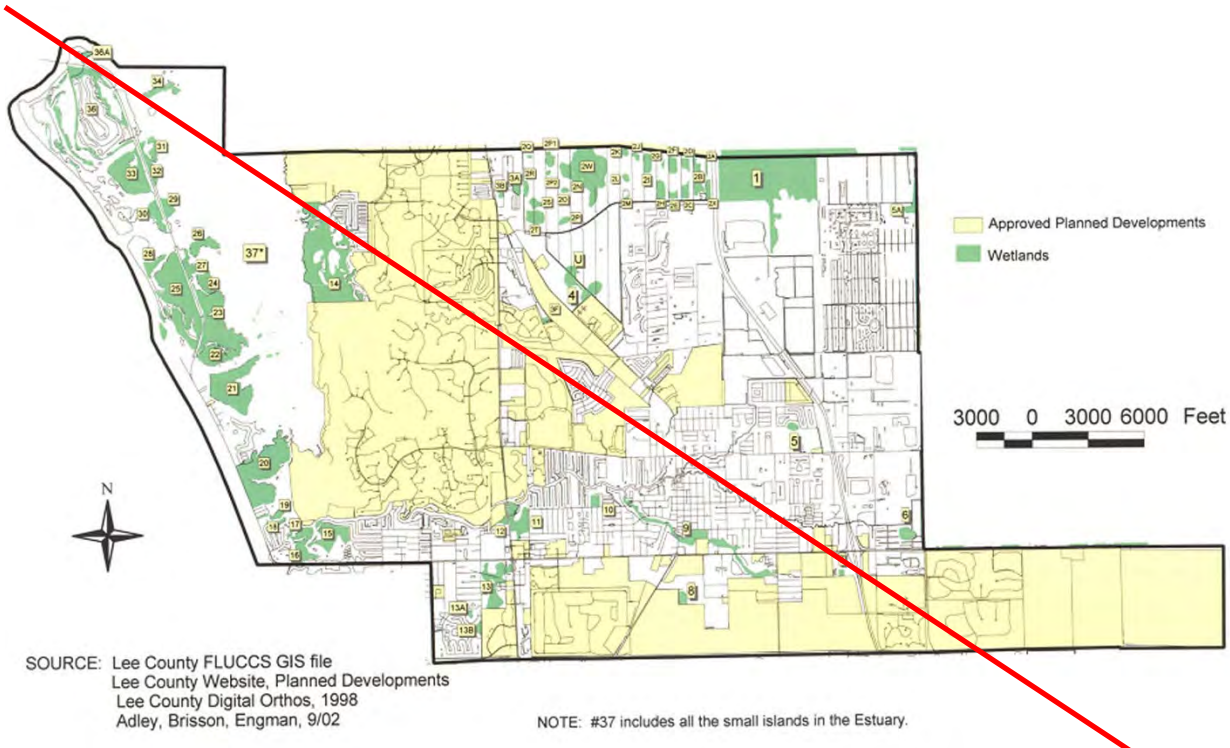


Figure 3: Existing and Planned Potable Water Wells and Well Head Protection Areas



~~*Figure 3. Beaches, Shores, Estuarine Systems, Water Bodies and Wetlands*~~



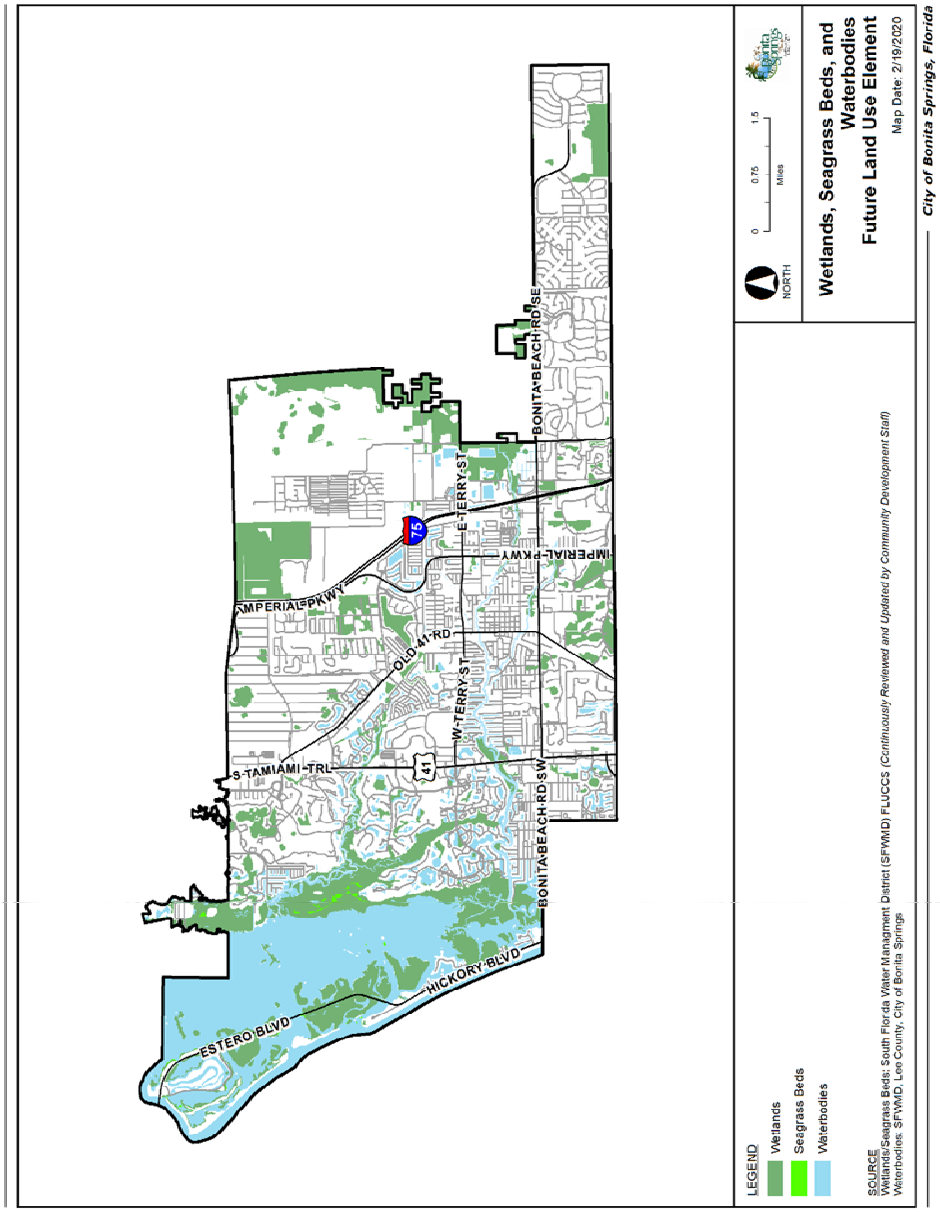
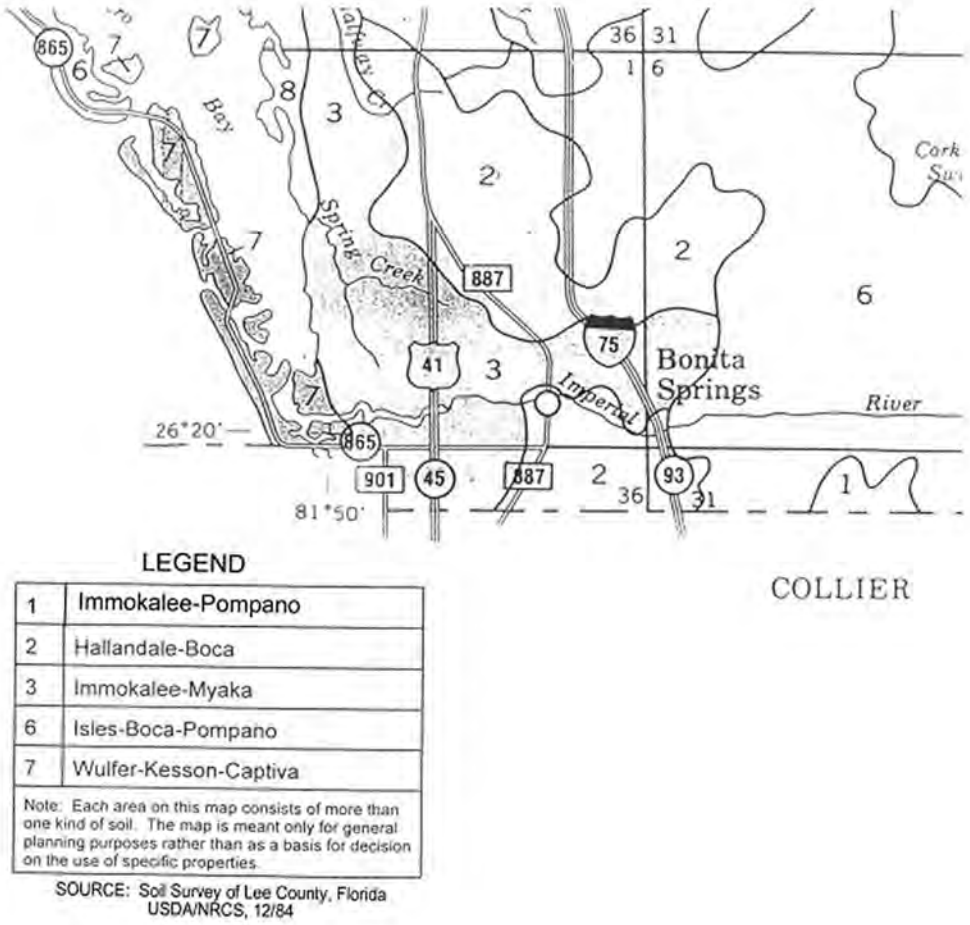


Figure 4: Wetlands, Seagrass Beds, and Waterbodies

~~*Figure 4. Evaluated Wetlands Outside of Planned Developments*~~



~~*Figure 5. Soil Associations*~~

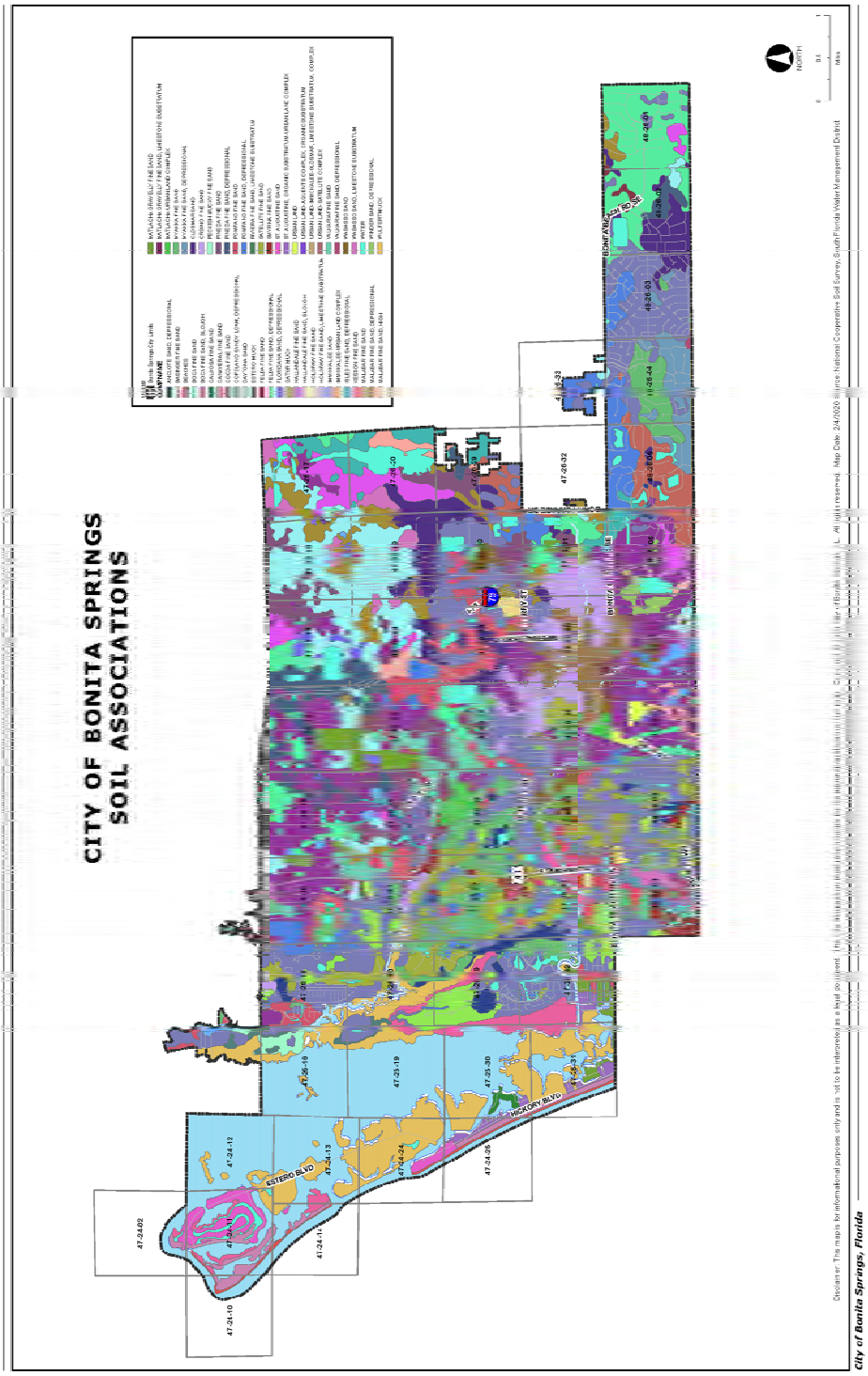
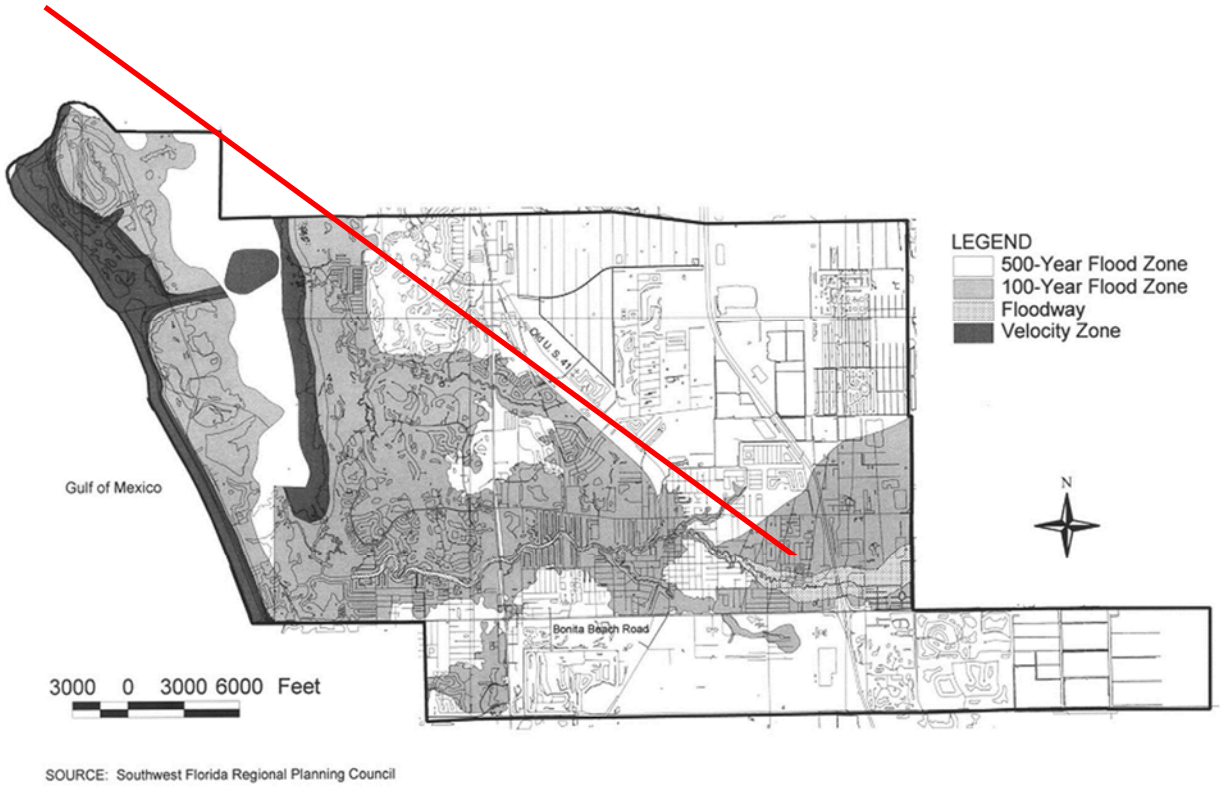
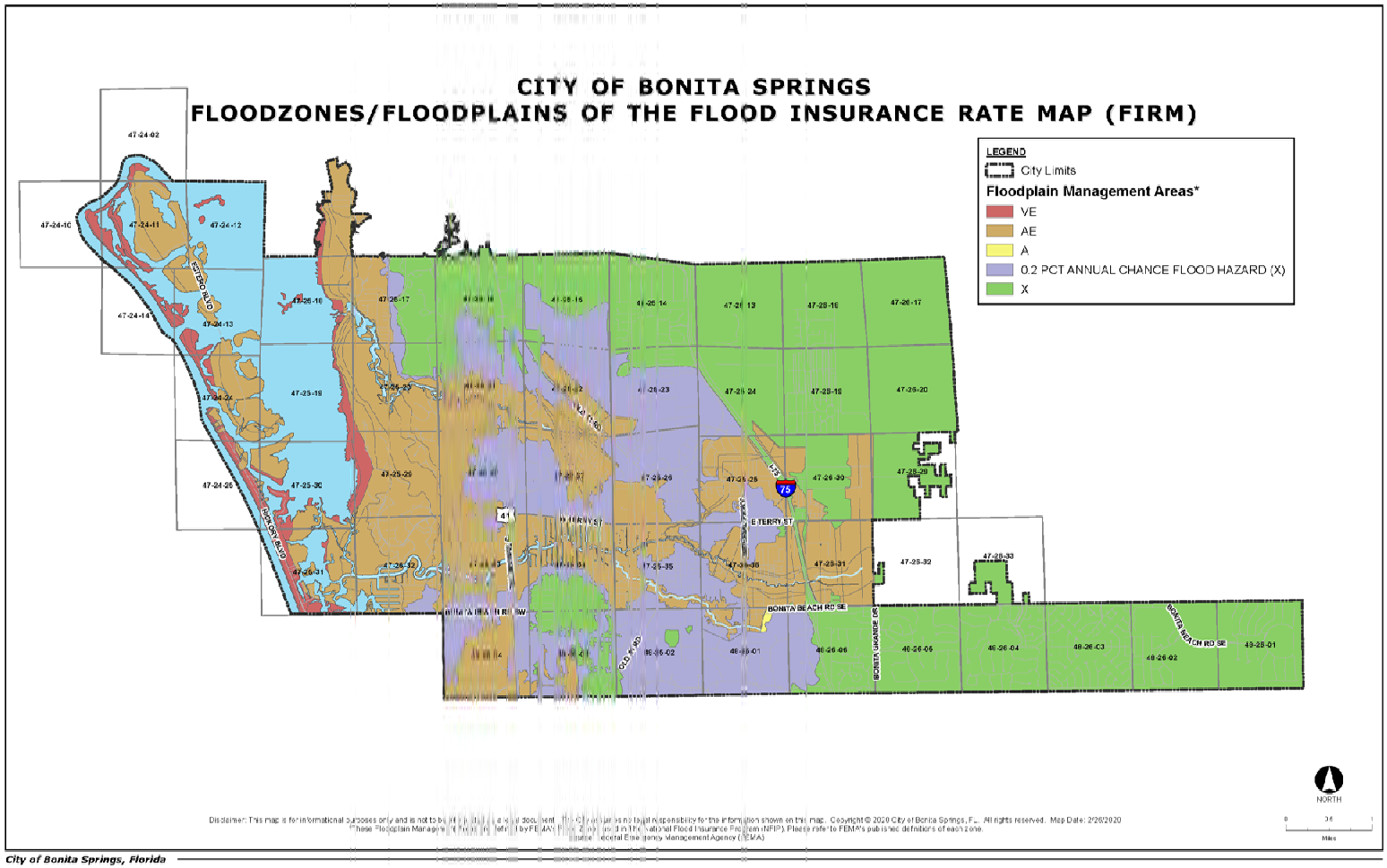


Figure 5: Soil Associations



~~*Figure 6. Floodplains*~~



City of Bonita Springs, Florida

Figure 6: Floodzones/Floodplains

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Yellow highlighting indicates annexation/other amendments

~~Red strike~~-through and underlining indicates Downtown Amendment(s)

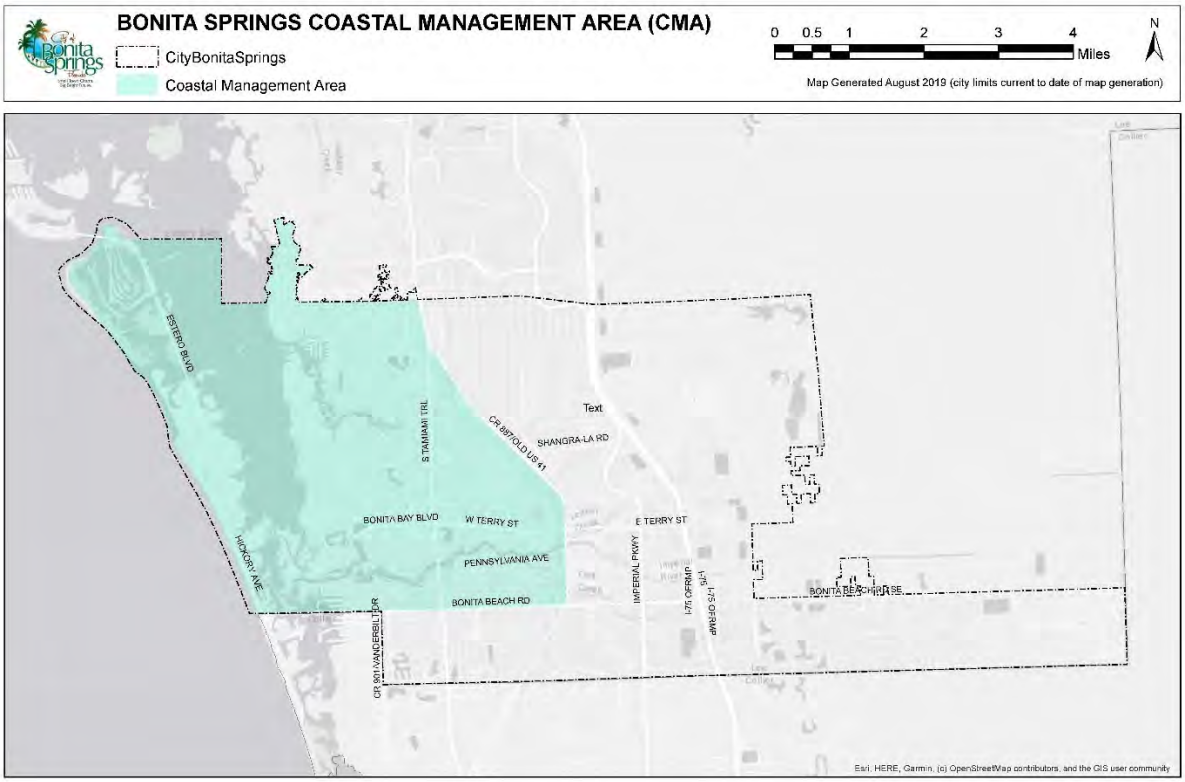
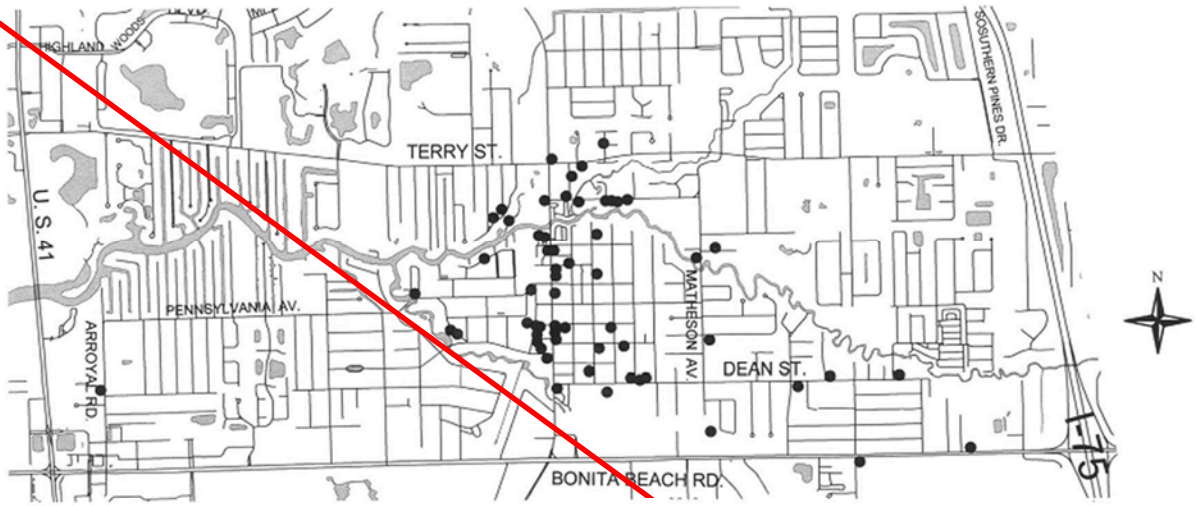


Figure 7: Coastal Management Area



SOURCE:
Florida Dept. of State
Div. of Historical Resources
"Florida Master Site File," 12/5/00

2000 0 2000 4000 Feet

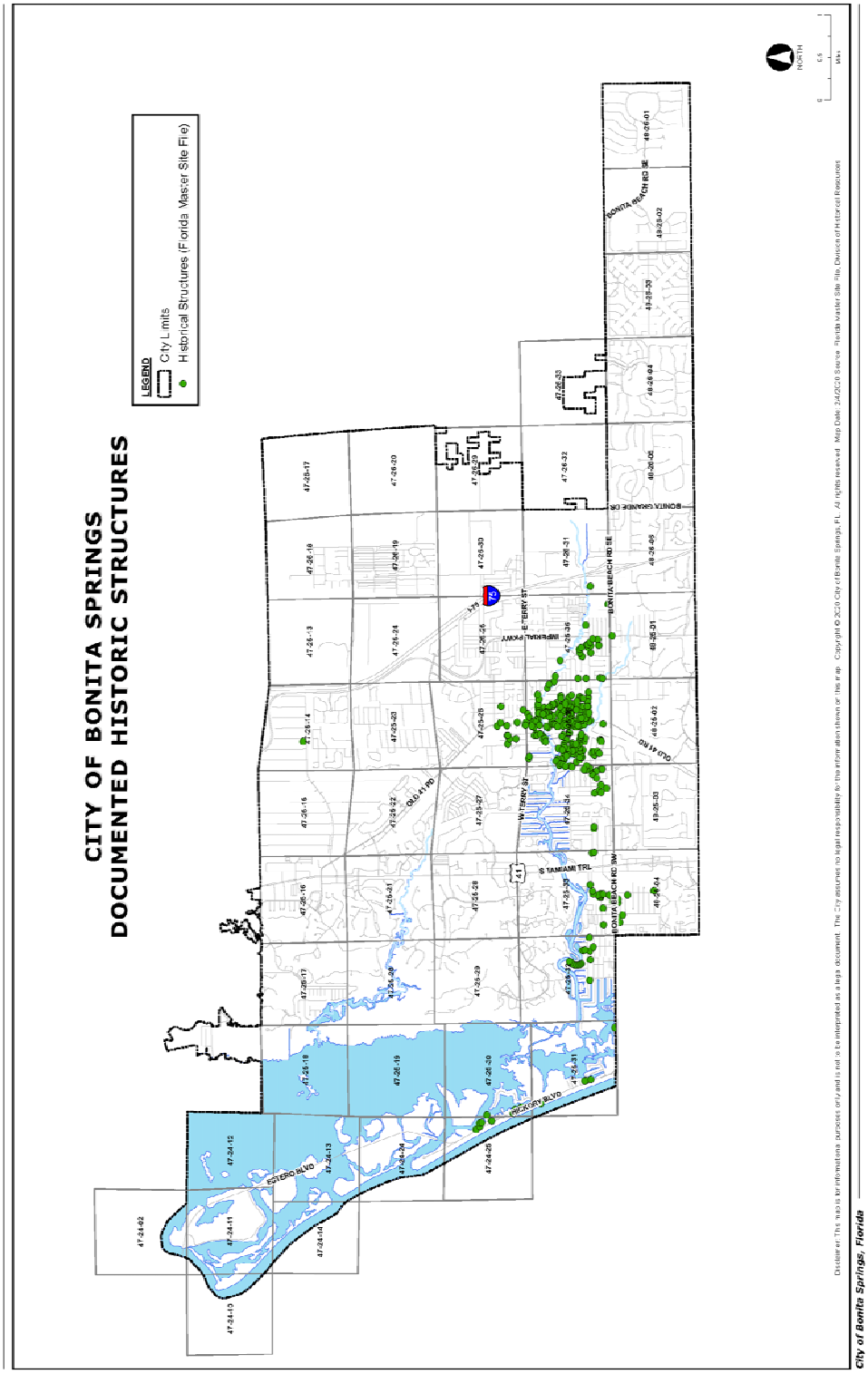
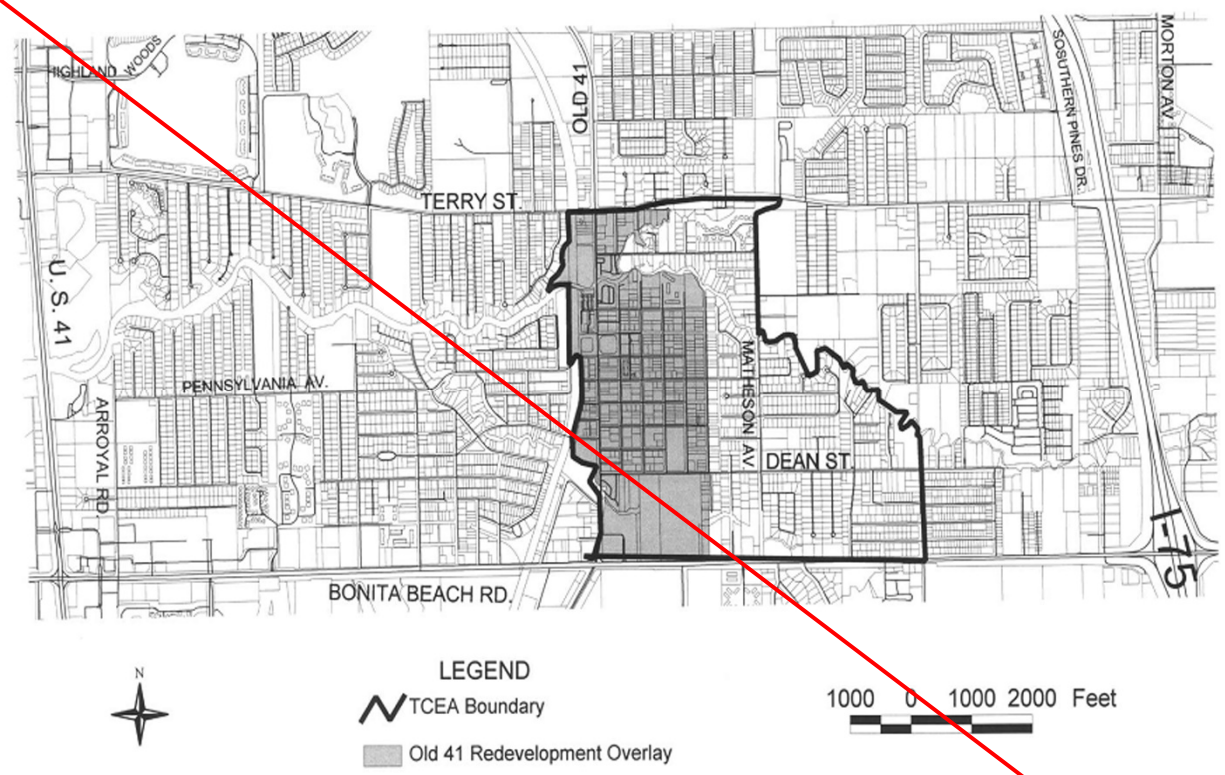
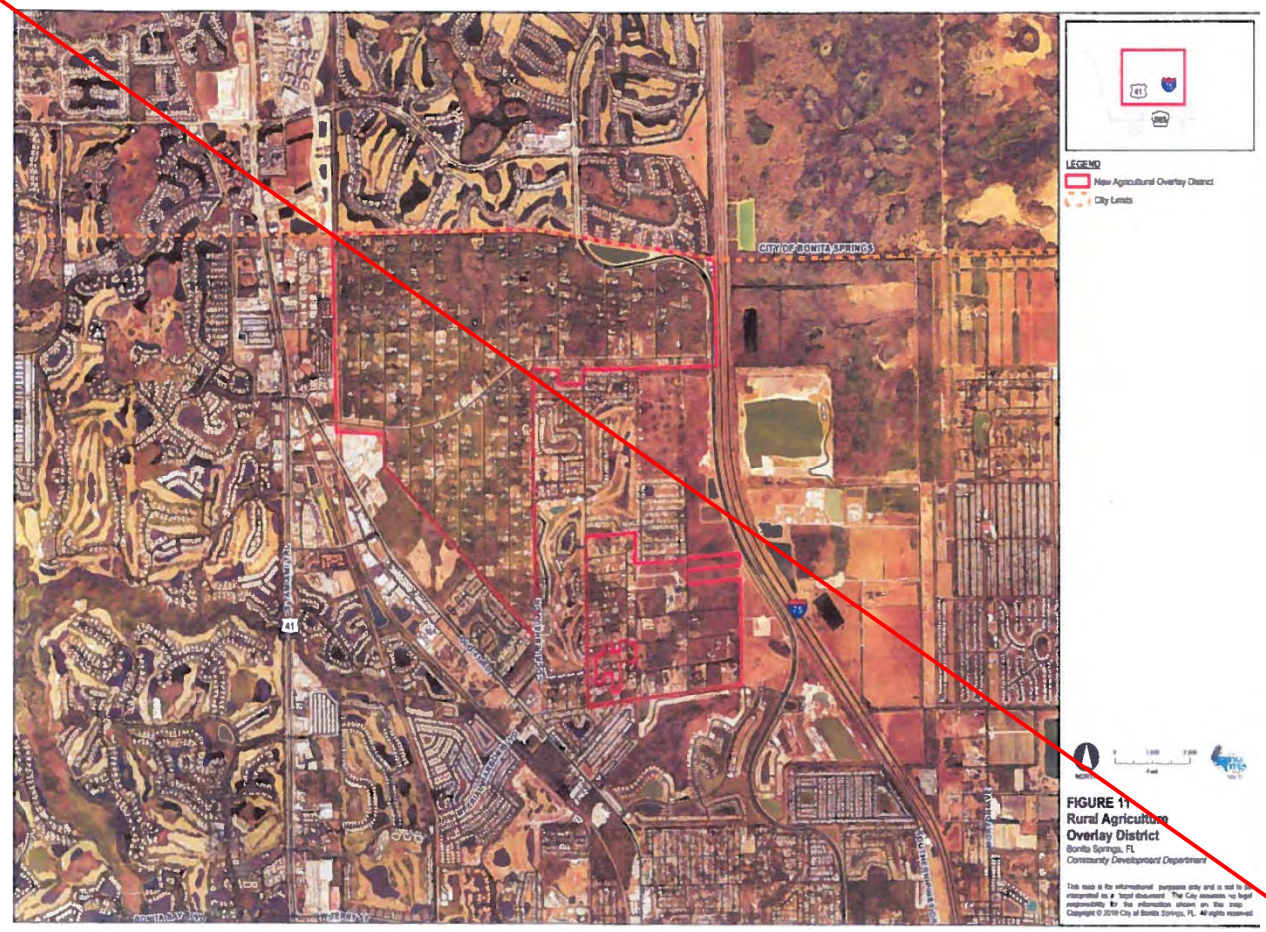


Figure 8: Historic Structures



~~*Figure 9. Preliminary Delineation of Potential Transportation Concurrency Area (TCEA) (Not Adopted) and "Old 41" Redevelopment Overlay Area*~~



~~*Figure 11. Rural Agriculture Overlay District*~~

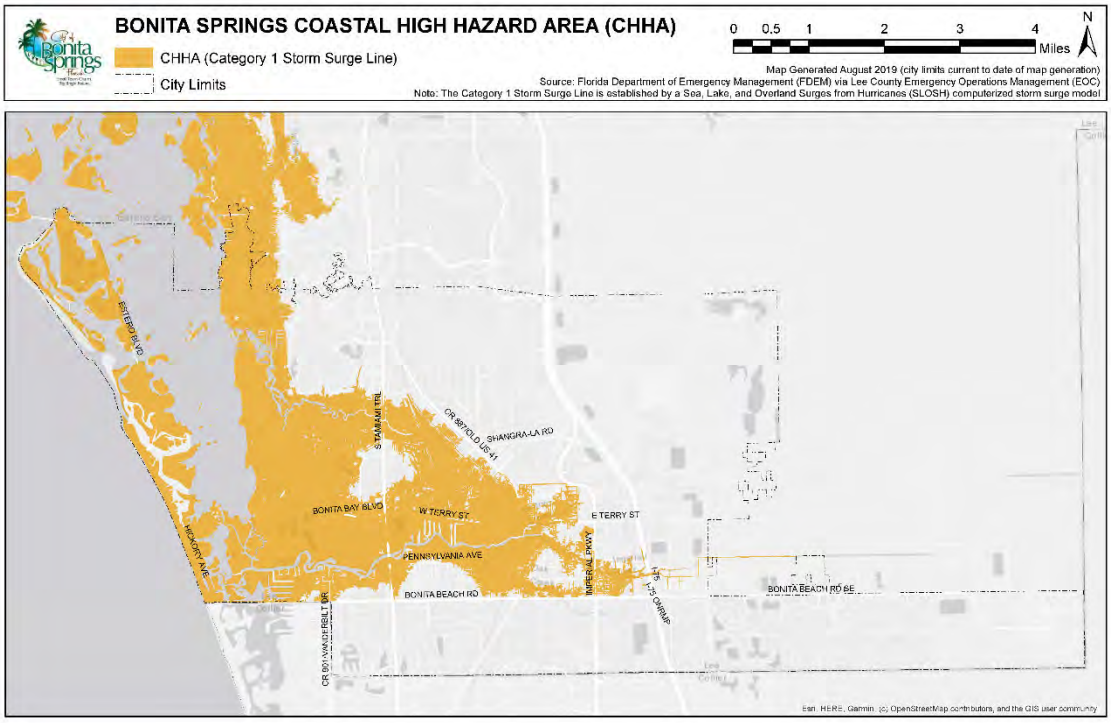


Figure 9: Coastal High Hazard Area

~~Figure 12: Coastal High Hazard Area~~

TRANSPORTATION ELEMENT

GOALS, OBJECTIVES AND POLICIES

Goal 1: To develop a safe and efficient multi-modal transportation network that provides for optimal access to the City's major activity centers; accommodates the forecasted transportation demands through the integration and enhancement of bicycle, pedestrian, transit and vehicular infrastructure; provides for interconnections between neighborhoods and developments while enhancing neighborhood and community character; is aesthetically pleasing; and, compliments the urban and natural environment of Bonita Springs.

(Ord. No. 17-06, § 1, 5-3-17)

Objective 1.1: The implementation of a safe, convenient, healthy, and energy efficient multi-modal transportation system which will be maintained and improved to accommodate the forecasted traffic demand for the year ~~2020~~ 2040 and which is consistent, to the extent possible, with the ~~travel demand forecast models of~~ most current Long Range Transportation Plan of the Metropolitan Planning Organization (MPO), the roadway system established by Lee County, and the ~~Adoptive~~Adopted Five-Year Work Program ~~Five-year Transportation Plan~~ of the Florida Department of Transportation (FDOT).

Policy 1.1.1: The City's Future Transportation Map series, contained in this Plan, or as subsequently amended, is hereby adopted as the future transportation system for the City of Bonita Springs.

Policy 1.1.2: The Lee County MPO's ~~2020~~ 2040 Financially Feasible Long Range Transportation Plan ~~Map~~ series is hereby incorporated as part of the Transportation Map series for this Element of the Comprehensive Plan. Changes to the City's Future Transportation Map series may be necessary from time to time, and the City will work with the MPO to ensure any necessary changes are incorporated into the MPO Plan so that the two plans remain consistent.

Policy 1.1.3: The minimum acceptable peak hour/peak season/peak direction roadway levels of service (LOS) shall be as follows:

I-75	D
Freeways (non-FIHS)	D
Arterials*	E
Collectors*	E
Local roads	D
*Applies to both major and minor arterial/collector	

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.1.4: The adopted LOS of local roadways within the City ~~shall be reconsidered~~may be reevaluated upon completion of ~~the~~ annual transportation network ~~study identified in Policy 1.2.1.~~ studies.

Policy 1.1.5: The existing levels of service, as ~~shown in the "roadway capacity analysis" in this Plan are~~shown in the most current Traffic Count Report authored by the City of Bonita Springs, is adopted as a basis for determining degradation on City facilities.

Policy 1.1.6: The City existing levels of service on State of Florida roadways within the City limits are described in the most recent District One LOS Report authored by the Florida Department of Transportation.

Policy 1.1.~~6~~7: Due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, the City and Lee County have determined that certain roadway segments should not be widened. Therefore, reduced peak hour levels of service will be accepted on those constrained roads as a trade-off for the preservation of scenic, aesthetic, historic, environmental, walkable, and attractive small town urban ~~and aesthetic~~ character of the community. These constrained roadway segments are Hickory Boulevard from Big Carlos Pass south to Bonita Beach Road; ~~and~~ Old U. S. 41 from the Collier County line ~~Bonita Beach Road~~ north to Terry Street; and all roadways within the Downtown District. All development utilizing a constrained roadway shall provide multi-modal or other alternative transportation improvements as set forth in the City's LDC.

Policy 1.1.~~7~~8: Degradation shall mean the reduction of the level of service of a roadway to a level below the level of service standard for that roadway; in cases where the roadway is functioning below the level of service standard, degradation shall mean a significant increase in traffic volume.

~~**Policy 1.1.8:** Public transit facilities are exempt from transportation concurrency requirements.~~

***[Reviewers Note:** Policy 1.1.8 moved to Transit Objective Policy 1.7.6. This comment is not proposed to be adopted as part of amendments]*

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.9: In order to reduce existing or potential congestion problems, the City shall control vehicular access onto arterial, collector, and local roadways through implementation of the following measures:

a. Connections to streets, access roads or accessways shall be in accordance with the following minimum separations:

Arterial Roadway	660 feet from the centerline
Collector Roadway	330 feet from the centerline
Local Roadway	125 feet from the centerline
Access roads or accessways	60 feet from the centerline

b. Driveways to a single residential building of two or fewer dwelling units on a local street may be spaced closer than minimum connection spacing requirements specified for local roadways above.

c. The Land Development Code shall include alternative provisions for access connections for existing parcels with insufficient road frontage to meet the above standards, including lower standards for right-in/right-out connections and requirements for shared access.

d. Development in the Downtown District and each Bonita Beach Road Network Zone are exempt from Policy 1.1.9 (a), (b), (c).

Policy 1.1.10: The City shall:

a. Require adequate on-site vehicular and bicycle parking for all residential and nonresidential uses;

b. Encourage shared parking among adjoining uses;

c. Require adequate off-street loading facilities; and,

d. Review site plans during the development review process to ensure safe, efficient, and convenient bicycle, pedestrian, and on-site automobile traffic ~~flow~~.

Policy 1.1.11: The City shall update its analysis of the existing level of service (LOS) standards for all roadways in the City using the FDOT Level of Service Manual and amend the adopted LOS for roadways in the Comprehensive Plan, as necessary and appropriate.

Policy 1.1.12: The City shall utilize some or all of the following system and demand management strategies, as appropriate, in its efforts to maintain and improve ~~traffic~~ mobility and accessibility of all users ~~conditions~~ throughout the City:

STRATEGY	ACTION
Traffic Operation	One-way streets
	Installation of turn-lanes
	Roundabouts
	Intersection and roadway widening
	Traffic calming
Traffic Signalization	Local interaction signal improvement
	Arterial signal system
	Area signal system

	Timer adjustment
Pedestrian, Bicycle and Other Alternative Modes	Pedestrian grade separation
	Bikeways and bike storage
	Pedestrian control barriers
	Interconnected sidewalk system
	Multi-use pathways
Route Diversion	Auto restricted zones
	Pedestrian malls
	Residential traffic control and traffic calming
Parking Management	Curb parking restrictions
	Residential parking control
	Satellite parking for the beach
Inter-modal Coordination	Park-and-ride facilities
	Transfer improvements
	Evaluate the benefits of new or expanded bus routes to accommodate new commercial neighborhood development to residential development
Commercial Vehicles	On-street and off-street loading zones
	Peak-hour on-street loading controls
Prohibited	Truck route system

Pricing	Peak/off-peak transit fares
	Fares for elderly and handicapped
	Reduced transit fares
Commercial Uses	Limit or prohibit commercial ~~uses~~ access to designated ~~along the frontage of~~ collector roadways~~.~~
	Prohibit commercial uses along Hickory Boulevard and along the frontage of ~~the new arterial known as~~ Imperial Parkway~~/Three Oaks Extension~~.
Inter-connectivity of Street System	Prohibit non-connecting streets
	Prevent the forming of enclaves
	Identify potential parallel corridors that provide alternatives to arterial roadways
	Require new developments to provide "through" streets
Incentives for~~:~~	Large employers or major trip generators to provide park-and-ride, carpooling, or other traffic reducing programs and facilities

(Ord. No. 09-05, § 1, 4-15-09; Ord. No. 17-06, § 1, 5-3-17)

Policy 1.1.13: The City shall consider implementing one or more programs to include, but without limitation, timely completion of road and other transportation-related construction projects:

a. Incentives, such as bonuses, for contractors who complete construction phases ahead of schedule:

b. Penalties, to include payment refunds, for contractors who fall behind schedule; and

c. Encourage private/public or public/public partnerships.

(Ord. No. 09-05, § 1, 4-15-09)

Objective 1.2: The City shall increase mobility for all modes of travel within the City, including vehicles, bicycles, pedestrians, and transit consistent with the City of Bonita Springs Resolution 14-043 establishing a "Complete Streets Policy".

(Ord. No. 17-06, § 1, 5-3-17)

Policy 1.2.1: In order to provide increased mobility and to disperse traffic thereby reducing demand on the major road system, the City shall initiate a transportation network study particularly designed to address the needs of intra-city traffic and encourage the development of a balanced roadway system which is coordinated with, and consistent with, the transportation needs associated with the future land use map, existing and proposed densities, housing and employment patterns in the City. The transportation network study shall, at a minimum, include examination of the appropriateness and feasibility of the following issues:

a. Extension and realignment of Pennsylvania between Old U. S. 41 and U. S. 41.

b. Increasing, where possible and feasible, local north-south and east-west travel routes and access across the Imperial River and its tributaries, including (1) bridging Oak Creek to connect Matheson Avenue between East Terry Street and Bonita Beach Road and (2) bridging the Imperial River at Wisconsin Street to provide a continuous connection between East Terry Street and Bonita Beach Road.

c. Use of one-way pairs.

d. Improving the connectivity of the City's grid system.

e. New methods for facilitating the paving of private local street.

Policy 1.2.21: Any road extensions, or water crossings, or examined during the implementation of Policy 1.2.1transportation improvements shall include, at a minimum, consideration of the following:

a. Monetary costs and return on investment

b. Environmental impacts

c. Right-of-way availability

d. Impacts upon affected neighborhoodsNeighborhood walkability and quality

e. Traffic and multimodal levels benefits

f. Revenue sources

f.g. Safety impacts

Policy 1.2.32: By year-end 2010, theThe City shall begin utilize itsa systematic program of data collection program and , including placing traffic counters on important collector and local roadways, to assist in determining the local traffic needs and the effects of proposed improvements following construction.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.2.43: The City shall review existing traffic impact methodology and guidelines and procedures for traffic impact studies and modify as appropriate.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.2.~~5~~4: The City shall address issues and problems with current transportation concurrency practices (whether peak hour peak direction LOS needs to be augmented with AADT LOS, etc.) and establish traffic and multimodal performance standards.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.2.~~6~~5: The City shall establish interlocal agreements and traffic methodology that address the cross-jurisdictional transportation impacts of development.

(Ord. No. 09-05, § 1, 4-15-09)

Objective 1.3: New and expanded transportation facilities shall continue to be aligned to protect existing development except where no feasible alternative exists and be designed for all modes of travel.

(Ord. No. 17-06, § 1, 5-3-17)

Policy 1.3.1: ~~Alignments of n~~New or expanded transportation facilities or other improvements shall be selected to minimize the costs and maximize the benefits, and consider ~~minimize the cost/benefit ratio while~~:

a. Minimizing the number of businesses and residences displaced.

b. Using major roads to define neighborhoods.

c. Allowing sufficient land area between arterials to enable the formation of new neighborhoods.

d. Distributing traffic loadings among available facilities.

e. Implementing "Complete Streets" principles to ensure safe and efficient access for all users.

(Ord. No. 17-06, § 1, 5-3-17)

Policy 1.3.2: The alignment of arterials or expressways which penetrate or divide established residential neighborhoods shall be avoided except where no feasible alternative exists.

Policy 1.3.3: For those neighborhoods where too much through traffic ~~is a problem~~compromises safety or neighborhood walkability, the City shall study, and implement when warranted, neighborhood traffic control devices and other traffic calming measures to protect residential areas from the harmful impacts of excessive traffic.

(Ord. No. 17-06, § 1, 5-3-17)

Policy 1.3.4: The City shall evaluate opportunities to implement a system of interconnected local and collector roadways to provide alternatives to the arterial roadway network. The City shall evaluate feasibility of such improvements based upon right-of-way acquisition costs, cost of roadway improvements, impact on the roadway network, impacts on safety, and impacts to existing neighborhoods. Planning new corridors through such areas shall be undertaken in conjunction with reimbursement for losses and a safety and buffering program for remaining residents. Whenever possible, the City shall re-route construction-related traffic away from residential areas.

(Ord. No. 09-05, § 1, 4-15-09; Ord. No. 17-06, § 1, 5-3-17)

Objective 1.4: The City shall improve the aesthetic qualities and appearance of roadways, and their adjacent land uses.

Policy 1.4.1: The City shall continue to enforce the provisions of its Land Development Regulations for architectural review and design guidelines for commercial development along its major arterial roadways. Other considerations shall include shared parking; parcel inter-connectivity; increased landscaping requirements; participation in the Florida Yards and Neighborhoods Program; requirements for mechanical irrigation systems; and encouragement of, and incentives or requirements to, increase the proportion of parking located on the sides of, or behind, buildings rather than along the roadway frontage in order to protect the aesthetic quality of public viewsheds and vistas.

(Ord. No. 09-05, § 1, 4-15-09; Ord. No. 17-06, § 1, 5-3-17)

Policy 1.4.2: The City shall enforce its property maintenance code that provides for upkeep of properties to ensure maintenance and repair of buildings, signs and parking lots adjoining its major roadways.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.4.3: The City shall initiate development of a comprehensive "streetscape" plan which should include unifying landscape design for medians, street trees and other urban design considerations.

Policy 1.4.4: Initial emphasis shall be given to improving the appearance and aesthetics of Imperial Street, Bonita Beach Road, Old U. S. 41, U. S. 41, Hickory Boulevard and Vanderbilt Drive, each of which are gateways to the City.

~~**Objective 1.5:** The City shall investigate, and initiate if warranted, a Comprehensive Plan Amendment to designate a Transportation Concurrency Exception Area (TCEA) in order to accommodate redevelopment and infill along Old U. S. 41 between Bonita Beach Road and Terry Street.~~

~~**Policy 1.5.1:** Through the Comprehensive Plan amendment and review process, coordinate the City's designation of its TCEA with the FDOT, FDCA, Lee County and the MPO.~~

~~**Policy 1.5.2:** Subsequent to the reviews by the above agencies, the City shall prepare a Comprehensive Plan Amendment containing the guidelines and policies which specify the programs and actions the City will use in addressing the transportation needs, alternative transportation options, incentives, and traffic management techniques to be included in the TCEA.~~

~~**Policy 1.5.3:** The City shall include the use of waterways, sidewalks, bike paths/trails, and other such appropriate alternatives to auto travel, within the actions and programs to address the transportation needs of infill and redevelopment within the TCEA.~~

Objective 1.6: The City shall ensure cooperative planning with surrounding municipalities, counties, the Florida Department of Transportation and the private sector.

Policy 1.6.1: The City shall participate in the MPO, Southwest Florida Regional Planning Council (SWFRPC) and Lee County planning processes for system-wide facility needs.

Policy 1.6.2: The City declares a position of interest for land use decisions affecting county and state roads shared with adjacent municipalities or counties.

Policy 1.6.3: The City shall explore methods by which it may offer incentives to large employers or major traffic generators which provide park and ride or other traffic reducing programs or facilities.

Policy 1.6.4: The City shall continue to utilize inter-local agreements and supplements with Lee County and any other applicable entities for the financing, planning, design, construction and operation of the road system within the Bonita Springs area.

Policy 1.6.5: The CSX/Seminole Gulf rail corridor, as shown on Figure ~~10~~ 6 of the Future Transportation Map Series, is hereby designated as a strategic regional transportation corridor. This designation has been recommended by the Lee County Metropolitan Planning Organization as a means for cities and counties along the rail corridor to recognize the regional nature of this asset and jointly commit to efforts to protect it in its entirety. This designation includes the designation of the rail corridor as a "transportation corridor" pursuant to F.S. 337.273. The following actions will further this designation:

a. The City encourages Florida DOT with appropriate funding partners to purchase the real estate interests in the entire rail corridor from Arcadia to north Naples from its current owner, CSX Transportation Inc.

b. The City will formally oppose any attempts at abandonment of the rail corridor before the U.S. Surface Transportation Board with the exception for abandonment in furtherance of the City's initiative for hiking, biking, and walking trails; in which case the City will support use of federal rails-to-trails railbanking authority in order to preserve the corridor for possible future rail service.

c. The City will cooperate with Lee and Collier Counties, the Village of Estero, and the City of Ft. Myers in evaluating and potentially operating public transportation through their jurisdictions and creating new redevelopment opportunities near potential stations.

d. The City will cooperate with all counties and cities along the rail corridor to pursue common goals for trails and continued freight service to the corridor's northern terminus in Arcadia.

(Ord. No. 17-07, § 1, 6-7-17)

Policy 1.6.6: The City supports the vision and efforts of the Lee County Metropolitan Planning Organization as described in its Lee County Rail Corridor Feasibility Study (2013) to enhance freight capability through the entire rail corridor and on nearby industrial land, to allow hiking/biking/walking trails and paths to be added to portions of the corridor, and to add capability for commuter rail, light rail, or bus rapid transit from east Fort Myers to northern Collier County.

(Ord. No. 17-07, § 1, 6-7-17)

Policy 1.6.7: Future Land Use Policies 1.16.3 and 1.16.4 describe the City's support for transit-oriented redevelopment around potential future stations for commuter rail, light rail, or bus rapid transit.

(Ord. No. 17-07, § 1, 6-7-17)

Policy 1.6.8: The City shall consult with the Florida Department of Transportation when a proposed ~~Plan~~ Comprehensive Plan amendment affects facilities on the strategic intermodal system.

Policy 1.6.9: State facilities inside the City limits include I-75 and US 41, as provided in the most recent Lee County MPO Long Range Transportation Plan (LRTP). The 2040 LRTP Needs Plan proposes widening I-75 within the City limits from six (6) to eight (8) lanes and an interchange improvement at I-75 and Bonita Beach Road. The Right-of-Way phase for the I-75 Managed Lanes project within the City limits is included in the FDOT SIS Long Range Cost Feasible Plan FY 2029-2045.

The projected LOS for State facilities with the City limits is as follows:

YEAR 2040 DAILY LOS ON STATE ROADWAYS

Roadway	From	To	2040				
			No. of Lanes	City LOS Standard	Daily Capacity	Daily Volume[1]	Daily LOS
US 41	Collier County Line	CR 865/Bonita Beach Rd	6	E	62,895	68,443	F
	CR 865/Bonita Beach Rd	Terry St/Bonita Bay Blvd	6	E	62,895	72,065	F
	Terry St/Bonita Bay Blvd	CR 887/Old US 41 Rd/Pelican Landing	6	E	62,895	62,366	D
	CR 887/Old US 41 Rd/Pelican Landing	City Limits	6	E	62,895	66,492	F
I-75	Collier County Line	CR 865/Bonita Beach Rd	6	D	113,600	121,382	E
	CR 865/Bonita Beach Rd	City Limits	6	D	113,600	121,382	E

Source: 2019 FDOT District 1 LOS Tables
Note[1] 2040 Volumes are based on 2040 District One Regional Planning Model

(Ord. No. 17-08, § 1, 6-7-17)

Objective 1.7: The City will ensure a comprehensive and economically viable alternative system to vehicular travel within the City including a reasonable fare-based and efficient public transit service, based upon existing and proposed major trip generators and attractors, safe and convenient public transit stops, and transfer points and land uses.

Policy 1.7.1: When considering changes in land use densities and transportation programs, the City shall evaluate the effect upon traffic generation, levels of service, and the potential need for, or impact upon, public transportation services.

Policy 1.7.2: Coordinate with public and private transit providers to ensure adequate transit capacity to meet public transit demand within the City and actively identify improvements and enhancements needed by the system.

Policy 1.7.3: Coordinate the planning and installation of walkways, bicycle paths and other bicycle amenities with the mass transit and roadway system through the development of a parks and recreation master plan for future bike paths and sidewalks linking parks, greenways, residential areas and commercial nodes within the City.

~~**Policy 1.7.4:** The City shall review requests for development orders and building permits for compliance with the Bikeways/Walkways Facilities Plan, the Bicycle and Pedestrian Master Plan, and the Bonita Beach Road Visioning Study, and the bikeways and pedestrian ways requirements in the Land Development Code.~~

[Reviewer's Note: Policy 1.7.4 is moved and updated elsewhere. This policy is broader than transit]

Policy 1.7.5: The City shall coordinate with LeeTran and the MPO to further use of public transit within the City by:

a. Distributing LeeTran schedules;

b. Urging City residents and visitors to use the Trolley when visiting the beaches;

c. Providing the MPO and LeeTran with:

1. City population growth and income characteristics by census tract or other appropriate census designation

2. The location and characteristics of newly permitted commercial and industrial uses in the City

d. Urging LeeTran to examine potential "park and ride" locations in the City for mainland-to-beach trolley or bus service;

e. Including a LeeTran survey in a City mailing to assist LeeTran in gauging demand for public transit service within the City.

f. Requesting LeeTran to provide the City with an annual summary of ridership trips, by route, originating and/or ending within the City limits so the City may assess its citizens' and visitors' use of public transit and better coordinate with LeeTran;

g. Ensuring adequate access to, and safety of, LeeTran bus stops and ensuring adequate visibility and sidewalks;

h. Working with LeeTran during the City's "streetscape" planning to establish design guidelines and locations for public transit shelters and kiosks within the City so as to provide safe, convenient and aesthetically pleasing service;

i. Promoting the benefits of the public transit service provided by LeeTran to residents, visitors, employers and employees within the City by posting brochures and information in public areas~~.~~.

j. Working closely with LeeTran to coordinate land use changes in the City's ~~"Old 41" Redevelopment Area~~ Downtown District with the provision of public transit necessary to efficiently service the area;

k. Encouraging LeeTran to make its system fare-friendly for users while maintaining the economics necessary for its continued operation.

Policy 1.7.6: Public transit facilities are exempt from transportation concurrency requirements.

Objective 1.8: The City will protect existing and future rights-of-way from building encroachments while avoiding undue hardship on affected property owners.

Policy 1.8.1: The City shall prohibit the location of new structures and required parking, required landscaped areas, or site development drainage facilities in existing road rights-of-way and in future road rights-of-way indicated on the Future Transportation Map Series, except in the Downtown District~~"Old 41" Redevelopment Area~~ and the Bonita Beach Road Network Zone where such encroachments may be in keeping with redevelopment objectives.

Policy 1.8.2: The City shall review all site plans and applications for rezoning or development approval to ensure that existing and future road rights-of-way will not be encroached upon.

Objective 1.9: Provide opportunities for the reduction of greenhouse gas emissions.

Policy 1.9.1: In order to achieve maximum ridership and energy efficiency, the City shall continue to encourage and support LeeTran by distributing schedules, urging residents and visitors to use the trolley when visiting the beaches, and urging LeeTran to examine potential park and ride locations in the City.

Objective 1.10: Ensure a multi-modal system that is safe, accessible for all ages and abilities, economically sustainable, energy efficient, context sensitive, and enhances a sense of place by coordinating implementation tools, review standards, plans, and funding.

Policy 1.10.1: The City shall review requests for development orders and building permits for compliance with the City's Bicycle and Pedestrian Master Plan prepared by McMahon and Associates; the Bonita Beach Road Visioning Study's Corridor and Network Zones prepared by Toole Design Group; and the bikeways and pedestrian ways requirements in the City's Land Development Code.

Policy 1.10.2: The City shall investigate the opportunity to plan for and implement a Mobility Plan and Fee Study with the goal of coordinating land use and transportation planning and funding.

Objective 1.11: Ensure land use and transportation coordination and planning in the Downtown District Overlay.

Policy 1.11.1: The City shall include the use of waterways, sidewalks, bike paths/trails, and other such appropriate alternatives to minimize single-occupancy automobile travel. The City may promote alternative facilities or programs to address the transportation needs that result from infill and redevelopment.

Policy 1.11.2: The Downtown District transportation planning and design of local streets, on-street parking, sidewalks, driveways, curb cuts, bicycle access, and pedestrian ways shall be consistent with the Downtown District Form Based Code and the most currently adopted Traditional Neighborhood Design chapter of the Manual of Uniform Minimum Standards for Design, Construction and Maintenance (Florida Greenbook) produced by the Florida Department of Transportation.

Policy 1.11.3: The City shall consider reduced on-site parking requirements consistent with the Downtown District vision as articulated in the Future Land Use Element.

Policy 1.11.4: Street classifications in the Downtown District will be consistent with the FDOT Context Classification Zones that appear in the Downtown District Form Based Code in the City's LDC.

Policy 1.11.5: Within the Downtown District Overlay, the future design of Old 41 will be consistent with the context sensitive vision for the Downtown District. As a result, the City will not encourage or prioritize truck through traffic on Old 41.

Objective 1.12: Ensure appropriate evacuation during emergencies.

Policy 1.12.1: The Lee Evacuation Routes and Zones Map, as published by the Florida Division of Emergency Management, or as subsequently amended, will serve as the City's evacuation routes in the instance of an impending natural disaster.

(Ord. No. 09-05, § 1, 4-15-09)

Goal 2: To implement a multi-modal transportation system along Bonita Beach Road using complete streets principles that ensures the safety of all users; equitable accommodation of all modes of transportation; the interconnection of the built and natural environment with transportation infrastructure; and facilitates a grid street network that mitigates congestion and links neighborhoods.

Objective 2.1: Provide for bicycle and pedestrian needs in the design of future improvements to Bonita Beach Road.

Policy 2.1.1: Create continuous sidewalk and multi-use pathway system along the entirety of the Bonita Beach Road Corridor to facilitate all modes of travel and provide for increased bicycle/pedestrian safety.

Policy 2.1.2: Evaluate Land Development Code amendments to provide for walkability and pedestrian-scale development patterns along the Bonita Beach Road Corridor, including but not limited to:

a. Building siting and parking lot placement in relationship to the roadway;

b. Bicycle and pedestrian access and interconnectivity;

c. Bicycle parking space requirements and infrastructure;

d. Shared parking areas;

e. Maximum parking ratios.

Policy 2.1.3: Incorporate pedestrian amenities in the design of sidewalks and pathways to increase walkability and enhance the pedestrian environment, such as benches, canopy trees, and other hardscape and landscape features.

Policy 2.1.4: Where possible, locate planted buffer areas between the travel lanes of Bonita Beach Road and multi-use pathways and sidewalks to create separation between vehicular and non-vehicular traffic and enhance bicycle/pedestrian safety.

Policy 2.1.5: Incorporate new high-visibility pedestrian and raised bicycle crossings across Bonita Beach Road to increase opportunities for safe crossings between intersections, and enhance existing crossings through signage, contrasting pavement materials, and other design approaches.

Policy 2.1.6: Evaluate funding opportunities for design and construction of a 10-foot wide multi-use pathway along the south side of Bonita Beach Road.

Policy 2.1.7: Require future development to provide accessible bicycle storage racks and similar facilities to promote bicycle usage along Bonita Beach Road.

Objective 2.2: Provide for design elements that contribute to safe travel along Bonita Beach Road for all users.

Policy 2.2.1: Utilize innovative design techniques to improve the safety and function of roadways, including modern roundabouts, where feasible.

Policy 2.2.2: Implement a variety of traffic calming and safety features in all future improvements to the Bonita Beach Road Corridor, emphasizing separation between the roadway and bicycle/pedestrian infrastructure, appropriately spaced and maintained landscaping, street lighting, and innovative design techniques that provide visual cues to drivers, bicycles and pedestrians.

Policy 2.2.3: Preserve natural and historic features in the process of improving existing roadways or building new facilities.

Policy 2.2.4: Preserve the existing street network and evaluate opportunities to enhance and expand connectivity between adjacent and parallel roads.

Policy 2.2.5: Require multi-modal cross access between all new developments and redevelopment projects along Bonita Beach Road to allow users to travel between developments without returning to the arterial roadway.

Policy 2.2.6: Require vehicular cross access between new development and redevelopment projects within the Bonita Beach Road Corridor to ensure connectivity between adjacent properties, and minimize new driveway connections to the arterial roadway.

Objective 2.3: Provide for existing and future mass transit accommodations in the planning and design of future improvements to Bonita Beach Road, and in the design of new development and redevelopment projects along the corridor.

Policy 2.3.1: Promote use of public transit, including but not limited to LeeTran and Beach Trolley, and providing adequate street features such as pull-off areas and sheltered bus stops in the design of future improvements.

Policy 2.3.2: The City shall require new development and redevelopment projects along the Bonita Beach Road Corridor to accommodate transit access to the development, and provide for transit infrastructure as part of the development review process.

Objective 2.4: Establish quadrant protection zones along the Bonita Beach Road Corridor to clearly define key intersections that contribute to mobility, as generally identified on the Bonita Beach Road Corridor Quadrant Map.

Policy 2.4.1: Evaluate alternatives to conventional road-widening improvements at the Old US 41/Bonita Beach Road and US 41/Bonita Beach Road intersections to expand capacity, while facilitating multi-modal transportation and safe access by all users.

Policy 2.4.2: Evaluate opportunities to expand the local and collector street network in identified quadrants to reduce vehicular congestion at arterial intersections.

Policy 2.4.3: Encourage mixed-use, walkable and well-integrated land uses in identified quadrant, and discourage strip commercialization and development patterns that are solely auto-oriented.

Objective 2.5: Establish distinctive Network Zones along the Bonita Beach Road Corridor to clearly define the vision for transportation needs and land uses in the following areas: Beach Zone, Historic Zone, Community Zone, Interstate Zone, and two Commercial Zones.

Policy 2.5.1: Adopt the Bonita Beach Road "Corridor Network Zones Map" into the City of Bonita Springs Comprehensive Plan.

Policy 2.5.2: Implement Network Zone-specific design regulations through amendments to the City of Bonita Springs Land Development Code.

Policy 2.5.3: Ensure that new developments and redevelopment projects along the Bonita Beach Road Corridor provide sufficient right-of-way to accommodate the multi-modal transportation system identified for each Network Zone.

(Ord. No. 17-06, § 1, 5-3-17)

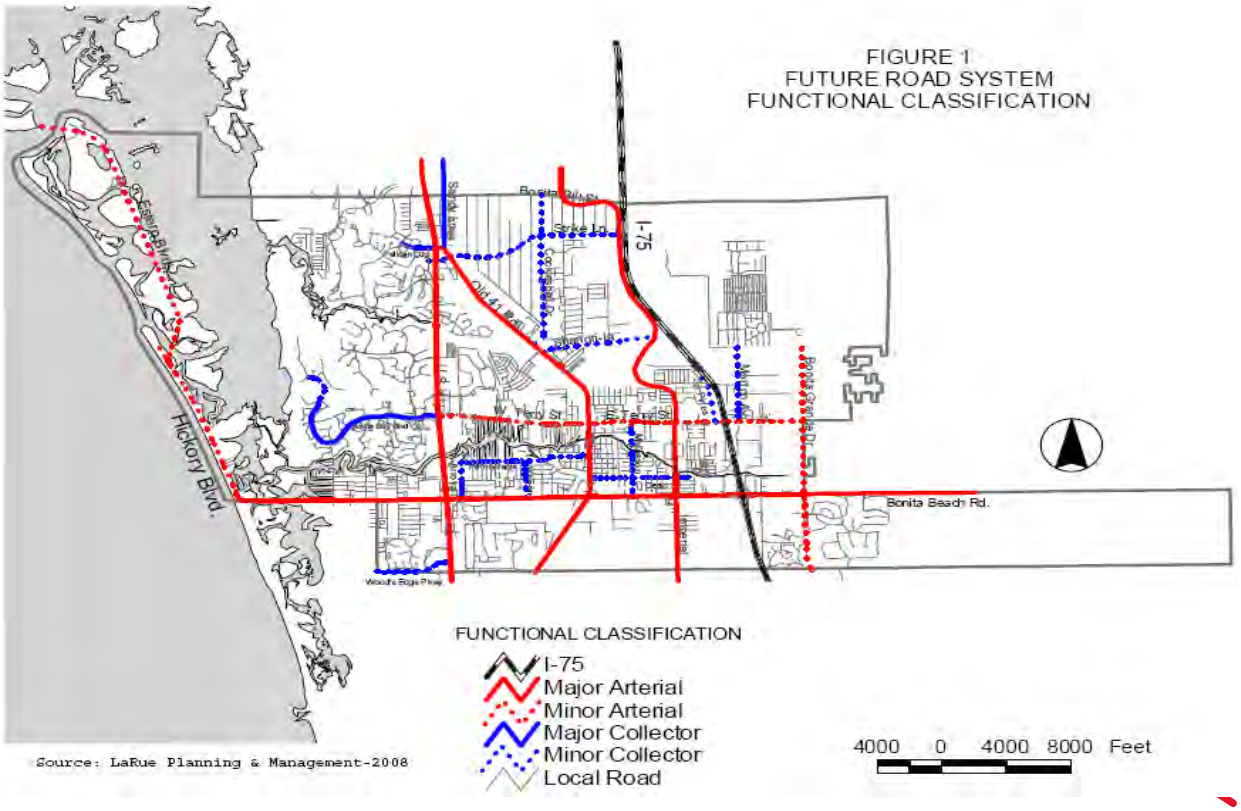


FIGURE 1
FUTURE ROAD SYSTEM
FUNCTIONAL CLASSIFICATION
I-75
Bonita Beach Rd.
Hickory Blvd.
FUNCTIONAL CLASSIFICATION
I-75
Major Arterial
Minor Arterial
Major Collector
Minor Collector
Local Road
4000 0 4000 8000 Feet
Source: LaRue Planning & Management-2008

Yellow highlighting indicates annexation/other amendments

~~Red strike-through~~ and underlining indicates Downtown Amendment(s)

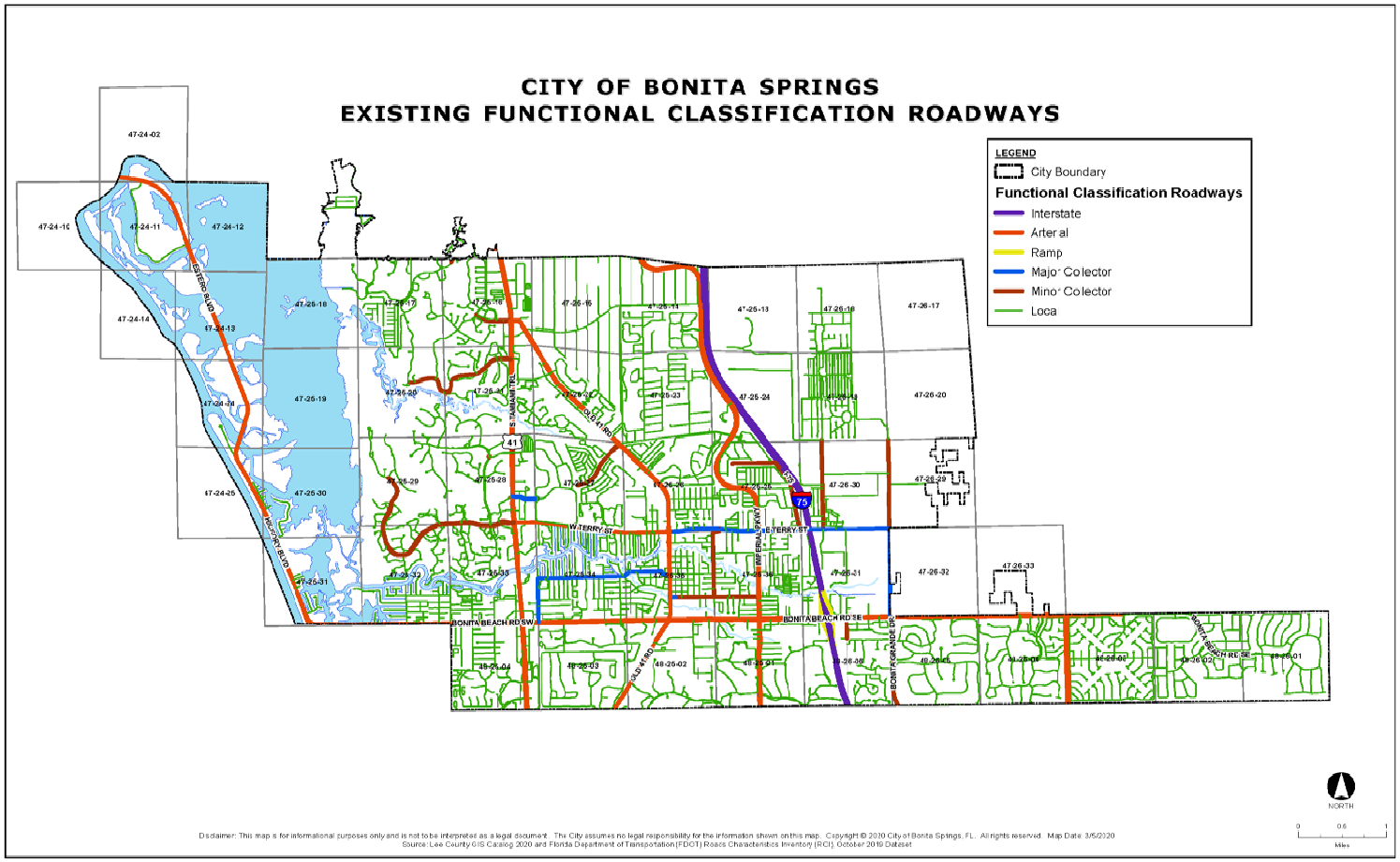
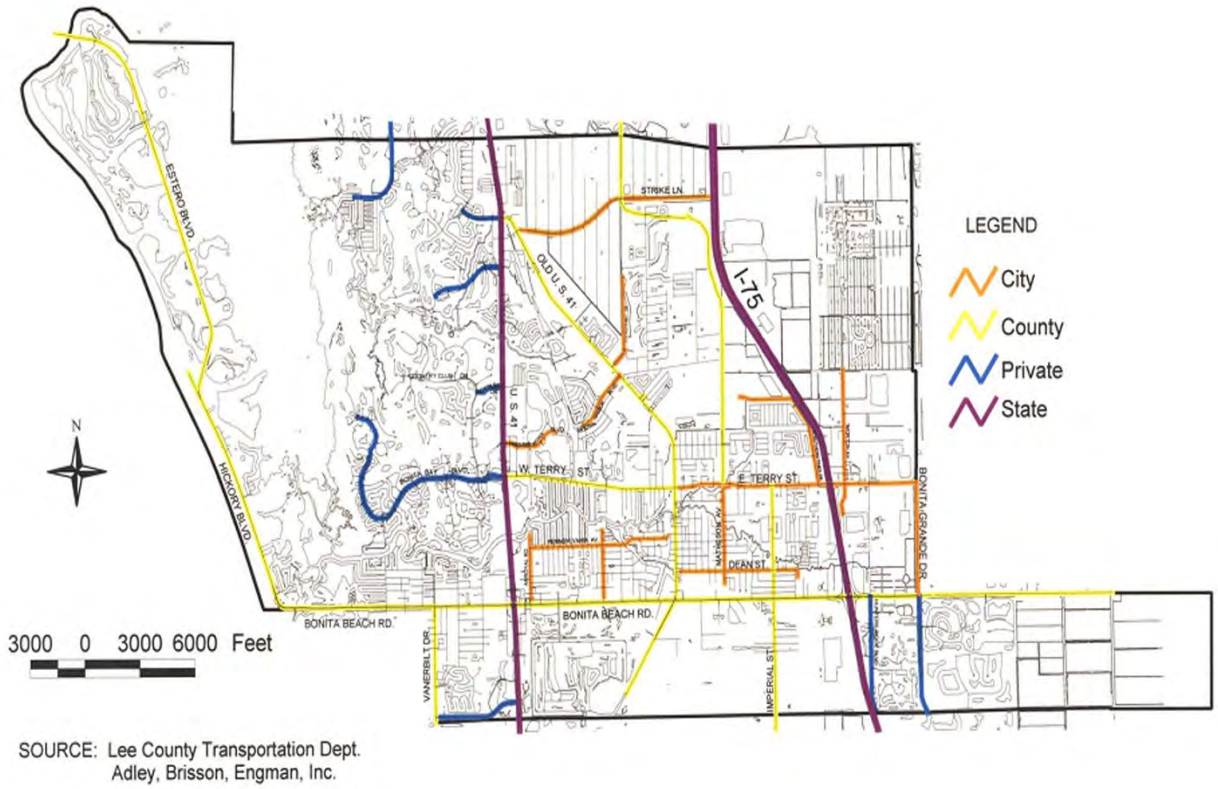


Figure 1: Road System Functional Classification



~~*Figure 2. Future Road System Maintenance Responsibility*~~

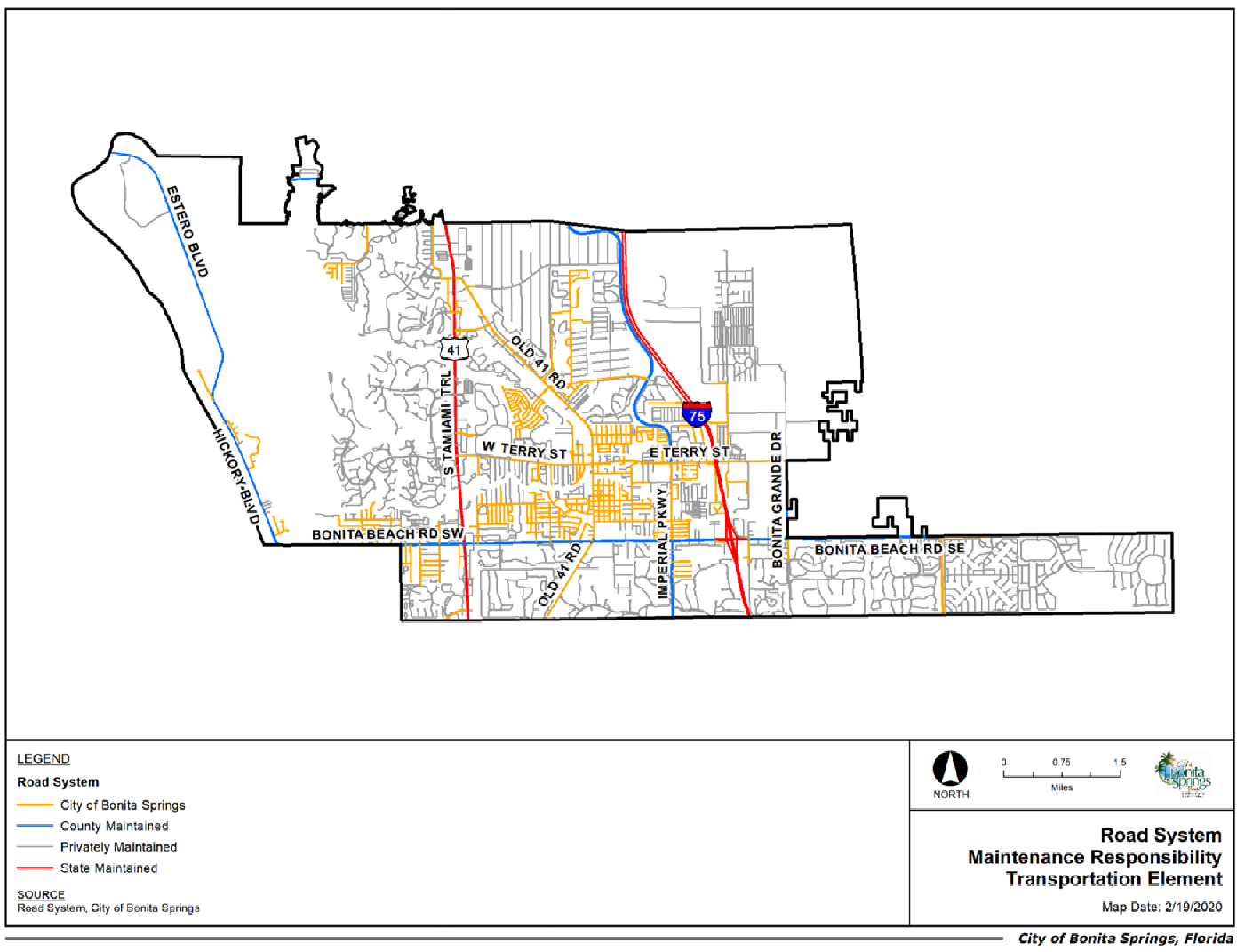
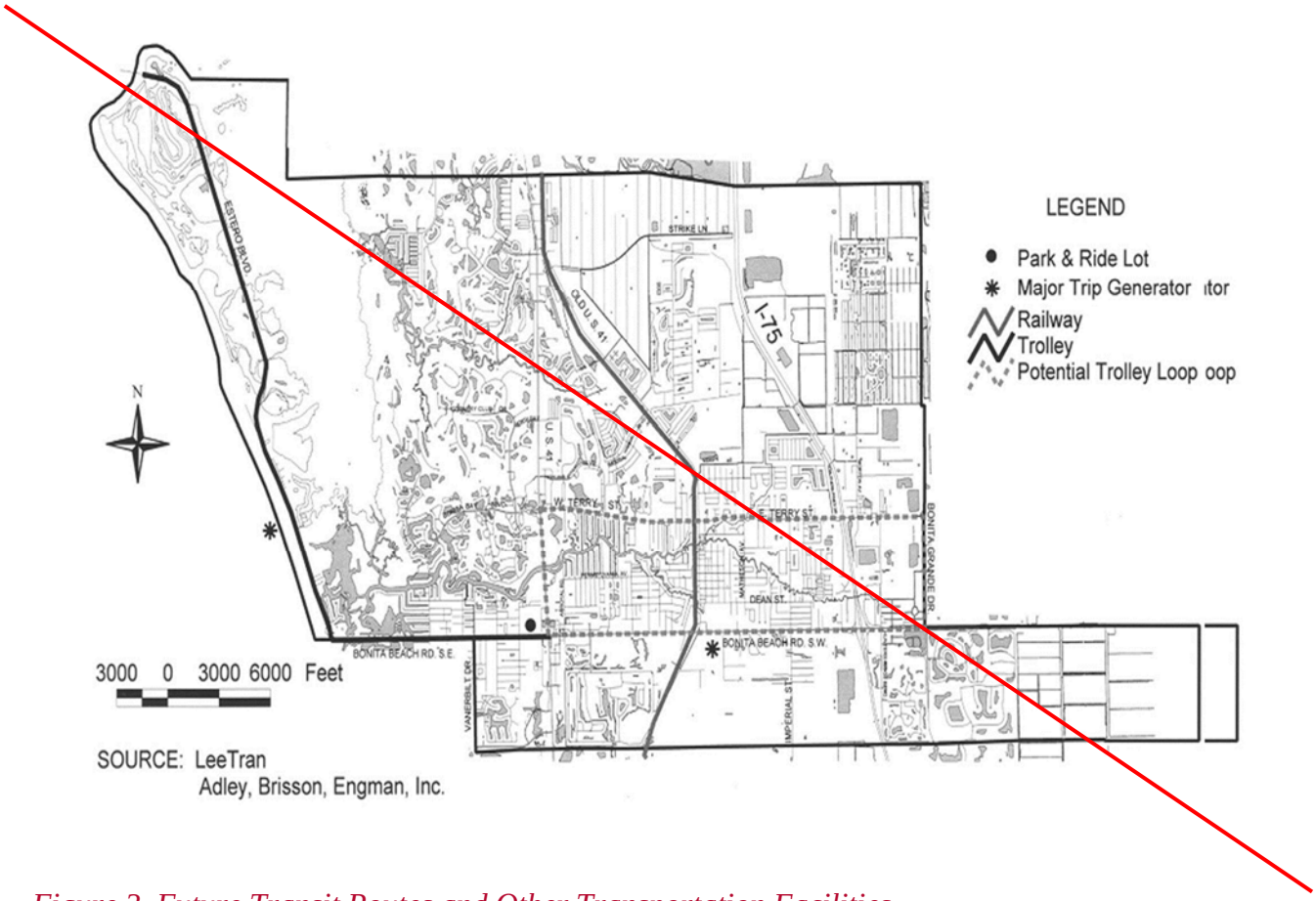


Figure 2: Road System Maintenance Responsibility



~~Figure 3. Future Transit Routes and Other Transportation Facilities~~

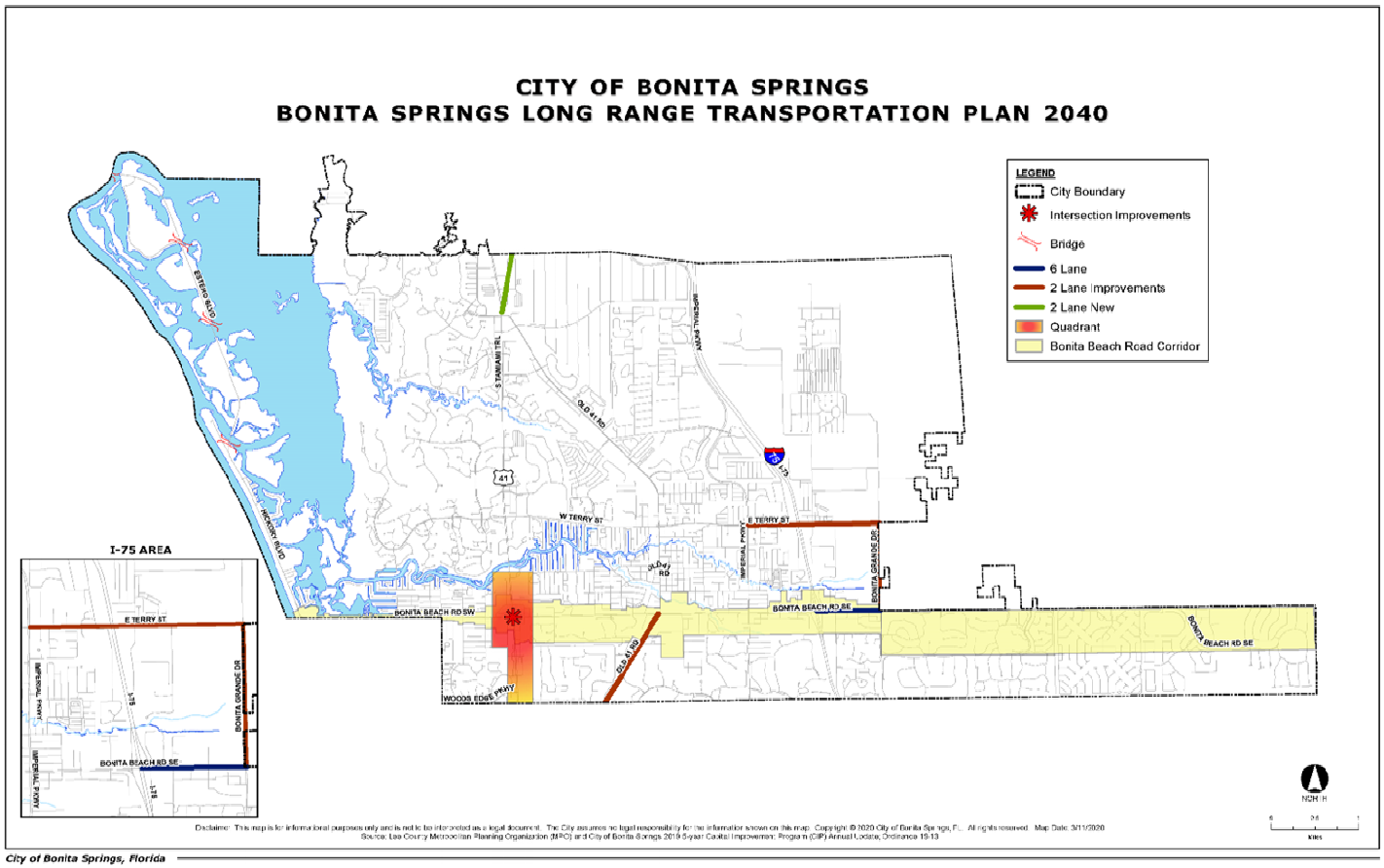


Figure 3: City of Bonita Springs Long Range Transportation Plan

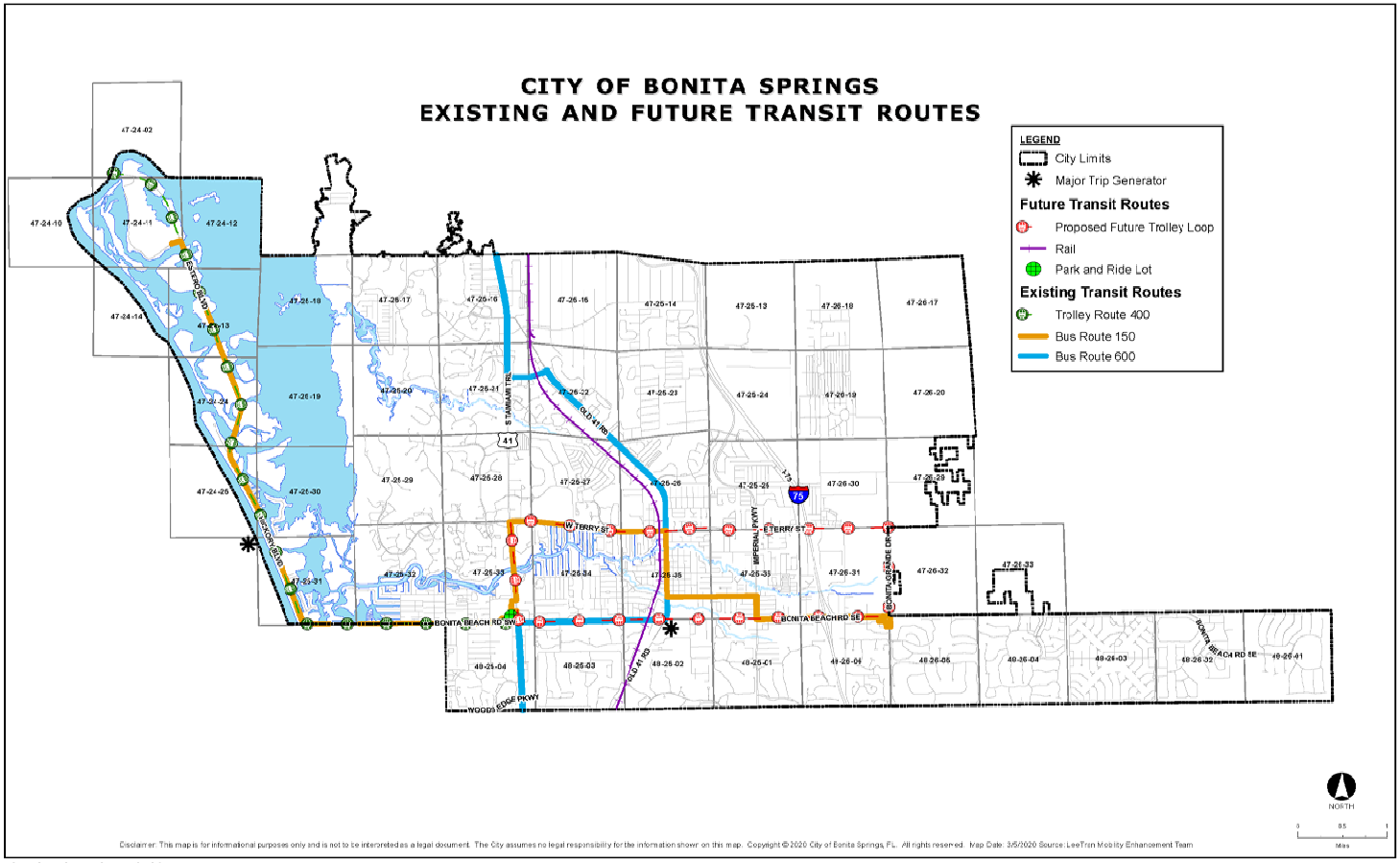
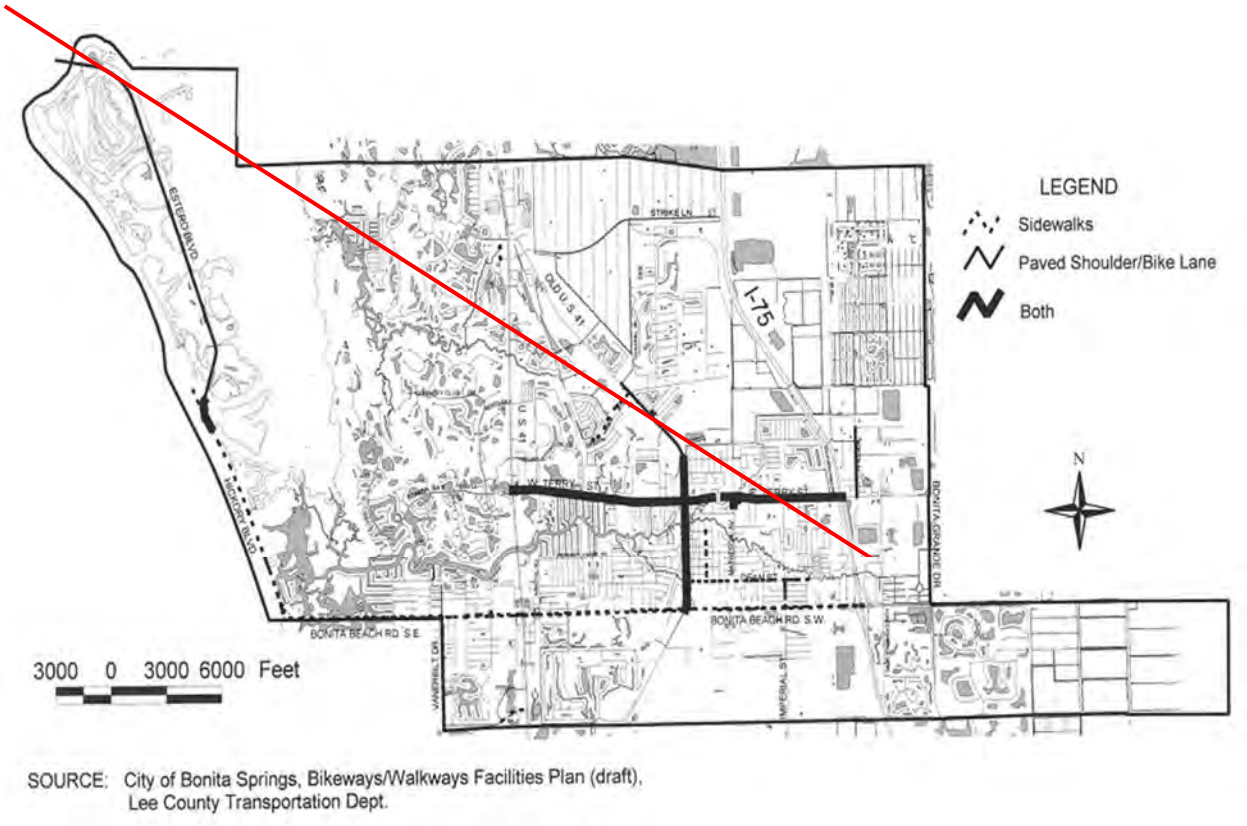


Figure 4: Existing and Future Transit Routes



SOURCE: City of Bonita Springs, Bikeways/Walkways Facilities Plan (draft), Lee County Transportation Dept.

~~*Figure 4. Future Bikeways/Walkways*~~

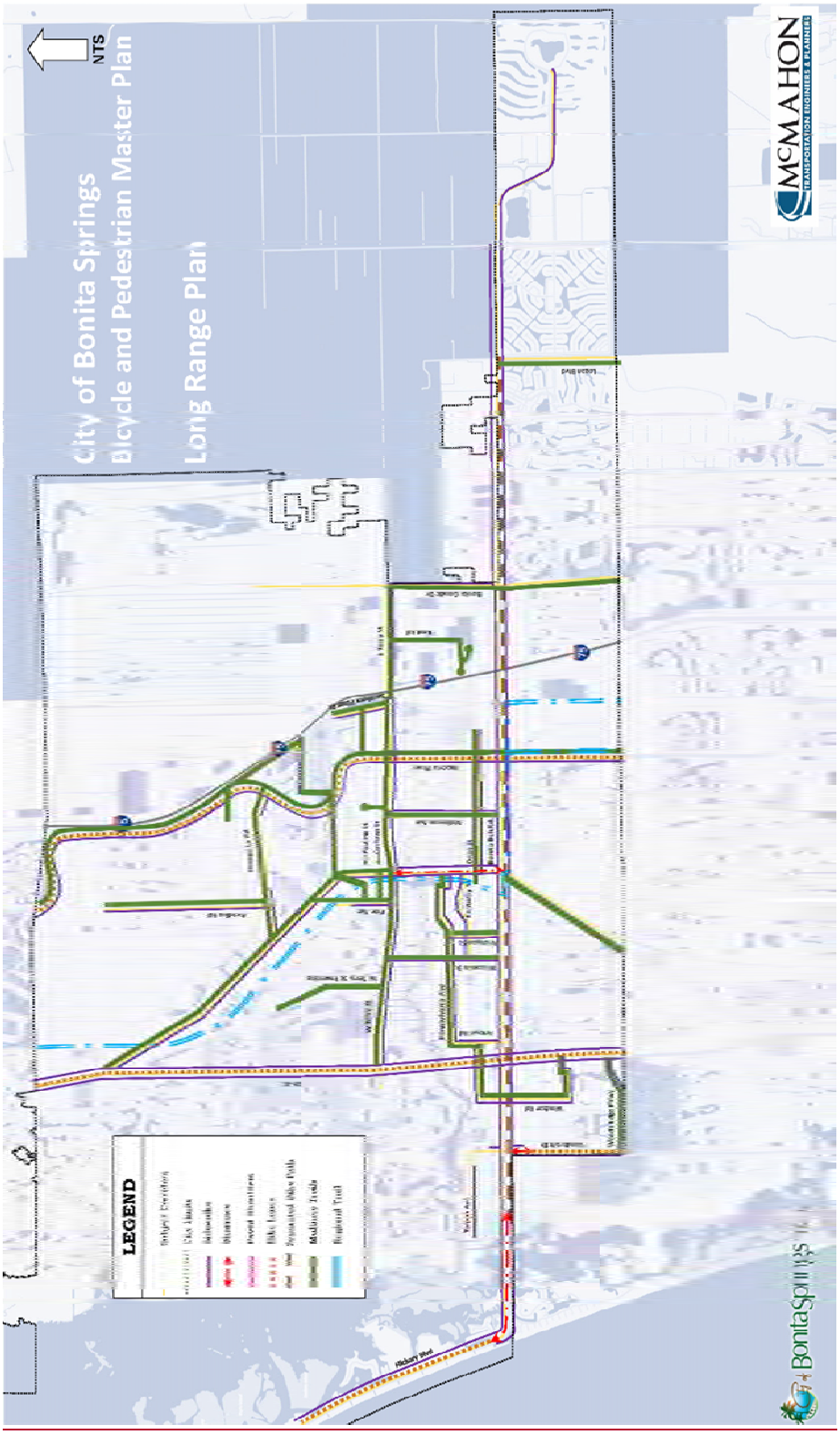
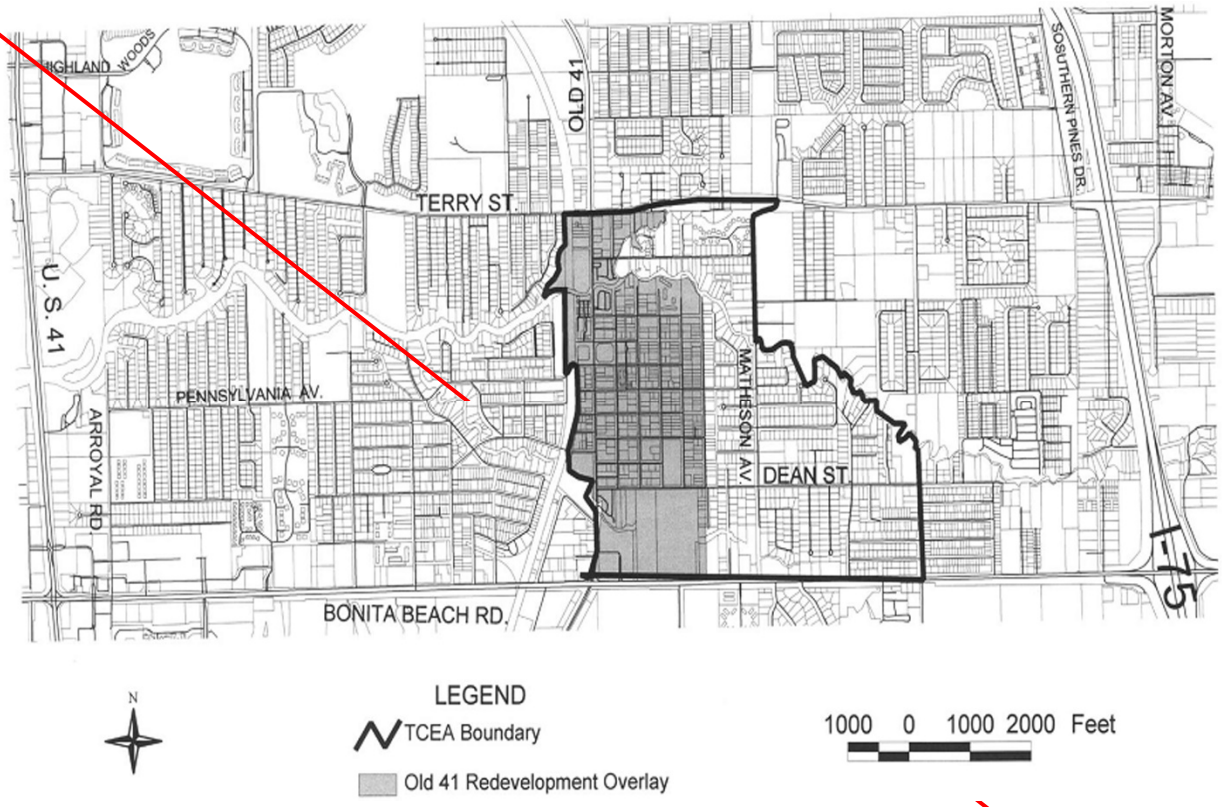
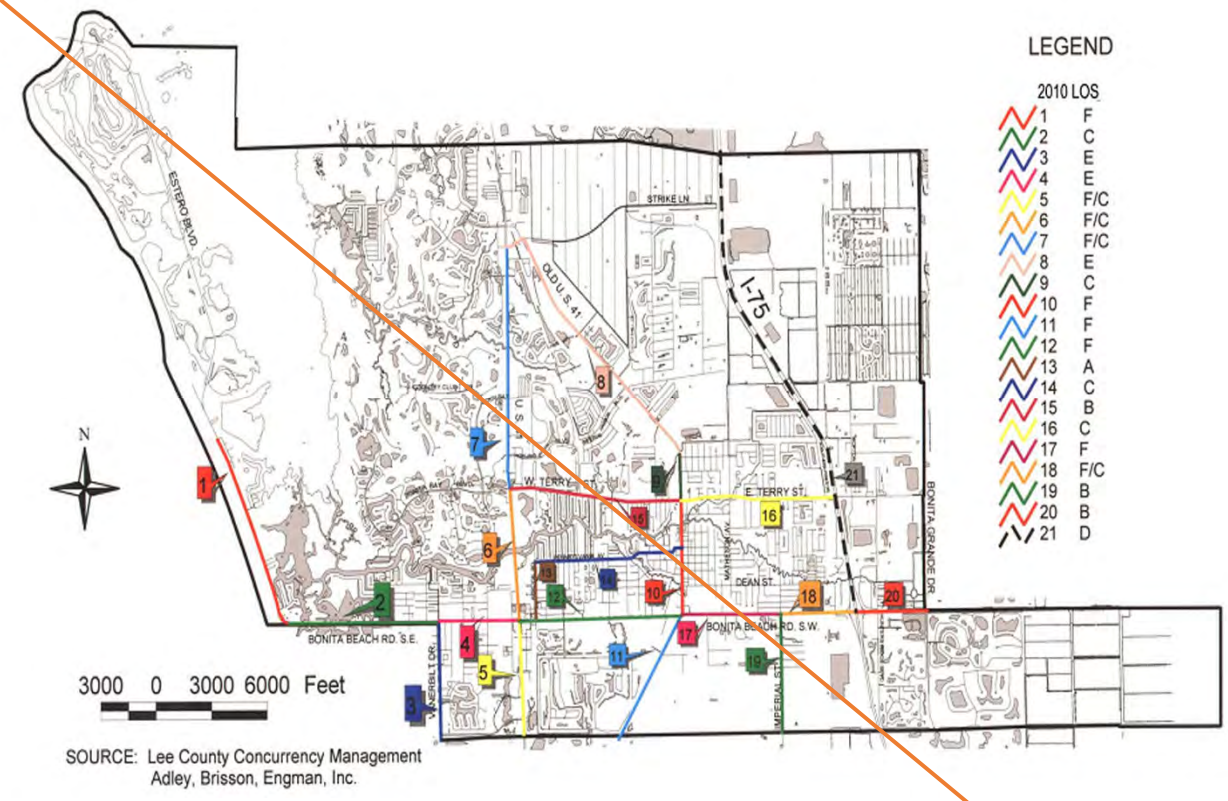


Figure 5: Long Range Bicycle/Pedestrian Master Plan

~~*Figure 5. Future Local and Regional Evacuation Routes*~~

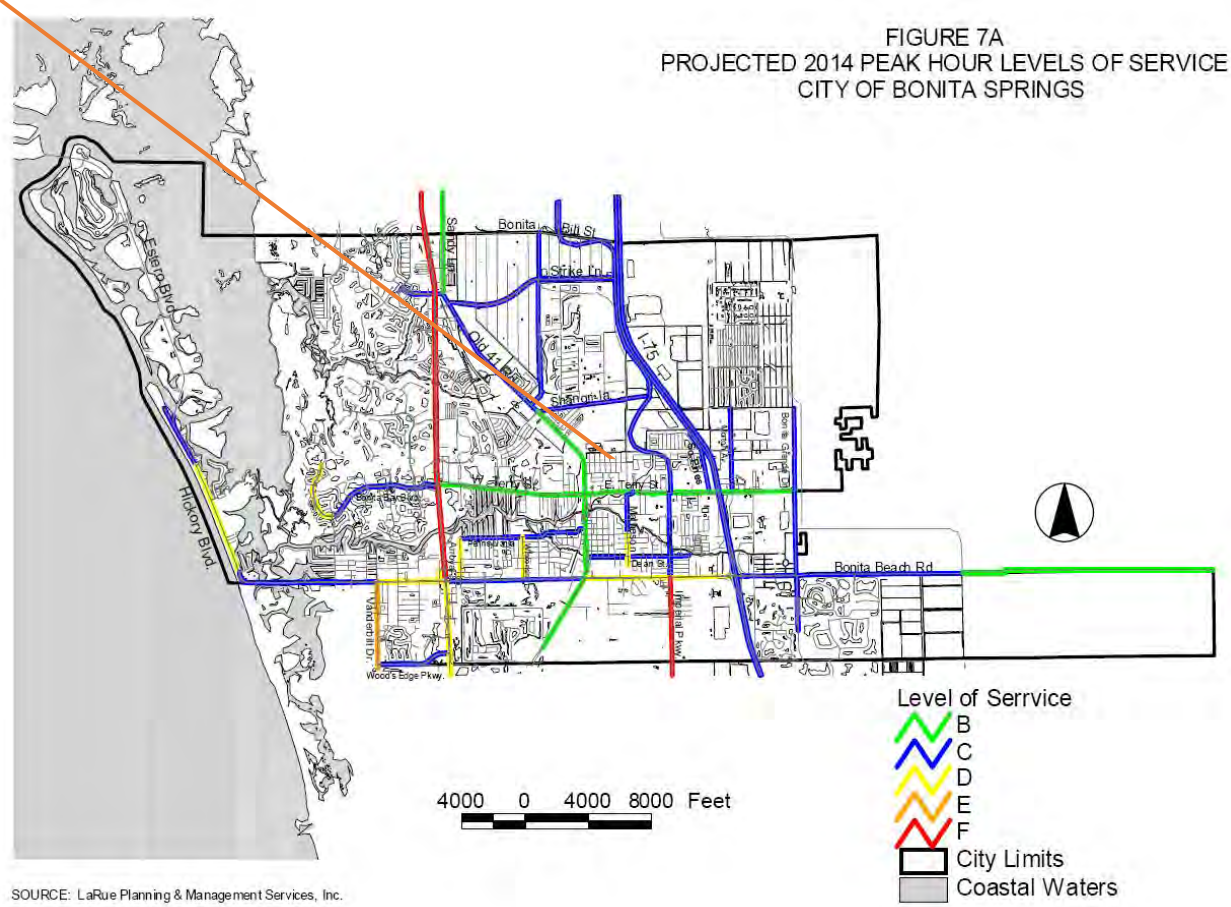


~~*Figure 6. Preliminary Delination of Potential Transportation Concurrency Area (TCEA) (Not Adopted) and "Old 41" Redevelopment Overlay Area*~~



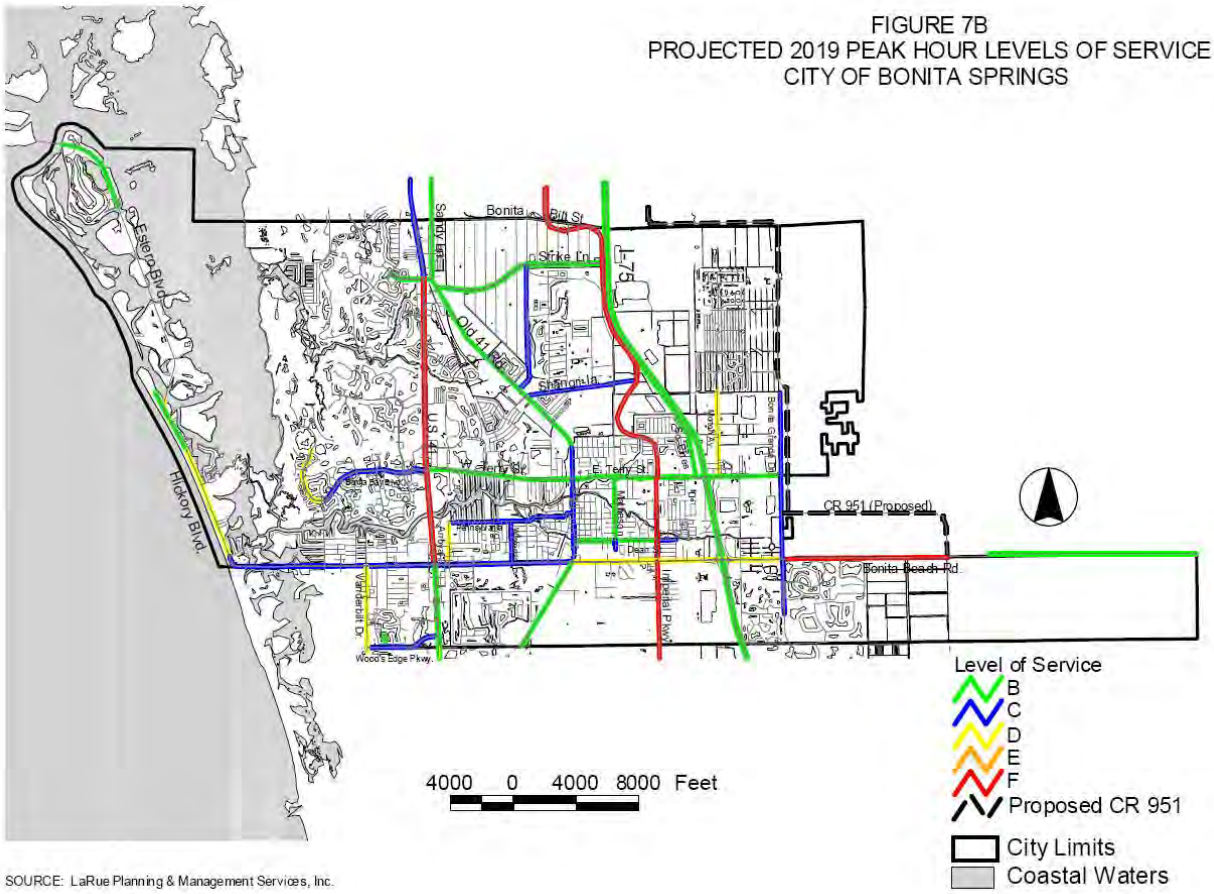
~~*Figure 7. Projected 2010 Peak Hour Levels of Service*~~

FIGURE 7A
PROJECTED 2014 PEAK HOUR LEVELS OF SERVICE
CITY OF BONITA SPRINGS

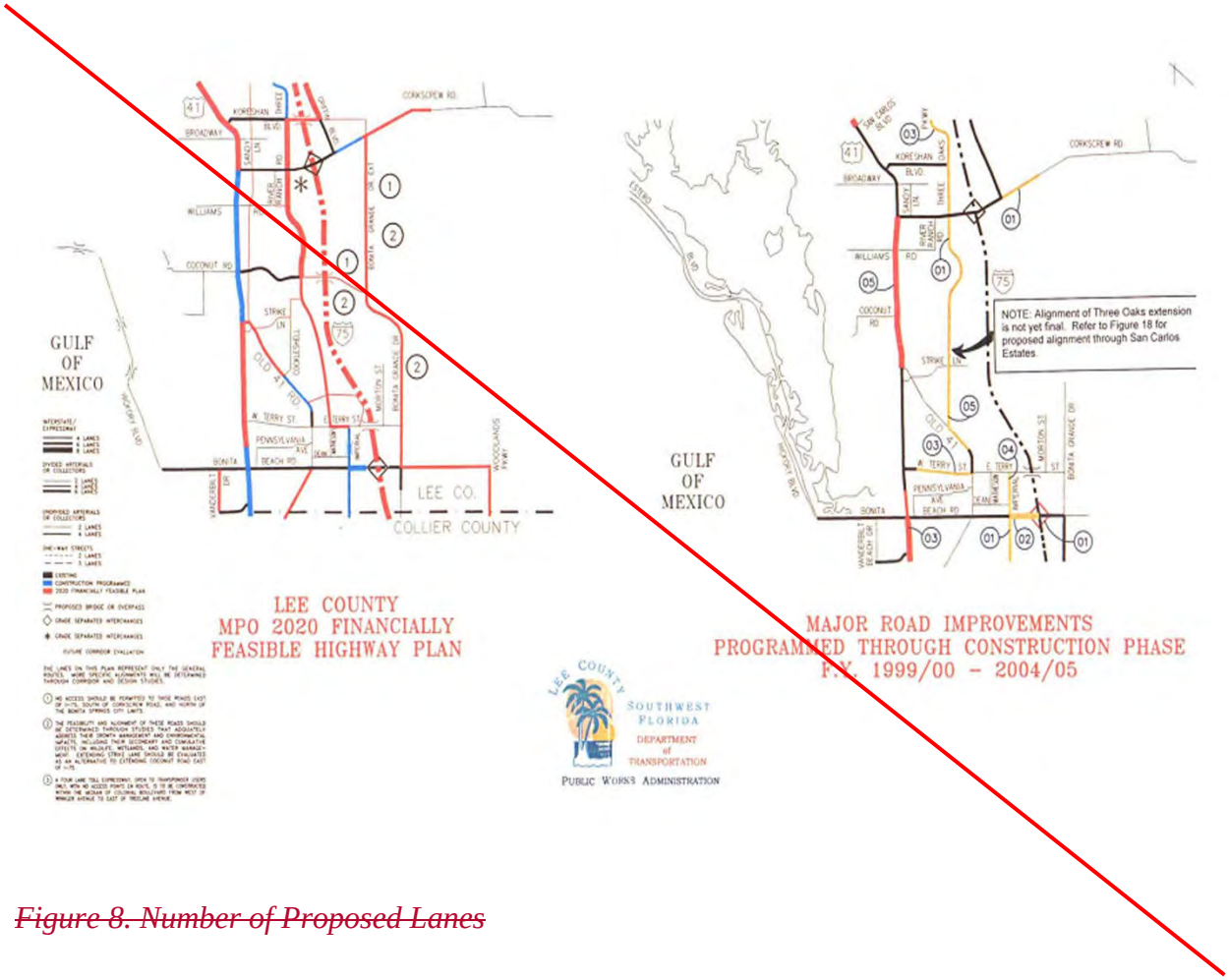


SOURCE: LaRue Planning & Management Services, Inc.

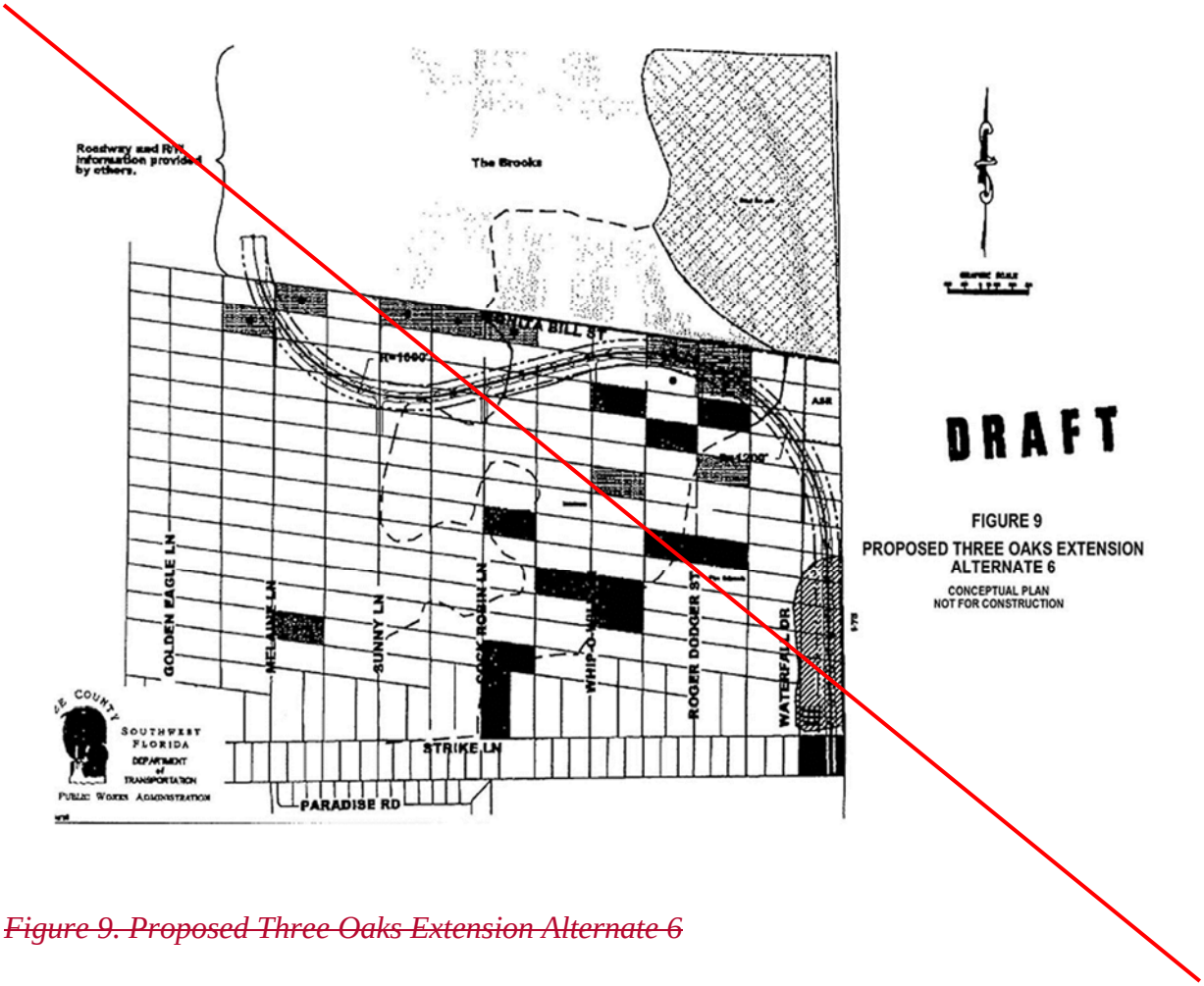
FIGURE 7B
PROJECTED 2019 PEAK HOUR LEVELS OF SERVICE
CITY OF BONITA SPRINGS



SOURCE: LaRue Planning & Management Services, Inc.



~~*Figure 8. Number of Proposed Lanes*~~



~~*Figure 9. Proposed Three Oaks Extension Alternate 6*~~

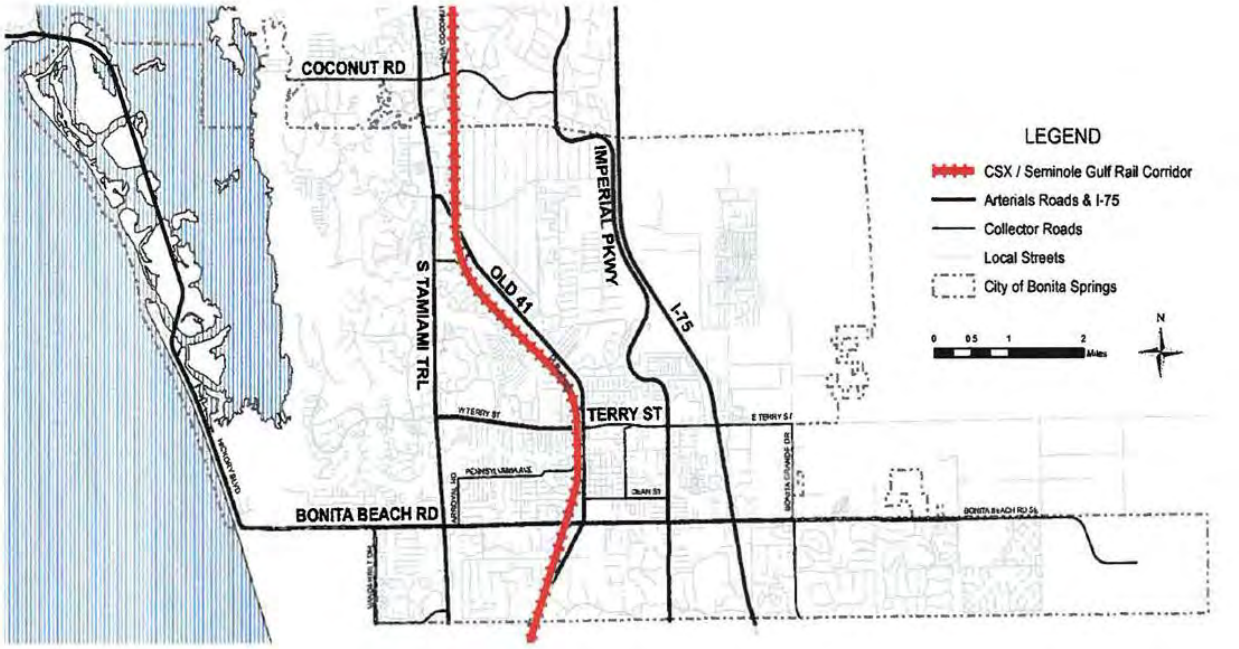
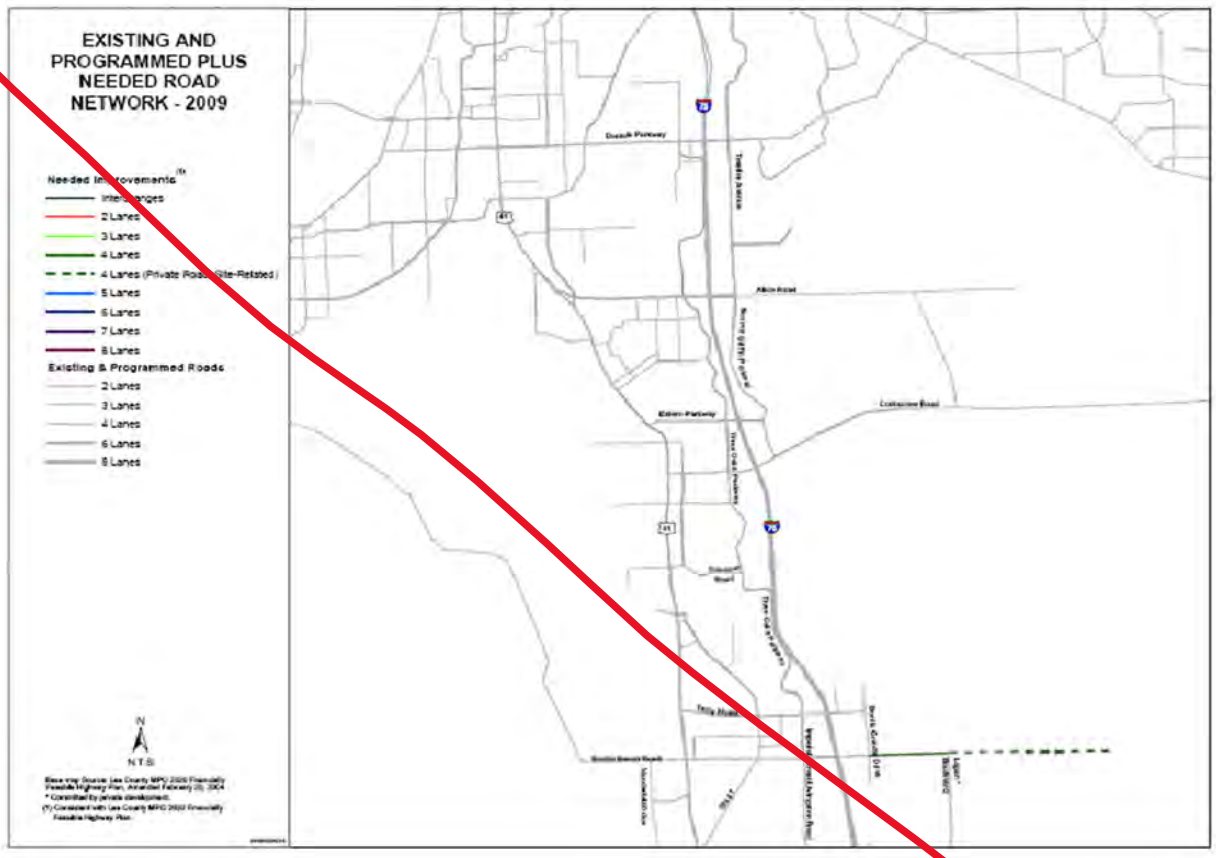


Figure 6: CSX/Seminole Gulf Rail Corridor

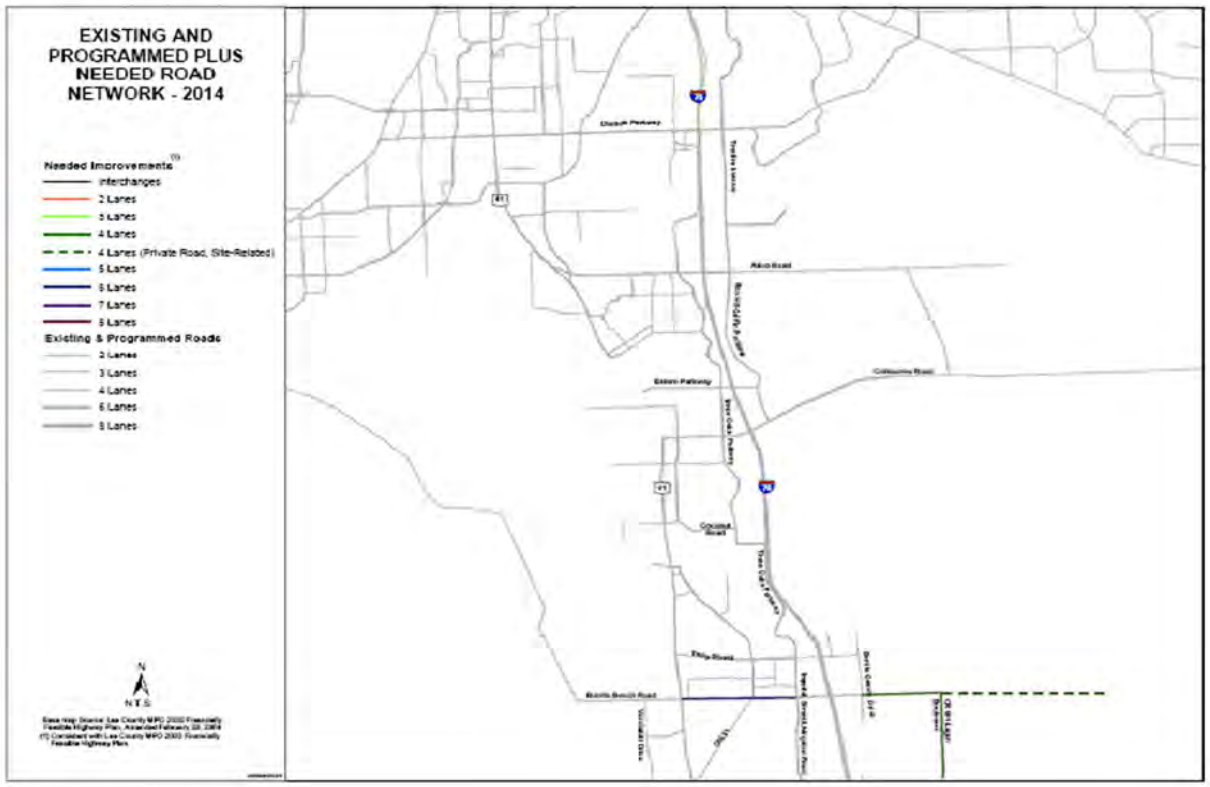
~~*Figure 10. CSX/Seminole Gulf Rail Corridor*~~

(Ord. No. 17-07, § 1, 6-7-17)



~~Figure 11. Existing and Programmed Plus Needed Road Network - 2009~~

(Ord. No. 17-07, § 1, 6-7-17)



~~Figure 12. Existing and Programmed Plus Needed Road Network - 2014~~

(Ord. No. 17-07, § 1, 6-7-17)

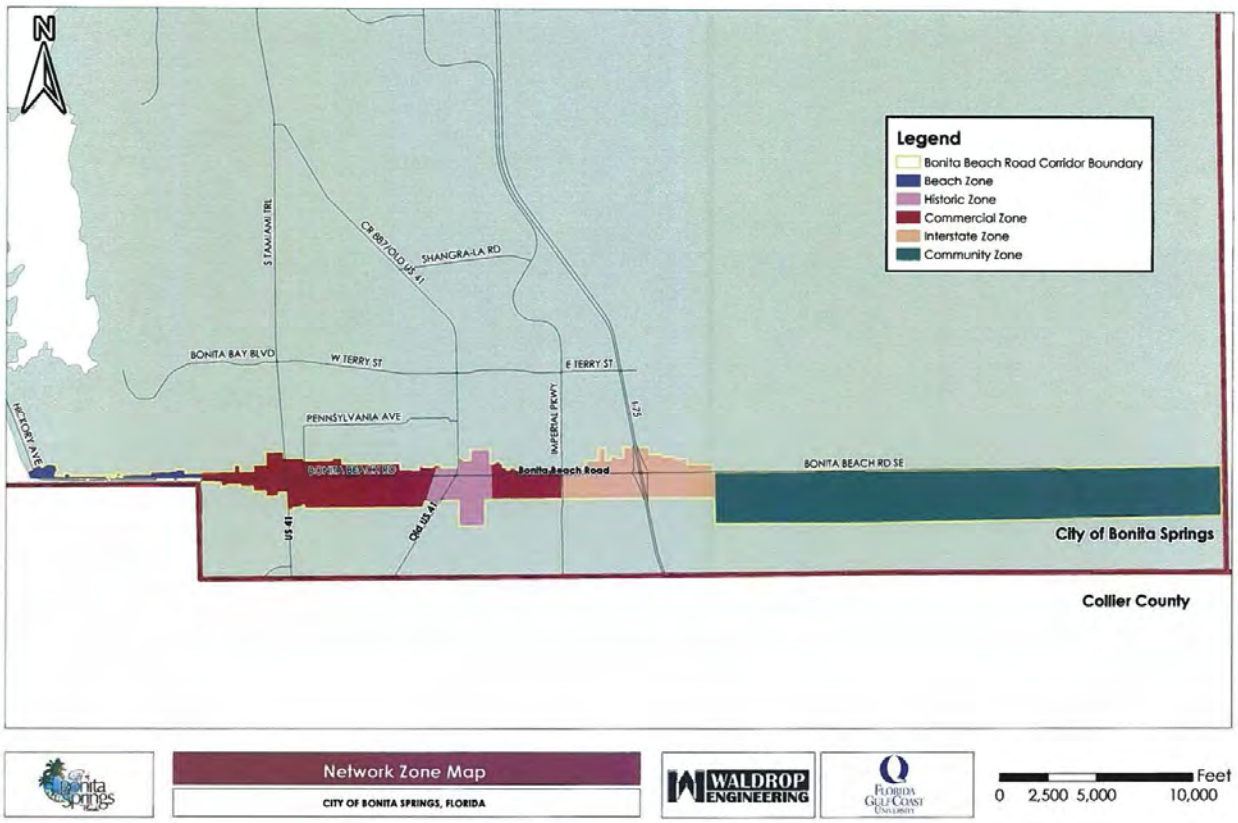


Figure 7: Network Zone Map

~~*Figure 13. Network Zone Map*~~

(Ord. No. 17-06, § 1, 5-3-17)

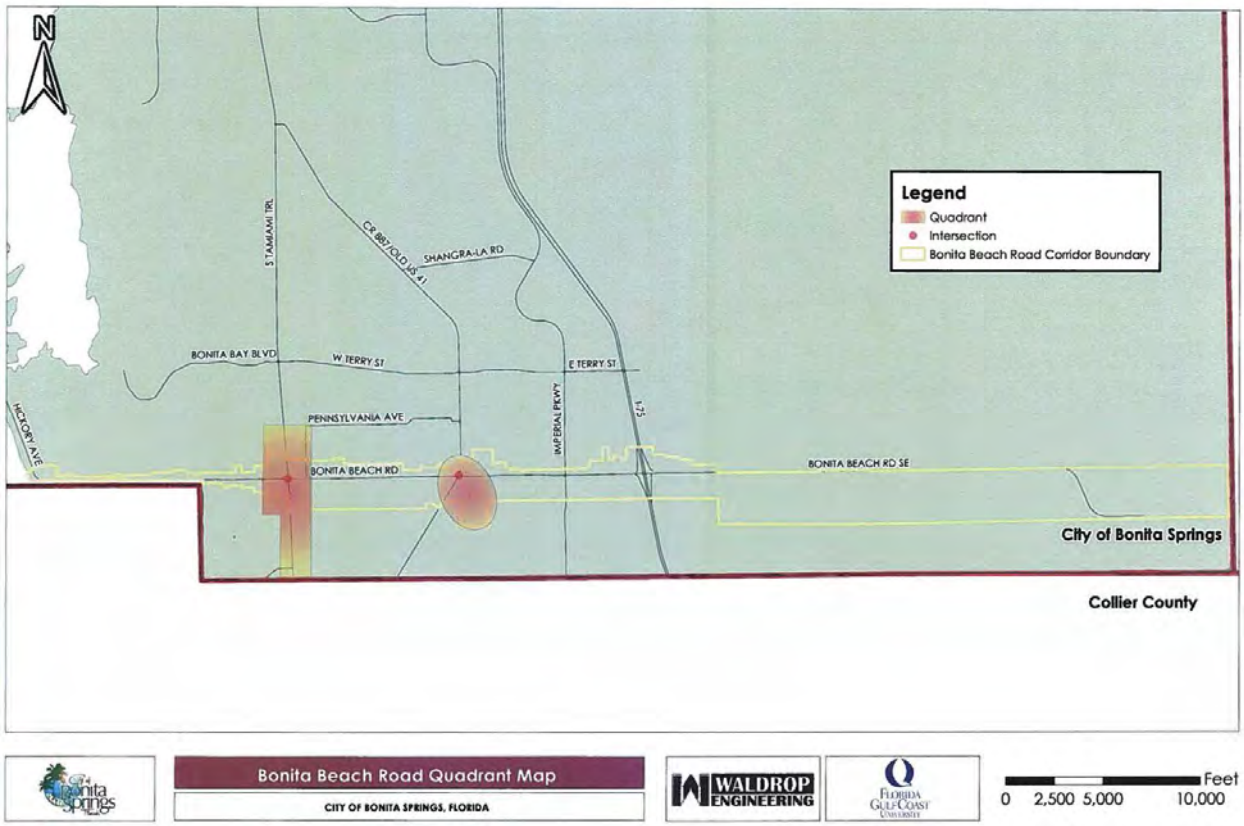


Figure 8: Bonita Beach Road Quadrant Map

~~*Figure 14. Bonita Beach Road Quadrant Map*~~

(Ord. No. 17-06, § 1, 5-3-17)

Goal 1: To provide affordable, safe and sanitary housing in a decent living environment to meet the diverse needs of the existing and projected population of Bonita Springs.

Objective 1.1: Housing Availability - Provide for an amount and distribution of residential land in the City adequate to allow for a variety of housing types, including mobile and manufactured homes, and sites for affordable workforce housing as defined in 380.0651(3)(h), F.S. and very low, low and moderate income households, sufficient to meet the infrastructure and public facility needs of current and anticipated residents.

Policy 1.1.1: The Future Land Use Map shall designate lands for development at a range of residential densities suitable for single-family, multi-family, mobile and manufactured housing in residential, commercial and mixed-use categories sufficient to accommodate the existing population and anticipated growth over the planning period.

Policy 1.1.2: The City shall enforce provisions within the Future Land Use Element for mixed-use and planned developments to encourage a wide range and mix of housing types within the City.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.1.3: The City shall utilize minimum 10-year planning horizon to forecast for housing needs.

Policy 1.1.4: Modular constructed manufactured housing on permanent foundations shall be allowable in all residential land use categories. Modular/ manufactured housing is defined as "A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or panels, and which is built on a frame and designed to be used as a dwelling with a permanent foundation and connected to all required utilities, and may include plumbing, heating, air conditioning, and electrical systems contained therein. If fabricated after June 15, 1976, each section shall bear a U. S. Department of Housing and Urban Development label certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standards."

Policy 1.1.5: The City shall permit existing mobile home parks to continue but shall prohibit new mobile home parks within the CHHA and shall encourage the redevelopment of older "trailer parks" through provision of increased densities when compatible with surrounding uses and nearby to commercial or industrial concentrations.

(Ord. No. 17-08, § 1, 6-7-17)

Objective 1.2: Housing Conditions - Eliminate or have improved to standard condition, by the end of the planning period, 10% of the 651 occupied housing units identified in the 2000 Census as lacking plumbing facilities or in an overcrowded condition, and improve the structural an aesthetic condition of the existing housing stock.

Policy 1.2.1: The City will adopt the Standard Housing Code and ensure its vigorous enforcement, either through local effort or under an arrangement whereby the City reimburses Lee County.

Policy 1.2.2: The City will continue to participate and modify its interlocal agreement with Lee County, as necessary, to retain its standing as an eligible area for expenditure under the County's State and Federal entitlement programs, including the use of such funds as financial incentives for the rehabilitation of lower income rental housing.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.2.3: The City will explore the appropriateness of, and apply for, all additional funding such as, CDBG grants, etc., as warranted.

Policy 1.2.4: If and when the City's total resident population and low income population become sufficient to indicate that the City may be eligible in its own right under the Federal and State entitlement programs, the City will investigate the advantages and disadvantages of administering its own entitlement programs.

Policy 1.2.5: The City will reevaluate the criteria for determining the structural condition of housing and conduct a survey of the structural condition of housing, and the immediate living environs, in those parts of the City where substandard housing conditions have been identified in this Element.

Policy 1.2.6: The City shall prepare a comprehensive neighborhood improvement plan for Rosemary Park based on previous studies and public participation.

Policy 1.2.7: The City shall continue to conserve existing housing and improve the quality of neighborhoods by emphasizing neighborhood planning, community redevelopment programs, and enforcing appropriate development regulations.

Objective 1.3: Affordable Housing - Reduce, by the end of the planning period, the percentage of the City's households identified as being of lower income and in need of housing assistance from 7.6% to 5.0%.

Policy 1.3.1: Upon availability of the necessary housing, demographic and income data in the 2000 Census, the City will request the Department of Community Affairs to authorize the Shimberg Center for Affordable Housing to prepare a Housing Needs Assessment for the City of Bonita Springs.

Policy 1.3.2: The City shall include in its Land Development Regulations a provision for an affordable housing density bonus to encourage private developers to include housing for very low and low income families in their development projects. This provision shall be based on the following guidelines:

a. The number of units resulting from the granting of bonus density shall not exceed the number of rental or owner-occupied housing units allocated specifically to low and very low income households within the project.

1. A low income household is defined as a household whose annual income does not exceed 80% of the countywide median as defined by the Department of Housing and Urban Development (DHUD).

2. A very low income household is defined as a household whose annual income does not exceed 50% of the countywide median as defined by the Department of Housing and Urban Development (DHUD).

b. The maximum bonus density, in excess of the maximum density otherwise allowable within the future land use category, available to a given project shall be as set forth in the following schedule:

Maximum Density Per Land Use And Maximum Density With Maximum Density Bonus		
Land Use Category	Maximum Standard Density	Maximum Density With Bonus
Estate Residential	.33 units/acre	.33 units/acre

Low Density Residential	1.3 units/acre	1.3 units/acre
Suburban Density Residential	3 units/acre	5 units/acre
Moderate Density Residential	5.8 units/acre	7 units/acre
Moderate Density Mix/PUD	6 units/acre	9 units/acre
Urban Fringe Community	2.54 to 2.77 units/acre	2.54 to 2.77 units/acre
Medium Density One & Two Family	11.6 units/acre	11.6 units/acre
Medium Density Residential-MF	6 units/acre	10 units/acre
High Density Residential-Multifamily	10 units/acre	15 units/acre
~~"Old 41" Town Center Mixed-Use Redevelopment~~ Downtown District	~~15 units/acre~~ 20 units/acre	~~20 units/acre~~ N/A
High Density Mixed Use	10 units/acre	15 units/acre

c. The City may include a provision for cash contribution to a housing trust fund dedicated to the provision of housing for low and very low income households in lieu of the allocation of on-site units to low and very low income households.

d. Any project for which a density bonus provision is applied must meet the following criteria:

1. The resulting development does not have substantially increased intensities of land use along its perimeter unless it is adjacent to an existing or approved development of a similar intensity;
2. The additional traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector or arterial road;
3. Existing and committed public facilities are not so overwhelmed that a density increase would be contrary to the overall public interest;
4. There will be no decrease in required open space, buffering, landscaping and preservation areas or cause adverse impacts on surrounding land uses; and,
5. Storm shelters or other appropriate mitigation is provided if the development is located within the Category 1 Storm Surge Area for a land-falling storm as defined by the most current Hurricane Storm Tide Atlas for Lee County prepared by the Southwest Florida Regional Planning Council.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.3.3: The City shall support public-private partnerships in the provision of affordable housing for workforce, very low, low, and moderate income households through the

implementation of the density bonus provision and the measures set forth in policy 1.3.5. Affordable housing is defined as follows:

- Very low income - less than 50% of the countywide median household income as determined by the Department of Housing and Urban Development.
- Low income - less than 80% of the countywide median household income as determined by the Department of Housing and Urban Development.
- Moderate income - less than 120% of the countywide median household income as determined by the Department of Housing and Urban Development.
- Affordable workforce housing—as established by 380.0651(3)(h), F.S.—housing that is affordable to a person who earns less than 120% of the area median income, or less than 140% of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.3.4: The City shall stimulate production of affordable housing for the very low, low and moderate income households through the Affordable Housing Trust Fund and shall meet with local lenders to develop incentives to offer opportunities for low and moderate income households to receive reduced closing costs or reduced interest rates on home mortgages or loans for needed rehabilitation or renovation.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.3.5: Among the possible methods of assisting local non-profit organizations in the provision of affordable housing for very low, low, and moderate income households, the City shall undertake one or more of the following:

a. Grants, low cost loans, or deferred payment loans to certified housing development corporations or non-profit groups organizations to cover infrastructure and/or land development costs associated with new affordable housing.

b. Annual contributions towards the administrative costs of the Bonita Springs Area Housing Development Corporation or its successor to allow the Corporation to continue to expand its mission to provide decent, affordable housing in the community. Programs may include both new construction and housing rehabilitation for lower income home ownership and rental housing, and special needs housing.

c. Acquire land suitable for development of affordable housing, or provide low cost loans to approved housing development corporations or nonprofit organizations to cover the cost of purchasing sites for affordable housing.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.3.6: The location of housing for very low, low and moderate income households shall be guided by the following criteria:

a. Single-family and duplex housing for lower income households shall be located in areas served by central water and sewer services.

b. Multi-family housing for lower income households shall be located:

1. Outside the CHHA;

2. Along, or have nearby access to, a collector or higher level roadway;
3. In an area served by central water and sewer; and,
4. Preferably within one mile of shopping and/or recreational facilities.

c. Locate in areas that do not result in the concentration of affordable housing units only in specific areas of the City.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.3.6.1: The City shall consider providing density bonus as outlined in Policy 1.3.2 for developers providing housing for workers meeting the County's median income requirements.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.3.7: The City has already implemented provisions for the expeditious processing of affordable housing projects and will continue to process applications for development in an expeditious manner.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.3.8: Include a provision in the City's Land Development Regulations allowing for increased density for dormitory housing for single workers.

Policy 1.3.9: The City shall study and develop incentives for commercial development to provide workplace housing such as allowing major employers and hotels to achieve greater density/intensity if on-site affordable housing is provided for employees.

Policy 1.3.10: The City shall encourage affordable housing by investigating the feasibility of land banking and/or land acquisition.

Policy 1.3.11: The City shall maintain on-going research and information on housing and related issues, including state and federal regulations affecting housing, city-wide housing needs, and the provision of advice regarding assistance programs.

(Ord. No. 06-18, § 1, 12-6-06)

Objective 1.4: Group homes/foster care facilities - Ensure that adequate sites are available in residential areas suitable for the location of group homes and foster care facilities.

Policy 1.4.1: The City shall allow group homes and foster care facilities, licensed and or funded by the State, in all of its residential land use categories.

Policy 1.4.2: The City will include in its Land Development Regulations principles and criteria consistent with Chapter 419, F. S., guiding the location of group homes and foster care facilities licensed or funded by the State.

Objective 1.5: Protect historically significant housing in the City from deterioration and/or demolition.

Policy 1.5.1: The City shall designate a City "Historic Preservation" Board to reinitiate historic preservation within its municipal boundaries.

Policy 1.5.2: The City shall continue to enforce provisions within its Historic Preservation Ordinance.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.5.3: The City shall continue to use the Florida Department of State, Division of Historical Resources "Florida Master Site File" and Lee County's local register of historic places as the method of identifying local historically significant housing.

Policy 1.5.4: The City shall become a "Certified Local Government" in order to provide access to relevant historical preservation funds.

Policy 1.5.5: The City will cooperate with the Bonita Springs Historical Society and owners of designated historically significant housing to obtain funding, through the various programs operated by Lee County, for rehabilitation or restoration. Historic building designations will be undertaken only with the volunteer participation of the owners.

Policy 1.5.6: The City will consider incentives to encourage the preservation of locally identified historic structures including provisions in its Land Development Regulations or through mechanisms such as creative adaptive reuse, relocation of the structure, tax relief or tax abatement.

Policy 1.5.7: The City shall pursue funding sources for historic preservation to include state grants, federal grants, tax benefits, partnerships with local banks, and revolving funds.

Policy 1.5.8: The City shall provide for the preservation of historically significant structures when preparing Design Standards for the "Old 41" area of the City.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 1.5.9: The City shall contract for consultation, technical assistance, and on-going staff support for the City's historic preservation program when deemed necessary by City Council.

Objective 1.6: Housing and neighborhood conservation - Conserve existing sound housing, rehabilitate or demolish substandard housing and provide a suitable living environment throughout the City's neighborhoods.

Policy 1.6.1: The City will adopt the Standard Housing Code and ensure its vigorous enforcement.

Policy 1.6.2: In addition to code enforcement, the City shall explore methods by which to improve the housing and living conditions in old style "trailer parks" which are characterized by significant levels of long-term residency, including incentives for redevelopment of the property.

Policy 1.6.3: Encourage redevelopment in older areas of the City east of Old U. S. 41 by allowing mixed-use, accessory apartments, and home occupations when deemed compatible with surrounding uses.

Policy 1.6.4: The City will evaluate establishing a Neighborhood Planning Program that will coordinate law enforcement, code enforcement, traffic calming, beautification and land development regulations to redevelop or maintain older neighborhoods with a mix of housing types and affordability.

Policy 1.6.5: By the end of 2012, the City shall create guidelines within its Land Development Code to facilitate the development of "green buildings" in Bonita Springs without forcing excessive costs or other burdens upon developers, building owners or occupants. The guidelines will be applicable to all new residential and nonresidential buildings.

(Ord. No. 09-05, § 1, 4-15-09)

Objective 1.7: Provision of relocation housing - Uniform and equitable treatment for persons displaced from their homes by governmental action.

Policy 1.7.1: The City will ensure that, prior to displacement, reasonably located and affordable housing is available to persons being displaced from their home by actions of the City.

Objective 1.8: GAP affordable housing - The City shall encourage and stimulate the construction of workforce and/or GAP Affordable Housing in the City.

Policy 1.8.1: GAP housing is that housing affordable to persons earning more than 80% and up to but not exceeding 150% of the median income, using 30% of that income for the purchase of housing.

Policy 1.8.2: The City shall include in its Land Development Regulations a provision for an increase in standard density or a housing bonus density to encourage private developers to include affordable housing for individuals who earn more than 80% and up to but not exceeding 150% of the median income.

Policy 1.8.3: The City shall allow developers to make cash contributions or provide affordable GAP housing on site in order to receive housing bonus density.

(Ord. No. 09-05, § 1, 4-15-09)

CONSERVATION/COASTAL MANAGEMENT ELEMENT

GOALS, OBJECTIVES AND POLICIES

Goal 1: Planning, Coordination and Implementation. To protect the public from the effects of natural and technological hazards through Lee County emergency plans and programs.

Objective 1.1: The City shall ensure the protection of its citizens from natural and technological hazards.

Policy 1.1.1: The Lee County Comprehensive Emergency Management Plan shall be used as the operational guide in preparing for, responding to, and recovering from natural and technological hazards requiring emergency actions by the City of Bonita Springs officials.

Policy 1.1.2: The City will cooperate with Lee County and local news media, educational institutions, public service groups, and other agencies to implement a program of education and information describing the risks of hazards such as hurricanes, tropical storms, severe thunderstorms, tornadoes, lightning, freezes, and attack from hostile governments, and actions necessary to mitigate the dangers which these hazards present. The City shall distribute information to its citizenry regarding such dangers and hazards and request speakers from competent agencies and groups to present information at public forums.

Policy 1.1.3: The City will cooperate with Lee County to establish and maintain a program describing facilities and sites designated to serve as local, state, and federally sponsored emergency assistance locations and shall identify and distribute information to the public concerning such sites serving the City. Examples of such facilities include disaster application centers, citizen assistance centers, disaster field offices, temporary housing sites, and debris disposal locations.

Policy 1.1.4: The City will cooperate with Lee County to maintain a mechanism to coordinate the development and maintenance of emergency plans and programs among the relevant local, regional, and state governments, districts, the administration of the Florida Gulf Coast University, or agencies, by maintaining the City's participation in the local mitigation strategy working group.

Goal 2: People with Special Needs. To assist in the emergency preparedness requirements of the City's elderly, frail, infirm, or handicapped.

Objective 2.1: The City shall ensure that in the event of a disaster, the City shall have mechanisms in place to assist people with special needs during an emergency.

Policy 2.1.1: New hospitals, nursing home adult congregate living facilities, or projects for the developmentally disabled in the City shall prepare an emergency preparedness plan acceptable to the Director of the Lee County Division of Emergency Management prior to receiving a final development order.

Policy 2.1.2: The City will cooperate with Lee County and other public agencies and service groups, to continue the County's efforts to assist in the emergency transportation needs of residents having limited mobility and who do not reside in licensed institutions serving people with special needs. The City will meet, through the local mitigation strategy working group, with the agencies and service groups to identify an effective role for the City in assisting in emergency transportation needs.

Policy 2.1.3: The City will cooperate with Lee County and other public agencies and service groups, to continue the County's efforts to provide basic medical services in selected emergency public shelters for people with special needs. At the meeting referred to in Policy 2.1.2 preceding, an effective role for the City in providing basic medical services will be discussed.

Goal 3: Hazardous Materials. To protect the public and the environment from accidental contact with hazardous materials.

Objective 3.1: The City shall provide an appropriate response to hazardous materials accidents, spills, or leaks.

Policy 3.1.1: The City shall maintain a representative on the Local Emergency Planning Committee (as required by the provisions of Title III: The Federal Emergency Planning and Community Right-To-Know Act of 1986). Through this representative, the City shall continue to support and implement to the extent practicable the responsibilities set forth by the Local Emergency Planning Committee until such time as the Committee is terminated.

Policy 3.1.2: The City shall support the Bonita Springs Fire Control and Rescue District in the development and maintenance of a hazardous materials response team. The City will meet with the District to establish responsibilities of each and enter into an interlocal agreement with the District outlining these.

Policy 3.1.3: The City shall cooperate with the County to develop and maintain a hazardous material emergency response plan that complies with applicable federal and state regulations and guidelines.

Policy 3.1.4: The City shall support the Bonita Springs Fire Control and Rescue District in the development and maintenance of a training program for hazardous materials response. At the meeting regarding Hazardous Materials Response Team (Policy 3.1.2. preceding) the City will include a training program in the inter-local agreement.

Policy 3.1.5: Any new development involved in the manufacturing, production, use, application, and storage of hazardous materials or toxic substances contained on the list of extremely hazardous substances published in the Federal Register shall establish an emergency notification system in the event of a release of a listed hazardous substance. Notification information will conform to requirements set forth in Section 304 of Title III: The Federal Emergency Community Right-To-Know Act of 1986.

Policy 3.1.6: Any new development involved in the manufacturing, production, use, application, and storage of hazardous materials or toxic substances listed in Chapter 38F-41, Florida Administrative Code (or subsequent updates), shall prepare or have available material safety data sheets (MSDS) under the Occupational Safety and Health Administration regulations and submit either copies of MDA or a list of MSDS chemicals to the Bonita Springs Fire Control and Rescue District and any other applicable fire district and to the Lee County Division of Public Safety.

Policy 3.1.7: The City, or appropriate agency, shall review disaster preparedness plans for all petroleum storage facilities. This review shall also include an assessment of the engineering specifications of the containment dikes at the site in a 100-year surge.

Goal 4: Coastal Resource Protection. To protect the natural resources of the coastal planning area from damage caused by inappropriate development.

Objective 4.1: Environmentally Critical Areas - Within the coastal planning area, the City of Bonita Springs shall continue to manage and regulate, on an ongoing basis, environmentally critical areas to conserve and enhance their natural functions. Environmentally critical areas include wetlands (as defined in Wetlands Goal #15) and Rare and Unique Upland Habitats. Rare and Unique Upland Habitats include, but are not limited to: sand scrub (320); coastal scrub (322); those pine flatwoods (411) which can be categorized as "mature" due to the absence of severe impacts caused by logging, drainage, and exotic infestation. The numbered references are to the Florida Land Use and Cover Classification System (FLUCCS) Level III (FDOT, 1985).

Policy 4.1.1: Development shall be limited in Rare and Unique Upland Habitats and strictly controlled in wetlands (as stated in Policy 15.1.1.) in the City.

Policy 4.1.2: The City shall continue to support the preservation of environmentally sensitive areas in the coastal planning area by land acquisition.

Policy 4.1.3: The City shall continue to protect its environmentally critical areas by:

a. Requiring the use of Planned Development (PD) for locations exhibiting characteristics of environmentally critical areas and strongly encourage the use of clustering and other innovative methods to avoid clearing and other development "footprint" impacts to the listed habitat by shifting infrastructure and units to appropriate parcel locations.

b. Requiring planned development applications to be accompanied by:

1. A description of existing conditions including:

(a) Maps or aerial photographs marked or overprinted to show soils, vegetation and ground cover, and a topographic map or a U.S.G.S. quadrangle map showing the subject property. Soils and vegetation, etc., should be classified in accordance with the USDA/NRCS System and the Florida Land Use and Cover Classification System, respectively.

(b) The location of any environmentally sensitive or critical area land and water including, at a minimum, wetlands and rare and unique upland habitats based upon standard environmental data and verified by a field inspection by the city staff.

(c) A survey of protected species, pertaining to protected species requirements.

2. A protected species and critical area management plan.

c. Zoning resolutions that are required as a part of the approval for rezoning will be tracked for future compliance and enforcement.

Goal 5: Protection of Life and Property in Coastal High Hazard and Coastal Management Areas. To protect human life and developed property from natural disasters.

Objective 5.1: Development in Coastal High Hazard Areas - The City shall minimize flood risk that results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise by directing population concentrations away from the City's coastal high hazard area by limiting new development within the Coastal High Hazard Area (CHHA). The coastal high-hazard area is the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.

Policy 5.1.1: Comprehensive plan amendments within the CHHA must meet one of the following criteria in accordance with state statutory requirements in Section 163.3178(8)(a), F.S.

a) The proposed amendment shall demonstrate that a 16-hour out of county hurricane evacuation time for a category 5 storm event, as measured on the Saffir-Simpson scale, is maintained; or

b) The proposed amendment shall demonstrate that a 12-hour evacuation time to shelter for a category 5 storm event is maintained, and ensure adequate shelter space is available to accommodate the additional residents of the development allowed by the proposed amendment; or

c) The proposed amendment shall provide mitigation to satisfy the provisions of evacuation time and shelter space as defined in Policy 5.1.1(a) and (b) above Mitigation may include payment of money, contribution of land, and/or construction

of hurricane shelters and/or transportation facilities. The required mitigation shall be addressed in a binding agreement and shall not exceed the amount required to accommodate the impacts reasonably attributable to the development.

Objective 5.2 Development in the Coastal Management Area (CMA). The City shall minimize flood risk that results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise in the Coastal Management Area (CMA).

Policy 5.2.1: Rezoning to allow higher densities shall not be permitted on barrier and coastal islands.

Policy 5.2.2: Shoreline development in V Zones shall be protected from flood risk, coastal erosion, wave action, and storms by vegetation, setbacks, and/or beach renourishment, rather than by seawalls or other hardened structures that tend to hasten beach erosion. Repairs of lawfully constructed, functional, hardened structures as defined in F. S. Chapter 161 may be allowed subject to applicable state and local review and approval.

Policy 5.2.3: Through the City's Comprehensive Plan amendment process, land use designations of undeveloped areas within the Coastal Management Area shall be considered for reduced density categories (or assignment of minimum allowable densities where density ranges are permitted) in order to limit the future population exposed to coastal flooding.

Policy 5.2.4: Development in the Coastal Management Area, except as otherwise restricted by Policy 5.1.1 and the shall be infill only and shall not exceed the surrounding properties' density/ intensity except as allowed by existing zoning at the time of the adoption of this Comprehensive Plan.

Policy 5.2.5: The City shall continue to target its land acquisition program to provide public access to the estuary, open space, preservation and recreation, and shall consider vacant properties in the Coastal Management Area for public acquisition.

Policy 5.2.6: All development and major redevelopment in the Coastal Management Area shall conform to the City's Flood Damage Protection Ordinance and be consistent with the flood-resistant construction requirements in the Florida Building Code and applicable flood plan management regulations set forth in 44 C.F.R. part 60.

Policy 5.2.7: No new mobile home parks will be allowed within the Coastal Management Area.

Policy 5.2.8: Development seaward of the Coastal Construction Control Line (CCCL) shall require applicable State of Florida approval and will be consistent with Ch. 161, F.S.

Policy 5.2.9: New development requiring seawalls for protection from coastal erosion shall not be permitted.

Policy 5.2.10: Development in coastal areas shall consider site development techniques to reduce losses due to flooding and claims made under flood insurance policies issued in the state. These may include accommodation strategies, such as elevating structures, drainage improvements, or green infrastructure techniques that function to absorb or store water.

Policy 5.2.11. The Downtown District, as defined in the Future Land Use Element, is exempt from Policies 5.2.3 and 5.2.4 of this Coastal Management Element.

(Ord. No. 17-08, § 1, 6-7-17)

Goal 6: Limitation of Public Expenditures in Coastal Management Area. To restrict public expenditures in the City's Coastal Management Area except to maintain required service levels, protect existing residents, provide for recreation/open space and preservation uses, and install enhanced water quality measures.

Objective 6.1: Coastal Management Area Expenditures - The City shall limit public expenditures that subsidize development in the Coastal Management Area.

Policy 6.1.1: All further City public expenditures for new facilities within the Coastal Management Area shall require a finding by the City Council that such expenditures are necessary to maintain required service levels, to protect existing residents, or to provide for recreation /open space and preservation needs or enhanced water quality measures.

Policy 6.1.2: No new causeways, public or private, shall be constructed to any islands.

Policy 6.1.3: No new bridges shall be constructed to undeveloped barrier islands except where needed to achieve evacuation clearance time objectives on adjoining islands connected by existing bridges. In such a case, this plan shall be amended to ensure that the ultimate development of all areas served by the new bridge is limited to levels that can safely be served by the new and existing bridges.

Policy 6.1.4: When state funding is required for the relocation or replacement of infra-structure currently within the Coastal Building Zone, the capacity of the replacement structure shall be limited to maintaining required service levels, protecting existing residents, and providing for recreation/open space and preservation needs or enhanced water quality measures.

Policy 6.1.5: The City shall extend no additional major infrastructure except for recreation/ open space and preservation needs, or enhanced water quality measures, to barrier and coastal islands beyond that which is necessary to service development that is currently allowed by zoning.

Policy 6.1.6. The Downtown District, as defined in the Future Land Use Element, is exempt from Policies 6.1.1, 6.1.4, and 6.1.5 of this Coastal Management Element.

Goal 7: Resource Protection. To manage the City's wetland and upland ecosystem so as to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics.

Objective 7.1: Resource Management - The City shall implement a Natural Resource Management Program that ensures the long-term protection and enhancement of the natural upland and wetland habitats through the retention of interconnected, functioning, and maintainable hydroecological systems where the remaining wetlands and uplands function as a productive unit resembling the original landscape.

Policy 7.1.1: The City's Natural Resource Management Program shall utilize the following measures to enhance the protection of natural resources:

a. Identified upland and wetland habitats/systems most suitable for restoration, enhancement, reclamation, and conservation.

b. Recommending standards to the City Council for approval for development and conservation that will protect and integrate wetlands and significant areas of Rare and Unique upland habitats.

c. Preparing standards for wetland, and rare and unique upland mitigation.

d. Conducting a sensitive lands acquisition program, which shall consist of the following elements.

1. A comprehensive inventory of environmentally sensitive lands shall be maintained and expanded as new data becomes available.
2. Environmentally sensitive lands shall include wetlands, important plant communities, critical habitat for listed wildlife species, environmentally sensitive coastal planning areas; natural waterways, important water resources, storm and flood hazard areas, and rare and unique uplands.
3. The City will adopt and implement a program to acquire lands critical to water supply, flood protection, wildlife habitat, and passive recreation.
4. The City shall take full advantage of opportunities to cooperatively acquire and manage sensitive lands and to leverage other funding sources by working with state land acquisition and land management agencies such as the Florida Communities Trust and the Florida Fish and Wildlife Conservation Commission and by participating in land acquisition programs such as the Save Our Rivers program, the Conservation and Recreational Lands program and Lee County's 20/20 program.
5. The City, or other appropriate agency, shall prepare a management plan for each acquired site for the long term maintenance and enhancement of its health and environmental integrity. The management plan will address any necessary people management (e.g., fences and signage to prevent incompatible uses), surface water management and restoration, ecosystems restoration, litter control, fire management, invasive exotic plant and animal control, and, where appropriate, compatible recreational use facilities. The plan will also address how maintenance will be funded.
6. The City shall encourage the establishment of, and provide assistance to, community-based land trusts, whose purpose is the preservation and protection of the City's natural resources.
7. Protecting natural reservations identified in the City's Parks and Recreation Master Plan.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 7.1.2: Reserved.

(Ord. No. 09-05, § 1, 4-15-09)

Objective 7.2: Plant communities - The City shall continue to maintain and routinely update an inventory of natural plant communities and will protect at various suitable locations remnant tracts of all important and representative natural plant communities occurring within the City.

Policy 7.2.1: The City shall coordinate with the county, state and regional agencies to exchange updated natural resources information.

Policy 7.2.2: The City shall continue to provide regulations and incentives to prevent incompatible development in and around environmentally sensitive lands as defined in the prior "Resource Management Plan" policy, such as open space requirements that:

a. Large developments must provide 50 percent of their open space percent requirement using existing indigenous native vegetation.

b. A scaled open space credit for single preserve areas will be given as an incentive to preserve indigenous native upland plant communities as follows:

INDIGENOUS VEGETATION CREDIT

Credit provided	Minimum size	Minimum width
110%	½ acre	50 feet
125%	1 acre	75 feet
150%	3 acres	150 feet

c. An additional maximum ten percent credit will be given if the areas above include rare and unique uplands or, connection to offsite conservation or preservation areas, or upland buffers to natural water bodies.

Policy 7.2.3: The City shall, when providing new infrastructure, avoid disrupting the natural functions of significant natural systems within the City by using the following process:

a. At a minimum, "Significant natural system" (SNS) shall include the estuary, including Spring Creek and the Imperial River and its tributaries, and environ-mentally sensitive lands as defined in Policy 7.1.1 d.2

b. At a minimum "Infrastructure" shall include at a minimum: roads, drainage and other capital projects which have the potential to receive funding through the City's capital improvement program.

c. Prior to the submission of any proposed capital improvement project for funding through the City's capital improvement program, the City shall:

1. Compare the project's location to mapping of wetlands, habitats and other resources in the City's Comprehensive Plan in order to identify any overlap of the proposed project's location with the location of any SNS.

2. If an overlap is identified in "1", above, the City shall identify alternative locations for the project so as to avoid SNS locations.

3. Where avoidance of an SNS is not possible or feasible and the City intends to submit the potential project for capital improvement program funding, the City shall prepare a written review for attachment with the proposed project's supporting data. The review shall contain the following components:

(a) The basis of the non-avoidance finding including alternatives examined and costs.

(b) The specific SNS(s) to be impacted.

(c) The project type, (e.g.. ditch), and scale (e.g., 300' long, 4' wide, 1.5' deep).

(d) The probable impacts of the project upon the SNS, including both short-term consequences (e.g., loss of 1,200 sq. ft. of habitat) and long term consequences (e.g., lowering of water table, bisection of habitat, etc.).

(e) Impact mitigation measures proposed.

4. For each proposed project to be considered for funding in the City's capital improvement program, the City shall include the following information for consideration by the City Council and the public:

   (a) certification that the project avoids impacting significant natural systems within the City, or

   (b) the written review as referred to in "C.3.", previous.

Policy 7.2.4: The City shall encourage the protection of viable tracts of sensitive or high-quality natural plant communities within developments.

Policy 7.2.5: The City shall maintain regulations to control the clearing of natural vegetation, including tree removal and clearing of understory, prior to the development of property or its conversion to agricultural uses, through the use of its open space requirements in Policy 7.2.2 and pursuant to Chapter 14, of the LDC its "notice of clearing" survey requirements and review contained in Administrative Code #'s 13 - 15

Policy 7.2.6: The City shall continue to require inventories and assessments of the impacts of development in environmentally critical areas.

Policy 7.2.7: The City shall continue to promote the long-term maintenance of natural systems through such instruments as conservation easements, restrictive zoning, and public acquisition.

Policy 7.2.8: The City shall use regulations and incentives, such as the following for preserving and planting native plant species and for controlling invasive exotic plants, particularly within environmentally sensitive areas:

a. Landscaping requirements which state invasive exotics must be removed from development areas and the area maintained free of these exotics, and

b. Plants on the City's list of prohibited exotic species may not be used to fulfill landscape requirements, and

c. Credits against the landscape requirements will be given for indigenous native trees and palms preserved in place.

Policy 7.2.9: Development adjacent to aquatic and other nature preserves and recreation areas shall protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

Policy 7.2.10: The City shall prohibit the planting of invasive exotic plants in landscaping requirements for land development projects. Prohibited invasive exotic plant species shall be specified in the Land Development Code and shall include, at a minimum: melaleuca, australian pine, brazilian pepper, carrotwood, chinaberry, cajeput, downy rose myrtle, cuban laurel, bishopwood, castor bean, common papaya, common snakeplant, day jessamine, air potato, hunters robe, queensland umbrella tree and trailing wedelia.

Policy 7.2.11: The City shall remove invasive exotic species on its lands and shall, through the development review process, require private development to remove such species on properties undergoing development.

Policy 7.2.12: The City shall, when updating its land development regulations, identify incentives to encourage existing residents and owners to remove invasive exotic plants.

Policy 7.2.13: Physical removal of invasive vegetation versus widespread chemical treatment will be utilized for control.

Policy 7.2.14: Limited application of herbicides that rapidly degrade may be used on a case-by-case basis, under the supervision of certified personnel for control of nuisance and invasive non-native vegetation and to maintain native plant communities.

Policy 7.2.15: To ensure protection of mangroves, the City's mangrove protection regulations shall establish enforcement procedures and restoration standards for violations of the FDEP Mangrove Protection rules so as to supplement and enhance FDEP enforcement mechanism and ensure that adequate restoration is provided. The City's regulations shall:

a. Require an FDEP permit, where applicable, prior to the alteration of any mangrove tree.

b. Establish enforcement mechanisms for violators using: stop work order, citation, notice of violation and civil and criminal penalties.

c. Require violators to provide a restoration plan using minimum planting standards, annual monitoring and maintenance as specified by the City.

The City shall re-evaluate and amend, if necessary, its mangrove protection regulations whenever state mangrove protection regulations are revised. The City shall oppose any efforts of other agencies to reduce or eliminate regulations relating to the protection of mangroves and other wetland areas.

Objective 7.3: Wildlife - The City shall continue to maintain and enhance the fish and wildlife diversity and distribution within the City for the benefit of a balanced ecological system.

Policy 7.3.1: The City shall encourage upland preservation in and around preserved wetlands to provide habitat diversity, enhance edge effect, and promote wildlife conservation by including incentives in the City's open space requirements for using preserved native vegetation areas as upland buffers to natural water bodies. This incentive shall consist of a maximum of ten percent as referred to within Policy 7.2.2c.

Objective 7.4: Endangered and Threatened Species in General - The City of Bonita Springs shall continue to protect habitats of endangered and threatened species and species of special concern in order to maintain or enhance existing population numbers and distributions of listed species.

Policy 7.4.1: The City shall identify, inventory, and protect flora and fauna indicated as endangered, threatened, or species of special concern in the "Official lists of Endangered and Potentially Endangered Fauna and Flora of Florida," Florida Fish and Wildlife Conservation Commission, as periodically updated. The City's Protected Species regulations shall be enforced to protect habitats of those listed species found in the City that are vulnerable to development by:

a. Identifying the habitat

b. Mapping the habitat

c. Directing incompatible use away from the habitat

d. Adopting a management plan if listed species are on site

There shall be a funding commitment to enforce this ordinance through the zoning and development review process.

Policy 7.4.2: The City shall conserve critical habitats of rare and endangered plant and animal species through development review, regulation, incentives, and acquisition.

Policy 7.4.3: The City shall require detailed inventories and assessments of the impacts of development where it threatens habitats of endangered and threatened species and species of special concern.

Policy 7.4.4: The City shall restrict the use of protected plant and wildlife species habitats to that which is compatible with the requirements of endangered and threatened species and species of special concern. New developments shall protect remnants of viable habitats

when listed vegetative and wildlife species inhabit a tract slated for development, except where equivalent mitigation is provided based on the recommendations of the Florida Fish and Wildlife Conservation Commission.

Objective 7.5: Loggerhead Sea Turtles - The City shall protect sea turtle nesting habitat.

Policy 7.5.1: In order to minimize the disorientation of sea turtles along the Gulf beaches the sea turtle nesting habitat protection program shall include at least the following activities:

a. Distribute a guide for homeowners and builders which explains the detrimental effects of night-time beachfront lighting on hatchling sea turtles.

b. Continue to examine public light sources (streetlights, security lights, beach access lights, etc.) and prepare a plan to minimize the amount of harmful light from such sources onto the beach during the nesting season.

c. Continue to conduct an educational program to persuade residents to reduce lighting levels on the beach and to publicize other hazards to turtles from activities of people, pets, and vehicles.

d. Continue to provide and enforce sea turtle regulations to require existing and new development to avoid the direct or indirect illumination as defined below of sea turtle nesting habitats during the nesting season; prohibit fires that will directly illuminate sea turtles habitats; require the screening of parking lots; prohibit driving at the beach during nesting season.

"Directly illuminated" means illuminated by one or more point sources of light directly visible to an observer on the beach, dune or other sea turtle nesting habitat.

"Indirectly illuminated" means illuminated by one or more point sources of light not directly visible to an observer on the beach, dune, or other sea turtle nesting habitat.

Objective 7.6: Southern Bald Eagles - The City shall use its bald eagle habitat protection regulations to protect Southern bald eagle nesting sites and request the County to monitor Southern bald eagle nesting activity.

Policy 7.6.1: The City shall maintain a policy of negotiations with owners of land surrounding eagle nests to provide an optimal management plan within which all development within critical eagle nesting habitat and buffer areas must be consistent. The management plans shall address at a minimum:

a. A description of the land around the critical eagle nesting habitat, including locations of nest tree(s) and perch tree(s), vegetation types, and a description of the type and density of understory and canopy vegetation;

b. A history and behavior patterns of the eagle pair;

c. An aerial map and a map at the scale of the development which shows the location of the eagle's nest and other critical eagle nesting habitat features as well as the proposed development;

d. The size and shape of the buffer area;

e. Measures to reduce potential adverse impacts of the development on the nesting bald eagles;

f. A critical eagle nesting habitat management plan, which shall include techniques to maintain viable nesting habitat. These techniques may include controlled burning, planting, or removal of vegetation, invasive exotic species control, maintaining hydrologic regimes, and monitoring;

g. Deed restrictions, protective covenants, easements, or other legal mechanisms, ensuring that the approved management plan will be implement and followed.

h. A commitment to educate future owners, tenants, or other users of the development about the specific requirements of the approved eagle management plan and the state and federal eagle protection laws.

The eagle technical advisory committee will consider the guidelines promulgated by FFWCC and the U.S. Fish and Wildlife Service in the review of management plans and may request technical assistance from these agencies whenever necessary.

Policy 7.6.2: The City shall request the County Eagle Technical Advisory Committee to conduct nest monitoring through the nesting season for all known eagle nests in the City. Information from these assessments shall be used to modify, as needed, the adopted nest guidelines and to adopt guidelines for new eagle nests documented in the City.

Policy 7.6.3: The City shall distribute the Committee's information to inform landowners and the general public of proper practices to minimize disturbances to eagle nests.

Policy 7.6.4: The City shall notify the Florida Fish and Wildlife Conservation Commission upon receipt of any application for a planned development rezoning, a development order, a notice of clearing, or a building permit for any property located within 750 feet of a nest. All available information regarding the behavior of the eagles occupying the nest will be included in the notice.

Policy 7.6.5: The City shall offer incentives to protect critical eagle nesting habitat through incentives that may include transfer of density within the subject property in the planned development applications, waiver of development fees and extending credit against regional park impact fees.

Policy 7.6.6: The City may acquire rights and interests in real property to protect critical eagle nesting habitat by receiving donation of lands, purchase of conservation easements, purchase or lease of lands and acquisition through eminent domain.

Objective 7.7: West Indian Manatees - The City of Bonita Springs shall ensure the protection of the West Indian Manatee.

Policy 7.7.1: Characterize and map important manatee habitats; identify and evaluate potential threats to important habitats; and consider management agreements to protect such habitats.

Policy 7.7.2: Identify areas of greatest actual or potential boat/barge mortality and/or injury, and re-evaluate existing slow or idle speed zones.

Policy 7.7.3: Inform and educate the public through sign posting, lectures, and regulations about Manatee protection.

Policy 7.7.4: Educational materials regarding manatees should be disseminated to boaters and warning signs placed in areas where both Manatee and humans congregate.

Policy 7.7.5: Construction and expansion of multi-slip docking facilities and boat ramps shall be encouraged in locations where there is quick access to deep, open waters where the associated increase in boat traffic will be outside areas of high manatee concentration.

Policy 7.7.6: The City shall work in cooperation with State, local, and private interests to develop and implement area-specific manatee protections plans.

Policy 7.7.7: The City shall cooperate with the County to provide a permanent funding source to assist in the enforcement of vessel regulations for manatee protection in the City.

Policy 7.7.8: The City shall require strict enforcement of boating speed limits and regulations in the City limits.

Policy 7.7.9: The City shall utilize the Boat Facility Siting Plan for Lee County to review proposed marina and other boat facility permitting requests.

Policy 7.7.10: The City shall cooperate with Lee County and other agencies to minimize injuries and mortality of manatees to maintain the existing population by encouraging the adoption by the State of Florida and local governments of regulations to protect the West Indian Manatees.

Objective 7.8: Gopher Tortoises - The City shall protect gopher tortoises through the enforcement of the protected species regulations and by cooperating with Lee County and the Florida Fish and Wildlife Conservation Commission in operating and maintaining the Hickey Creek Mitigation Park.

Policy 7.8.1: The City's policy is to protect gopher tortoise burrows wherever they are found. However, if unavoidable conflicts make on-site protection infeasible, then off-site mitigation may be provided in accordance with Florida Fish and Wildlife Conservation Commission requirements.

Objective 7.9: Red-Cockaded Woodpecker - The City shall protect the red-cockaded woodpecker habitat.

Policy 7.9.1: The City will note and document other possible red-cockaded woodpecker sites during routine site inspections.

Policy 7.9.2: The City shall coordinate with the Florida Fish and Wildlife Conservation Commission to determine on a case-by-case basis the appropriate mitigation for the protection of the red-cockaded woodpecker's habitat. Mitigation may include on-site preservation, on-site mitigation, off-site mitigation, and associated habitat management.

Objective 7.10: Wood Stork - The City shall continue to maintain regulatory measures to protect the wood stork's feeding and roosting areas and habitats as long as the federal and state governments categorize it as a listed specie.

Policy 7.10.1: The City's protected species regulations shall continue to include wood storks as a Listed Species, requiring surveys for and protection of wood stork habitat. The City shall continue to maintain an inventory of documented feeding, roosting, and rooking areas for the wood stork to ensure that surveys submitted through the Protected Species Ordinance include such areas.

Policy 7.10.2: The City shall continue to require management plans for existing wood stork feeding, roosting, and rooking areas to utilize "Habitat Management Guidelines for the Wood Stork in the Southeast Region" (U.S. Fish and Wildlife Service, 1990).

Policy 7.10.3: The City shall encourage the creation of wood stork feeding areas in mandatory littoral shelf design, construction, and planting.

Objective 7.11: Marine Productivity - The City shall continue to support maintenance and improvement of marine fisheries productivity, and promote the conservation of fishery resources through the protection and restoration of finfish and shellfish habitat.

Policy 7.11.1: The City shall cooperate with Lee County to assist in creating and renourishing artificial reefs in coordination with the Florida Department of Environmental Protection and other appropriate organizations. Through the Estero Bay Agency on Bay Management the City shall meet with Lee County and FDEP to establish a role for the City in the Artificial Reef Program.

Policy 7.11.2: The City shall support state and federal fisheries management programs that protect and enhance the long-term biological and economic productivity of coastal and estuaries waters and their sources for commercial and sport fisheries.

Policy 7.11.3: Unmarked channels or passages that have been used to traverse shallow inshore waters may be marked to reduce injury to marine sea grass beds if appropriate (subject to obtaining necessary permit approvals).

Objective 7.12: Stream and River Protection - The City shall ensure that the streams, rivers and estuary are protected from the negative impacts of development, such as pollution, in order to maintain or improve the water quality of the area during the planning time frame.

Policy 7.12.1: The City shall adopt a stream protection overlay zone for the Imperial River and Bayside drainage area of Little Hickory Island. The overlay zone shall require the use of "state of the art" Best Environmental Management techniques for new development and redevelopment and will target pollution control and water conservation education to existing residents. Within the zone the City will also:

a. Request the USDA Natural Resources Conservation Service (NRCS) make avail-able the services of a mobile irrigation lab to, on request of the property owner, provide expert advice on lawn watering, fertilizer, pesticide and herbicide use in the zone. The City should also request the NRCS to examine the river and its tributaries for the sources of erosion and provide specific methods and means for controlling erosion and the resulting sedimentation and shoaling in the estuary. Water conservation, erosion and pollutant control is a major goal of the Service.

b. Prohibit outside storage of fertilizer, pesticides, and herbicides.

c. Sponsor special pickups for disposal of hazardous containers, oil and such potential pollutants.

d. Promote erosion control through non-structural means where natural native vegetation within flowways and natural systems will be retained to the greatest extent possible.

e. Promote removal of invasive exotic species.

f. Produce and/or distribute educational brochures on pollution control and other environmental topics, including Manatee protection, germane to the zone's residents.

g. Urge existing residents to use xeriscape plants when gardening or installing new shrubbery. Require such use for new development in the zone to conserve water and reduce pollution.

h. Allow no further channelization of remaining natural watercourses to occur.

i. Minimize impervious surfaces where possible.

j. Use swales for water quality benefits where possible.

k. Target compliance and enforcement of existing environmental regulations as a top priority for regulatory agencies

l. Involve neighborhood organizations.

m. Use non-structural approaches versus structural approaches for water resource management solutions.

n. Demonstrate the use of best management practices in all city road planning and construction and all other city projects in the zone.

o. Retain the relic natural features of the tributary bank contours.

p. Reconnect, where possible, historic natural flowways that have been diverted or severed.

q. Allow no special accommodations for boats (e.g. no cutting of overstory vegetation, no removal of oxbows, no dredging or filling except for permitted maintenance of navigation channels).

r. Promote programs such as the "Keep it Clean" and "Florida Yards and Neighborhoods" to minimize inputs of stormwater pollutants into the bay.

s. Examine the City's required 25-foot setback from water bodies as it applies to the Imperial River and its tributaries for adequacy of riparian vegetation, erosion, water quality and flood protection.

Policy 7.12.2: The City shall consider establishment of a stream protection zone for Spring Creek. In the meantime, new development shall be required to ensure that the volume of stormwater runoff shall be no greater than that existing prior to development and that the quality of stormwater runoff shall be at least as good as that existing prior to development [reference Rules 62-4.242, 63-302, and 40E-4,F. A. C., and the South Florida Water Management District's *Basis of Review for ERP Applications]* .

Policy 7.12.3: The City shall inform Bonita Springs Utilities to, as soon as reasonably possible, extend wastewater collection lines and connect the remaining septic tanks in the Imperial River Watershed to the utilities' central sewer service.

Goal 8: Historic Resources. Protect, provide access to and educate residents regarding the historic resources of the City of Bonita Springs.

Objective 8.1: Protect historically significant structures and properties and prehistoric resources in the City from deterioration and/or demolition.

Policy 8.1.1: The City will protect its historic structures as outlined in Policies 1.5.1 through 1.5.9 in the Housing Element.

Policy 8.1.2: The City shall continue to protect its historic and prehistoric resources by requiring that new Planned Developments identify and preserve such resources.

Objective 8.2: The City will provide access to, and education of, historic resources to its residents.

Policy 8.2.1: The City will continue efforts to redevelop the ~~"Old 41" area~~Downtown District in order to build community pride, attract tourism and improve the area's economic conditions.

Policy 8.2.2: The City will sign its historic sites and provide educational materials to City residents regarding the City's historic resources.

Policy 8.2.3: The City's Parks and Recreation planning shall include bike and pedestrian ways linking historic resources where possible.

Goal 9: Estuarine Water Quality. To manage estuarine ecosystems so as to maintain or improve water quality and wildlife diversity; to reduce or maintain current pollution loading and system imbalances in order to conserve estuarine productivity; and to provide the best use of estuarine areas.

Objective 9.1: Water Quality Monitoring - The City of Bonita Springs shall monitor the water quality of the estuarine systems for pollutants and freshwater loading so as to ensure that water quality is not degraded.

Policy 9.1.1: The City shall cooperate with the Lee County Division of Natural Resources Management, or its successor, to monitor estuarine water quality. The City will enter into an inter-local agreement with the County establishing the responsibilities of each for:

a. Setting up and operating a network of water quality sampling sites to fill in gaps in the state sampling program, especially in Estero Bay.

b. Maintaining liaison with other local, state, and federal agencies engaged in water quality monitoring, and reviewing their data, conclusions, and recommendations.

c. Developing a system for reporting on water quality conditions and trends on a regular basis.

d. Recommending actions that are intended to maintain or improve water quality in the estuaries to meet the Department of Environmental Protection's criteria for the appropriate class water body and preserve the "approved for shellfish harvesting" classification where applicable, while attempting to return viable "closed" (due to water quality) shell fishing areas to an "approved" status.

Policy 9.1.2: Development affecting coastal and estuarine water resources shall maintain or enhance the biological and economic productivity of these resources.

Policy 9.1.3: The City shall cooperate with the South Florida Water Management District, local utilities, and other appropriate agencies for monitoring and review of freshwater discharge affecting estuarine areas, in order to maintain the biological and chemical balances necessary for optimum productivity. The City technical staff shall meet through the Estero Bay Agency for Bay Management with the District, utilities and agencies to establish a common basis for monitoring in the City.

Policy 9.1.4: The City shall cooperate with the Florida Marine Patrol, U. S. Coast Guard, U. S. Army Corps of Engineers, and the Florida Department of Environmental Protection in the enforcement of pollution control standards for marinas, marine dumping, and illegal discharges from watercraft. The City shall enforce its marina pollution control standards and shall, through the agency for bay management, discuss with the agencies methods and means to prevent dumping and illegal discharges.

Policy 9.1.5: Installation of shore side pump-out stations at marinas that serve live-aboards shall be required to provide adequate facilities for subsequent transfer and treatment of boat sewage.

Policy 9.1.6: The City of Bonita Springs shall continue to cooperate with Lee County to establish baseline conditions of estuarine conditions within the City, including pollutant and freshwater loadings, and increase it ongoing water quality monitoring program.

Objective 9.2: Watershed Management Plans. - The City shall ensure that the watershed is protected.

Policy 9.2.1: The City shall utilize its procedures for reviewing all new upland development in terms of its impacts on estuarine systems.

Policy 9.2.2: The City, working with the County's estuarine management agency, shall assist the agency in preparing estuarine watershed management plans that maximize stormwater retention and treatment, with priority given to the Estero Bay watershed.

Policy 9.2.3: The City shall work with the County's estuarine watershed management agency in:

a. Preparing management plans for estuarine watersheds, with priority to the watershed of Estero Bay, a critical estuary undergoing development impacts.

b. Reviewing the feasibility of changing canal patterns and retrofitting existing storm water collection systems in order to reduce the impact of freshwater on estuaries.

c. Assessing the adequacy of disaster preparedness plans for coastal oil storage facilities.

Objective 9.3: Best Management Practices (BMPs). To improve the freshwater quality of the Imperial River for both Dissolved Oxygen (DO) and nutrients Total Phosphorus and Total

Nitrogen (TP & TN), the City shall develop a Nutrient Discharge Limitation program by 2008, setting limits as to the amount of nitrogen (N) and phosphorus (P) that can be directly or indirectly discharged into the waters of the State within the corporate limits of the City. Specifically, the City shall adopt a numerical standard for nutrients and pollutants of concern. New developments requiring a development order after the adoption of this program shall conform to the designated LOS standards and demonstrate through independent testing that the standards are met.

Policy 9.3.1: The City shall require new developments requiring a development order to design stormwater treatment systems using a treatment train (multiple-method) approach incorporating multiple Best Management Practices (BMPs) to ensure the maximum potential treatment of stormwater. Such treatment train approach would require a selection of five Best Management Practices from the enclosed Table V-1 labeled Southwest Florida Basin BMPs. The site and the surface water management system design shall include: a minimum of two (2) BMPs from Group A of Table V-1; and a minimum of two (2) BMPs from Group B of Table V-1; and a minimum of one (1) BMP from Group C of Table V-1. The City will consider alternative BMPs which are not listed in Table V-1, provided that the application includes: descriptions and construction plans for the proposed BMPs; information demonstrating the effectiveness of the proposed BMPs; calculations that demonstrate that no impacts to flood protection will occur; and operation and maintenance plans for the proposed BMPs. "Best Management Practices (BMPs)" means structural and non-structural facilities or practices intended to reduce pollution either through source control or treatment of stormwater. Additionally, pre- and post-construction water quality monitoring shall be required (according to FDEP Water Quality Sampling protocol) to demonstrate whether post-development pollutant loadings are equal to or less than pre-development pollutant loadings and to assure that the numerical standard adopted by the City are attained. If monitoring indicates that the development is contributing to increased pollutant loading over predevelopment conditions, or the numerical standard has not been attained, additional BMPs will be required until monitoring indicates that loading is reduced to equal or less than pre-development and the numeric standard is attained. In all developments, there shall be no reduction in Groundwater Recharge.

TABLE V-1
Southwest Florida Basin Best Management Practices (BMPs)

BMP	Description
Group A - Site Design Source Controls and BMPs	
1. Reduced Turf Coverage	For projects with less than seventy-five percent (75%) impervious area within the project area, less wet detention areas or wetland and upland conservation areas established in a conservation easement, the following BMPs may be utilized: a. Projects with turf coverage of less than or equal to fifty percent (50%) of the pervious area of the developed portion of the project (excluding wetland and upland conservation areas) shall receive credit for one (1) BMP. b. Projects with turf coverage of less than or equal to a total of thirty

	percent (30%) of the pervious area of the developed portion of the project (excluding wetland and upland conservation areas) shall receive credit for two (2) BMPs.
2. Native Landscape Plantings	a. Projects with non-turf plantings consisting of at least fifty percent (50%) native species, of which fifty percent (50%) must be drought tolerant, shall receive credit for one (1) BMP. Native species are defined in Nelson, Gil. *Florida's Best Native Landscape Plants: 200 Readily Available Species for Homeowners and Professionals* , University Press of Florida, 2003 b. Projects with non-turf plantings consisting of at least seventy-five percent (75%) native species, of which seventy-five percent (75%) must be drought tolerant, shall receive credit for two (2) BMPs.
3. Stormwater Recycling	Projects which incorporate systems for storing stormwater runoff to be used for irrigation or other reuse shall receive credit for one (1) BMP. Reuse systems must be designed with surface water management systems that ensure no impacts to flood protection or water quality treatment. An operating entity meeting the requirements of Section 9.1, Basis of Review for Environmental Resource Permits within the South Florida Water Management District must be designated.
4. Rooftop Runoff	Building rooftop runoff which will be managed using one or more of the following shall receive credit for one (1) BMP: a. Bioretention: building and home rooftop runoff must be discharged onto shallow landscaped depressions designed to capture the first 0.5 inches of roof runoff, which are planted with native vegetation, and backfilled with soil-rock aggregate (bioretention cell). An analysis is required of the pervious area's ability to infiltrate roof runoff and accept roof runoff from the design storm event without erosive impacts. b. Vegetated Roof Cover (for non-residential buildings): for engineered roofing systems that allow for the propagation of rooftop vegetation while protecting the integrity of the underlying roof, the minimum coverage of the roof area must be sixty percent (60%). A maintenance and monitoring plan shall also be submitted.
5. Cisterns	Building and home rooftops which direct fifty percent (50%) of their runoff into cisterns for storage and reuse shall receive credit for one (1) BMP.

6. Pervious Pavement	Projects which incorporate and maintain pervious or porous material on parking lots, driveways, or other applicable areas shall receive credit for one (1) BMP. The projects must include a minimum of thirty percent (30%) of non-roadway vehicle impervious area. Details of pervious pavement area foundation design, construction methods and a post construction maintenance plan shall be submitted with the permit application.
7. Detention/Retention Pond Side Slope Buffers	Projects which incorporate planted non-turf side slopes leading to stormwater detention/retention ponds located above normal water control elevation designed to prevent direct runoff from turf landscapes into ponds shall receive credit for one (1) BMP. A minimum coverage of fifty percent (50%) of the pond perimeter is required. Plans must demonstrate the area will not cause erosion impacts, will be properly maintained, and will maintain access for maintenance. Average five (5) foot wide strips planted on a minimum of two (2) foot centers with wetland and/or transitional plant species are required.
Group B - Stormwater Conveyance and Pretreatment BMPs	
1. Filter Strips/Vegetated Stormwater Inlets, or Vegetated Swales	a. Projects which contain vegetated buffers with less than five percent (5%) slope located between impervious areas and stormwater inlets shall receive credit for one (1) BMP. There must be a minimum of twenty (20) feet between impervious areas and inlets. The buffer area must be designed to minimize concentrating flows by spreading the flow over an area of at least five (5) feet wide. A minimum of thirty-five percent (35%) of the proposed project drainage area must be designed to discharge through the vegetated buffers. Areas that do not discharge through vegetated buffers must not be areas of high potential pollutant discharges, unless they have an alternate pretreatment BMP. For the purposes of this table, areas of high potential pollutant discharges are defined as areas where potential pollutants are stored or transferred and include maintenance areas, trash bin areas, fueling areas, and loading docks. b. Projects where a total of seventy percent (70%) of the proposed project drainage area is designed to discharge through the vegetated buffers described above shall receive credit for two (2) BMPs.
2. Vegetated (Grassed) Swales	Projects which utilize vegetated or grassed swales to receive stormwater runoff from roadways and parking lots, as opposed to curbs, gutters, or culverts, to convey stormwater shall receive credit for one (1) BMP.

	A minimum of thirty-five percent (35%) of the proposed project drainage area must be designed to discharge through these swales. Areas that do not discharge through these vegetated buffers must not be areas of high potential pollutant discharges, unless they have an alternate pretreatment BMP.
3. Sediment Trap Structures	a. Projects which incorporate the installation of baffle boxes, or equivalent proprietary designs, upstream of the primary detention/retention system, shall receive credit for one (1) BMP. Long-term operation plans must include mandatory manual or vacuum cleanout of accumulated sediments. An operating entity meeting the requirements of Section 9.1, Basis of Review for Environmental Resource Permits within the South Florida Water Management District must be designated and a maintenance schedule must be established. A minimum of thirty-five percent (35%) of the proposed project drainage area must be designed to discharge through these facilities. Areas that do not discharge through these facilities must not be areas of high potential pollutant discharges, unless they have an alternate pretreatment BMP. b. Projects where a total of seventy percent (70%) of the proposed project drainage area is designed to discharge through the above described baffle boxes or equivalent proprietary designs shall receive two (2) BMP credits.
4. Dry Detention/Retention Pre-Treatment	a. Projects with dry detention/retention pre-treatment areas constructed upstream of primary detention/retention systems shall receive credit for one (1) BMP. A minimum additional one-half (½) inch detention/retention volume is required in addition to the detention/retention volume required in the primary detention/retention system. These areas are not subject to the twenty-five percent (25%) and fifty percent (50%) volume credits provided in Section 5.2.1 of the Basis of Review for Environmental Resource Applications within the South Florida Water Management District. A minimum of thirty-five (35%) of the proposed project drainage area must be designed to discharge through the dry detention/retention pretreatment areas. Portions of the project that do not discharge through dry detention/retention pretreatment areas must not be areas of high potential pollutant discharges, unless they have an alternate pretreatment BMP. b. Projects where seventy percent (70%) of the proposed project drainage area is designed to discharge through the dry

	detention/retention pretreatment areas described above shall receive two (2) BMPs.
Group C - Stormwater Management System Design Enhancement BMPs	
1. Extended Hydraulic Residence Time	Surface water management systems which provide for an extended average Hydraulic Residence Time of at least 21 days during the wet season (June - October) shall receive credit for one (1) BMP. The maximum detention area depth allowed in calculations to demonstrate compliance with the average hydraulic residence time is twelve (12) feet from the control elevation. The actual depth may be greater than twelve (12) feet to a maximum of twenty (20) feet if it can be demonstrated that the additional depth will not cause water quality degradation of the water discharging from the wet detention area.
2. Wetlands	Projects which utilize on-site created wetlands in a treatment train as a polishing cell after primary treatment shall receive credit for one (1) BMP. Created wetland mitigation areas are acceptable if primary treatment is provided prior to discharge into the mitigation area. Discharges into wetlands must not adversely impact the wetlands. Potential impacts include, but are not limited to, alteration of hydroperiod, erosion, recruitment of exotic species, or other water quality impacts.
3. Littoral Berms/Settling Basins/Phyto-Zones within Detention Areas	Projects with constructed basins within detention areas (lakes) below the control elevation that provide an area for discharges into the lake to disperse, allowing pollutants to settle out of the water column prior to overflowing an earthen or rock berm, into the remainder of the detention area shall receive credit for one (1) BMP. The earthen or rock berm must be located at or below the control elevation. A minimum of seventy percent (70%) of the proposed project drainage area must be designed to discharge through these facilities. Areas that do not discharge through these facilities must not be areas of high potential pollutant discharges, unless there is an alternate pretreatment BMP.
4. Planted Filter Marsh	Projects designed with a planted wetland marsh just upstream of project outfall structure shall receive credit for one (1) BMP. These areas shall be designed as shallow areas with a minimum size of ten percent (10%) of the total lake area measured at the control elevation constructed within the lake and planted with wetland vegetation such that all stormwater must flow through the marsh area prior to discharging through the project

	outfall structure. A sump area between the marsh area and outfall structure is also required. Detailed plans of the marsh area are required that include marsh area location, dimensions, elevations, species to be planted and a maintenance plan.
5. Increased Flow Path	Projects which incorporate internal levees and/or berms within the stormwater detention ponds or locate inflow and outflow structures to maximize effective treatment time by increasing the flow path distance shall receive credit for one (1) BMP. The minimum flow path distance between inflows and outflows for each pond must be twice the average width of the pond.
6. Chemical Treatment	Addition of chemicals, such as Alum, to the stormwater management system shall result in credit for one (1) BMP. Detailed plans are required on chemical injection methods, rates, mixing of chemicals and stormwater, calculations for sizing settling basin, and location of each component. Operation and maintenance plans and monitoring of the system effectiveness is also required. The operating entity shall be a government entity with resources to operate and maintain the system.

Policy 9.3.2: The City shall require a Post Construction Pollution Prevention Plan. "Post Construction Pollution Prevention Plan" means a document that provides details of controls and practices to be implemented after construction is completed to reduce or eliminate the generation and accumulation of potential stormwater runoff contaminants at or near their source. The Post Construction Pollution Prevention Plan shall include plans for surface water management system operation and maintenance, nutrient and pesticide management, solid waste management, and/or animal/livestock waste storage and disposal if applicable. The Plan shall require maintenance, operation and annual inspection of the surface water management system. A Post Construction Pollution Prevention Plan shall be submitted as part of the application for development. If a property owners' association or other entity will be formed that is responsible for operating and maintaining the surface water management system, the Post Construction Pollution Prevention Plan shall be incorporated into the entities' Articles of Incorporation, Declaration of Protective Covenants or Deed Restrictions.

Policy 9.3.3: The City shall require as a condition for issuance of development orders an additional fifty (50) percent retention/detention water quality treatment over that required in Section 5.2.1(a) of the Basis of Review for Environmental Resource Permits within the South Florida Water Management District. Dry detention water quality treatment systems shall not be used as the primary detention/retention component of the water management system. Primary Detention/Retention Treatment System or Component" means that portion or component of the surface water management system providing the volumetric requirements of Section 5.2.1(a) of the Basis of Review For Environmental Resource Permit Applications Within The South Florida Water Management District. Dry detention

water quality treatment components shall only be incorporated as pretreatment components upstream of the primary detention/retention components of a surface water management system. Wet detention areas shall provide an average hydraulic residence time of at least fourteen (14) days during the wet season (June - October). The maximum detention area depth allowed in calculations to demonstrate compliance with the average hydraulic residence time is twelve (12) feet from the control elevation. The actual depth may be greater than twelve (12) feet to a maximum of twenty (20) feet if it can be demonstrated that the additional depth will not cause water quality degradation of the water discharging from the wet detention area. Wet detention areas shall include planted littoral zones covering a minimum of 30% percent of the wet detention areas measured at the control elevation. The depth of the littoral zone must be from one (1) foot above to three (3) feet below the control water elevation and have a slope no steeper than 4:1 (horizontal: vertical). The littoral zone must be planted at a minimum density of two (2) feet on-centers. Location of the plantings, species to be planted and a maintenance plan shall be submitted as part of the application.

Policy 9.3.4: The City shall participate in the Estero Bay Nutrient Management Partnership process for purposes of supporting improvements to the water quality of Estero Bay and providing public education to its citizens as it regards stewardship of the local water resources.

Policy 9.3.5: The City shall begin the process of reevaluating the current transfer of development rights as presently written in the Comprehensive Plan to allow for broader use of this function as an effective planning tool for protecting water quality.

Policy 9.3.6: The City will work with Bonita Springs Utilities (BSU) and provide incentives, such as seeking State and Federal grants, to existing developments within the DRGR areas to connect existing sanitary sewer systems to the BSU treatment plant and to remediate existing infiltration ponds abandoned as a result of this process. Further, the City and BSU shall cooperate in the planning and development of a plan to provide sanitary sewer service to all lands within the DRGR.

Policy 9.3.7: The quality of water to be discharged from new surface water management systems is, and shall remain, subject to Federal, State, Regional and Local permitting programs and regulations that determine compliance with Federal, State and Local water quality standards. Stormwater discharges from Developments must meet relevant water quality and surface water management standards as set forth in Florida Statutes Chapters 373 and 403, Rules 62-4, 62-40, 62-302, 40E-4, F.A.C. and by local ordinance.

Policy 9.3.8: The City shall require all new developments requiring a development order to meet the provisions of the SFWMD Volume IV, Basis of Review for Surface Water Management and local provisions pursuant to the Land Development Code to protect surface water quality within the City.

Policy 9.3.9: Private, State and Federal Grants and incentives should be sought for the development of surface water quality treatment system retrofitting projects for old surface water management systems that are not effectively managing water volume or flow, or removing nutrients and other pollutants. New and retrofitted systems should be developed to effectively manage water volume or flow, or removing nutrients and other pollutants.

Policy 9.3.10: The City shall periodically review the Land Development Code to ensure all rules and regulations are conducive to the implementation of water quality BMPs.

Policy 9.3.11: The City shall require all new residential construction and all future developments requiring a development order, to implement the provisions of the Florida Yards and Neighborhoods program.

Policy 9.3.12: The City shall require periodic updates of the current Wellfield Protection Ordinance no less than every 5 years.

(Ord. No. 07-04, § 1, 3-7-07)

Goal 10: Evacuation and Shelter. To provide evacuation and facilitate the development of shelter capabilities adequate to safeguard the public against the effects of hurricanes and tropical storms.

Objective 10.1: Evacuation - The City shall maintain or improve evacuation clearance times from the 2001 levels using the 2001 Southwest Florida Regional Hurricane Plan Update as guidance.

Policy 10.1.1: The City shall assess the impact of all new residential development upon the projected hurricane evacuation network and upon projected hurricane clearance times, and shall require mitigation either through structural (on-site, off-site shelter) provisions or through non-structural methods or techniques.

Policy 10.1.2: The City of Bonita Springs shall place a high priority in its capital expenditure program for Category 1 through 3 hurricane evacuation route roadway links when these links are the City's responsibility and shown to be congested and a hazard to evacuation.

Policy 10.1.3: The City of Bonita Springs shall urge the responsible agency to place a high priority in its capital expenditure program for Category 1 through 3 hurricane evacuation route roadway links when these links are not the City's responsibility and are shown to be congested and a hazard to evacuation.

Policy 10.1.4: The City shall advise Lee County (jurisdictional agency) to monitor the effects of SFWMD efforts to reduce flooding in the upper river watershed and how these efforts may reduce the flooding potential of Bonita Beach Road, one of the City's hurricane evacuation routes.

Objective 10.2: Shelter - The City shall increase the amount of shelter spaces in the City or the County during the planning time frame.

Policy 10.2.1: The percentage rate of the evacuation population to be used as the basis for in-county and on-site shelter demand shall be twenty-one (21) percent of the population at risk in the Hurricane Vulnerability Zone under a Category 3 storm hazard scenario except for those developments with Lee County or City of Bonita Springs approved Hurricane Management Plans. This rate shall also be the target shelter capacity for a program to provide an emergency shelter supply within the City and Lee County.

Policy 10.2.2: The City of Bonita Springs shall implement a program designed to meet the level of service stated in the prior Policy. Components of this program may include:

a. Funding of the All-Hazards MSTU;

b. An impact fee or fee in lieu for new residential developments, with appropriate credits for the construction of on-site shelters outside of category 1 areas;

c. Mandatory on-site shelters for new residential developments (including mobile home and recreational vehicle parks) over a specified size threshold and outside Category 1 areas of the Hurricane Vulnerability Zone; and

d. Coordinate with the Local Hazard Mitigation Strategy working group to act as facilitator to obtain funding for qualifying private groups to retrofit potential shelters.

e. Support projects that fund building or retrofit projects that reduce the City's hurricane shelter space deficit.

Policy 10.2.3: On-site shelters shall be required to meet established standards, including provision of adequate shelter space, elevation above Category 3 hurricane storm surge flooding levels, adequate wind proofing, glass protection, emergency power where needed, water supplies, and other basic needs.

Policy 10.2.4: On-site shelters for the general public shall not be built on barrier or coastal islands.

Policy 10.2.5: The City shall determine the feasibility of evacuating residents from the Category 1 area to vertical shelters within residential, commercial, and industrial sites in the Category 2, 3, and 4 areas of the Hurricane Vulnerability Zone.

Goal 11: Hazard Mitigation. To provide through City plans, programs, and regulations means to minimize future property losses from natural disasters such as flooding, tropical storms and hurricanes.

Objective 11.1: Development Regulations - The City shall reduce the vulnerability of development in the A-Zone as defined by FEMA.

Policy 11.1.1: All development regulations shall be reviewed and revised to require that the vulnerability of future development in the A-Zone (as defined by the FEMA) be reduced.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 11.1.2: Regulations and incentives will be examined for additional setbacks in critical erosion areas, conservation and enhancement of dunes and vegetation, flood proofing of utilities, and appropriate requirements for structural wind resistance and floodplain management. Reference will be made to Coastal Construction Manual Vols. 1-3, FEMA, August 2011.

Policy 11.1.3: The City shall not permit new mobile home parks in areas of special flood hazard as defined by the Federal Emergency Management Agency.

Policy 11.1.4: All new residential development of more than 50 units shall be required to provide continuing information to residents concerning hurricane evacuation and shelters, through the establishment of a homeowner's or residents' association.

Policy 11.1.5: All new residential development of more than 100 units shall be required to formulate an emergency hurricane preparedness plan, This plan is subject to the approval of the City through the County's Division of Emergency Management.

Objective 11.2: The City shall use its ordinances, plans, programs and intergovernmental coordination to minimize future losses from natural disasters.

Policy 11.2.1: The City shall vigorously enforce its Flood Damage Prevention Ordinance.

Policy 11.2.2: The City shall maintain the provisions of the City's Flood Damage Prevention Ordinance that interpret the 50% improvement threshold as cumulative for any combination of repairs, rehabilitation, alterations, improvements or reconstruction project to an existing building or structure within five years be deemed "substantial improvement." A repetitive loss property is defined as one for which two or more National Flood Insurance Program (NFIP) losses of at least $1,000.00 each have been paid during a 10-year period.

Policy 11.2.3: The City shall maintain the provision in the City's Flood Damage Prevention Ordinance, which defines a structure undergoing "substantial improvement" to be brought into current base flood elevation requirements.

Policy 11.2.4: The City shall inform FEMA of the necessity of identifying on FEMA mapping the areas in the Imperial River Basin subject to excessive rainfall flooding.

Policy 11.2.5: The City shall give high priority to projects that improve the ability of current drainage systems to convey or divert stormwater flooding from areas of the City that have suffered repeated flooding events.

Policy 11.2.6: The City shall continue to maintain a member on the Local Mitigation Strategy working group through which the City will continue efforts to identify critical facilities that need mitigation protection due to their importance in helping the community to respond to and recover from identified hazards.

Policy 11.2.7: Floodproofing of critical facilities within the defined Coastal High Hazard Category 1 storm surge area shall receive priority for grant funding requests.

Policy 11.2.8: The City shall request its utility providers to examine the feasibility of designing water, sewer, and power infrastructure facilities so that they can function during a 500-year flood event, and evaluate the effectiveness of existing emergency power supplies to critical facilities and implement enhancements as needed to provide three to five days of functional operation.

Policy 11.2.9: The City shall adopt the County's Comprehensive Emergency Management Plan.

Policy 11.2.10: The City shall develop and carry out public information programs for hazard mitigation that emphasize its direct benefits to citizens, including the public and private sector.

Policy 11.2.11: The City shall continue to work with community realty associations to improve participation in the voluntary real estate disclosure program for flood hazards.

Policy 11.2.12: The City shall continue efforts to support funding programs that provide assistance to property owners on ways to mitigate property from identified hazards.

Policy 11.2.13: Immediately following any natural disaster in the City resulting in losses or costs greater than one million dollars, the City shall identify areas needing redevelopment, including those having unsafe conditions or inappropriate uses.

Policy 11.2.14: When updating its Comprehensive Plan, the City shall review *The Unified Local Mitigation Strategy for Lee County, Florida* and include relevant goals, objectives and policies of The Strategy into the City's plan.

Goal 12: Post-Disaster Redevelopment. The City shall provide for planning and decision-making to guide redevelopment during the response and recovery period following major emergencies, such as tropical storms and hurricanes.

Objective 12.1: Intergovernmental Coordination - The City shall use intergovernmental coordination to assist the City in guiding it's actions following a natural or technological disaster.

Policy 12.1.1: The City shall develop its own detailed Post-Disaster Redevelopment Plan and ordinance.

Policy 12.1.2: The City shall maintain it's Statewide Mutual Aid Agreement with the Florida Division of Emergency Management for participation in this method to plan, respond and recover from disasters.

Policy 12.1.3: The City shall enter into an Interlocal Agreement with the Bonita Springs Fire and Rescue District regarding roles in Post-Disaster Redevelopment.

Policy 12.1.4: The City shall continue to participate in the Local Mitigation Strategy working group to avoid, prepare for, and mitigate the effects of natural and man induced disasters. The City shall use this forum as the principal avenue to bring forward City hazard mitigation needs.

Policy 12.1.5: The City shall continue to use its participation in the Local Mitigation Strategy working group to actively seek funding for the City's "Repetitive Loss properties."

Policy 12.1.6: The City shall continue to support the South Florida Water Management District's efforts to increase the storage capacity to retain stormwater in the Estero Watershed.

Objective 12.2: Until such time as a more detailed Post-Disaster Redevelopment Plan is prepared specifically for the City, the following policies and priorities shall be applied to expedite post-disaster recovery and reduce the future risk to human life and public and private property, to the extent that they are consistent with, and do not conflict with, the Post-Disaster Redevelopment Plan and Ordinance of Lee County.

Policy 12.2.1: The City shall designate a Recovery Task Force (RTF) to develop its detailed Post-Disaster Redevelopment Plan and to serve as the primary body involved in implementing and evaluating the post-disaster response and reporting to the City Council with recommended modifications as appropriate.

Policy 12.2.2: The following priorities shall apply to recovery activities.

a. The Immediate Emergency Activities - The first priority shall be the attention to life saving needs of residents, including search and rescue, debris clearance to provide access for emergency vehicles and the provision of water, food, ice, medical care, emergency access and communications and the security of residents and possession from harm, health and temporary housing.

b. Short Range Restoration - The second priority shall focus on the repair of minor and moderately damaged structures and operations including damage assessment and disaster declaration and the initiation of individual and public assistance programs.

c. Long Range Reconstruction - The third phase of recovery includes the full restoration of services and the reconstruction of severely damaged homes, businesses, and infrastructure.

Policy 12.2.3: Rebuilding and Reconstruction Management - To allow for sufficient time for damage assessment and to identify needed changes to development practices, following a disaster, the City Council shall declare a temporary moratorium on the issuance of permits for new construction, repair to structures with minor or major damage, or the processing of new or outstanding permits or applications for rezoning, site plan reviews, or other land development or construction activities.

a. Emergency repair activities necessary to prevent injury, loss of life, imminent collapse or other additional damage to a building or structure shall be exempt from the temporary moratorium provisions. Such emergency repairs may include, but are not necessarily limited to the following types of activities:

1. Temporary roof repairs to make buildings habitable or to prevent continuing damage due to rain and wind,

2. Covering exterior wall openings with plywood or plastic sheeting,

3. Repairs to interior ceilings to make buildings habitable or to drain accumulated flood waters,

4. Temporary shoring measures to avoid imminent collapse of a building or structure.

b. Emergency repairs to buildings or infrastructure housing essential utility facilities, emergency communications facilities, law enforcement, fire or medical facilities shall be exempt from the temporary moratorium.

c. The issuance of long-term repair and redevelopment activities shall be authorized only after an assessment of the full extent of the damage and a determination as to whether additional repairs are necessary to ensure compliance with applicable regulations in effect at the time the development order is rendered.

Policy 12.2.4: Removal, Relocation or Structural Modification of Damaged Infrastructure - Following a disaster, the City's Recovery Task Force (RTF) shall conduct an assessment

and identification of those repairs or mitigation/redevelopment measures necessary to restore public facilities and infrastructure. The assessment should consider the following criteria in determining whether the facility should be relocated to a safer area; modified in such a way as to withstand future natural disasters; replaced with a new facility; repaired to its original condition prior to the disaster; or, be discontinued:

a. Would the relocation of the facility mitigate hazards without disruption of services?

b. Would the modification of the facility greatly reduce its exposure to natural hazards?

c. Would replacement of the facility reduce exposure to natural hazards without disruption of service?

d. Would repair of the facility to pre-disaster conditions increase or decrease its exposure to natural hazards?

e. What is the economic feasibility of relocating, modifying, or replacing the damaged facility?

f. What are the environmental impacts of relocating, modifying or replacing the damaged facility?

g. Is the redevelopment of the public facility consistent with all applicable state, regional and local ordinances, statutes, regulations, and plans?

h. How would redevelopment otherwise impact the general public?

i. Could replacement, repair, or relocation of the damaged facility increase development within the CMA?

j. Would replacement, repair, or relocation of the damaged facility result in restoration or enhancement of natural resources or public access?

k. Would replacement, repair, or relocation of the damaged facility restore essential services to the CMA and/or address an existing deficiency identified within the City's Comprehensive Plan?

l. Would replacement, repair, or relocation of the damaged facility restore essential services to residents?

m. Is the damaged facility partially owned by a governmental entity other than the City?

n. Would replacement, repair, or relocation of the damaged facility require acquisition of additional rights-of-way or easements of land?

Policy 12.2.5: The City shall implement the buildback policy as set forth in Objective 1.5 and Policy 1.5.1 of the Future Land Use Element.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 12.2.6: Following a disaster, the Recovery Task Force shall assess and make recommendations to the City Council with regard to the following:

a. Based on observed damage patterns of areas within the CMA where structures have been twice damaged, by hurricanes or coastal storms, to greater than 50% of their replacement value, are changes to the Land Development Code or current allowable density ranges necessary?

b. Based on observed damage patterns, should mobile home parks located within the CMA be permitted to rebuild if a significant proportion of the units within the park have suffered major damage or have been destroyed as a result of a hurricane or coastal storm?

Policy 12.2.7: Upon issuance of an interagency hazard mitigation report covering the City, the Recovery Task Force shall review and recommend to the City Council inclusion in the City's Comprehensive Plan those items contained in the report deemed appropriate to the City.

Goal 13: Intergovernmental Coordination. The City will coordinate with all appropriate agencies to protect natural resource systems that cross governmental boundaries.

Objective 13.1: The City shall participate with adjacent county and city natural resource protection agencies and regional, state and federal environmental agencies in resource protection, siting of water dependent uses, and to reduce exposure to natural hazards.

Policy 13.1.1: The City shall continue to maintain a City representative on the Estero Bay Agency on Bay Management (ABM).

Policy 13.1.2: The City shall review each year the ABM "Guiding Principles" and incorporate into its Comprehensive Plan those found by the City Council to be appropriate to the City.

Policy 13.1.3: The City shall reevaluate its policies for protecting and enhancing natural resources upon a review of natural resource management plans that are newly adopted or revised by other agencies including the Charlotte Harbor National Estuary Program, the Estero Bay Aquatic Preserve, the SFWMD and other appropriate agencies.

Policy 13.1.4: The City shall maintain and renew, if necessary, interlocal agreements with Lee County, the South Florida Water Management District and other participating agencies to implement a plan for surface water management in the Imperial River and Spring Creek watersheds.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 13.1.5: The City shall continue to utilize the SWFRPC *Boat Facility Siting Plan for Lee County* for siting of all boat facilities in the City of Bonita Springs.

Policy 13.1.6: The City shall continue to utilize the SWFRPC's latest hurricane evacuation plan as a basis for the City's hurricane evacuation section of the Comprehensive Plan.

Policy 13.1.7: The City shall continue to participate in the Local Mitigation Strategy working group.

Goal 14: Coastal Areas. The City shall conserve, maintain, and enhance the natural balance of ecological functions in the coastal planning area, with particular emphasis on the protection of beach and dune systems so as to retain their contribution to storm protection, natural resources, and economic development.

Objective 14.1: Coastal Area In General - The City of Bonita Springs shall continue to manage the coastal area to provide a balance among conservation of resources, public safety capabilities, and development.

Policy 14.1.1: Coastal areas with significant public value for water retention and purification, wildlife habitat, and primary productivity shall be protected through the development permitting process and enforcement of appropriate codes and regulations.

Policy 14.1.2: All development within the coastal area shall be compatible with protection of natural systems.

Policy 14.1.3: Construction of vehicular access to, and paved roads or commercial marinas on, undeveloped barrier islands shall be prohibited, as mandated by the Charlotte Harbor Management Plan.

Policy 14.1.4: Undeveloped barrier islands shall be maintained predominantly in their natural state. Public expenditures for infrastructure shall be limited to public parks and water quality improvement measures in such areas.

Policy 14.1.5: The City of Bonita Springs shall protect and conserve the following environmentally sensitive coastal areas: wetlands, estuaries, mangroves stands, undeveloped barrier islands, beach and dune systems, aquatic preserves and undeveloped tidal creeks and inlets, critical wildlife habitats, benthic communities, and marine grass beds.

Policy 14.1.6: The City shall gather and utilize available technical criteria and supporting information necessary to guide the formulation of plans, ordinances, and regulations to ensure that development in the coastal planning area is compatible with the continued or improved functioning of natural coastal systems.

Policy 14.1.7: Levels of service for facilities and services within the coastal planning area shall be the same as those established for the remainder of the City. The City's Concurrency Management System shall apply in full within the coastal planning area.

Policy 14.1.8: Upon adoption of this Comprehensive Plan the City shall prohibit mining within the city limits of Bonita Springs to conserve its water, air and other natural resources.

Policy 14.1.9: The City shall notify FDOT to size the U. S. 41/Spring Creek bridge to increase flows as per the *South Lee County Watershed Plan.*

Objective 14.2: Shoreline Stabilizing Systems - The City of Bonita Springs shall continue to encourage the construction of environmentally compatible shoreline stabilizing systems where stabilizing systems are needed.

Policy 14.2.1: Construction of environmentally compatible shoreline stabilizing systems shall be allowed along the active gulf beach where necessary to protect shorelines from erosion, consistent with the requirements of Chapter 161, Florida Statutes.

Policy 14.2.2: Vertical seawalls shall not be constructed along natural waterways except where such a wall is the most reasonable alternative (using criteria established by ordinance), and vertical seawalls along artificial canals shall not be permitted unless an adequate littoral zone consistent with the surrounding environment is provided. Seawalls in artificial canals where 50% of the canal or greater is seawalled or for seawalls of less than 300 feet where both adjoining properties are seawalled, will be exempt for this requirement.

Policy 14.2.3: The City shall encourage planting of mangroves or placement of rip-rap in artificial and natural canal systems to replace existing seawalls in need of repair.

Policy 14.2.4: Build-back of vertical seawalls will not be permitted along natural water bodies if one or more of the following conditions exist:

a. Build-back would cause excessive shoreline erosion or endanger shorelines of surrounding properties.

b. Build-back would threaten wetland resources.

c. Build-back would be a threat to public safety or block access to state-owned submerged lands.

d. Build-back would be waterward of the existing seawall alignment on adjacent shorelines.

Objective 14.3: Beach and Dune Systems - Ensure the protection of the City's beaches and dunes from the impacts of development.

Policy 14.3.1: The Lee County Division of Natural Resources Management, or successor agency, shall be responsible for the beach and dune management program. This program shall include:

a. Preparing beach and dune management plans, with priority to the critical erosion areas including the north end of Bonita Beach.

b. Collecting information on available sources of beach-quality sand for renourishment, concentrating on areas which will have minimal impacts on the County's fisheries.

c. Preparing renourishment plans for eroding areas where public facilities and access exist.

d. Recommending regulations and policies to restrict hardened coastal engineering structures such as groin fields and seawalls, protect eroding coastal areas and sand dunes, and discourage development of undeveloped coastal barriers.

e. Maintaining a central clearinghouse for information on beach and dune studies and recommendations by both public and private organizations.

f. Educating citizens and developers about the costs and benefits of alternative beach and dune conservation approaches.

g. Preparing a sand preservation plan that emphasizes the importance of maintaining beach quality sand within the littoral system and discourages ocean dumping of usable sand from channel dredging.

h. Lee County will continue to participate in the Federal Shore Project as the local sponsor and will coordinate beach renourishment activities in the City of Bonita Springs with the City.

Policy 14.3.2: The costs of beach renourishment programs shall be borne by the beneficiaries of those programs. Funding mechanisms for the renourishment may include, but are not limited to, the use of parks impact fees, public metered parking proceeds, tourist development taxes, Municipal Service Benefit Units (MSBUs), and beachfront property assessments as long as the title to accreted lands remains public.

Policy 14.3.3: The City shall support the renourishment of beaches through the use of environmentally responsible methods.

Policy 14.3.4: The City shall review its land development regulations to ensure that they include the most recent beach, dune and coastal vegetation protection methods identified by the Lee County Division of Natural Resources Management Beach Preservation and Management Plan.

Policy 14.3.5: The City shall cooperate with Lee County to continue to implement a beach preservation and management plan through the Lee County Coastal Advisory Council or successor agency.

Goal 15: Wetlands. The City shall maintain and enforce a regulatory program for development in wetlands that is cost-effective, complements federal and state permitting processes, and protects the fragile ecological characteristics of wetland systems.

Objective 15.1: The natural functions of wetlands and wetland systems shall be protected and conserved through the enforcement of the City's wetland protection regulations and the goals, objectives, and policies in this plan. "Wetlands" include all of those lands, whether shown on the Future Land Use Map or not, that are identified as wetland in accordance with F. S. 373.019.

Policy 15.1.1: Development in wetlands shall be limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in wetlands is one unit per 20 acres, except that

one single-family residence will be permitted on lots meeting the standards in the administration section of the Future Land Use Element of the City's Comprehensive Plan.

Policy 15.1.2: The City's wetlands protection regulations will be consistent with the following:

a. In accordance with F.S. 163.3184(6)(c), the City will not undertake an independent review of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a FDEP or SFWMD dredge and fill permit or exemption.

b. No development in wetlands regulated by the State of Florida will be permitted by the City without the appropriate state agency permit or authorization.

c. The City shall incorporate the terms and conditions of state permits into City permits and shall prosecute violations of state regulations and permit conditions through its code enforcement procedures.

d. Every reasonable effort shall be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques. On- or off-site mitigation shall only be permitted in accordance with applicable state standards.

e. Mitigation banks and the issuance and use of mitigation bank credits shall be permitted to the extent authorized by applicable state agencies.

Policy 15.1.3: The Future Land Use Map Series shall show the approximate boundaries of wetlands in the City. If the Future Land Use Map is incorrect due to a clear factual error, or if an exact boundary determination is desired, pursuant to Rule 62-340. F. A. C., the Administration Section contained in the Future Land Use Element provides standards for an administrative interpretation.

Policy 15.1.4: During the preparation of its Land Development Regulations the City shall consider strengthening regulations and permitting procedures related to wetland protection measures, including the following:

a. The City's role in permitting related to that of the South Florida Water Management District and the Corps of Engineers and the desirability and feasibility of increasing the City's role.

b. Regulations the City could include in its Land Development Regulations to increase wetland protection beyond that currently exerted by the South Florida Water Management District or Corps of Engineers, Regulations the City could include in its Land Development Regulations to increase wetland protection beyond that currently exerted by the South Florida Water Management District or Corps of Engineers, consistent with the provisions of Sections 373.016, .023., and .414, Florida Statutes.

Policy 15.1.5: Development in freshwater wetlands located in residential land use categories shall be limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in freshwater wetlands, identified on the map of Evaluated Wetlands in the Future Land Use Map Series, shall be one unit per 20 acres, except:

a. One single-family residence will be permitted on lots meeting the single-family residence provision contained in the Administrative Section of the Future Land Use Element; and,

b. Transfer of density provision - Owners of identified freshwater wetlands may transfer densities to contiguous uplands under common ownership at the standard underlying density permitted for the uplands, provided that the resulting upland density does not exceed that shown in the following schedule and the area receiving the density transfer will be, thereafter, compatible with existing or planned development on adjacent lands and not negatively impact sensitive upland habitats and species.

FUTURE LAND USE CATEGORY	STANDARD MAXIMUM DENSITY (Dwelling units per gross acre)	MAXIMUM UPLAND DENSITY AFTER TRANSFER (Dwelling units per gross upland acre)
Moderate Density Mixed-Use PD	6	7.5
Medium Density Multi-Family Residential	6	8
High Density Multi-Family Residential	10	12.5
High Density Mixed-Use Village	10	12.5
~~Old 41 Redevelopment Overlay~~	~~15~~	~~17.5~~

(Ord. No. 06-18, § 1, 12-6-06)

Policy 15.1.6: The natural functions of wetlands located in the City, as identified in the wetland inventory and evaluation contained in the Conservation/Coastal Management Element, shall be maintained and not degraded; and, degraded wetlands shall be restored whenever possible.

a. Before any alteration is allowed, a determination of the existing hydroperiod in each wetland shall be provided by the property owner. The post-development hydroperiod shall approximate pre-development hydroperiod. A wetland hydroperiod maintenance plan shall be submitted for review and approval

b. Vegetation shall be protected in areas subject to seasonal water level fluctuations.

c. The natural flow of water within and through contiguous wetlands shall not be impeded.

d. Any alteration in wetlands, which results in loss of habitat, shall be mitigated in accordance with SFWMD regulations and shall ensure that the re-created wetlands provide values and functions equal to "no net loss of wetland functions" or, in case of an impacted or degraded wetland, greater than those of the wetland qualifying for alteration.

e. For any project requiring mitigation, a wetland mitigation, maintenance, and monitoring plan based on best available technology shall be submitted for review and approval.

f. Stormwater runoff from impervious surfaces shall be pretreated prior to its discharge into natural wetlands. Pretreatment may be in the form of underdrains, grassed swales, lake overflow, or other approved methods. Such facilities shall be designed and constructed in accordance with applicable regulations so that the discharge does not violate water quality standards or create an excessive amount of water, such that it could degrade the wetlands. Swales which route stormwater into wetlands shall be stabilized with sod or by other appropriate means.

g. If fill is stockpiled near a wetland, appropriate sediment control measures (e.g., hay bales, silt screens, etc.) shall be employed to prevent sedimentation within the wetland. When building sites adjacent to wetlands are elevated by filling, the same erosion control requirements shall apply and the fill must be stabilized to prevent entry of sediment into the wetland.

h. Buffers of existing upland vegetation, which are sufficient in each case to protect the values and functions of wetlands, shall be required around all or portions of wetlands to protect those systems from adverse impacts of development.

i. To ensure permitted wetlands projects conform to the City's wetland regulations, the City shall meet with the SFWMD enforcement division to discuss what role the City may take in post-permit compliance.

Policy 15.1.7: All mangrove swamp wetlands (FLUCCS #612) and stream and lake swamp wetlands (FLUCCS #615) located in the City, as identified in the wetland inventory and evaluation contained in the Conservation/Coastal Management Element, shall be afforded the highest degree of protection.

a. The City shall nominate for purchase through the Lee County 20/20 program or any other applicable program or means of public acquisition;

1. All privately owned mangrove swamp wetlands (FLUCCS #612) which directly abut a major public road, and

2. Stream and lake swamps (FLUCCS #615) identified as map key #'s 3F, 4, 9, 11, and 12 on the map of evaluated wetlands contained in the Future Land Use Map Series.

Following acquisition of these wetlands, the City shall prepare an amendment to its Future Land Use Map to designate the acquired property as Conservation.

b. Apply Policy 7.2.16 of the Conservation/Coastal Management Element, relating to mangrove protection, to all mangrove swamp wetlands, (FLUCCS #612) located within the City. Policy 7.2.16 requires an FDEP permit prior to the alteration of any mangrove tree; the use of stop work orders, citations, notices of violations and civil and criminal penalties for violators; and, requires violators to provide a restoration plan, annual monitoring and maintenance.

c. Require any application for development in mangrove swamp wetlands (FLUCCS #612) to include all surrounding wetlands and non-wetland areas under unified control of the applicant so as to direct incompatible land uses away from wetlands by avoiding potential piecemeal development of these wetlands and the attendant loss of planning flexibility afforded by the required use of planned development in wetlands per Policy 4.1.3 of the Conservation Coastal Management Element.

d. Require the use of planned development and clustering in all applications for development on lands containing mangrove swamp (FLUCCS #612) so as to direct

incompatible land uses away from wetlands by locating development impacts onto the least sensitive area of the parcel, limiting the development footprint, and requiring use of the most sensitive development methods including the use of Best Environmental Management practices and technology in the development process.

e. Where stream and lake swamps (FLUCCS #615) are associated with Outstanding Florida Waters or aquatic preserves, development shall be required to:

1. Demonstrate the development is in the public interest, and

2. Provide a Manatee Habitat Protection Plan if the wetland has a direct navigable connection to the Outstanding Florida Waters.

Policy 15.1.8: Where a portion of a wetland is protected through an existing development order, the City shall notify the SFWMD to stringently review any proposed alteration to the remaining wetland area to prevent loss of any of the wetland's hydrology, functions and habitat; and, if alterations must be made for exotic removal, etc., such alterations shall not negatively impact the protected wetland.

Policy 15.1.9: Wetland #1 as identified on the map of evaluated wetlands contained in the Future Land Use Map Series and classified as FLUCCS #621, is by far the largest freshwater wetland in the City and should be nominated for public purchase under the 20/20 program or other appropriate program; and,

a. An average 25-foot buffer shall be required around this wetland, and

b. No industrial or commercial land uses shall be allowed adjacent to this wetland except where such uses clearly demonstrate that through the use of Best Environmental Management Practices (BEMP), that such uses will not negatively impact the wetland.

Policy 15.1.10: Wetlands infested with exotics shall, where feasible, be restored to their historical hydrology, functions, and habitat.

Goal 16: Water Quality. To ensure that water quality is maintained or improved for the protection of the environment and people of the City of Bonita Springs.

Objective 16.1: The City shall take measures to maintain high water quality, meeting or exceeding State and Federal water quality standards.

Policy 16.1.1: Sources of water pollution shall be identified, controlled, and eliminated wherever feasible.

Policy 16.1.2: The City shall examine its existing Major Road System for adequate "environmentally friendly and visually attractive" water quality control systems and where they are found to be deficient:

a. Old surface water management (SWM) systems built prior to current regulations will be retrofitted, using best available management practices, to meet current SWM standards.

b. If the City's responsibility, place a high priority in its capital improvement program.

c. If other agency responsibility, urge the appropriate agency to correct the deficiency.

d. Grants or incentives should be provided for retrofitting old surface water management systems that are not effectively managing water volume or flow, or removing nutrients and other pollutants.

Policy 16.1.3: New development and additions to existing development shall not degrade surface and ground water quality.

Policy 16.1.4: The design, construction, and maintenance of artificial drainage systems shall provide for retention or detention areas and vegetated swale systems that minimize nutrient loading and pollution of freshwater and estuarine systems.

Policy 16.1.5: Developments which have the potential of lowering existing water quality below State and Federal water quality standards shall provide standardized appropriate monitoring data.

Policy 16.1.6: No garbage, hazardous waste or untreated sewage shall be discharged into coastal and interior surface waters.

Policy 16.1.7: The City shall protect the quality of its natural groundwater recharge area waters through application of its wellfield protection ordinance which controls activities and land uses within specified protection zones surrounding potable wellheads located within the City.

The ordinance requires that: wellfields in the City be protected from regulated substance contamination by establishing four (4) protection zones around public utility potable water wellheads based upon the time/distance which water travels through the various aquifers within the City for periods of 6 months, 1 year, 5 years and 10 years to the wellhead:

a. Protection Zone 1: The following land uses or activities are prohibited in protection zone 1:

   1. The use, handling, production or storage of regulated substances associated with land uses or activities in quantities greater than those set forth.
   2. Wastewater effluent disposal, except for public access reuse of reclaimed water and land application under the conditions set forth and as defined in chapter 62-610, part III, Florida Administrative Code. Where public access reuse is permitted the chloride content must be no greater than 500 milligrams per liter.
   3. Liquid waste disposal.
   4. Solid waste disposal.
   5. Earth mining.

b. Protection Zone 2: The following land uses or activities are prohibited in protection zone 2:

   1. The use, handling, production or storage of regulated substances associated with activities in quantities greater than those set forth.
   2. Wastewater effluent disposal, except that public access reuse of reclaimed water and land application under the conditions set forth and as defined in chapter 62-610, part III, Florida Administrative Code, will be permitted. Where public access reuse is permitted the chloride content must be no greater than 500 milligrams per liter.
   3. Liquid waste disposal.
   4. Solid waste disposal.
   5. Earth mining.

c. Protection Zone 3: The following land uses or activities are prohibited in protection zone 3:

   1. Any regulated activity that stores, handles, uses or produces any regulated substance in quantities greater than those set forth which does not have a valid operating permit.

2. Wastewater effluent disposal, except that public access reuse of reclaimed water and land application under the conditions set forth in chapter, 62-610, part III, Florida Administrative Code, will be permitted. Where public access reuse is permitted the chloride content must be no greater than 500 milligrams per liter.

3. Liquid waste disposal.

4. Solid waste disposal.

5. Earth mining

d. Protection Zone 4: Any regulated activity which stores, handles, uses or produces any regulated substance in quantities greater than those set forth which does not obtain a valid operating permit is prohibited in protection zone 4.

1. Earth mining.

Certain land use exemptions are provided within the ordinance for public and quasi-public land uses and retail and office uses. These uses under conditions stated in the ordinance may however require operating permits.

Policy 16.1.8: Valid permits and inspection shall be required prior and subsequent to drilling operations for wells, elevator shafts, foundation holes, and test borings.

Policy 16.1.9: The City shall cooperate with Lee County to continue its program of plugging improperly constructed wells which are detrimental to groundwater resources.

Policy 16.1.10: Reserved.

(Ord. No. 09-05, § 1, 4-15-09)

Policy 16.1.11: The City shall discuss with Lee County the absence of stormwater retention/detention controls along the barrier islands.

Policy 16.1.12: The City shall inform SFWMD that surface water management systems in new developments in the City will be required to utilize state-of the-art best management practices.

Policy 16.1.13: The City shall, when updating its Land Development Regulations, review the erosion and sedimentation control measures to ensure the reduction of sediment entering natural areas as development takes place.

Policy 16.1.14: To protect groundwater recharge areas in the City's DRGR beyond the outer limits of wellfield protection zone 4 the City shall limit land uses to: conservation uses; agriculture; residential uses at a maximum density of one dwelling unit per 10 gross acres; public schools and other public uses; essential services, and non-profit recreational uses.

Objective 16.2: The City shall ensure the provision of infrastructure in the coastal planning area consistent with the level of service standards, areas of service and phasing of infrastructure in the City.

Policy 16.2.1: The level of service standard for infrastructure in the coastal planning area shall be the same as that in the City as expressed in the infrastructure, transportation and recreation elements of this plan.

Policy 16.2.2: The City shall inform the providers of infrastructure to phase infrastructure in the coastal planning area based on their service areas.

Policy 16.2.3: The City shall adopt a concurrency management system to assure that required infrastructure is phased to serve the development and redevelopment at the density proposed in the future land use plan and is available to coincide with the demands generated.

(Ord. No. 17-08, § 1, 6-7-17)

Objective 16.3: Incorporation of Green Infrastructure into the Surface Water Management System. The long-term benefits of incorporating green infrastructure as part of the surface water management system include improved water quality, improved air quality, improved water recharge/infiltration, water storage, wildlife habitat, recreational opportunities, and visual relief within the urban environment.

1. Green Infrastructure: Surface water management structures that are "soft" structures such as preserved/restored flow-ways, created flow-ways, lakes with littoral plantings, swales planted with native grasses, filtration marshes, preserved/restored wetlands, created wetlands, or other similar design features.

2. Flow-way: An area of lower elevation that conveys water or has the potential to convey water. The flow-way may contain uplands, wetlands or a combination thereof. A flow-way may be natural or man-made.

Policy 16.3.1: The City will require new developments to design their surface water management systems to incorporate best management practices including, but not limited to, filtration marshes, grassed swales planted with native vegetation, retention lakes with enlarged littoral zones, preserved or restored wetlands, and meandering flow-ways.

Policy 16.3.2: The City will require new developments to design their surface water management system to incorporate existing wetland systems.

Policy 16.3.3: The City will require substantial preservation of existing flow-ways and encourage the restoration of historic flow-ways.

Policy 16.3.3.1: Prior to restoring natural flow-ways and providing green infrastructure by new developments, the applicant is required to provide analysis and data, with models quantified by the best available science at the time of submittal, signed and sealed by a Florida licensed professional hydrogeologist or a Florida licensed professional engineer, demonstrating that adjacent wells and similar existing water resources will not be negatively impacted.

Objective 16.4: The City will take measures to ensure that groundwater and other resource quality in the Density Reduction Groundwater Resource (DRGR) area is maintained or improved.

Policy 16.4.1: Within one year of adoption of its Comprehensive Plan, the City shall undertake a study to identify the types and intensity of uses that should be allowed within the DRGR, and to determine the most effective and appropriate techniques to ensure the maintenance of adequate quantity and quality of surface and groundwater resources. The study shall include, but shall not be limited to, evaluation of the following factors in the study area:

a. Subsurface and surface water resources.

b. Existing uses and those having received approval prior to the adoption of the City's Comprehensive Plan.

c. Soils, wetlands, habitats and species and their quantity and quality.

d. The Imperial River and its historical and present floodways and flowways.

e. Drainage and stormwater patterns and flooding.

f. Long term water and wastewater supply and disposal needs and plans of Bonita Springs Utilities.

g. Applicable resource protection measures and those contained in the City's Comprehensive Plan and Land Development Regulations.

h. Allowable uses and their density and intensity.

i. Existing and planned infrastructure in and affecting the area.

j. SFWMD and County ownership in, and projects affecting, the area.

k. Potential positive or negative effects of possible new land uses on the resource base(s) and new or amended best environmental management practices needed by the City for their control. At a minimum references will be to the FDEP "Florida Development Manual Chapter 6 Stormwater and Erosion Sediment Control BMPS for developing areas" and the University of Florida center for government responsibility "Guide to Local Groundwater Protection in Florida" Vol. 1—3.

Policy 16.4.2: Upon completion of the study referred to in Policy 16.3.1, the City shall prepare an amendment to its Comprehensive Plan identifying the land uses considered most appropriate in the DRGR and the resource protection measures and practices necessary to ensure its continued viability and submit this amendment for review by the Florida Department of Community Affairs and other appropriate agencies.

Objective 16.5: Groundwater Resources.

Policy 16.5.1: The City will make efforts to encourage suppliers to seek alternative, renewable sources of water other than groundwater to meet current and future needs.

Policy 16.5.2: The City will make efforts to promote and establish and/or require water conservation when and where feasible for current and future development.

Policy 16.5.3: The City will promote water conservation through the enforcement of the adopted Florida Building Code which requires such items as low-volume commodes, water flow restrictions for showers and spigots and similar devices in all new construction and renovations, and will comply with the appropriate water management district water use restrictions.

Policy 16.5.4: The City will consider developing ordinances to address water-conserving landscape installation for new construction to maximize water savings in initial design and operation of both residential and commercial sites.

Policy 16.5.5: The City will continue to cooperate with the South Florida Water Management District (SFWMD) in its efforts to restrict the unnecessary consumption of potable water, particularly as it relates to irrigation, lawn watering, and car washing during periods of drought, supply reduction, and other emergencies.

Policy 16.5.6: The City will enforce the SFWMD's lawn and landscape irrigation rule, as may be revised.

Policy 16.5.7: The City will make efforts to review potable water demands and work with the Water Management District, Bonita Springs Utilities and other applicable suppliers to ensure that potable water demands are considered. (Cross Reference: Intergovernmental Coordination Element, Policy 5.1.1)

Policy 16.5.8: The City will enforce the SFWMD's lawn and landscape irrigation rule, as may be revised.

Policy 16.5.9: The City shall inform residents and businesses of, and shall encourage the use of cost-effective indoor and outdoor retrofits.

Policy 16.5.10: The City shall coordinate local water conservation education efforts with the SFWMD, and the Lee County School Board.

Policy 16.5.11: The City will promote and encourage the use of low impact development techniques (such as the Florida Water Star™ program, which is a point based, new home certification program for water-efficient developments, similar to the federal Energy Star program).

(Ord. No. 08-19, § 2, 9-17-08; Ord. No. 09-05, § 1, 4-15-09)

Goal 17: Air Quality. The City will improve air quality, meeting or exceeding State and Federal Air Quality Standards.

Objective 17.1: The City shall improve current air quality to maintain the present attainment status.

Policy 17.1.1: The City shall prohibit mining in the City limits to reduce airborne particulates.

Policy 17.1.2: The City shall examine its code of ordinances to ensure there are no disincentives to the use of non polluting alternative emergency sources therein.

Policy 17.1.3: The City shall encourage alternative forms of transportation to reduce airborne pollutants by:

a. Utilizing Bicycle paths and pedestrian walkways to interconnect the City's parks, shopping, work and residential areas.

b. Urging LeeTran to continue public bus and trolley service or, if LeeTran discontinues services,

c. Inviting private transit providers to propose alternative services they may provide to replace LeeTran services.

d. Promoting public transit ridership and bicycle/pedestrian use of the City's paths and walkways by distributing schedules and maps of these systems' availability.

Goal 18: Fisheries Management. The City will cooperate with Lee County to preserve the ecosystem that nourishes and shelters the commercial and sport fisheries in Lee County.

Objective 18.1: The City shall not allow degradation of estuarine water quality and commercially important fish and shellfish that depend on the estuaries.

Policy 18.1.1: The City shall urge the County to continue to compile and analyze data about the condition of commercial and sport fisheries, coordinated with DEP, USGS, SFWMD, and the Florida Marine Fisheries Commission.

Policy 18.1.2: The City shall request the County to make recommendations to appropriate agencies (such as state-level environmental and fisheries agencies) regarding the restoration and protection of commercial sport fisheries.

Policy 18.1.3: The City shall work with the County to continue to design and implement protective and incentive mechanisms to prevent adverse impacts to commercial and sport fisheries.

Policy 18.1.4: The City and the County shall jointly establish an ongoing monitoring system for estuarine water quality and it's impacts on the health of recreational and commercially important fish and shellfish.

Goal 19: Marine and Navigation Management. The City will cooperate with Lee County to develop and implement a comprehensive marine resource management program.

Objective 19.1: Dredge Spoil Disposal - The City will continue to participate with other responsible agencies in the location and placement of spoil material.

Policy 19.1.1: The City will coordinate with the County and U. S. Army Corps of Engineers on the location and placement of spoil material that result from maintenance dredging activities with use of this material for beach renourishment where needed and financially feasible.

Policy 19.1.2: The City shall participate in and coordinate with the efforts of the County and the West Coast Inland Navigation District to identify existing and future dredge spoil sites in Lee County.

Policy 19.1.3: The City shall coordinate with the County, with recommendations from the Waterways Advisory Committee, or successor agency, and other affected agencies and persons, on an as needed basis, make application to the Army Corps of Engineers, and all other agencies as required, to maintain, where environmentally and economically feasible, existing channels and passes to the Gulf of Mexico at their authorized and/or historic depths.

Objective 19.2: Navigational Markers - The City shall cooperate with the County to continue its marker designation program and upkeep its computerized marker inventory.

Policy 19.2.1: The City will cooperate with the County, in coordination with the Florida Fish and Wildlife Conservation Commission and the U. S. Coast Guard to:

a. Assess the conditions of unmarked channels and identify those used to traverse shallow inshore water (a practice that damages sea grass beds) and develop a program to mark these channels (if appropriate on the basis of the assessment) so as to reduce injury to sea grass beds.

b. Study the feasibility of designating and enforcing a maximum draft for all boats in some waters and developing a rotating system whereby some areas containing valuable marine beds would be off-limits to boat traffic.

c. Assess the feasibility of instituting a private channel maintenance assessment on properties benefiting from the channels.

Objective 19.3: Marine Sanitation - The City shall prevent the dumping of marine generated waste into the waters of the City.

Policy 19.3.1: The City shall provide for effective control of waste disposal by maintaining local marine sanitation regulations in the Land Development Code that complement the Florida Clean Vessel Act.

Policy 19.3.2: The City will continue to assist Federal and State agencies to maintain an inventory and promote the public awareness of existing marine sanitation facilities.

Policy 19.3.3: The City will continue and expand, as needed, its efforts to coordinate with appropriate law enforcement and environmental agencies in designing enforcement and education measures for current and future marine sanitation laws.

Policy 19.3.4: The City will provide regulations in its Land Development Code for marine sanitation and waste disposal in marinas, docks, wharfs, piers, seawalls, or other docking structures attached to real property.

Policy 19.3.5: The City will coordinate with the Southwest Florida Regional Harbor Board in the development of management standards for marine sanitation in anchorages.

Policy 19.3.6: The City shall cooperate with the Southwest Florida Regional Harbor Board to develop regional guidelines for marine sanitation systems.

Objective 19.4: Live-Above Vessels. Upon the completion of the Southwest Florida Regional Harbor Board Management Plan, the City will cooperate with Lee County to re-evaluate the feasibility of establishing regulations to control vessel mooring.

Policy 19.4.1: The County will coordinate with the Southwest Florida Regional Harbor Board to establish management standards for vessel mooring in anchorages.

Objective 19.5: Propeller Scarring of Grass Beds - The City shall ensure the protection of sea grass beds reduce propeller scarring of grass beds in the estuary and the pollution attendant to such scarring.

Policy 19.5.1: The City shall request the Lee County Sheriff's Department and the Fish and Wildlife Conservation Commission Marine Patrol to provide additional local enforcement of speed limits and boater education in the estuary.

Policy 19.5.2: The City will distribute boater education materials.

Goal 20: Water Access. Ensure public access to water.

Objective 20.1: Public Access, Physical and Visual - The City shall increase the public's access to waters within the City.

Policy 20.1.1: Upon adoption of this Comprehensive Plan, the City shall include visual and physical access to waters within the City as components of the City's parks and recreation planning.

Policy 20.1.2: The City shall prepare a parks/recreation master plan including visual and physical access topics.

Policy 20.1.3: The City shall request the Lovers Key/Carl E. Johnson State Recreation area and Lee County to remove exotic vegetation to increase visual access to the water bodies along CR 865 where feasible.

Policy 20.1.4: The City shall institute a land acquisition program to increase public visual and physical access to waters within the City and shall actively seek grants-in-aid and other methods of financing acquisitions including less than fee simple title, such as conservation easements.

Policy 20.1.5: The City shall request Lee County and the WCIND to use environmentally sensitive methods to remove shoaling which restricts boating access to the estuary.

Objective 20.2: Scenic Waterways Program - The City shall enhance the opportunities for physical, visual, and interpretive access to the water.

Policy 20.2.1: The establishment of vegetated buffer zones along waterways in the City to prevent erosion of natural shorelines, establish additional wetlands habitat, and enhance the scenery shall be preferred to the indiscriminate clearing of vegetation. These buffer zones shall be evaluated in the review of planned developments and developments of regional impact, and also by specific City regulations.

Policy 20.2.2: The City shall include scenic waterways as a component of its parks and recreation planning.

Objective 20.3: Water Access In Private Developments - The City shall encourage private landowners to provide some form of water access for the public.

Policy 20.3.1: The City shall cooperate with Lee County to design a program that would require and/or encourage new water-related developments to provide some form of water access (physical, visual or interpretive) for the public. The program shall be submitted to the City Council and Lee County Board of County Commissioners for formal consideration. The City's technical staff shall meet with County's technical staff to design the draft program and submit it to the governing bodies for approval. Upon approval the City shall include the program into its land development regulations.

Goal 21: Artificial Reefs. The City shall cooperate with Lee County to encourage maintenance and development of artificial reefs in the waters in and near Lee County.

Objective 21.1: Artificial Reef Program - The City shall participate on the County's artificial reef and habitat advisory committee.

Policy 21.1.1: The City shall participate on the County's artificial reef and habitat advisory committee.

Policy 21.1.2: The City shall coordinate with the appropriate advisory committee(s) on the location and construction or regulation of artificial reefs.

Policy 21.1.3: The City shall investigate the possibility of utilizing artificial reefs for the benefit of the commercial fishing industry.

Policy 21.1.4: City staff and other appropriate private and public agencies shall study the feasibility of using artificial reefs for the benefit of the commercial fishing industry.

Goal 22: Shoreline Management. To encourage the maintenance and development of water-dependent shoreline uses and to avoid their displacement by non-water-dependent uses.

Objective 22.1: Commercial Water-Dependent Uses - The City shall continue to support its programs which enhance and protect commercial water-dependent uses.

Policy 22.1.1: Commercial Marinas shall be zoned for marina use to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.

Policy 22.1.2: The City shall designate the area between Imperial Shores Boulevard and the Bonita Beach Road bridge to Little Hickory Island as a marine-related water-dependent use zone. The City shall:

a. Examine the area for general consistency with the City's marina siting criteria as identified in this Comprehensive Plan.

b. Identify any existing impediments to potential future marine related water dependent uses.

c. Identify potential incentives to promote such uses in the zone.

d. Prepare a marine-related water dependent uses overlay zone in the City's land development regulations for application to the area. The intensity of the zone shall not exceed that identified on the future land use map.

Policy 22.1.3: The City shall encourage the maximum use of dry storage by commercial marinas when reviewing rezoning and/or development-of regional-impact applications.

(Ord. No. 09-05, § 1, 4-15-09)

Objective 22.2: Criteria for Prioritizing Shoreline Uses - Priority shall be given to new and substantially expanded shoreline land uses as indicated in the following policies.

Policy 22.2.1: Existing commercial marinas classified by the City under marina zoning shall have their rights to rebuild and expand to prevent their conversion to non-water-dependent uses without a public hearing.

Policy 22.2.2: In all other non-wetland shoreline areas, water-dependent land uses shall have priority over water-related uses. Water-related land uses that provide some form of water access for the public shall be encouraged, particularly when the site has previously provided water access for the public. (This policy shall not be interpreted as a prohibition of new land uses which are only water-related, but instead as a reminder of the diminishing opportunities for water access in the City and the desirability of maintaining and increasing such access.)

a. Water-dependent uses: Land uses are those for which water access is essential and which could not exist without water access.

b. Water-related uses: Land uses that might be enhanced by proximity to the water, but for which water access is not essential.

Objective 22.3: Marina Siting Criteria - The City of Bonita Springs shall consider the following marina siting criteria in evaluating requests for new and substantially expanded marinas, other wet slip facilities, and boat ramps in order to make efficient use of limited shoreline locations and to minimize environmental impacts.

Policy 22.3.1: Proposed marinas (and expansion of wet slips at existing marinas and new boat ramps) in the following areas face a variety of technical, legal, or environmental obstacles which much be addressed during the review process:

a. Aquatic Preserve (FDEP)

b. Outstanding Florida Waters (FDEP)

c. Class I Waters (FDEP)

d. Maine or Estuarine Sanctuaries (NOAA)

e. Manatee Sanctuaries or Critical Manatee Habitats FFWCC, USFWS, COE)

f. Approved or conditionally approved shellfish harvesting area's FFWCC)

g. Bridge/road right-of-way easement (County DOT, State DOT)

h. Other Endangered/Threatened Species Habitat (USFWS, FFWCC, COE)

Extra caution and consideration shall be given prior to authorizing use of areas with high environmental values.

Policy 22.3.2: Cumulative effects of several marinas and/or boat ramps in a small area shall be considered in the review of proposed marina projects.

Policy 22.3.3: Marina and/or boat ramp siting shall be consistent with the aquatic preserve management plan.

Policy 22.3.4: Marinas and boat ramp siting shall be consistent with the following recommendations of the FDNR Blue Ribbon Marina Committee (Final Report, January 1983):

a. Priority should be given to the expansion of existing facilities, if environmentally sound, over new facilities.

b. Marinas are encouraged in previously disturbed areas and in areas that have historically been used for marina-related activities.

c. Marinas should be located as close as possible to boating demand.

d. Marinas should be encouraged where adequate uplands are available to develop related support activities and to allow for possible future expansion.

e. Location of marinas in highly productive marine habitats should be discouraged.

f. Location of marinas in or near well-flushed, deep-water areas should be encouraged.

g. Impacts upon state-designed manatee sanctuaries should be considered. Particular marina locations or design features which threaten manatees in sanctuaries should be discouraged.

Policy 22.3.5: The siting of all boat facilities in the City of Bonita Springs shall be consistent with the guidelines, methodologies, procedures, and policies established in the *Boat Facility Siting Plan for Lee County* . This applies to any plans for the expansion of existing facilities or the development of new facilities.

Policy 22.3.6: New marinas shall be designed to avoid erosion on adjacent shorelines.

Policy 22.3.7: Marina and boat ramp siting preference shall be given to those properties which are located in proximity to large navigable water bodies outside areas of critical manatee concern.

Policy 22.3.8: Marinas, multi-slip docking facilities, and boat ramps which would disturb or destroy wetlands or grassbeds must demonstrate a pressing need and public purpose for the proposed facility and must provide for continued use by the general public.

Policy 22.3.9: New marinas should be located in areas of maximum physical advantage (e.g. adequate water depth). Adequate existing water depths between the proposed facility and any navigational channel, inlet, or deep water, are preferred, as only minimal dredging may be considered.

Policy 22.3.10: Marina and boat ramp locations which minimize natural shoreline disruption are preferred.

Policy 22.3.11: Marina and boat ramp construction in dead-end canals are discouraged due to difficulty in meeting State water quality standards.

Policy 22.3.12: Proposed marinas and boat ramps shall demonstrate that the marina site has adequate uplands to provide support facilities for all activities proposed on site without damaging or removing wetlands or rare and unique systems.

Policy 22.3.13: Rezoning and DRI applications for marinas and boat ramps shall be evaluated in the context of cumulative impacts on manatees and marine resources.

Objective 22.4: Marina Design Criteria - The City shall utilize the following criteria in evaluating the design of new marinas or expansion of wet slip facilities at existing marinas in order to minimize negative impacts to water quality. Detailed regulations on these subjects may be contained in the City's Land Development Regulations.

Policy 22.4.1: Piling construction and other non-dredge-and-fill techniques shall be utilized where possible to minimize habitat destruction.

Policy 22.4.2: Mitigation or restoration to offset proposed adverse environmental effects will be required as a condition of approval for any new or expanded marina facilities. Mitigation/restoration is not preferred over preservation of existing resources.

Policy 22.4.3: To reduce dredging, docks should extend to naturally deep waters when possible. City regulations shall specify the criteria for such extensions.

Policy 22.4.4: Dry storage of small boats should be encouraged, with dry storage structures located inland as far as feasible.

Policy 22.4.5: Marina designs shall not reduce water quality in adjacent natural water bodies in order to accommodate an increase in water quality in the marina basin itself.

Policy 22.4.6: Existing navigational channels shall be used to access new marina sites where possible.

Policy 22.4.7: Expansion of dry storage capabilities shall be strongly encouraged to reduce dredging.

Objective 22.5: The Regional Planning Council will be the lead agency addressing the need for adequate sites for water-dependent uses on a regional basis.

Policy 22.5.1: The City will cooperate with the Regional Planning Council in addressing the need for water-dependent sites on a regional basis.

Goal 23: Environmental Education. An environmentally informed and educated citizenry who will thus protect the environmental resources within the City.

Objective 23.1: To provide better environmental protection the City shall take an active support role in environmental education and show the importance and involvement of the City in environmental protection and the need of support from its citizenry.

Policy 23.1.1: The City shall encourage its schools to offer environmental based contests where a City dignitary presents awards.

Policy 23.1.2: The City shall prepare news releases for its environmental programs and projects and encourage other agencies working in the City to do the same.

Policy 23.1.3: The City shall publish and/or distribute environmental protection pamphlets to its citizenry showing methods and means of controlling pollution, conserving water and such subjects.

Policy 23.1.4: The City shall consider sponsoring a citywide public environmental function adjacent to a major city natural resource such as the Imperial River. Environmental agencies and groups could be invited to have booths, speakers, exhibits and symposiums.

Policy 23.1.5: The City shall consider identifying groups, volunteers, agencies and other notable supporters of environmental actions in the City who may be provided recognition by the Mayor or other dignitaries.

Goal 24:

Objective 24.1: Encourage energy efficiency through development standards and regulations.

Policy 24.1.1: By the end of 2012. the City shall create guidelines within its Land Development Code to promote energy efficiency and resource conservation, Florida-friendly landscaping, low impact developments, and green building techniques to protect minerals, soils and vegetation.

(Ord. No. 09-05, § 1, 4-15-09)

CAPITAL IMPROVEMENTS ELEMENT

GOALS, OBJECTIVES AND POLICIES

Goal 1: To provide public facilities and services in the City of Bonita Springs adequate to serve the needs of both existing and future development.

Objective 1.1: Capital Improvements. Ensure the provision of public facilities at the adopted Levels of Service by establishing a capital improvements programming and budgeting system and using the City's Levels of Service as the basic gauge of need and compliance through the City's concurrency management system and 5 year schedule of capital improvements.

Policy 1.1.1: Capital Improvements Program (CIP). The City shall annually prepare and adopt by ordinance a Capital Improvements Program showing all public facility development projects to be undertaken during the ensuing five-year period. The City shall also annually review this Capital Improvements Element. The following actions shall govern the development of the CIP:

a. Preparation of the CIP

1. The City Manager or designee shall annually review existing facilities, level-of-service standards, and current and projected deficiencies using the level-of-service standards contained in this plan, the established geographic units for each facility, and the latest population projections. Based on identified current and projected deficiencies, the City Manager shall prepare a capital improvements program based on facilities needed to meet these deficiencies.

2. The City Manager and members of the City Council will communicate with the general public in this process to ascertain the perceived need for each kind of public facility in the City.

3. A proposed CIP shall be presented by the City Manager in conjunction with the presentation of the proposed annual operating budget. The proposed CIP shall be "balanced" (i.e., proposed expenditures shall not be greater than the amount of revenues available to fund the expenditures). Attached to the proposed balanced CIP shall be a report of the projects designated as needed, but which cannot be funded.

4. The proposed CIP shall consider the consistency of the proposal with the Comprehensive Plan and the effect of the CIP on the growth management objectives of the City.

5. The proposed CIP shall be reviewed by the City Council. The City Council shall by ordinance adopt the CIP approximately the same time as the adoption of the annual operating budget. The annual operating budget shall be consistent with the first year of the adopted CIP.

6. The adopted CIP will be reviewed by the City Council during periodic meetings, called to discuss the status of CIP projects. The City Manager will provide the City Council with a status report on all ongoing CIP projects prior to these meetings. The Council may amend the CIP at these meetings by ordinance after making findings of fact that the amendment is consistent with the priorities in this policy and with the City's Comprehensive Plan in general. Where an amendment to the CIP affects the first year, the annual operating budget shall also be amended so as to remain consistent with the CIP.

7. All estimates of facility or service demand used to develop specific facility plans, or an annual update of the capital improvement program, shall be based on the specific volume and location of demand represented by developments for which

local and DRI Development Orders were issued prior to the effective date of this plan, as well as more general estimates of population and land use intensity.

8. The CIP shall conform to the standards mandated by Florida Statutes.

b. Priorities for the CIP

1. Projects that remove a direct and immediate threat to the public health or safety;
2. Projects are directed by a court order or otherwise by law;
3. Projects that are essential for the maintenance of the City's investment in existing infrastructure;
4. Projects that remove a service level deficiency that affects developed areas;
5. Projects that provide new or additional facility capacity.

Factors that may be considered in ranking projects that are otherwise equal in priority include (in no particular order of significance):

(a) Whether the project competes with other facilities that have been or could reasonably be provided by other governmental entities or the private sector.

(b) The revenue-generating potential of the project.

(c) Offers of donations of lands and/or services by the private sector and/or other governmental entities.

(d) The availability of grants and other revenue sources from non-city revenues.

(e) An extraordinary opportunity for the City.

(f) The flexibility of use of the project.

(g) Continuation of an ongoing project for which significant funds have been expended by the City in the past.

(h) Meets the established replacement schedule for the facility/equipment.

(i) Supports plans of the FDOT, FDEP and SFWMD.

(j) Implement the City's Vision for a walkable and bikeable community that is pedestrian friendly with interconnecting sidewalks, pathways, and publicly available transit systems.

c. Effect of the CIP

1. After adoption of the first year's projects of the CIP, no first-year public facility project shall be constructed by the City, nor shall land be acquired for such project, except in conformity with the adopted first year of the CIP.
2. It is the intent of this plan to actively pursue the development of any public facility project once it has been included in the adopted CIP. Any CIP amendment that delays or cancels a project should only be made after consideration of:

(a) Changes in facility needs based on more up-to-date populations projections;

(b) Changes in revenues compared with previous projections;

(c) Changes in adjusted level of service standards; and.

(d) Extraordinary opportunities not previously expected.

3. The City shall consider and may accept dedication of facilities contributed to the City. Where contributed facilities are not provided by city funds, they need not be included in the CIP prior to acceptance. The City may, however, establish

procedures for including contributed facilities in the CIP where inclusion in the CIP is a requirement of the Concurrency Management System.

d. Capital Facility Financing

1. The City should annually prepare revenue estimates to provide information about revenue sources available to support capital facility construction.

2. The City Manager shall prepare estimates of the operating and maintenance costs of each CIP project along with the capital costs of each facility.

3. The City should actively seek grant funds from federal, state, and other sources where available and when appropriate for capital facility construction. Consideration will be given to limitations (including operating restrictions) involved in such grants.

4. The City should investigate the feasibility of charging user fees to offset the cost of each new CIP project for which user fees could reasonably and legally be collected.

5. Capital Improvement Funds shall be anticipated at mileages that will generate sufficient revenue to make all required payments.

6. A reserve for contingency should be budgeted in each capital fund. These funds should be available for reallocation by the City Council as needed during the year to fund unexpected increases in capital costs and/or to fund additional projects which could not be anticipated in the annual CIP.

7. A reserve for cash flow will be budgeted in any fund that requires monies to be carried forward into the following year to support needed expenditures until sufficient current revenues are received.

8. The City should prepare an annual analysis of financial condition. This analysis will include consideration of capital facility financing needs and revenues available to finance such needs.

9. Capital Project budgets will only be altered in one of two ways:

   (a) Administrative approval of transfer of funds to reserves for projects funds not required for authorized expenditures; or

   (b) City Council approval of transfer of funds from reserves to increase a project.

10. At the end of each fiscal year, unexpended fund balances at the project level in each fund will be carried over to the subsequent fiscal year budget in an amount equal to the prior year's unexpended project budget. Any unexpended fund balance in excess of project budget will be redistributed to fund other capital obligations, if necessary. The excess fund balance shall be treated as capital reserves to be allocated in subsequent fiscal years.

11. The City will limit the amount of outstanding long-term liabilities to 10 percent of the assessed property value within the City.

(Ord. No. 17-06, § 1, 5-3-17; Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.2: The City shall establish replacement schedules for each of its major capital facilities and rolling stock.

Policy 1.1.3: Level-of-Service Standards. Level-of-service (LOS) standards shall be the basis for facility design, for setting impact fees, and for the operation of the Concurrency Management System (CMS).

Level-of-Service Standards

a. Potable Water Facilities: Within certified, franchised or designated service areas an available supply, treatment and delivery of 235 gallons per day per equivalent residential connection (ERC) and delivery of potable water at a minimum pressure of 20 pounds per square inch (psi) at the meter anywhere in the system. (Cross Reference: Infrastructure Element Policy 1.1.1)

b. Sanitary Sewer Facilities: Within certified, franchised or designated service areas an available capacity to treat and dispose of a volume of wastewater equal to 200 gallons per day per equivalent residential connection (ERC), except that facilities serving only mobile home residential structures shall have a capacity of 150 gallons per day and facilities serving only travel trailer residential structures shall have a capacity of 120 gallons per day.

c. Facilities for Disposal of Solid Waste: The minimum acceptable level of service standard for availability of solid waste disposal facilities shall be 7 pounds per capita per day.

d. Stormwater Management Facilities:

1. Existing Infrastructure/Interim Standard

During a 3-day storm event (rainfall) accumulation of 13.7 inches or less (3-day, 100 year storm as defined by SFWMD), one lane of evacuation routes should remain passable (defined as less than 6 inches of standing water over the crown). Emergency shelters and essential services should not be flooded.

During a 3-day rainfall accumulation of 11.7 inches or less (3-day, 25-year storm as defined by SWFWMD), all lanes of evacuation routes should remain passable. Emergency shelters and essential services should not be flooded.

During coastal flooding of up to 4.0 feet above mean sea level, all lanes of evacuation routes should remain passable. Emergency shelters should not be flooded.

2. Regulations of Private and Public Development

The quality of water to be discharged from new surface water management systems is, and shall remain, subject to state and regional permitting pro-grams that determine compliance with state water quality standards. Storm-water management systems in new private and public developments (excluding improvements to existing roads) shall be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25-year, 3-day storm). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in Chapters 17-3, 17-40 and 17-302, and the rule 40E-4, F.A.C. New developments shall be designed to avoid increased flooding of surrounding areas.

e. Parks and Recreation Facilities:

1. Regional Parks: 6 acres of developed regional park land open for public use per 1000 total seasonal population.

2. Community Parks: 1 acre of developed standard community parks open for public use per 1000 permanent city population.

f. Roadway Facilities: The minimum acceptable peak hour/peak season/peak direction roadway levels of service shall be as follows:

1-75	D
Freeways (nonFIHS)	D
Arterials	E
Collectors	E
Local roads	D

g. Public School Facilities: The following Level of Service (LOS) standards for public schools are based upon Permanent Florida Inventory School Houses (FISH) capacity.

a. Elementary: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.

b. Middle: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.

c. High: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.

d. Special Purpose: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.

(Ord. No. 08-18, § 2, 9-3-08; Ord. No. 08-19, § 2, 9-17-08; Ord. No. 09-01, § 1, 2-18-09; Ord. No. 14-06, § 2, 5-7-14; Ord. No. 14-24, 10-15-14)

Objective 1.2: Concurrency Management System. To ensure that public facilities are provided in conformance with the City's adopted level of service standards, the City shall adopt, maintain and enforce a concurrency management system.

Policy 1.2.1: Enforcement of Standards. The City shall enforce its facility level of service standards for potable water, sanitary sewer, solid waste, and drainage facilities under the concurrency requirements of Florida law upon development orders or building permits which may cause the level of service to fall below the City's adopted minimum level of service for that facility by:

a. Withholding approval, or

b. Proceeding with approval, upon the condition that:

1. The local government with jurisdiction over the property has adopted a local comprehensive plan that is in compliance.

2. The proposed development would be consistent with the future land use designation for the specific property and with pertinent portions of the adopted local plan, as determined by the local government.

3. The local plan includes a Capital Improvements Element that provides for the facilities adequate to serve the proposed development, and the local government has not implemented that Element.

4. The local government has provided a means by which the landowner will be assessed a proportionate share of the cost of providing the facilities necessary to serve the proposed development.

5.a. The landowner has made a binding commitment to the local government to pay the proportionate share of the cost of providing the facilities needed to serve the proposed developments. Funds in the amount of the developer's share shall be committed to the City no later than the City's approval to commence construction; or,

5.b. The landowner has entered into a statutory development agreement or legally binding agreement ("agreement") that specifies that the new development will provide for the upgraded facility. Commencement of actual construction of facilities or provision of services must be made within one year of issuance of the development permit, unless the agreement specifies otherwise,

6. The facilities needed to serve the new development are in place by the time a certificate of occupancy or its functional equivalent is issued.

(Ord. No. 09-01, § 1, 2-18-09; Ord. No. 17-08, § 1, 6-7-17)

Policy 1.2.2: Enforcement of Standards. The City shall enforce its facility level of service standards for transportation, parks, and schools under the requirements established by Florida law upon development orders or building permits which may cause the level of service to fall below the City's adopted minimum level of service for that facility.

1.2.2.a Parks and Schools. Development that may cause the level of service to fall below the City's adopted minimum level of service may proceed with approval on the condition that:

1. The facility needed to serve the new development is in place or under actual construction upon the issuance of a building permit or certificate of occupancy; or,
2. The landowner has made a binding commitment to the local government to pay the proportionate share of the cost of providing the facility needed to serve the proposed developments. Funds in the amount of the developer's share shall be committed to the City no later than the City's approval to commence construction; or,
3. The landowner has entered into a statutory development agreement or legally binding agreement ("agreement") that specifies that the new development will provide for the upgraded facility. Commencement of actual construction of facilities or provision of services must be made within one year of issuance of the development permit, unless the agreement specifies otherwise.

1.2.2.b Transportation Facilities. Development that may cause level of service standards to fall below the City's adopted minimum level of service may proceed with approval under the condition that it meets the requirements of Section 163.3180(5)(h) Florida Statutes (2019).

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.2.3: The City's concurrency management system shall conform to the provisions of Chapter 163, Florida Statutes by including commitments that:

a. The City of Bonita Springs will maintain its adopted level of service standards for potable water, sanitary sewer, solid waste, stormwater management, parks and recreation, and roads.

b. The City of Bonita Springs will demonstrate in future Capital Improvement Elements and amendments to this element that the adopted level of service standards as stated in the Capital Improvement Elements Policy 1.1.3 will be achieved and maintained.

c. The City's concurrency management system will use a system for monitoring and ensuring adherence to the adopted level of service standards, the schedule of capital improvements, and the availability of public facility capacity. The City shall:

1. Maintain a listing of all City adopted levels of service as listed in Policy 1.1.3.

2. Maintain a continuous inventory of "available capacity" for each facility with an adopted level of service. "Available capacity" will consist of each facility's design capacity less the demand on the capacity committed through the issuance of prior development orders.

3. Allow a comparison of a proposed development project's demand on each facility's "available capacity" to the City's adopted level of service for that facility and thus ascertain if the facility has sufficient available capacity to service the proposed project.

4. The City shall issue no development orders or development permits without first consulting with Bonita Springs Utilities (the City's potable water service provider) to determine whether adequate water supplies to serve the development will be available no later than the anticipated date of issuance by the City of a certificate of occupancy or its functional equivalent. The City will also ensure that adequate water supplies and facilities are available and in place prior to issuing a certificate of occupancy or its functional equivalent.

d. The City's concurrency management system will include standards for interpreting and using level of service standards to determine when the concurrency test must be met for development orders and permits. The City's concurrency management system will:

1. Consider the impact the development will have on the City's facilities and will consider the type and intensity of use of the proposed development in relation to the demands the use can reasonably be expected to make on those facilities and the times when the demand can reasonably be expected to occur during the course of the development. When measuring the expected impacts of a development, the City will include only the impacts of permanent continuing demands of the development.

2. Determine whether there will be sufficient capacity considering the "conditions" in Policy 1.2.1 and 1.2.2 for these facilities to serve the development at the time the impacts of the development will occur without causing the facilities and services to function at a level of service below the minimum levels established for them. The City will add the expected impacts of the development to the levels of use of the facility at the time of the determination. Anticipated additional use will be derived from other reasonably foreseeable factors. If this sum is less than the capacity of the facility in question to operate during the effective period at the minimum adopted levels of service and the development's projected impact is in compliance with the City's Plan, the City will certify the conclusion by a written statement.

At the latest, the test for concurrency is prior to the approval of an application for a development order or permit which contains a specific plan for development including the density and intensity of development.

e. The City's concurrency management system will be implemented through the City's Land Development Regulations and will ensure that the issuance of development orders and permits will not result in a reduction in the levels of service beyond the City's adopted level of service for the affected facility.

(Ord. No. 08-19, § 2, 9-17-08; Ord. No. 14-06, § 2, 5-7-14; Ord. No. 14-24, § 2, 10-15-14; Ord. No. 17-08, § 1, 6-7-17)

Policy 1.2.4: The City's concurrency management system will allow deferrals or exemptions only as specified below.

a. Deferrals will be allowed only when the development application does not include a specific plan for development including the density and intensity of uses or does not request or require any authorization of development.

b. Exemptions will include:

1. Dwelling permits which do not impact upon the City's facilities/services having adopted levels of service.

2. Building permits for single family, two family, and duplex buildings, as well as move-on permits for mobile homes, and recreational vehicles provided that the building or unit will be located within a subdivision or plat or other development which has a valid Certificate of Concurrency which specifically authorizes the City to issue building permits.

3. Commercial buildings to the extent that the Certificate of Concurrency for the Final Development Order (FDO) issued prior to adoption of the City's Comprehensive Plan specifically authorized the City to issue the building permits.

4. Permits which in themselves do not authorize construction of any building or structure which could impact the City's facility/service adopted levels of service.

5. Exemptions approved for vested rights.

6. Any other de minimis impact consistent with FS 163,3180(5). A de minimis impact is an impact that would not affect more than 1 percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the local government. No impact will be de minimis if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility would exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility; provided however, that an impact of a single family home on an existing lot will constitute a de minimis impact on all roadways regardless of the level of the deficiency of the roadway. No impact will be de minimis if it would exceed the adopted level of service standard of any affected designated hurricane evacuation routes.

c. The City may grant exceptions from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and (1) is a project that promotes public transportation or (2) is located in an area for which the City has adopted an amendment designating the area for urban infill development, urban redevelopment, downtown revitalization, or urban infill and redevelopment, which amendment includes data and analysis demonstrating that the area(s) qualify under Florida Statutes § 163.2517.

Developments located within urban infill, urban redevelopment, existing urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas which pose only special part-time demands on the transportation system may be excepted from the concurrency requirement for

transportation facilities. A special part time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours. Prior to granting an exception the City will consider the impacts on the Florida Intrastate Highway System. The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Any affected person may challenge a plan amendment establishing these guidelines and the areas with which an exception could be granted.

(Ord. No. 14-06, § 2, 5-7-14; Ord. No. 14-24, § 2, 10-15-14; Ord. No. 17-08, § 1, 6-7-17)

Policy 1.2.5: The City Manager, as a component of his/her annual review of facilities and Levels of Service, in preparing the City's annual capital improvements program, shall prepare a formal assessment of the status of the City's adopted level of service standards including:

a. The existing demand on facilities having adopted levels of service.

b. The capacity available to meet future demand, and

c. The capacity of planned facilities.

Using this assessment, the City Council shall, after a public hearing, determine if there is sufficient cause to withhold or condition development orders or permits during the coming year.

Development orders or permits may only be withheld when there is insufficient capacity for potable water, sanitary sewer, solid waste, and stormwater management.

Should City Council find that sufficient capacity will be available to serve all development reasonably expected to occur during the coming year, issuance of development permits may continue.

Should the City Council find that sufficient capacity will not be available to serve all development reasonably expected to occur during the coming year, City Council shall take at least one of the following actions:

1. Prepare a comprehensive plan amendment to adjust the adopted failing level of service or,

2. Identify the types of development permits which will have an immediate large demand on the failing levels of service, and direct that permits which depend on these levels of service shall not be granted or shall be granted conditionally so occupancy is dependent upon achievement of the adopted level of service and set a schedule for the reassessment of that level of service, or

3. Immediately amend the first three years of the City's 5 year schedule of capital improvement to provide or accelerate facility improvements or other means to negate or offset any apparent deficiencies in levels of service.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.2.6: To provide for a reasonable economic use of land in those rare instances where a strict application of the concurrency requirements would constitute an unconstitutional taking of property without due process of law, the City may issue a concurrency variance certificate. This certificate may be issued only in the City finds all of the following circumstances to be true:

a. There are not sufficient facilities available to serve the development without violating minimum concurrency requirements.

b. No reasonable use can be made of the property unless a development permit is issued.

c. No reasonable economic use can be made of the property by conditioning the development permit upon sufficient facilities becoming available, and

d. The request to vary from the concurrency requirements is the minimum variance that would allow any reasonable economic use of the property in question.

Policy 1.2.7: The City shall enforce concurrency management vested rights through implementation of its Land Development Regulations.

(Ord. No. 09-01, § 1, 2-18-09; Ord. No. 17-08, § 1, 6-7-17)

Policy 1.2.8: The City's concurrency management system shall be administered by the City of Bonita Springs or its designee.

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.2.9: Reserved.

(Ord. No. 14-06, § 2, 5-7-14; Ord. No. 17-08, § 1, 6-7-17)

~~**Policy 1.2.10:** The City shall investigate and initiate, if warranted, a Comprehensive Plan Amendment to designate a Transportation Concurrency Exception Area (TCEA) in order to accommodate redevelopment and infill along Old U.S. 41 between Bonita Beach Road and Terry Street and through the Comprehensive Plan review process, coordinate the City's designation of its TCEA with the DEO, FDOT, Lee County and the MPO.~~

(Ord. No. 14-06, § 2, 5-7-14; Ord. No. 14-24, § 2, 10-15-14; Ord. No. 17-08, § 1, 6-7-17)

Objective 1.3: Other Financing Policies. Establish a broad-based system of revenue regulations that ensure that new development pays at least 90% of the capital costs of the public infrastructure directly attributable to that new development.

Policy 1.3.1: The City's impact fees for and/or fees-in-lieu of private provision of designated public facilities shall be set to capture a substantial proportion of the full and real cost of the designated facility, and shall be reviewed and updated regularly.

Policy 1.3.2: Lee County shall assist any duly constituted public agency within its boundaries, at that agency's request, in developing an impact fee program to offset the impacts of new growth on that agency or jurisdiction's capital or facility requirements.

Policy 1.3.3: Reserved.

(Ord. No. 09-01, § 1, 2-18-09)

Objective 1.4: The City, shall upon adoption of this Comprehensive Plan, limit public expenditures that subsidize development within the coastal high hazard area of the City.

Policy 1.4.1: All further City public expenditures for new facilities within the City's coastal high hazard Category 1 hurricane evacuation area shall require a finding by the City Council that such expenditures are necessary to maintain required service levels, to protect

existing residents, or to provide for recreation/open space and preservation needs or enhanced water quality measures.

Objective 1.5: The City shall coordinate the City's Comprehensive Plan elements' capital requirements with the City's capital improvement program.

Policy 1.5.1: The City Manager shall, during preparation of the proposed Capital Improvements Program for the City Council's consideration, include those capital needs identified in the Comprehensive Plan's elements.

Policy 1.5.2: Capital improvements are defined to include at least any major nonrecurring expenditure for physical facilities having an estimated useful life in excess of ten years and an acquisition cost of $25,000 or more.

Policy 1.5.3: The City incorporates into the Capital Improvement's Element the Lee County School District's Five Year Capital Facilities Work Plan as adopted by the Lee County School Board on 9-9-2008. Beginning with an effective date of 2008 and no later than December 1st of each year thereafter, the City shall incorporate the above into its Capital Improvement's Element. The Capital Facilities Work Plan shall identify school facility projects which are necessary to address existing deficiencies and meet future needs. The Plan shall demonstrate that the School District can achieve and maintain the adopted LOS standard for the five-year planning period supported by data and analysis demonstrating financial feasibility. Further, the Lee County School District's "Educational Plant Survey," adopted on July 30, 2008 is hereby incorporated by reference.

(Ord. No. 09-01, § 1, 2-18-09)

Water Supply Capital Improvements (2020-2030)

Water Supply Capital Improvements Projects (2020-2030)							
Project Name	**Water Source**	**Responsible Agencies**	**Funding Sources**	**Estimated Project Cost ($M)**	**Estimated O&M ($M)**	**Project Capacity (MGD)**	**Year Water Produced**
Diversification of Lower Tamiami Wellfield	Fresh	BSU		1		2	2020
RO WTP and Upper Floridan Wellfield Expansion Phase III	Brackish	BSU		45		4	2023
Source: SFWMD LWC WSP Update and BSU							

(Ord. No. 08-19, § 2, 9-17-08; Ord. No. 14-06, § 2, 5-7-14)

MONITORING AND EVALUATION

Capital Improvements planning in the City of Bonita Springs is a continuous process, with on-going involvement by citizens, staff, and elected officials. Some of the factors considered are: fluctuating

revenue streams, changing facilities needs; financial markets, interest rates and public perceptions of taxation and expenditures. The Capital Improvements Element should be reviewed on an annual basis.

The City's Capital Improvements planning process is organized to establish a sound basis in planning. Annual review and possible amendments to the Capital Improvements Element is coupled with annual adoption of the municipal budget.

The annual review will be the responsibility of the City Manager or designee, with the involvement of the City Clerk. The City Manager will present the entire package to the City Council for review and adoption.

The review process will include an analysis of the following factors:

a. Updates, corrections, and revisions to costs, revenues, target dates, and locations.

b. Consistency with the other elements of the Comprehensive Plan.

c. Actions of other agencies such as the Florida Department of Transportation and the success of intergovernmental cooperation in implementing the element.

d. The continued validity of priority assignments.

e. Projects completed or progress towards completion.

f. The level of service achieved.

g. The debt capacity of the City.

h. Grants or private donations received or being considered.

i. Public perceptions of the process, the necessity of projects in the 5-year program, and willingness to support Capital Improvements at the level planned.

j. Success in achieving grants.

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-301

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve a sub-recipient agreement between the City of Bonita Springs and Excel Contractors, LLC for Grant Writing and Support Services

MEETING DATE: 10/7/2020

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:
Staff issued a Request for Qualifications (CN 20-10) on May 22, 2020 for Grant Writing and Support Services. The City received five (5) proposals on June 2, 2020. The Selection Committee met on August 11, 220 and evaluated the following submittals: Woodard & Curran, Inc, Pegasus Engineering and Excel Contractors, LLC.

At the August 19, 2020 City Council meeting, the three consultants were approved. The agreement between the City and Excel Contractors, LLC is attached for approval. Once the agreement is fully executed it will remain in effect for a period of two (2) years with the option to renew for one (1) additional year, upon mutual agreement. The City will be billed monthly for work completed during the previous month at the rates included in the agreement.

Attachment: Agreement

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ **YES** ☐ **NO**
IF YES, WHICH STRATEGIC OBJECTIVE? 7) Government Transparency

STAFF RECOMMENDATIONS: Approve the sub-recipient agreement.

REVIEWED BY:

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

COUNCIL ACTION:

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

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CITY OF BONITA SPRINGS, FLORIDA
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (hereinafter referred to as "Agreement") is made and entered into this _____ day of _____, 2020, between the City Council of the City of Bonita Springs, a municipality incorporated in the State of Florida (hereinafter referred to as the "City") and Excel Contractors, LLC (hereinafter referred to as the "Consultant").

WITNESSETH

WHEREAS, the City desires to obtain the professional services of said Consultant to provide and perform professional services as further described hereinafter concerning the project to be referred to and identified as: GRANT WRITING AND SUPPORT SERVICES CN 20-10, and

WHEREAS, the Consultant hereby certifies that Consultant has been granted and possesses valid, current licenses to do business in the State of Florida and in the City of Bonita Springs, Florida, issued by the respective State Boards and Government Agencies responsible for regulating and licensing the professional services to be provided and performed by the Consultant pursuant to this Agreement; and

WHEREAS, the selection and engagement of the Consultant has been made by the City in accordance with the provisions of the Consultants Competitive Negotiation Act, Florida Statutes §287.055.

NOW, THEREFORE, in consideration of the mutual covenants, terms and provisions contained herein, the parties hereto agree that with the mutual acceptance of this Agreement as indicated hereinafter by the execution of this Agreement by both parties that a contract shall exist between both parties consisting of:

ARTICLE 1.00-SCOPE OF PROFESSIONAL SERVICES
Consultant hereby agrees to provide and perform the professional services required and necessary to complete the services and work as set forth in the Scope of Professional Services, which is attached hereto and made a part of this Agreement.

ARTICLE 2.00-DEFINITIONS
The following definition of terms associated with this Agreement is provided to establish a common understanding between both parties to this Agreement as to the intended usage, application, and interpretation of such terms pertaining to this Agreement.

2.01 CITY
The term "City" shall refer to the City of Bonita Springs, a municipality incorporated within the State of Florida, and any official and/or employees thereof who shall be duly authorized to act on the City's behalf relative to this Agreement.

2.02 CONSULTANT
The term "Consultant" shall refer to the individual or firm offering professional services which by execution of this Agreement shall be legally obligated, responsible, and liable for providing and performing any and all of the services, work and materials, including services and/or work of sub-consultants and subcontractors, required under the covenants, terms and provisions contained in this Agreement and any and all change orders thereto.

2.03 PROFESSIONAL SERVICES
The term "Professional Services" shall refer to all of the services, work materials and all related professional, technical and administrative activities which are necessary to be provided and performed by the Consultant and its employees and any and all sub-consultants and subcontractors the Consultant may engage to provide, perform and complete the services required pursuant to the covenants, terms and provisions of this Agreement.

2.04 SUB-CONSULTANT
The term "Sub-Consultant" shall refer to any individual or firm offering professional services which is engaged by the Consultant to assist the Consultant in providing and performing the professional services, work and materials for which the Consultant is contractually obligated, responsible and liable to provide and perform under this Agreement. The City shall not be a party to, responsible or liable for, or assume any obligation whatever for any agreement entered into between the Consultant and any sub-consultant.

2.05 SUBCONTRACTOR

The term “Subcontractor” shall refer to any individual, company or firm providing other than professional services which is engaged by the Consultant to assist the Consultant in contractually obligated, responsible, and liable to provide and perform under this Agreement. The City shall not be a party to, responsible or liable for, or assume any obligation whatever for any agreement entered into between the Consultant and any subcontractor.

2.06 PROJECT
The term “Project” shall refer to such facility, system, program or item as described in the summary statement set forth in the preamble of this Agreement.

2.07 BASIC SERVICES
The term “Basic Services” shall refer to the professional services set forth and required pursuant to this Agreement and as described in further detail in the attached Scope of Professional Services.

2.08 ADDITIONAL SERVICES
The term “Additional Services” shall refer to such professional services as the City may request and authorize, in writing, the Consultant to provide and perform relative to this Agreement which are not included in the basic services. Additional services shall be authorized by the execution of both parties to this Agreement by a change order agreement.

2.09 CHANGE ORDER
The term “Change Order” shall refer to a written document, change order agreement, executed by both parties to this Agreement setting forth and authorizing changes to the agreed upon scope of professional services and tasks, compensation and method of payment, time and schedule of performance, or project guidelines and criteria as such were set forth and agreed to in the initial agreement, supplemental task authorization(s), or previous change orders issued thereto. The change order document, which shall be executed on a City standard form, shall set forth the authorized changes to the: scope of professional services, tasks, work or materials to be performed or provided by the Consultant; the compensation and method of payment; the schedule or time period for performance and completion, and the guidelines, criteria and requirements pertaining thereto.

The amount of the change in contract compensation and time set forth in any and all change orders executed and issued under this Agreement shall be understood and agreed by both parties to this Agreement to be fair, equitable, adequate and complete. The changed compensation shall be understood and agreed to be the total of all costs associated with or impacted by the change order including, but not limited to, any and all direct costs, indirect costs and associated costs which may result from or be caused by the change order, and shall be understood and agreed to include a fair, equitable and adequate adjustment to cover the Consultant’s general administrative and overhead costs and profit.

In the event the City decides to delete all, or portions, of the scope of services, task(s), or requirements set forth in the initial agreement, supplemental task authorizations or previously authorized change orders, the City may do so by the unilateral issuance of a written change order to the Consultant. Such a unilaterally issued change order shall set forth, if appropriate, an agreement by both the City and the Consultant establishing changes in the amount of compensation to be paid the Consultant as a result of the deletion or decrease in the services required shall have no effect on, or otherwise prevent the City from exercising its rights to direct the stated deletion or decrease in the services to be provided or performed by the Consultant.

2.10 SUPPLEMENTAL TASK AUTHORIZATION
The term “Supplemental Task Authorization” as used refers to a written document executed by both parties to an existing professional services agreement setting forth and authorizing a limited number of professional services, tasks, or work.

2.11 CITY MANAGER
The term “City Manager” shall refer to the City Manager or his designee requesting the service, employed by the City Council to serve and act on the City’s behalf, as it relates to this project. The City Manager within the authority conferred by the City Council, acting as the City’s designated representative shall issue written notification to the Consultant of any and all changes approved by the City in the Consultant’s: (1) compensation; (2) time and/or schedule of service delivery; (3) scope of services; or other change(s) relative to basic services and additional services pursuant to this Agreement or change order(s) or supplemental task authorization(s) pertaining thereto. The City Manager shall be responsible for acting on the City’s behalf to administer, coordinate, interpret and otherwise manage the contractual provisions and requirements set forth in this Agreement, change order(s) or supplemental task authorization(s) issued thereunder.

2.12 PROJECT MANAGER
The term “Project Manager” shall refer to the person employed or retained by the City and designated, in writing, to serve and act on the City’s behalf to provide direct contact and communication between the City and Consultant with respect to providing information, assistance, guidance, coordination, review, approval and acceptance of the professional services,

work and materials to be provided and performed by the Consultant pursuant to this Agreement and such written change order(s) and supplemental task authorization(s) as are authorized. The Project Manager is not authorized to, and shall not, issue any verbal, or written, request or instruction to the Consultant that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever the: (1) scope of services to be provided and performed by the Consultant; (2) the time the Consultant is obligated to commence and complete all such services; (3) the amount of compensation the City is obligated or committed to pay the Consultant. The Project Manager shall review and make appropriate recommendations on all requests submitted by the Consultant for payment for services and work provided and performed, and reimbursable costs and expense, as provided for in this Agreement and change order(s), supplemental task authorization(s) thereto.

2.13 LUMP SUM FEE(S)

Lump Sum Fee(s), hereinafter identified as L.S., are understood and agreed to include all direct and indirect labor costs, personnel related costs, overhead and administrative costs, costs of sub-consultant(s) and/or sub-contractor(s), out-of-pocket expenses and costs, professional service fee(s) and any other costs or expenses which may pertain to the services and/or work to be performed, provided and/or furnished by the Consultant as may be required and/or necessary to complete each and every task set forth in the Scope of Professional Services, or as may be set forth in subsequent work orders, supplemental agreements, and/or change orders agreed to in writing by both parties to this Agreement.

2.14 NOT-TO-EXCEED FEE(S)

When all, or any portion, of the Consultant's compensation to provide and perform the services and work necessary and required pursuant to the tasks set forth in the Scope of Professional Services, and any change orders, supplemental task authorizations, and work orders authorized thereto, is established to be made on a not-to-exceed (NTE) amount basis, it is mutually understood and agreed that such compensation for each completed task shall be made on the following basis:

For the actual hours necessary, required and expected by the Consultant's professional and technical personnel, multiplied by the applicable hourly rates for each classification or position as set forth in the Compensation and Method of Payment, which is attached hereto and made a part of this Agreement, to the above referenced Agreement and any change orders or supplemental task authorizations authorized thereto; and

For the actual, necessary and required hours, and non-personnel expenses and costs, expended by sub-consultants and subcontractors engaged by the Consultant, multiplied by such hourly rates and unit costs as are agreed to by the City and the Consultant and as are set forth as a part of the above referenced Agreement and any change orders or supplemental task authorizations authorized thereto; and

With the understanding and agreement that the City shall pay the Consultant for all such costs and expenses within the established NTE amount for each task or sub-task subject to the Consultant presenting an itemized and detailed invoice with appropriate supporting documentation attached thereto to show evidence satisfactory to the City covering all such costs and expenses; and

With the understanding and agreement that the Consultant's invoices and all payments to be made for all NTE amounts shall be subject to the review, acceptance and approval of the City; and with the understanding and agreement that when the Consultant's compensation is established on a NTE basis for a specific task(s) or sub-task(s) the total amount of compensation to be paid the Consultant to cover all personnel costs, non-personnel reimbursable expenses and costs, and sub-consultant and subcontractor costs for any such specific task(s) or sub-task(s) shall not exceed the amount of the total NTE compensation established and agreed to for each specific task(s) or sub-task(s). In the event the amount of compensation for any task(s) or sub-task(s) to which the Consultant is entitled on the NTE basis set forth above is determined to be necessary, required and actually expended and is determined to be actually less than the NTE amount established for the specific task or sub-task, it is understood and agreed that any unexpended amount under a specific task or sub-task may not be used, applied, transferred, invoiced or paid for services or work provided or performed on any other task(s) or sub-task(s).

ARTICLE 3.00-OBLIGATIONS OF THE CONSULTANT

The obligations of the Consultant with respect to all the basic services and additional services authorized pursuant to this Agreement shall include, but not be limited to, the following:

3.01 LICENSES

The Consultant agrees to obtain and maintain throughout the period this Agreement is in effect all such licenses as are required to do business in the State of Florida, Lee County and in the City of Bonita Springs, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the professional services provided and performed by the Consultant pursuant to this Agreement.

3.02 PERSONNEL

1) QUALIFIED PERSONNEL

The Consultant agrees when the services to be provided and performed relate to a professional service(s) which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in responsible charge of all basic services and additional services to be provided pursuant to this Agreement.

2) CONSULTANT'S PROJECT DIRECTOR

The Consultant agrees to employ and designate, in writing, a qualified and, if required by law, a licensed professional to serve as the Consultant's Project Director. The Consultant's Project Director shall be authorized and responsible to act on behalf of the Consultant with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement thereto. The Consultant's Project Director shall have full authority to bind and obligate the Consultant on any matter arising under this Agreement unless substitute arrangements have been furnished to the City in writing. The Consultant agrees that the Project Director shall devote whatever time is required to satisfactorily direct, supervise and manage the services provided and performed by the Consultant throughout the entire period this Agreement is in effect. The person selected by the Consultant to serve as the Consultant's Project Director shall be subject to the prior approval and acceptance of the City.

3) CONSULTANT'S STAFF

Consultant will specify the technical and support staff who will be assigned to this project. Consultant will notify City's Project Manager of any changes and/or substitution of staff working on the project.

4) REMOVAL OF PERSONNEL

The Consultant agrees, within thirty (30) calendar days of receipt of a written request from the City, to promptly remove and replace the Consultant's Project Director, or any other personnel employed or retained by the Consultant, or personnel of the sub-consultant(s) or subcontractor(s) engaged by the Consultant to provide and/or perform services and/or work pursuant to the requirements of this Agreement, who the City shall request, in writing, be removed, this request may be made by the City with or without cause.

5) IMMIGRATION LAW COMPLIANCE

Consistent with Bonita Springs Code §36.22, effective June 1, 2009, Contractors providing services to the City, as a condition of each contract, must use E-Verify to verify the employment of any person hired during the contract term by the contractor and assigned by the Contractor to perform work for the City. Before any contract with the City is signed, proof of enrollment with E-Verify must be provided. The Contractor acknowledges that he will comply with the Immigration Reform and Control Act of 1986 and is committed to employing only those individuals who are authorized to work in the United States, by hiring employees who properly complete, sign and date the first section of the Immigration and Naturalization Services (INS) Form I-9 and presenting to the Contractor the original necessary document(s) to prove identity and employment eligibility, as verified through E-Verify.

The Contractor must also be responsible for entering into an agreement with each and every vendor and subcontractor that states that vendors and subcontractors (and their vendors) are independently responsible for their own employment decisions, including hiring, disciplinary and termination decisions, and will comply with the Immigration Reform and Control Act of 1986 and use the E-Verify system for verification. The agreements shall also state that each business is responsible for its own I-9 and other employment record-keeping requirements, and with compliance with all immigration laws.

3.03 TIMELY ACCOMPLISHMENT OF SERVICES

The timely performance and completion of the required services, work and materials is vitally important to the interests of the City. Time is of the essence for all of the duties and obligations contained in this Agreement thereto. The City may suffer damages in the event that the Consultant does not accomplish and complete the required services in a timely manner. The Consultant agrees to employ, engage, retain and/or assign an adequate number of personnel throughout the period of this Agreement so that all basic services and additional services will be provided, performed and completed in a timely and diligent manner throughout.

3.04 STANDARDS OF PROFESSIONAL SERVICE

The work and/or services to be provided and/or performed by the Consultant and by any sub-consultant(s) and/or subcontractor(s) engaged by the Consultant as set forth in the Scope of Professional Services shall be done in accordance with the generally accepted standards of professional practice and in accordance with the laws, rules, regulations, ordinances, codes, policies, standards or other guidelines issued by those governmental agencies which have jurisdiction over all or a portion of this project and which are in effect at the time the City approves this Agreement, or which may subsequently be changed or revised. Any subsequent change or revision to such laws, rules, regulations, ordinances, codes,

policies, standards or other guidelines which requires the Consultant to provide and/or perform work and/or services which are significantly different from that set forth in the Scope of Professional Services shall serve as a basis for the City to consider the development and issuance of a change order to provide for a change to, or additional services to, the services set forth in this Agreement.

3.05 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

1) RESPONSIBILITY TO CORRECT

The Consultant agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and other services, work and materials performed, provided, and/or furnished by Consultant or by any sub-consultant(s) and/or subcontractor(s) retained or engaged by the Consultant pursuant to this Agreement. The Consultant shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents and instruments, and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of Consultant or any sub-consultant(s) or subcontractor(s) engaged by the Consultant.

2) CITY'S APPROVAL SHALL NOT RELIEVE CONSULTANT OF RESPONSIBILITY

Neither review, approval, nor acceptance by the City of data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and incidental professional services, work and materials furnished hereunder by the Consultant, or any sub-consultant(s) or subcontractor(s) engaged by the Consultant to provide and perform services in connection with this Agreement. Neither the City's review, approval or acceptance of, nor payment for, any of the Consultant's services, work and materials shall be construed to operate as a waiver of any of the City's rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

3.06 LIABILITY AND HOLD HARMLESS

To the fullest extent permitted by Florida law and to the limit by Florida Statutes § 725.08, the Contractor/Vendor/ Consultant shall be liable and agrees to be liable for and shall indemnify and hold harmless the City of Bonita Springs, its officers and employees from any and all liabilities, damages, losses and costs, to person or property including, but not limited to, reasonable attorneys' fees arising out of or caused in whole or in part by any act, omission, error or default by the Contractor/Vendor/Consultant, its subcontractors, materialmen, or agents of any tier or their employees arising out of this agreement or its performance. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph. This section does not pertain to any incident arising from the sole negligence of the City of Bonita Springs.

3.07 NOT TO DIVULGE CERTAIN INFORMATION

Consultant agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without City's prior written consent, or unless incident to the proper performance of Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by Consultant or any sub-consultant(s) or subcontractor(s) pursuant to this Agreement. Consultant shall require all of its employees, sub-consultant(s) and subcontractor(s) to comply with the provisions of this paragraph.

3.08 CONSULTANT TO REPAIR PROPERTY DAMAGE CAUSED BY THE CONSULTANT

Consultant agrees to promptly repair and/or replace, or cause to have repaired and/or replaced, at its sole cost and expenses and in a manner acceptable to and approved by the City, any property damage arising out of, or caused by, the willful or negligent acts of the Consultant, or of its sub-consultants and/or subcontractors. This Consultant's obligation under this sub-article does not apply to property damage caused by any other Consultant or Contractor engaged directly by the City.

The City reserves the right, should the Consultant fail to make such repairs and/or replacement within a reasonable period of time, to cause such repairs and/or replacement to be made by others and for all costs and expenses associated with having such repairs and/or replacement done to be paid for by the Consultant, or by the Consultant reimbursing the City for all such costs and expenses.

3.09 RESPONSIBILITY FOR ESTIMATES

1) In the event the services required pursuant to this Agreement include the Consultant preparing and submitting to the City cost estimates, the Consultant, by exercise of this experience, effort, knowledge and judgment, shall develop such cost estimates as are set forth in, or as may be required under this Agreement and shall be held accountable, responsible and liable for the accuracy, completeness, and corrections of any and all such cost estimates. For purposes of the liability provisions of this article only, the Consultant's estimate(s) shall be

considered valid and effective for a period of six (6) months from the date of the City's acceptance of the estimate(s).

2) The cost estimates of Consultants or sub-consultants engaged by Consultants, for the appraisal or valuation of property or easements, or the estimate of damages or costs associated with the acquisition of property or easements are exempted from the provisions provided in Consultant to Repair Property Damage Caused by the Consultant.

3) COST ESTIMATES

a) ORDER OF MAGNITUDE ESTIMATE

This is an approximate estimate made without detailed architect/engineering data. Examples include, but are not limited to, an estimate from cost-capacity curves, an estimate using scale-up or scale-down factors, and an approximate ratio estimate. This type of estimate shall be accurate within plus forty percent (40%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the order of magnitude estimate shall be recoverable by the City.

b) BUDGET ESTIMATE

Budget in this case applies to the City's budget and not to the budget as a project-controlled document. A budget is prepared with the use of flow sheets, layouts, and equipment details. This type of estimate shall be accurate within plus twenty percent (20%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the budget estimate shall be recoverable by the City.

c) CONSTRUCTION COST ESTIMATE

A construction cost estimate for purposes of this Agreement is an estimate prepared on the basis of well-defined engineering/architectural data and on detailed information set forth in specifications, designs or drawings which are to be used as a basis for obtaining bids or price proposals for constructing the project. This type of estimate shall be accurate within plus or minus ten percent (10%) of the cost of the construction of the project. The accuracy and reliability of a construction cost estimate is vital to the City's interests because it may be used for such purposes as, but not limited to the following: budgeting, obtaining, allocating or obligating funds for the project; evaluating and determining the reasonableness and acceptableness of bids or price proposals for construction project.

In the event the City solicits and receives bids or price proposals from contractors on a construction project based on specifications, design, drawings and a construction cost estimate prepared by the Consultant, and the lowest bid or price proposal, submitted by a responsive and responsible bidder or proposer, which bid or price proposal exceeds the amount of the Consultant's construction cost estimate by more than the percent accuracy set forth hereinabove, the Consultant shall, upon notification by the City, assume responsibility for and proceed to provide and perform the following service without additional compensation.

The Consultant will, subject to the review and approval of the City, modify at its expense the specifications, design, drawings and related bidding and contract documents to the extent necessary to reduce the anticipated construction costs so that the re-solicitation of bids or price proposals will realize bids or price proposals being received that are within the range of accuracy established for the construction cost estimate prepared by the Consultant. Any such modifications made by the Consultant shall not conflict with the functional or operational requirements established by the City for the project and set forth in this Agreement or change order(s) or supplemental task authorization(s) issued thereto, nor shall any such modifications conflict with established rules, regulations, requirements or professional standards pertaining to the design, specifications or drawing prepared by the Consultant, nor shall such modifications adversely affect the safe use or operation of the constructed project. In the event (1) the Consultant's modification of the design, specifications, drawings and related bidding and contract documents, and (2) the re-solicitation of bids or price proposals do not result in bids or price proposals being received from a responsive and responsible bidder or proposer that are within the established percent accuracy of the Consultant's construction cost estimate, the costs associated with the Consultant's preparation and development of the construction cost estimate shall be recoverable by the City by an appropriate reduction in the Consultant's invoice requesting payment for services rendered.

For determination of compliance with the accuracy requirement established for the construction cost estimate prepared by the Consultant, the amount of the construction cost estimate submitted by the Consultant shall be adjusted from the date the construction cost estimate was received by the City until the date bids or price proposals are received by the City, by applying the percent change in the "20 Cities Cost Index" as published in the ENR (formerly Engineering News-Record) a McGraw-Hill, Inc. publication.

If, in response to its solicitation, the City receives less than three bids or priced proposals for a project, there is the potential that such bids or priced proposals may not be a realistic representation of the costs expected to be associated with the

project. If under such circumstances, and if in the professional judgment of the Consultant, the low bid or the low priced proposal received from a responsive bidder or proposer does not realistically represent the costs associated with the project, the Consultant may deem it appropriate to recommend the City reject any such bid(s) or priced proposal(s). If under such circumstances the City concurs with the Consultant's recommendation and rejects the bid(s) or priced proposal(s), the City will not hold the Consultant responsible to, nor will the City require the Consultant to, modify the specifications, design, drawings and related bidding and contract documents as set forth hereinbefore.

3.10 PERMITS

The Consultant will be responsible for preparing and submitting all required applications and other supportive information necessary to assist the City in obtaining all reviews, approvals and permits, with respect to the Consultant's design, drawings and specifications required by any governmental body having authority over the project. Any fees required for such reviews, approvals or permits will be covered by a check issued by the City and made payable to the respective governmental body upon the Consultant furnishing the City satisfactory documentation of such fees. The Consultant will be similarly responsible for preparing and submitting all required applications and other supportive information necessary to assist the City in obtaining any renewals and/or extensions of reviews, approvals or permits that may be required while this Agreement is in effect. The City shall, at the Consultant's request, assist in obtaining required signatures and provide the Consultant with all information known to be available to the City so as to assist the Consultant in the preparation and submittal of any original, renewal or extension of required reviews, approvals or permits.

3.11 ADDITIONAL SERVICES

Should the CITY request the Consultant to provide and perform professional services for this project which are not set forth in the Scope of Professional Services, the Consultant agrees to provide and perform such additional services as may be agreed to in writing by both parties to this Agreement.

Such additional services shall constitute a continuation of the professional services covered under this Agreement and shall be provided and performed in accordance with the covenants, terms, and provisions set forth in this Agreement thereto.

Additional services shall be administered and authorized as change orders or supplemental task authorizations under this Agreement. The Consultant shall not provide or perform, nor shall the City incur or accept any obligation to compensate the Consultant for any additional services unless and until a written change order or supplemental task authorization has been agreed to and executed by both parties.

Each such change order or supplemental task authorization shall set forth a comprehensive, detailed description of: (1) the scope of the additional services requested; (2) the basis of compensation; and (3) the period of time and/or schedule for performing and completing said additional services.

3.12 TRUTH-IN-NEGOTIATIONS CERTIFICATE

The City may request the Consultant to execute a Truth-in-Negotiations Certificate ("Certificate"). The Certificate shall state that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time this Agreement is executed. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates or other factual unit costs.

3.13 COMPLETION OF TASKS

Unless otherwise set forth in the Agreement, the Consultant shall be responsible for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete all of the tasks set forth in the Scope of Professional Services, change orders and supplemental task authorizations authorized. The compensation to be paid the Consultant as set forth in the Compensation and Method of Payment, change orders, and supplemental task authorizations authorized thereto shall be understood and agreed to adequately and completely compensate the Consultant for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete the tasks set forth in the Scope of Professional Services, change orders and supplemental task authorizations authorized thereto as stated above.

ARTICLE 4.00-OBLIGATIONS OF THE CITY

4.01 DESIGNATION OF PROJECT MANAGER

The City agrees after the execution of this Agreement to promptly advise the Consultant, in writing, of the person designated to serve and act as the City's Project Manager. Such notification shall be provided to the Consultant by the Project Manager.

4.02 AVAILABILITY OF CITY INFORMATION

1) PROJECT GUIDELINES AND CRITERIA

Guidelines to the Consultant regarding requirements the City has established or suggests relative to the project including, but not limited to such items as: goals, objectives, constraints, and any special financial, budgeting, space, site, operational, equipment, technical, construction, time and scheduling criteria are set forth in the Project Guidelines and Criteria, which is attached hereto and made a part of this Agreement.

2) CITY TO PROVIDE PERTINENT REFERENCE MATERIAL

At the Consultant's request, the City agrees to provide to the Consultant, at no cost to the Consultant, all pertinent information known to be available to the City to assist the Consultant in providing and performing the required professional services. Such information may include, but not be limited to: previous reports; plans, drawings and specifications; maps; property, boundary, easement, right-of-way, topographic, reference monuments, control points, plats and related survey data; data prepared or services furnished by others to the City such as sub-surface investigations, laboratory tests, inspections of natural and man-made materials, property appraisals, studies, designs and reports.

4.03 AVAILABILITY OF CITY'S DESIGNATED REPRESENTATIVES

The City agrees that the City Manager and the Project Manager shall be available within a reasonable period of time, with reasonable prior notice given by the Consultant, to meet and/or consult with the Consultant on matters pertaining to the services to be provided and performed by the Consultant. The City further agrees to respond within a reasonable period of time to written requests submitted by the Consultant.

4.04 ACCESS TO CITY PROPERTY

The City agrees, with reasonable prior written notice given by the Consultant, to provide the Consultant with access within a reasonable period of time to City property, facilities, buildings and structures to enable the Consultant to provide and perform the required professional services and work pursuant to this Agreement. Such rights of access shall not be exercised in such a manner or to such an extent as to impede or interfere with City operations, or the operations carried on by others under a lease, or other contractual arrangement with the City, or in such a manner as to adversely affect the public health and safety. Such access may, or may not be, within the Consultant's normal office and/or field workdays and/or work hours.

ARTICLE 5.00-COMPENSATION AND METHOD OF PAYMENT

5.01 BASIC AND ADDITIONAL SERVICES

The City shall pay the Consultant for all requested and authorized basic services rendered hereunder by the Consultant and completed in accordance with the requirements, provisions, and/or terms of this Agreement and accepted by the City in accordance with the provisions for compensation and payment of said basic services set forth and prescribed in the Compensation and Method of Payment or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement as evidenced by a written change order executed by both parties.

5.02 METHOD OF PAYMENT

1) MONTHLY STATEMENTS

The Consultant shall be entitled to submit no more than one (1) invoice statement to the City each calendar month covering services rendered during the preceding calendar month. The Consultant's invoice statement(s) shall be itemized to correspond to the basis of compensation as set forth in the Agreement or change order(s) and supplemental task authorization(s) thereunder.

2) PAYMENT FOR SERVICES PERFORMED

The City shall pay the Consultant for services performed using either of the following methods, or using a combination thereof:

a) The City shall pay Consultant on the basis of services completed for tasks set forth in the Scope of Professional Services and the Compensation and Method of Payment, as evidenced by work products such as reports, drawings, specifications, etc., submitted by the Consultant and accepted by the City. No payments shall be made for Consultant's work-in-progress until service items for which payment amounts have been established and set forth in this Agreement have been completed by the Consultant and accepted by the City. Whenever an invoice statement covers services for which no work product is required to be furnished by the Consultant to the City, the City reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

b) The City shall pay the Consultant for services performed for tasks set forth in the Scope of Professional Services and the Compensation and Method of Payment on the basis of an invoice statement covering Consultant's work-in-progress expressed as a percentage of the total cost of the service and/or work required for each task invoiced in this manner. All such work-in-progress percentages are subject to the review and approval of the City. The decision of the City shall be final as to the work-in-progress percentages paid. Payment by the City for tasks on a work-in-progress percentage basis shall not be deemed or interpreted in any way to constitute an approval or acceptance by the City of any such service

or work-in-progress. The Consultant shall be responsible for correcting, re-doing, modifying or otherwise completing the services and work required for each task before receiving final, full payment whether or not previous work-in-progress payments have been made. All tasks to be paid for on a work-in-progress percentage basis shall be agreed to by both parties to the Agreement and each task to be paid in this manner shall be identified in the Compensation and Method of Payment with the notation (WIPP). Only tasks so identified will be paid on a work-in-progress percentage basis. The City reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

3) PAYMENT SCHEDULE

The City shall issue payment to the Consultant within thirty (30) calendar days after receipt of an invoice statement from the Consultant in an acceptable form and containing the requested breakdown and detailed description and documentation of charges. Should the City object or take exception to the amount of any Consultant's invoice statement, the City shall notify the Consultant of such objection or exception within the thirty (30) calendar days payment period set forth hereinbefore. If such objection or exception remains unresolved at the end of said thirty (30) calendar days' period, the City shall withhold the disputed amount and make payment to the Consultant of the amount not in dispute. Payment of any disputed amount, or adjustments thereto, shall be made within thirty (30) calendar days of the date such disputed amount is resolved by mutual agreement of the parties to this Agreement.

5.03 PAYMENT WHEN SERVICES ARE TERMINATED AT THE CONVENIENCE OF THE CITY

In the event of termination of this Agreement at the convenience of the City, not at the fault of the Consultant, the City shall compensate the Consultant only for the services performed prior to the effective date of termination, reimbursable expenses then due and reasonable expenses incurred by the Consultant in affecting the termination of services and work, and incurred by the submittal to the City of project drawings, plans, data, and other project documents.

5.04 PAYMENT WHEN SERVICES ARE SUSPENDED

In the event the City suspends the Consultant's services and work on all or part of the services required to be provided and performed by the Consultant pursuant to this Agreement, the City shall compensate the Consultant only for the services performed prior to the effective date of suspension, reimbursable expenses then due and any reasonable expenses incurred or associated with, or as a result of such suspension.

5.05 NON-ENTITLEMENT TO ANTICIPATED FEES IN THE EVENT OF SERVICE TERMINATION, SUSPENSION, ELIMINATION, CANCELLATION AND/OR DECREASE

In the event the services required pursuant to this Agreement are terminated, eliminated, cancelled, or decreased due to: (1) termination; (2) suspension in whole or in part; (3) and/or are modified by the subsequent issuance of supplemental task authorization(s) and/or change order(s), other than receiving the compensation set forth in Payment When Services are Terminated at the Convenience of the City and Payment When Services are Suspended, the Consultant shall not be entitled to receive compensation for anticipated professional fees, profit, general and administrative overhead expenses or for any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, cancelled or decreased.

ARTICLE 6.00-TIME AND SCHEDULE OF PERFORMANCE

6.01 NOTICE TO PROCEED

Following the execution of this Agreement by both parties, and after the Consultant has complied with the insurance requirements set forth hereinafter, the City may authorize specific tasks to be completed. Upon agreement on the scope and fee for this work and execution of supplemental task authorization, the City will issue the Consultant a written notice to proceed. Following the issuance of such notice to proceed the Consultant shall be authorized to commence work and the Consultant thereafter shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion.

6.02 TIME OF PERFORMANCE

The Consultant agrees to complete the services required pursuant to this Agreement within the time period(s) for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in the Schedule of Performance, which is attached hereto and made a part of this Agreement.

Should the Consultant be obstructed or delayed in the prosecution or completion of its obligations under this Agreement as a result of causes beyond the control of the Consultant, or its sub-consultant(s) and/or subcontractor(s), and not due to their fault or neglect, the Consultant shall notify the City, in writing, within five (5) calendar days after the commencement of such delay, stating the cause(s) thereof and requesting an extension of the Consultant's time of performance. Upon receipt of the Consultant's request for an extension of time, the City shall grant the extension if the City determines the delay(s) encountered by the Consultant, or its sub-consultant(s) and/or subcontractor(s), is due to unforeseen causes and not attributable to their fault or neglect.

6.03 CONSULTANT WORK SCHEDULE

The Consultant shall be required as a condition of this Agreement to prepare and submit to the City, on a monthly basis, commencing with the issuance of the notice to proceed, a Consultant's work schedule. The work schedule shall set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of the services and work required completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in the Schedule of Performance, pursuant to this Agreement in such a manner that the Consultant's planned and actual work progress can be readily determined. The Consultant's work schedule of planned and actual work progress shall be updated and submitted by the Consultant to the City on a monthly basis.

6.04 FAILURE TO PERFORM IN A TIMELY MANNER

Should the Consultant fail to commence, provide, perform and/or complete any of the services and work required pursuant to this Agreement in a timely and diligent manner, the City may consider such failure as justifiable cause to terminate this Agreement. As an alternative to termination, the City at its option, may, upon written notice to the Consultant, withhold any or all payments due and owing to the Consultant, not to exceed the amount of the compensation for the work in dispute, until such time as the Consultant resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements set forth in this Agreement, or any change order(s) and supplemental task authorization(s) issued thereto.

ARTICLE 7.00-SECURING AGREEMENT

The Consultant warrants that the Consultant has not employed or retained any company or person other than a bona fide, regular, full time employee working for the Consultant to solicit or secure this Agreement and that the Consultant has not paid or agreed to pay any person, company, corporation or firm other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 8.00-CONFLICT OF INTEREST

The Consultant represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The Consultant further agrees that no person having any such interest shall be employed or engaged by the Consultant for said performance.

If Consultant, for itself and on behalf of its sub-consultants, is about to engage in representing another client, which it in good faith believes could result in a conflict of interest with the work being performed by Consultant or such sub-consultant under this Agreement, then it will promptly bring such potential conflict of interest to the City's attention, in writing. The City will advise the Consultant, in writing, within ten (10) calendar days as to the period of time required by the City to determine if such a conflict of interest exists. If the City determines that there is a conflict of interest, Consultant or such sub-consultant shall decline the representation upon written notice by the City.

If the City determines that there is not such conflict of interest, then the City shall give its written consent to such representation. If Consultant or sub-consultant accepts such a representation without obtaining the City's prior written consent, and if the City subsequently determines that there is a conflict of interest between such representation and the work being performed by Consultant or such sub-consultant under this Agreement, then the Consultant or such sub-consultant agrees to promptly terminate such representation. Consultant shall require each of such sub-consultants to comply with the provisions of this section.

Should the Consultant fail to advise or notify the City as provided hereinabove of representation which could, or does, result in a conflict of interest, or should the Consultant fail to discontinue such representation, the City may consider such failure as justifiable cause to terminate this Agreement.

ARTICLE 9.00-ASSIGNMENT, TRANSFER AND SUBCONTRACTS

The Consultant shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfers that result from: (1) the merger or consolidation of Consultant with a third party; or (2) the disestablishment of the Consultant's professional practice and the establishment of a successor Consultant, or consulting organization. Nor shall the Consultant subcontract any of its service obligations hereunder to third parties, except as otherwise authorized in this Agreement thereto, without prior written approval of the City. The Consultant shall have the right, subject to the City's prior written approval, to employ other persons and/or firms to serve as sub-consultants and/or subcontractors to Consultant in connection with Consultant providing and performing services and work pursuant to the requirements of this Agreement. The City shall have the right and be entitled to withhold such approval. Such approval shall not be unreasonably withheld.

In providing and performing the services and work required pursuant to this Agreement, Consultant intends to engage the assistance of the sub-consultant(s) and/or subcontractor(s) set forth in Consultant's Associated Sub-Consultants and Subcontractors, which is attached hereto and made a part of this Agreement.

ARTICLE 10.00-APPLICABLE LAW
Unless otherwise specified, this Agreement shall be governed by the laws, rules, regulations of the State of Florida, or the laws, rules, and regulations of the United States when providing services funded by the United States Government.

ARTICLE 11.00-COVENANTS AGAINST DISCRIMINATION FOR PROJECTS WITH FUNDS APPROPRIATED FROM BONITA SPRINGS GENERAL REVENUES
The Consultant for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to City hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The Consultant shall comply with the state laws in the hiring of sub-consultants.

ARTICLE 12.00-WAIVER OF BREACH
Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

ARTICLE 13.00-INSURANCE
For the Insurance Section and Exhibit, Consultant will be referred to as "Vendor". The Vendor shall at its own expense, carry and maintain insurance coverage from responsible companies duly authorized to do business in the State of Florida as set forth in Insurance and Bonding Requirements of this solicitation.

The Vendor shall procure and maintain property insurance (Builder's Risk, Installation Floaters, etc.) upon the entire project, if required, to the full insurable value of the scope of work. The City and the Vendor waive against each other and the City's separate Vendors, Contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. The Vendor and City shall, where appropriate, require similar waivers of subrogation from the City's separate Vendors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts. All deductibles for property insurance procured by the Vendor shall be the responsibility of the Vendor.

Certificates issued as a result of the award of this solicitation must identify: "For any and all work performed on behalf of the City of Bonita Springs."

The General Liability Policy provided by Vendor to meet the requirements of this solicitation shall name the City of Bonita Springs, Florida, as an additional insured including completed operations (and products if applicable). The policy shall be endorsed to be primary to any similar coverage carried by the City.

The Certificate Holder shall be named as: City of Bonita Springs. The Certificates of Insurance must state the Contract Number, or Project Number, or specific project description, or must read: "For any and all work performed on behalf of the City of Bonita Springs."

The amounts and types of insurance coverage shall conform to the minimum requirements set forth in Insurance and Bonding Requirements with the use of Insurance Services Office (ISO) forms and endorsements or their equivalents. If Vendor has any self-insured retentions or deductibles under any of the below listed minimum required coverage, Vendor must identify on the Certificate of Insurance the nature and amount of such self-insured retentions or deductibles and provide satisfactory evidence of financial responsibility for such obligations. All self-insured retentions or deductibles will be Vendor's sole responsibility.

Coverage(s) shall be maintained without interruption from the date of commencement of the work until at least thirty (30) days beyond the date of completion or warranty period, whichever is greater, or otherwise as specified in this solicitation if longer.

The Vendor and/or its insurance carrier shall provide thirty (30) days written notice to the City of policy cancellation or non-renewal on the part of the insurance carrier or the Vendor except for non-payment which shall be ten (10) days. The Vendor shall also notify the City, in a like manner, within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverage or limits received by Vendor from its insurer and nothing contained herein shall relieve Vendor of this requirement to provide notice.

Should at any time the Vendor not maintain the insurance coverage(s) required herein, the City may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverage(s) and charge the Vendor for such coverage(s) purchased. If Vendor fails to reimburse the City for such costs within thirty (30) days after demand, the City has the right to offset these costs from any amount due Vendor under this Agreement or any other agreement between the City and Vendor. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverage(s) purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverage(s) shall in no way be construed to be a waiver of any of its rights under the Contract Documents.

If the initial or any subsequently issued Certificate of Insurance expires prior to the completion of the scope of work, the Vendor shall furnish to the City renewal or replacement Certificate(s) of Insurance not later than ten (10) calendar days after the expiration date on the certificate. Failure of the Vendor to provide the City with such renewal certificate(s) shall be considered justification for the City to terminate any and all contracts.

ARTICLE 14.00-DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

The duties and obligations imposed upon the Consultant by this Agreement and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

ARTICLE 15.00-REPRESENTATION OF THE CITY

The Consultant in providing and performing the services and work required pursuant to this Agreement thereto shall only represent the City in this manner and to the extent specifically set forth in writing in this Agreement or thereto, and as provided in any written change order(s) and supplemental task authorization(s) issued thereunder.

In the event the Consultant's services or work involves construction contract administrative support services, the Consultant is not authorized to act on the City's behalf, and shall not act on the City's behalf, in such a manner as to result in change(s) to (1) the cost or compensation to be paid the construction contractor; or (2) the time for completing the work as required and agreed to in the construction contract; or (3) the scope of the work set forth in the construction contract documents, unless such representation is specifically provided for, set forth and authorized in this Agreement or thereto.

The City will neither assume nor accept any obligation, commitment, responsibility or liability which may result from representation by the Consultant not specifically provided for and authorized as stated hereinabove.

ARTICLE 16.00-OWNERSHIP OF DOCUMENTS

All documents such as drawings, tracings, notes, computer files, photographs, plans, specifications, maps, evaluations, reports and other records and data relating to this project, other than working papers, specifically prepared or developed by the Consultant under this Agreement shall be property of the Consultant until the Consultant has been paid for providing and performing the services and work required to produce such documents.

Upon completion or termination of this Agreement, or upon the issuance by the City of a written change order deleting all or portions of the scope of services or task(s) to be provided or performed by the Consultant, all of the above documents, to the extent requested in writing by the City, shall be delivered by the Consultant to the City within seven (7) calendar days of the City making such a request. In the event the City gives the Consultant a written Notice of Termination of all or part of the services or work required, or upon the issuance to the Consultant by the City of a written change order deleting all or part of the services or work required, the Consultant shall deliver to the City the requested documents as set forth hereinabove, with the mutual understanding and commitment by the City that compensation earned or owing to the commitment by the City that compensation earned or owing to the Consultant for services or work provided or performed by the Consultant prior to the effective date of any such termination or deletion will be paid to the Consultant within thirty (30) calendar days of the date of issuance of the notice of termination or change order.

The Consultant, at its expense, may make and retain copies of all documents delivered to the City for reference and internal use. The Consultant shall not, and agrees not to, use any of these documents, data and information contained therein on any other project or for any other client without the prior expressed written permission of the City.

Any use by the City of said documents, data and information contained therein, obtained by the City under the provisions of this Agreement for therein, obtained by the City under the provisions of this Agreement for any purpose not within the scope of this Agreement shall be at the risk of the City, and without liability to the Consultant. The City shall be liable and agrees to be liable for and shall indemnify, defend and hold the Consultant harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the City's use of such documents in a manner contrary to the provisions set forth hereinabove. The City hereby acknowledges receipt of $10.00 (ten and no hundred dollars) and other good and valuable consideration from the Consultant which has been paid as specific consideration for the indemnification provided herein.

ARTICLE 17.00-MAINTENANCE OF RECORDS

The Consultant will keep and maintain adequate records and supporting documentation applicable to all of the services, work, information, expense, costs, invoices and materials provided and performed pursuant to the requirements of this Agreement. Said records and documentation will be retained by the Consultant for a minimum of five (5) years from the date of termination of this Agreement.

The City and its authorized agents shall, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the City deems necessary during the period of this Agreement, and during the period five (5) years thereafter; provided, however, such activity shall be conducted only during normal business hours and at the expense of the City, and provided further that to the extent provided by law the City shall retain all such records confidential.

17.01 COMPLIANCE WITH PUBLIC RECORDS LAW

The Consultant must comply with Florida public records laws, specifically to:

a) Keep and maintain public records required by the City to perform the service.

b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statutes §119 or as otherwise provided by law.

c) 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 Consultant does not transfer the records to the City.

d) Upon completion of the Contract, transfer, at no cost, to the City of Bonita Springs all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

e) The City will consider it a breach of contract should the Consultant fail to comply with any public records request.

f) A Consultant who fails to provide the public records to the City within a reasonable time may be subject to penalties under Florida Statutes §119.10.

g) **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DESGIN-BUILDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS (CITY CLERK) AT: 239-949-6262, CITY OF BONITA SPRINGS, 9101 BONITA BEACH ROAD, BONITA SPRINGS, FL 34135, debbie.filipek@cityofbonitasprings.org.**

h) If the Consultant is not providing the requested public records, the burden of proof is on the Consultant to show why they did not comply with the request.

ARTICLE 18.00-HEADINGS

The headings of the articles, sections, exhibits, attachments, phases or tasks as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such articles, sections, exhibits, attachments, phases or tasks.

ARTICLE 19.00-ENTIRE AGREEMENT

This Agreement and attachments hereto, constitutes the entire agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect whatever on this Agreement.

ARTICLE 20.00-NOTICES AND ADDRESS OF RECORD

20.01 NOTICES BY CONSULTANT TO CITY

All notices required and/or made pursuant to this Agreement to be given by the Consultant to the City shall be in writing and shall be given by the United States Postal Service Department first class mail service postage prepaid, addressed to the following City address of record and sent to the attention of the City's Project Manager unless waived by City:

Elly Soto McKuen, Senior Project Manager
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

Copy: City Attorney
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

20.02 NOTICES BY CITY TO CONSULTANT

All notices required and/or made pursuant to this Agreement to be given by the City to the Consultant shall be made in writing and shall be given by the United States Postal Service Department first class mail service, postage prepaid, addressed to the following Consultant's address of record unless waived by Consultant:

Consultant Name: _Excel Contractors, LLC_____

Consultant Address: 8641 United Plaza Boulevard

Consultant Address: Baton Rouge, LA 70809____

Telephone Number: _225.408.1300_____

Fax Number: _225.408.1600_____

ATTENTION: Shanti Smith-Copeland
Project Director

20.03 CHANGE OF ADDRESS OF RECORD

Either party may change its address of record by written notice to the other party per above contacts.

ARTICLE 21.00-TERM

This Agreement is effective as of the date first written above and shall remain in effect a period of two (2) years with the option to renew for one (1) additional year, upon mutual agreement.

ARTICLE 22.00-TERMINATION

This Agreement may be terminated by the City at its convenience, or due to the fault of the Consultant, by the City giving thirty (30) calendar days written notice to the Consultant.

If the Consultant is adjudged bankrupt or insolvent; if it makes a general assignment for the benefit of its creditors; if a trustee or receiver is appointed for the Consultant or for any of its property; if it files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; if it disregards the authority of the City's designated representatives; if it otherwise violates any provisions of this Agreement; or for any other just cause, the City may, without prejudice to any other right or remedy, and after giving the Consultant a thirty (30) calendar days written notice, terminate this Agreement.

In addition to the City's contractual right to terminate this Agreement in its entirety as set forth above, the City may also, at its convenience, stop, suspend, supplement or otherwise change all, or any part of, the Scope of Professional Services or the Project Guidelines and Criteria, or as such may be established by change order or supplemental task authorization. The City shall provide written notice to the Consultant in order to implement a stoppage, suspension, supplement or change.

The Consultant may request that this Agreement be terminated by submitting a written notice to the City dated not less than thirty (30) calendar days prior to the requested termination date and stating the reason(s) for such a request. However, the City reserves the right to accept or not accept the termination request submitted by the Consultant, effective unless and until Consultant is notified, in writing, by the City of its acceptance.

22.01 CONSULTANT TO DELIVER MATERIAL

Upon termination, the Consultant shall deliver to the City all papers, drawings, models, and other material in which the City has exclusive rights by virtue hereof or of any business done, or services or work performed by the Consultant on behalf of the City.

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ARTICLE 23.00-AMENDMENTS

The covenants, terms and provisions set forth and contained in all of the articles to this Agreement may be amended upon the mutual acceptance thereof, in writing, by both parties to this Agreement. In the event of any conflicts between the requirements, provisions and/or terms of the Agreement and any written amendment, the requirements, provisions and/or terms of the amendment shall take precedence.

ARTICLE 24.00-MODIFICATIONS

Modifications to covenants, terms and provisions of this Agreement shall only be valid when issued in writing as a properly executed change order(s) or supplemental task authorization(s). In the event of any conflicts between the requirements, provisions, and/or terms of this Agreement and any written change order(s), and/or supplemental task authorizations, the latest executed change order(s), and/or supplemental task authorization(s) shall take precedence.

In the event the City issues a purchase order, memorandum, letter, or other instruments covering the professional services, work and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that such purchase order, memorandum, letter or other instruments are for the City's internal control purposes only, and any and all terms, provisions and conditions contained herein, whether printed or written, shall in no way modify the covenants, terms and provisions of this Agreement and shall have no force or effect thereon.

No modification, waiver, or termination of the Agreement or of any terms thereof shall impair the rights of either party.

ARTICLE 25.00-ACCEPTANCE

Acceptance of this Agreement shall be indicated by the signature of the duly authorized representative of the hereinabove named parties in the space provided hereinafter and being attested and witnessed as indicated.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the day and year first written above.

ATTEST:

BY: _____
CITY CLERK

DATE: _____

CITY OF BONITA SPRINGS CITY COUNCIL

BY: _____
MAYOR

APPROVED AS TO FORM

BY: _____
CITY ATTORNEY'S OFFICE

ATTEST:

_____
(Witness)

_____
(Witness)

CONSULTANT

DocuSigned by:

BY: _____
BC17C3F4F4C54AA...
(Authorized Signature)

Matt J. Shoriak, Executive Vice President
(Title)

DATE: September 15, 2020

CORPORATE SEAL

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EXHIBIT A

Scope of Professional Services
Grant Writing and Support Services CN 20-10

Date:_____

Basic Services

Section 1 General Scope Statement

The Consultant shall provide and perform the following professional services, which shall constitute the general scope of the basic services under the covenants, terms, and provisions of this Professional Services Agreement.

Section 2 Tasks

Pursuant to the general scope of the basic services stated herein above, the Consultant shall perform all services and/or work necessary to complete the following task(s) and/or provide the following item(s) which are enumerated to correspond to the task(s) and/or items set forth in Compensation and Method of Payment.

The Consultant will assist the City in administrating various tasks to supplement City staff support. The following is a program specific description of tasks:

- Provide ongoing program administration, policy, grants and financial management services to support the City's grant programs for the currently funded grant sources.
- Establish and administer a quality assurance and quality control system to comply with HUD, CDBG-DR, FDEO, FEMA and FDEM.
- Provide ongoing project implementation, compliance management support/supervision and reporting services.
- Support the City in responding to any audits requested by external organizations.
- Assist with document verification insuring no duplication of benefits in HUD, CDBG-DR, FDEO, FEMA and FDEM.
- Work with the City to provide a report that includes metrics that demonstrate the implementation costs to date with projected spending for the duration of the various grants.
- Provide a detailed timeline for implementation consistent with the milestones outlined in the subrecipient agreement between the City and the funding agencies.
- Assist with project final inspections, audits and compliance with all applicable HUD, CDBG-DR, FDEO, FEMA and FDEM rules, regulations, policies, procedures.
- Provide close-out reports in compliance with all sub-recipient agreements.
- Provide support for strategic planning and coordination for citywide, countywide and regional infrastructure related projects of all disaster and non-disaster related efforts that would meet federal and state funding criteria(s).
- Provide expert programmatic and policy advice on federal disaster relief programs. Provide extensive knowledge, experience and technical competence in dealing with Federal regulations, specifically including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Post-Katrina Emergency Management Reform Act of 2006, and the Sandy Recovery Improvement Act of 2013, and 2CFR Part 200.217-238 and others as may be identified.
- Attend meetings in conjunction with and on behalf of City Representatives.
- Provide guidance on damage assessment and assist in Project Worksheet formulation.
- Proactively identify opportunities to maximize Public Assistance and Post-Disaster Mitigation funding within the current regulatory framework.
- Work with the City to coordinate all FEMA grant programs, both through the emergency and annual funding programs, i.e., annual Public Assistance (PA) and Hazard Mitigation Assistance (HMA) program, as well as applicable Hazard Mitigation Grant Program.
- Progressively work with City officials to resolve disputes with FEMA, including the preparation of appeals or responses to arbitration if necessary.

This list of activities is not meant to be complete and absolute. The City reserves the right to add additional related activities as the City implements these programs and other grant related projects.

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EXHIBIT B

Compensation and Method of Payment
Grant Writing and Support Services CN 20-10

Date: _____

Section 1 Basic Services/Task(s)

The City shall compensate the Consultant for providing and performing the task(s) set forth and enumerated in the Scope of Professional Services, as follows:

NOTE: A lump sum (LS) or not-to-exceed (NTE) amount of compensation to be paid the Consultant should be established and set forth below for each task or sub-task described and authorized in the Scope of Professional Services. Tasks to be paid on a work-in-progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (WIPP)
TOTAL				

(Unless list is continued on next page.)

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Consultant's Personnel Hourly Rate Schedule*

Date: _____

Should it be mutually agreed to base compensation for additional services on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained below.

CONSULTANT OR SUB-CONSULTANT NAME Excel Contractors, LLC, Postlethwaite & Netterville, J.R. Evans Engineering, Ovid Solutions, LLC

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct** Payroll Average Hourly Rate	(3) Multiplier***	(4) Hourly Rate To Be Charged (Column 2x3)
Recovery Principal	$200		$200
Senior Subject Matter Expert	$185		$185
Recovery Advisor	$175		$175
Project Manager	$175		$175
Subject Matter Expert	$165		$165
Senior Consultant	$155		$155
Consultant	$140		$140
Junior Consultant	115		$115
Administrative	$75		$75

*NOTE: A separate personnel hourly rate schedule should also be attached for each sub-consultant listed in Consultant's Associated Sub-Consultant(s) and Subcontractor(s).

**NOTE: Direct Payroll Hourly Rate means the actual gross hourly wage paid.

***NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative and overhead costs and profit.

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EXHIBIT C

Time and Schedule of Performance
Grant Writing and Support Services CN 20-10

Date: _____

This Exhibit establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in the Scope of Professional Services. The Time and Schedule of Performance set forth hereinafter is established pursuant to Time and Schedule of Performance.

Phase and/or Task Reference As Enumerated in Scope of Professional Services	Name or Title of Phase and Task	Number of Calendar Days For Completion of Each Phase and/or Task	Cumulative Number of Calendar Days for Completion From Date of Notice to Proceed

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EXHIBIT D

Consultant's Associated Sub-Consultant(s) and Subcontractor(s)
Grant Writing and Support Services CN 20-10

Date: _____

Consultant has identified the following sub-consultant(s) and/or subcontractor(s) which may be engaged to assist the Consultant in providing and performing services and work on this project:

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage (Yes or No)
	Postlethwaite & Netterville 8550 United Plaza Boulevard, Suite 1001 Baton Rouge, LA 70809 J.R. Evans Engineering, P.A. 9351 Corkscrew Road, Suite 102 Estero, FL 33928 Ovid Solutions LLC 47 Andrew J. Hargress Sr. Road Crawfordville, FL 32327	

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EXHIBIT E

Project Guidelines and Criteria
Grant Writing and Support Services CN

Date: _____

The City has established the following guidelines, criteria, goals, objectives, constraints, schedule, budget and/or requirements which shall serve as a guide to the Consultant in performing the professional services and work to be provided pursuant to this Agreement:

(If none, enter the word “none” in the space below)

Item No. 1

NONE

EXHIBIT F

Truth in Negotiation Certificate
Grant Writing and Support Services CN 20-10

Date: September 17, 2020

This Certificate is executed and given by the undersigned as a condition precedent to entering into a Professional Services Agreement with the City Council of the City of Bonita Springs for the project known as the Grant Writing and Support Services CN 20-10.

Before me, the undersigned authority personally appeared, who having personal knowledge as to the facts and statements contained herein after being duly sworn, deposes and states under oath that:

1. This Certificate shall be attached to and constitute an integral part of the above said Professional Services Agreement as provided in Truth-In-Negotiations Certificate.

2. The undersigned hereby certifies that the wage rates and other factual unit costs supporting the compensation on which this Professional Services Agreement is established are accurate, complete, and current on the date set forth hereinabove.

3. The truth of statements made herein may be relied upon by the City and the undersigned is fully advised of the legal effect and obligations imposed upon him by the execution of this instrument under oath.

Executed on behalf of the Party to the Professional Services Agreement referred to as the Consultant, doing business as:

COMPANY NAME: Excel Contractors, LLC

BY: _____

TITLE: Executive Vice President

The foregoing instrument was signed and acknowledged before me this 17th day of September, 2020

by Matthew Shoriak who is personally known OR has produced ----------
(Print or Type Name) (Type of Identification & Number)

as identification.

_____ 22924/death
Notary Public Signature Notary Commission Number/Expiration

Cherie A. Pinac - Notary ID NO. 22924 NOTARY PUBLIC East Baton Rouge Parish, LA

EXHIBIT G

Insurance and Bonding Requirements

All policies shall be Best's Rated "A-" or better or subject to approval

Insurance / Bond Type	Required Limits
☒ Worker's Compensation	Statutory Limits of Florida Statutes, Chapter 440 and all Federal Government Statutory Limits and Requirements. ☒ **The policy shall be endorsed to provide a waiver of subrogation in favor of the City.** NOTE: Any "non-construction industry" company employing more than 3 employees (not including a sole proprietor owner) must have workers' compensation coverage. ALL "construction industry" (as defined by FL Rule # 69L-6.021) companies with ANY employees must have coverage or if no statutory employees, then up to three officers or a sole proprietor MUST have a current exemption certificate from the Division of Workers' Compensation on file.
☒ Employer's Liability	$1,000,000 single limit per occurrence (Workers' Compensation Part B)
☒ Commercial General Liability (Occurrence Form) patterned after the current ISO form	Bodily Injury and Property Damage ☒ $1,000,000 per occurrence, $1,000,000 aggregate (Per Project) for Bodily Injury Liability and Property Damage Liability. This shall include Premises and Operations; Independent Contractors; Products and Completed Operations and Contractual Liability.
☒ Indemnification	To the fullest extent permitted by Florida law and to the limit by Florida Statutes § 725.08, the Contractor/Vendor/ Consultant shall be liable and agrees to be liable for and shall indemnify and hold harmless the City of Bonita Springs, its officers and employees from any and all liabilities, damages, losses and costs, to person or property including, but not limited to, reasonable attorneys' fees arising out of or caused in whole or in part by any act, omission, error or default by the Contractor/Vendor/Consultant, its subcontractors, materialmen, or agents of any tier or their employees arising out of this agreement or its performance. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph. This section does not pertain to any incident arising from the sole negligence of the City of Bonita Springs.
☒ Automobile Liability	☒ $ 1,000,000 Each Occurrence; Bodily Injury & Property Damage Owned/Non-owned/Hired; Automobile Included
☒ Other insurance as noted:	☐ Watercraft $ _____ Per Occurrence ☐ United States Longshoreman's and Harbor Worker's Act coverage shall be maintained where applicable to the completion of the work. **STATUTORY** ☐ Maritime Coverage (Jones Act) shall be maintained where applicable to the completion of the work. $ _____ Per Occurrence ☐ Property Insurance (Or Builder's Risk) **Full insurable value of the scope of the work** ☐ Pollution $ _____ Per Occurrence ☒ Professional Liability $1,000,000 per claim and in the aggregate

☐ Railroad Right of Way	☐ Umbrella Excess $ _____ Per Occurrence ☐ Railroad Protective Liability Insurance per occurrence limit of not less than **Two Million Dollars ($2,000,000)** and aggregate limits of **Six Million Dollars ($6,000,000)** to include Seminole Gulf Railway LP and CSX Transportation, Inc. as a named Insured. Seminole Gulf Railway also requires your General Liability policy coverage to be $5,000,000. They require you to include Seminole Gulf Railway LP and CSX Transportation, Inc. as a named Additional Insured for General Liability and the policy must include the endorsement CG 2417, Contractual Liability and must not exclude underground coverage. For additional information on their insurance requirements and other requirements such as payment for and scheduling Railroad Inspector / Flagman, please contact Seminole Gulf Railway LP, 4110 Centerpointe Dr. Suite 207, Ft. Myers FL 33916, Phone # 239-275-6060 and FAX 239-275-0581.
☐ Bid bond	Shall be submitted with proposal response in the form of certified funds, cashiers' check or an irrevocable letter of credit, a cash bond posted with the City Clerk, or proposal bond in a sum equal to 5% of the cost proposal. All checks shall be made payable to the City of Bonita Springs on a bank or trust company located in the State of Florida and insured by the Federal Deposit Insurance Corporation.
☐ Performance and Payment Bonds	If the box is checked for a project less than $200,000, a performance bond will be required. For projects in excess of $200,000, bonds shall be submitted with the executed contract by Proposers receiving award, and written for 100% of the Contract award amount, the cost borne by the Proposer receiving an award. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to Owner; provided, however, the surety shall be rated as "A-" or better as to general policy holders rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holder's surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038. **Per FS §255.05, the Contractor shall provide a certified copy of the recorded bond to the City.**

☒ Vendor shall ensure that all subcontractors comply with the same insurance requirements that he is required to meet. The same Vendor shall provide City with certificates of insurance meeting the required insurance provisions.

☒ The City of Bonita Springs must be named as "**ADDITIONAL INSURED**, **INCLUDING PRODUCTS AND COMPLETED OPERATIONS"** on the Insurance Certificate for Commercial General Liability.

☒ The Certificate Holder shall be named as the City of Bonita Springs. The Certificates of Insurance must state the Contract Number, or Project Number, or specific Project description, or must read: "For any and all work performed on behalf of the City of Bonita Springs."

☒ **Thirty (30) Days Cancellation Notice (Except for Non-Payment of Premium which is ten (10) days)** Provided by the Insurance Carrier and/or the Vendor.

Policy shall be endorsed for Thirty (30) Days' Notice of Cancellation by the Insurance Carrier and a copy of the endorsement provided to the City of Bonita Springs.

EXHIBIT H

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Vendor Covered Transactions

(1) The prospective vendor certifies, by submission of this Annual Agreement, that neither it nor its principles are presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the vendor is unable to certify to the above statement, the prospective vendor shall attach an explanation to this form.

VENDOR

Excel Contractors, LLC
Company Name

10-245-0335
DUNS Number

DocuSigned by:
Signature

September 15, 2020
Date

Matthew Shoriak, Executive Vice President
Print Name and Title

8641 United Plaza Boulevard
Street Address

Baton Rouge, LA 70809
City, State, Zip

For City of Bonita Springs use only

To access the debarment search: https://www.sam.gov/SAM/ > Search Records tab > Enter DUNS number > Click Search

Company: [ ] is debarred [ ] is not debarred

Verified by: _____ Date: _____
Name

EXHIBIT I

Scrutinized Companies Statement

SWORN STATEMENT UNDER SECTION 287.135(5), FLORIDA STATUTES: THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Proposal, Quote, or Contract Number **CN 20-10**, for **Grant Writing and Support Services.**

2. This sworn statement is submitted by Excel Contractors, LLC whose business
[Name of entity submitting sworn statement]

   address is 8641 United Plaza Boulevard, Baton Rouge, Louisiana 70809 and (if

   applicable) its Federal Employer Identification Number (FEIN) is 72-0969587 (If the entity has no

   FEIN, include the Social Security Number of the individual signing this sworn statement: --------.

3. My name is Matthew Shoriak and my relationship to the above is
[Please print name of individual signing]

   Executive Vice President.

4. I understand that "awarding body" as defined in section 287.135(1) (a), Florida Statutes, means, for purposes of state contracts, an agency or the department, and for purposes of local contracts, the governing body of the local governmental entity.

5. I understand that "Boycott of Israel" as defined in section 287.135(1) (b), Florida Statutes, has the same meaning as defined in s. 215.4725.

6. I understand that "business operations" as defined in section 287.135(1) (c), Florida Statutes, means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.

7. I understand that "local governmental entity" as defined in section 287.135(1) (d) means a county, municipality, special district, or other political subdivision of the state.

8. Based on information and belief, the statement, which I have marked below, is true in relation to the entity submitting this sworn statement. **[Please indicate which statements apply].**

X Scrutinized Companies that Boycott Israel List (bid, proposal or contract renewal for any amount)
[X] The entity submitting this sworn statement is not on the Scrutinized Companies that Boycott Israel List.
[ ] The entity submitting this sworn statement is on the Scrutinized Companies that Boycott Israel List.

[ ] Scrutinized Companies with Activities in Sudan List (bid, proposal or contract renewal for $1 Million or more)
[X] The entity submitting this sworn statement is not on the Scrutinized Companies with Activities in Sudan List.
[ ] The entity submitting this sworn statement is on the Scrutinized Companies with Activities in Sudan List.

[ ] Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (bid, proposal or contract renewal for $1 Million or more)
[X] The entity submitting this sworn statement is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.
[ ] The entity submitting this sworn statement is on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

[ ] Business Operations in Cuba or Syria (bid, proposal or contract renewal for $1 Million or more)
[X] The entity submitting this sworn statement does not have business operations in Cuba or Syria.
[ ] The entity submitting this sworn statement does have business operations in Cuba or Syria.

The City will follow Florida Statute §287.135. If the City determines this Vendor has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel after the contract is executed, the contract may be terminated by the City by written notification. If the City determines this Vendor is found to have submitted a false certification, placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations with Cuba or Syria, the City shall notify the Vendor of its determination by written notification.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided in this attachment, Scrutinized Companies Statement, is truthful and correct at the time of submission.

DocuSigned by:

AFFIANT

Matthew Shoriak
Typed Name of AFFIANT

Executive Vice President
Title

STATE OF LOUISIANA ~~XXXXXXXX~~ PARISH OF EAST BATON ROUGE

The foregoing instrument was executed before me this 15th day of September, 2020,

by Matthew Shoriak as Executive Vice President of

Excel Contractors, LLC, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has

produced ---------- as identification.

NOTARY PUBLIC, State of Louisiana

DEANNE J. BONVILLAIN
LA. NOTARY ID # 50155
MY COMMISSION IS FOR LIFE

(stamp) DEANNE J. BONVILLAIN NOTARY PUBLIC ASCENSION PARISH, LA

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DocuSign Envelope ID: 44F1A0DB-CA7A-4DA3-9E5E-39ED78EFA875

For City of Bonita Springs use only

To access the lists: http://www.sbafla.com/fsb/ > Funds We Manage tab > FRS Pension Plan - Global Governance Mandates > Global Governance Mandate Quarterly Reports > most current quarter

Scrutinized Companies that Boycott Israel List:
[ ] entity is **NOT** on list [ ] entity is on list

Scrutinized Companies with Activities in Sudan List:
[ ] entity is **NOT** on list [ ] entity is on list

Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List:
[ ] entity is **NOT** on list [ ] entity is on list

Business Operations in Cuba or Syria:
[ ] entity is **NOT** on list [ ] entity is on list

Verified by:_____ Date:_____
Print Name

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-302

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve a sub-recipient agreement between the City of Bonita Springs and Woodard & Curran, Inc. for Grant Writing and Support Services.

MEETING DATE: 10/7/2020

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:
Staff issued a Request for Qualifications (CN 20-10) on May 22, 2020 for Grant Writing and Support Services. The City received five (5) proposals on June 2, 2020. The Selection Committee met on August 11, 220 and evaluated the following submittals: Woodard & Curran, Inc.; Pegasus Engineering and Excel Contractors, LLC.

At the August 19, 2020 City Council meeting, the three consultants were approved. The agreement between the City and Woodard & Curran, Inc. is attached for approval. Once the agreement is fully executed it will remain in effect for a period of two (2) years with the option to renew for one (1) additional year, upon mutual agreement. The City will be billed monthly for work completed during the previous month at the rates included in the agreement.

Attachment: Agreement

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

IF YES, WHICH STRATEGIC OBJECTIVE? 7) Government Transparency

STAFF RECOMMENDATIONS: Approve the sub-recipient agreement.

REVIEWED BY:

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

COUNCIL ACTION:

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

CITY OF BONITA SPRINGS, FLORIDA
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (hereinafter referred to as "Agreement") is made and entered into this 25th day of September, 2020, between the City Council of the City of Bonita Springs, a municipality incorporated in the State of Florida (hereinafter referred to as the "City") and Woodard and Curran, Incorporated (hereinafter referred to as the "Consultant").

WITNESSETH

WHEREAS, the City desires to obtain the professional services of said Consultant to provide and perform professional services as further described hereinafter concerning the project to be referred to and identified as: GRANT WRITING AND SUPPORT SERVICES CN 20-10, and

WHEREAS, the Consultant hereby certifies that Consultant has been granted and possesses valid, current licenses to do business in the State of Florida and in the City of Bonita Springs, Florida, issued by the respective State Boards and Government Agencies responsible for regulating and licensing the professional services to be provided and performed by the Consultant pursuant to this Agreement; and

WHEREAS, the selection and engagement of the Consultant has been made by the City in accordance with the provisions of the Consultants Competitive Negotiation Act, Florida Statutes §287.055.

NOW, THEREFORE, in consideration of the mutual covenants, terms and provisions contained herein, the parties hereto agree that with the mutual acceptance of this Agreement as indicated hereinafter by the execution of this Agreement by both parties that a contract shall exist between both parties consisting of:

ARTICLE 1.00-SCOPE OF PROFESSIONAL SERVICES
Consultant hereby agrees to provide and perform the professional services required and necessary to complete the services and work as set forth in the Scope of Professional Services, which is attached hereto and made a part of this Agreement.

ARTICLE 2.00-DEFINITIONS
The following definition of terms associated with this Agreement is provided to establish a common understanding between both parties to this Agreement as to the intended usage, application, and interpretation of such terms pertaining to this Agreement.

2.01 CITY
The term "City" shall refer to the City of Bonita Springs, a municipality incorporated within the State of Florida, and any official and/or employees thereof who shall be duly authorized to act on the City's behalf relative to this Agreement.

2.02 CONSULTANT
The term "Consultant" shall refer to the individual or firm offering professional services which by execution of this Agreement shall be legally obligated, responsible, and liable for providing and performing any and all of the services, work and materials, including services and/or work of sub-consultants and subcontractors, required under the covenants, terms and provisions contained in this Agreement and any and all change orders thereto.

2.03 PROFESSIONAL SERVICES
The term "Professional Services" shall refer to all of the services, work materials and all related professional, technical and administrative activities which are necessary to be provided and performed by the Consultant and its employees and any and all sub-consultants and subcontractors the Consultant may engage to provide, perform and complete the services required pursuant to the covenants, terms and provisions of this Agreement.

2.04 SUB-CONSULTANT
The term "Sub-Consultant" shall refer to any individual or firm offering professional services which is engaged by the Consultant to assist the Consultant in providing and performing the professional services, work and materials for which the Consultant is contractually obligated, responsible and liable to provide and perform under this Agreement. The City shall not be a party to, responsible or liable for, or assume any obligation whatever for any agreement entered into between the Consultant and any sub-consultant.

2.05 SUBCONTRACTOR
The term “Subcontractor” shall refer to any individual, company or firm providing other than professional services which is engaged by the Consultant to assist the Consultant in contractually obligated, responsible, and liable to provide and perform under this Agreement. The City shall not be a party to, responsible or liable for, or assume any obligation whatever for any agreement entered into between the Consultant and any subcontractor.

2.06 PROJECT
The term “Project” shall refer to such facility, system, program or item as described in the summary statement set forth in the preamble of this Agreement.

2.07 BASIC SERVICES
The term “Basic Services” shall refer to the professional services set forth and required pursuant to this Agreement and as described in further detail in the attached Scope of Professional Services.

2.08 ADDITIONAL SERVICES
The term “Additional Services” shall refer to such professional services as the City may request and authorize, in writing, the Consultant to provide and perform relative to this Agreement which are not included in the basic services. Additional services shall be authorized by the execution of both parties to this Agreement by a change order agreement.

2.09 CHANGE ORDER
The term “Change Order” shall refer to a written document, change order agreement, executed by both parties to this Agreement setting forth and authorizing changes to the agreed upon scope of professional services and tasks, compensation and method of payment, time and schedule of performance, or project guidelines and criteria as such were set forth and agreed to in the initial agreement, supplemental task authorization(s), or previous change orders issued thereto. The change order document, which shall be executed on a City standard form, shall set forth the authorized changes to the: scope of professional services, tasks, work or materials to be performed or provided by the Consultant; the compensation and method of payment; the schedule or time period for performance and completion, and the guidelines, criteria and requirements pertaining thereto.

The amount of the change in contract compensation and time set forth in any and all change orders executed and issued under this Agreement shall be understood and agreed by both parties to this Agreement to be fair, equitable, adequate and complete. The changed compensation shall be understood and agreed to be the total of all costs associated with or impacted by the change order including, but not limited to, any and all direct costs, indirect costs and associated costs which may result from or be caused by the change order, and shall be understood and agreed to include a fair, equitable and adequate adjustment to cover the Consultant’s general administrative and overhead costs and profit.

In the event the City decides to delete all, or portions, of the scope of services, task(s), or requirements set forth in the initial agreement, supplemental task authorizations or previously authorized change orders, the City may do so by the unilateral issuance of a written change order to the Consultant. Such a unilaterally issued change order shall set forth, if appropriate, an agreement by both the City and the Consultant establishing changes in the amount of compensation to be paid the Consultant as a result of the deletion or decrease in the services required shall have no effect on, or otherwise prevent the City from exercising its rights to direct the stated deletion or decrease in the services to be provided or performed by the Consultant.

2.10 SUPPLEMENTAL TASK AUTHORIZATION
The term “Supplemental Task Authorization” as used refers to a written document executed by both parties to an existing professional services agreement setting forth and authorizing a limited number of professional services, tasks, or work.

2.11 CITY MANAGER
The term “City Manager” shall refer to the City Manager or his designee requesting the service, employed by the City Council to serve and act on the City’s behalf, as it relates to this project. The City Manager within the authority conferred by the City Council, acting as the City’s designated representative shall issue written notification to the Consultant of any and all changes approved by the City in the Consultant’s: (1) compensation; (2) time and/or schedule of service delivery; (3) scope of services; or other change(s) relative to basic services and additional services pursuant to this Agreement or change order(s) or supplemental task authorization(s) pertaining thereto. The City Manager shall be responsible for acting on the City’s behalf to administer, coordinate, interpret and otherwise manage the contractual provisions and requirements set forth in this Agreement, change order(s) or supplemental task authorization(s) issued thereunder.

2.12 PROJECT MANAGER
The term “Project Manager” shall refer to the person employed or retained by the City and designated, in writing, to serve and act on the City’s behalf to provide direct contact and communication between the City and Consultant with respect to

providing information, assistance, guidance, coordination, review, approval and acceptance of the professional services, work and materials to be provided and performed by the Consultant pursuant to this Agreement and such written change order(s) and supplemental task authorization(s) as are authorized. The Project Manager is not authorized to, and shall not, issue any verbal, or written, request or instruction to the Consultant that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever the: (1) scope of services to be provided and performed by the Consultant; (2) the time the Consultant is obligated to commence and complete all such services; (3) the amount of compensation the City is obligated or committed to pay the Consultant. The Project Manager shall review and make appropriate recommendations on all requests submitted by the Consultant for payment for services and work provided and performed, and reimbursable costs and expense, as provided for in this Agreement and change order(s), supplemental task authorization(s) thereto.

2.13 LUMP SUM FEE(S)

Lump Sum Fee(s), hereinafter identified as L.S., are understood and agreed to include all direct and indirect labor costs, personnel related costs, overhead and administrative costs, costs of sub-consultant(s) and/or sub-contractor(s), out-of-pocket expenses and costs, professional service fee(s) and any other costs or expenses which may pertain to the services and/or work to be performed, provided and/or furnished by the Consultant as may be required and/or necessary to complete each and every task set forth in the Scope of Professional Services, or as may be set forth in subsequent work orders, supplemental agreements, and/or change orders agreed to in writing by both parties to this Agreement.

2.14 NOT-TO-EXCEED FEE(S)

When all, or any portion, of the Consultant's compensation to provide and perform the services and work necessary and required pursuant to the tasks set forth in the Scope of Professional Services, and any change orders, supplemental task authorizations, and work orders authorized thereto, is established to be made on a not-to-exceed (NTE) amount basis, it is mutually understood and agreed that such compensation for each completed task shall be made on the following basis:

For the actual hours necessary, required and expected by the Consultant's professional and technical personnel, multiplied by the applicable hourly rates for each classification or position as set forth in the Compensation and Method of Payment, which is attached hereto and made a part of this Agreement, to the above referenced Agreement and any change orders or supplemental task authorizations authorized thereto; and

For the actual, necessary and required hours, and non-personnel expenses and costs, expended by sub-consultants and subcontractors engaged by the Consultant, multiplied by such hourly rates and unit costs as are agreed to by the City and the Consultant and as are set forth as a part of the above referenced Agreement and any change orders or supplemental task authorizations authorized thereto; and

With the understanding and agreement that the City shall pay the Consultant for all such costs and expenses within the established NTE amount for each task or sub-task subject to the Consultant presenting an itemized and detailed invoice with appropriate supporting documentation attached thereto to show evidence satisfactory to the City covering all such costs and expenses; and

With the understanding and agreement that the Consultant's invoices and all payments to be made for all NTE amounts shall be subject to the review, acceptance and approval of the City; and with the understanding and agreement that when the Consultant's compensation is established on a NTE basis for a specific task(s) or sub-task(s) the total amount of compensation to be paid the Consultant to cover all personnel costs, non-personnel reimbursable expenses and costs, and sub-consultant and subcontractor costs for any such specific task(s) or sub-task(s) shall not exceed the amount of the total NTE compensation established and agreed to for each specific task(s) or sub-task(s). In the event the amount of compensation for any task(s) or sub-task(s) to which the Consultant is entitled on the NTE basis set forth above is determined to be necessary, required and actually expended and is determined to be actually less than the NTE amount established for the specific task or sub-task, it is understood and agreed that any unexpended amount under a specific task or sub-task may not be used, applied, transferred, invoiced or paid for services or work provided or performed on any other task(s) or sub-task(s).

ARTICLE 3.00-OBLIGATIONS OF THE CONSULTANT

The obligations of the Consultant with respect to all the basic services and additional services authorized pursuant to this Agreement shall include, but not be limited to, the following:

3.01 LICENSES

The Consultant agrees to obtain and maintain throughout the period this Agreement is in effect all such licenses as are required to do business in the State of Florida, Lee County and in the City of Bonita Springs, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the professional services provided and performed by the Consultant pursuant to this Agreement.

3.02 PERSONNEL

1) QUALIFIED PERSONNEL

The Consultant agrees when the services to be provided and performed relate to a professional service(s) which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in responsible charge of all basic services and additional services to be provided pursuant to this Agreement.

2) CONSULTANT'S PROJECT DIRECTOR

The Consultant agrees to employ and designate, in writing, a qualified and, if required by law, a licensed professional to serve as the Consultant's Project Director. The Consultant's Project Director shall be authorized and responsible to act on behalf of the Consultant with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement thereto. The Consultant's Project Director shall have full authority to bind and obligate the Consultant on any matter arising under this Agreement unless substitute arrangements have been furnished to the City in writing. The Consultant agrees that the Project Director shall devote whatever time is required to satisfactorily direct, supervise and manage the services provided and performed by the Consultant throughout the entire period this Agreement is in effect. The person selected by the Consultant to serve as the Consultant's Project Director shall be subject to the prior approval and acceptance of the City.

3) CONSULTANT'S STAFF

Consultant will specify the technical and support staff who will be assigned to this project. Consultant will notify City's Project Manager of any changes and/or substitution of staff working on the project.

4) REMOVAL OF PERSONNEL

The Consultant agrees, within thirty (30) calendar days of receipt of a written request from the City, to promptly remove and replace the Consultant's Project Director, or any other personnel employed or retained by the Consultant, or personnel of the sub-consultant(s) or subcontractor(s) engaged by the Consultant to provide and/or perform services and/or work pursuant to the requirements of this Agreement, who the City shall request, in writing, be removed, this request may be made by the City with or without cause.

5) IMMIGRATION LAW COMPLIANCE

Consistent with Bonita Springs Code §36.22, effective June 1, 2009, Contractors providing services to the City, as a condition of each contract, must use E-Verify to verify the employment of any person hired during the contract term by the contractor and assigned by the Contractor to perform work for the City. Before any contract with the City is signed, proof of enrollment with E-Verify must be provided. The Contractor acknowledges that he will comply with the Immigration Reform and Control Act of 1986 and is committed to employing only those individuals who are authorized to work in the United States, by hiring employees who properly complete, sign and date the first section of the Immigration and Naturalization Services (INS) Form I-9 and presenting to the Contractor the original necessary document(s) to prove identity and employment eligibility, as verified through E-Verify.

The Contractor must also be responsible for entering into an agreement with each and every vendor and subcontractor that states that vendors and subcontractors (and their vendors) are independently responsible for their own employment decisions, including hiring, disciplinary and termination decisions, and will comply with the Immigration Reform and Control Act of 1986 and use the E-Verify system for verification. The agreements shall also state that each business is responsible for its own I-9 and other employment record-keeping requirements, and with compliance with all immigration laws.

3.03 TIMELY ACCOMPLISHMENT OF SERVICES

The timely performance and completion of the required services, work and materials is vitally important to the interests of the City. Time is of the essence for all of the duties and obligations contained in this Agreement thereto. The City may suffer damages in the event that the Consultant does not accomplish and complete the required services in a timely manner. The Consultant agrees to employ, engage, retain and/or assign an adequate number of personnel throughout the period of this Agreement so that all basic services and additional services will be provided, performed and completed in a timely and diligent manner throughout.

3.04 STANDARDS OF PROFESSIONAL SERVICE

The work and/or services to be provided and/or performed by the Consultant and by any sub-consultant(s) and/or subcontractor(s) engaged by the Consultant as set forth in the Scope of Professional Services shall be done in accordance with the generally accepted standards of professional practice and in accordance with the laws, rules, regulations, ordinances, codes, policies, standards or other guidelines issued by those governmental agencies which have jurisdiction over all or a portion of this project and which are in effect at the time the City approves this Agreement, or which may

subsequently be changed or revised. Any subsequent change or revision to such laws, rules, regulations, ordinances, codes, policies, standards or other guidelines which requires the Consultant to provide and/or perform work and/or services which are significantly different from that set forth in the Scope of Professional Services shall serve as a basis for the City to consider the development and issuance of a change order to provide for a change to, or additional services to, the services set forth in this Agreement.

3.05 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

1) RESPONSIBILITY TO CORRECT

The Consultant agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and other services, work and materials performed, provided, and/or furnished by Consultant or by any sub-consultant(s) and/or subcontractor(s) retained or engaged by the Consultant pursuant to this Agreement. The Consultant shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents and instruments, and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of Consultant or any sub-consultant(s) or subcontractor(s) engaged by the Consultant.

2) CITY'S APPROVAL SHALL NOT RELIEVE CONSULTANT OF RESPONSIBILITY

Neither review, approval, nor acceptance by the City of data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and incidental professional services, work and materials furnished hereunder by the Consultant, or any sub-consultant(s) or subcontractor(s) engaged by the Consultant to provide and perform services in connection with this Agreement. Neither the City's review, approval or acceptance of, nor payment for, any of the Consultant's services, work and materials shall be construed to operate as a waiver of any of the City's rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

3.06 LIABILITY AND HOLD HARMLESS

To the fullest extent permitted by Florida law and to the limit by Florida Statutes § 725.08, the Contractor/Vendor/ Consultant shall be liable and agrees to be liable for and shall indemnify and hold harmless the City of Bonita Springs, its officers and employees from any and all liabilities, damages, losses and costs, to person or property including, but not limited to, reasonable attorneys' fees arising out of or caused in whole or in part by any act, omission, error or default by the Contractor/Vendor/Consultant, its subcontractors, materialmen, or agents of any tier or their employees arising out of this agreement or its performance. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph. This section does not pertain to any incident arising from the sole negligence of the City of Bonita Springs.

3.07 NOT TO DIVULGE CERTAIN INFORMATION

Consultant agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without City's prior written consent, or unless incident to the proper performance of Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by Consultant or any sub-consultant(s) or subcontractor(s) pursuant to this Agreement. Consultant shall require all of its employees, sub-consultant(s) and subcontractor(s) to comply with the provisions of this paragraph.

3.08 CONSULTANT TO REPAIR PROPERTY DAMAGE CAUSED BY THE CONSULTANT

Consultant agrees to promptly repair and/or replace, or cause to have repaired and/or replaced, at its sole cost and expenses and in a manner acceptable to and approved by the City, any property damage arising out of, or caused by, the willful or negligent acts of the Consultant, or of its sub-consultants and/or subcontractors. This Consultant's obligation under this sub-article does not apply to property damage caused by any other Consultant or Contractor engaged directly by the City.

The City reserves the right, should the Consultant fail to make such repairs and/or replacement within a reasonable period of time, to cause such repairs and/or replacement to be made by others and for all costs and expenses associated with having such repairs and/or replacement done to be paid for by the Consultant, or by the Consultant reimbursing the City for all such costs and expenses.

3.09 RESPONSIBILITY FOR ESTIMATES

1) In the event the services required pursuant to this Agreement include the Consultant preparing and submitting to the City cost estimates, the Consultant, by exercise of this experience, effort, knowledge and judgment, shall develop such cost estimates as are set forth in, or as may be required under this Agreement and shall be held accountable, responsible and liable for the accuracy, completeness, and corrections of any and all such cost

estimates. For purposes of the liability provisions of this article only, the Consultant's estimate(s) shall be considered valid and effective for a period of six (6) months from the date of the City's acceptance of the estimate(s).

2) The cost estimates of Consultants or sub-consultants engaged by Consultants, for the appraisal or valuation of property or easements, or the estimate of damages or costs associated with the acquisition of property or easements are exempted from the provisions provided in Consultant to Repair Property Damage Caused by the Consultant.

3) COST ESTIMATES

a) ORDER OF MAGNITUDE ESTIMATE

This is an approximate estimate made without detailed architect/engineering data. Examples include, but are not limited to, an estimate from cost-capacity curves, an estimate using scale-up or scale-down factors, and an approximate ratio estimate. This type of estimate shall be accurate within plus forty percent (40%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the order of magnitude estimate shall be recoverable by the City.

b) BUDGET ESTIMATE

Budget in this case applies to the City's budget and not to the budget as a project-controlled document. A budget is prepared with the use of flow sheets, layouts, and equipment details. This type of estimate shall be accurate within plus twenty percent (20%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the budget estimate shall be recoverable by the City.

c) CONSTRUCTION COST ESTIMATE

A construction cost estimate for purposes of this Agreement is an estimate prepared on the basis of well-defined engineering/architectural data and on detailed information set forth in specifications, designs or drawings which are to be used as a basis for obtaining bids or price proposals for constructing the project. This type of estimate shall be accurate within plus or minus ten percent (10%) of the cost of the construction of the project. The accuracy and reliability of a construction cost estimate is vital to the City's interests because it may be used for such purposes as, but not limited to the following: budgeting, obtaining, allocating or obligating funds for the project; evaluating and determining the reasonableness and acceptableness of bids or price proposals for construction project.

In the event the City solicits and receives bids or price proposals from contractors on a construction project based on specifications, design, drawings and a construction cost estimate prepared by the Consultant, and the lowest bid or price proposal, submitted by a responsive and responsible bidder or proposer, which bid or price proposal exceeds the amount of the Consultant's construction cost estimate by more than the percent accuracy set forth hereinabove, the Consultant shall, upon notification by the City, assume responsibility for and proceed to provide and perform the following service without additional compensation.

The Consultant will, subject to the review and approval of the City, modify at its expense the specifications, design, drawings and related bidding and contract documents to the extent necessary to reduce the anticipated construction costs so that the re-solicitation of bids or price proposals will realize bids or price proposals being received that are within the range of accuracy established for the construction cost estimate prepared by the Consultant. Any such modifications made by the Consultant shall not conflict with the functional or operational requirements established by the City for the project and set forth in this Agreement or change order(s) or supplemental task authorization(s) issued thereto, nor shall any such modifications conflict with established rules, regulations, requirements or professional standards pertaining to the design, specifications or drawing prepared by the Consultant, nor shall such modifications adversely affect the safe use or operation of the constructed project.

In the event (1) the Consultant's modification of the design, specifications, drawings and related bidding and contract documents, and (2) the re-solicitation of bids or price proposals do not result in bids or price proposals being received from a responsive and responsible bidder or proposer that are within the established percent accuracy of the Consultant's construction cost estimate, the costs associated with the Consultant's preparation and development of the construction cost estimate shall be recoverable by the City by an appropriate reduction in the Consultant's invoice requesting payment for services rendered.

For determination of compliance with the accuracy requirement established for the construction cost estimate prepared by the Consultant, the amount of the construction cost estimate submitted by the Consultant shall be adjusted from the date the construction cost estimate was received by the City until the date bids or price proposals are received by the City, by applying the percent change in the "20 Cities Cost Index" as published in the ENR (formerly Engineering News-Record) a McGraw-Hill, Inc. publication.

If, in response to its solicitation, the City receives less than three bids or priced proposals for a project, there is the potential that such bids or priced proposals may not be a realistic representation of the costs expected to be associated with the project. If under such circumstances, and if in the professional judgment of the Consultant, the low bid or the low priced proposal received from a responsive bidder or proposer does not realistically represent the costs associated with the project, the Consultant may deem it appropriate to recommend the City reject any such bid(s) or priced proposal(s). If under such circumstances the City concurs with the Consultant's recommendation and rejects the bid(s) or priced proposal(s), the City will not hold the Consultant responsible to, nor will the City require the Consultant to, modify the specifications, design, drawings and related bidding and contract documents as set forth hereinbefore.

3.10 PERMITS

The Consultant will be responsible for preparing and submitting all required applications and other supportive information necessary to assist the City in obtaining all reviews, approvals and permits, with respect to the Consultant's design, drawings and specifications required by any governmental body having authority over the project. Any fees required for such reviews, approvals or permits will be covered by a check issued by the City and made payable to the respective governmental body upon the Consultant furnishing the City satisfactory documentation of such fees. The Consultant will be similarly responsible for preparing and submitting all required applications and other supportive information necessary to assist the City in obtaining any renewals and/or extensions of reviews, approvals or permits that may be required while this Agreement is in effect. The City shall, at the Consultant's request, assist in obtaining required signatures and provide the Consultant with all information known to be available to the City so as to assist the Consultant in the preparation and submittal of any original, renewal or extension of required reviews, approvals or permits.

3.11 ADDITIONAL SERVICES

Should the CITY request the Consultant to provide and perform professional services for this project which are not set forth in the Scope of Professional Services, the Consultant agrees to provide and perform such additional services as may be agreed to in writing by both parties to this Agreement.

Such additional services shall constitute a continuation of the professional services covered under this Agreement and shall be provided and performed in accordance with the covenants, terms, and provisions set forth in this Agreement thereto.

Additional services shall be administered and authorized as change orders or supplemental task authorizations under this Agreement. The Consultant shall not provide or perform, nor shall the City incur or accept any obligation to compensate the Consultant for any additional services unless and until a written change order or supplemental task authorization has been agreed to and executed by both parties.

Each such change order or supplemental task authorization shall set forth a comprehensive, detailed description of: (1) the scope of the additional services requested; (2) the basis of compensation; and (3) the period of time and/or schedule for performing and completing said additional services.

3.12 TRUTH-IN-NEGOTIATIONS CERTIFICATE

The City may request the Consultant to execute a Truth-in-Negotiations Certificate ("Certificate"). The Certificate shall state that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time this Agreement is executed. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates or other factual unit costs.

3.13 COMPLETION OF TASKS

Unless otherwise set forth in the Agreement, the Consultant shall be responsible for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete all of the tasks set forth in the Scope of Professional Services, change orders and supplemental task authorizations authorized. The compensation to be paid the Consultant as set forth in the Compensation and Method of Payment, change orders, and supplemental task authorizations authorized thereto shall be understood and agreed to adequately and completely compensate the Consultant for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete the tasks set forth in the Scope of Professional Services, change orders and supplemental task authorizations authorized thereto as stated above.

ARTICLE 4.00-OBLIGATIONS OF THE CITY

4.01 DESIGNATION OF PROJECT MANAGER

The City agrees after the execution of this Agreement to promptly advise the Consultant, in writing, of the person designated to serve and act as the City's Project Manager. Such notification shall be provided to the Consultant by the Project Manager.

4.02 AVAILABILITY OF CITY INFORMATION

1) PROJECT GUIDELINES AND CRITERIA

Guidelines to the Consultant regarding requirements the City has established or suggests relative to the project including, but not limited to such items as: goals, objectives, constraints, and any special financial, budgeting, space, site, operational, equipment, technical, construction, time and scheduling criteria are set forth in the Project Guidelines and Criteria, which is attached hereto and made a part of this Agreement.

2) CITY TO PROVIDE PERTINENT REFERENCE MATERIAL

At the Consultant's request, the City agrees to provide to the Consultant, at no cost to the Consultant, all pertinent information known to be available to the City to assist the Consultant in providing and performing the required professional services. Such information may include, but not be limited to: previous reports; plans, drawings and specifications; maps; property, boundary, easement, right-of-way, topographic, reference monuments, control points, plats and related survey data; data prepared or services furnished by others to the City such as sub-surface investigations, laboratory tests, inspections of natural and man-made materials, property appraisals, studies, designs and reports.

4.03 AVAILABILITY OF CITY'S DESIGNATED REPRESENTATIVES

The City agrees that the City Manager and the Project Manager shall be available within a reasonable period of time, with reasonable prior notice given by the Consultant, to meet and/or consult with the Consultant on matters pertaining to the services to be provided and performed by the Consultant. The City further agrees to respond within a reasonable period of time to written requests submitted by the Consultant.

4.04 ACCESS TO CITY PROPERTY

The City agrees, with reasonable prior written notice given by the Consultant, to provide the Consultant with access within a reasonable period of time to City property, facilities, buildings and structures to enable the Consultant to provide and perform the required professional services and work pursuant to this Agreement. Such rights of access shall not be exercised in such a manner or to such an extent as to impede or interfere with City operations, or the operations carried on by others under a lease, or other contractual arrangement with the City, or in such a manner as to adversely affect the public health and safety. Such access may, or may not be, within the Consultant's normal office and/or field workdays and/or work hours.

ARTICLE 5.00-COMPENSATION AND METHOD OF PAYMENT

5.01 BASIC AND ADDITIONAL SERVICES

The City shall pay the Consultant for all requested and authorized basic services rendered hereunder by the Consultant and completed in accordance with the requirements, provisions, and/or terms of this Agreement and accepted by the City in accordance with the provisions for compensation and payment of said basic services set forth and prescribed in the Compensation and Method of Payment or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement as evidenced by a written change order executed by both parties.

5.02 METHOD OF PAYMENT

1) MONTHLY STATEMENTS

The Consultant shall be entitled to submit no more than one (1) invoice statement to the City each calendar month covering services rendered during the preceding calendar month. The Consultant's invoice statement(s) shall be itemized to correspond to the basis of compensation as set forth in the Agreement or change order(s) and supplemental task authorization(s) thereunder.

2) PAYMENT FOR SERVICES PERFORMED

The City shall pay the Consultant for services performed using either of the following methods, or using a combination thereof:

a) The City shall pay Consultant on the basis of services completed for tasks set forth in the Scope of Professional Services and the Compensation and Method of Payment, as evidenced by work products such as reports, drawings, specifications, etc., submitted by the Consultant and accepted by the City. No payments shall be made for Consultant's work-in-progress until service items for which payment amounts have been established and set forth in this Agreement have been completed by the Consultant and accepted by the City. Whenever an invoice statement covers services for which no work product is required to be furnished by the Consultant to the City, the City reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

b) The City shall pay the Consultant for services performed for tasks set forth in the Scope of Professional Services and the Compensation and Method of Payment on the basis of an invoice statement covering Consultant's work-in-progress expressed as a percentage of the total cost of the service and/or work required for each task invoiced in this manner. All such work-in-progress percentages are subject to the review and approval of the City. The decision of the City shall be final as to the work-in-progress

percentages paid. Payment by the City for tasks on a work-in-progress percentage basis shall not be deemed or interpreted in any way to constitute an approval or acceptance by the City of any such service or work-in-progress. The Consultant shall be responsible for correcting, re-doing, modifying or otherwise completing the services and work required for each task before receiving final, full payment whether or not previous work-in-progress payments have been made. All tasks to be paid for on a work-in-progress percentage basis shall be agreed to by both parties to the Agreement and each task to be paid in this manner shall be identified in the Compensation and Method of Payment with the notation (WIPP). Only tasks so identified will be paid on a work-in-progress percentage basis. The City reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

3) PAYMENT SCHEDULE

The City shall issue payment to the Consultant within thirty (30) calendar days after receipt of an invoice statement from the Consultant in an acceptable form and containing the requested breakdown and detailed description and documentation of charges. Should the City object or take exception to the amount of any Consultant's invoice statement, the City shall notify the Consultant of such objection or exception within the thirty (30) calendar days payment period set forth hereinbefore. If such objection or exception remains unresolved at the end of said thirty (30) calendar days' period, the City shall withhold the disputed amount and make payment to the Consultant of the amount not in dispute. Payment of any disputed amount, or adjustments thereto, shall be made within thirty (30) calendar days of the date such disputed amount is resolved by mutual agreement of the parties to this Agreement.

5.03 PAYMENT WHEN SERVICES ARE TERMINATED AT THE CONVENIENCE OF THE CITY

In the event of termination of this Agreement at the convenience of the City, not at the fault of the Consultant, the City shall compensate the Consultant only for the services performed prior to the effective date of termination, reimbursable expenses then due and reasonable expenses incurred by the Consultant in affecting the termination of services and work, and incurred by the submittal to the City of project drawings, plans, data, and other project documents.

5.04 PAYMENT WHEN SERVICES ARE SUSPENDED

In the event the City suspends the Consultant's services and work on all or part of the services required to be provided and performed by the Consultant pursuant to this Agreement, the City shall compensate the Consultant only for the services performed prior to the effective date of suspension, reimbursable expenses then due and any reasonable expenses incurred or associated with, or as a result of such suspension.

5.05 NON-ENTITLEMENT TO ANTICIPATED FEES IN THE EVENT OF SERVICE TERMINATION, SUSPENSION, ELIMINATION, CANCELLATION AND/OR DECREASE

In the event the services required pursuant to this Agreement are terminated, eliminated, cancelled, or decreased due to: (1) termination; (2) suspension in whole or in part; (3) and/or are modified by the subsequent issuance of supplemental task authorization(s) and/or change order(s), other than receiving the compensation set forth in Payment When Services are Terminated at the Convenience of the City and Payment When Services are Suspended, the Consultant shall not be entitled to receive compensation for anticipated professional fees, profit, general and administrative overhead expenses or for any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, cancelled or decreased.

ARTICLE 6.00-TIME AND SCHEDULE OF PERFORMANCE

6.01 NOTICE TO PROCEED

Following the execution of this Agreement by both parties, and after the Consultant has complied with the insurance requirements set forth hereinafter, the City may authorize specific tasks to be completed. Upon agreement on the scope and fee for this work and execution of supplemental task authorization, the City will issue the Consultant a written notice to proceed. Following the issuance of such notice to proceed the Consultant shall be authorized to commence work and the Consultant thereafter shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion.

6.02 TIME OF PERFORMANCE

The Consultant agrees to complete the services required pursuant to this Agreement within the time period(s) for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in the Schedule of Performance, which is attached hereto and made a part of this Agreement.

Should the Consultant be obstructed or delayed in the prosecution or completion of its obligations under this Agreement as a result of causes beyond the control of the Consultant, or its sub-consultant(s) and/or subcontractor(s), and not due to their fault or neglect, the Consultant shall notify the City, in writing, within five (5) calendar days after the commencement of such delay, stating the cause(s) thereof and requesting an extension of the Consultant's time of performance. Upon receipt of the Consultant's request for an extension of time, the City shall grant the extension if the City determines the delay(s)

encountered by the Consultant, or its sub-consultant(s) and/or subcontractor(s), is due to unforeseen causes and not attributable to their fault or neglect.

6.03 CONSULTANT WORK SCHEDULE

The Consultant shall be required as a condition of this Agreement to prepare and submit to the City, on a monthly basis, commencing with the issuance of the notice to proceed, a Consultant's work schedule. The work schedule shall set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of the services and work required completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in the Schedule of Performance, pursuant to this Agreement in such a manner that the Consultant's planned and actual work progress can be readily determined. The Consultant's work schedule of planned and actual work progress shall be updated and submitted by the Consultant to the City on a monthly basis.

6.04 FAILURE TO PERFORM IN A TIMELY MANNER

Should the Consultant fail to commence, provide, perform and/or complete any of the services and work required pursuant to this Agreement in a timely and diligent manner, the City may consider such failure as justifiable cause to terminate this Agreement. As an alternative to termination, the City at its option, may, upon written notice to the Consultant, withhold any or all payments due and owing to the Consultant, not to exceed the amount of the compensation for the work in dispute, until such time as the Consultant resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements set forth in this Agreement, or any change order(s) and supplemental task authorization(s) issued thereto.

ARTICLE 7.00-SECURING AGREEMENT

The Consultant warrants that the Consultant has not employed or retained any company or person other than a bona fide, regular, full time employee working for the Consultant to solicit or secure this Agreement and that the Consultant has not paid or agreed to pay any person, company, corporation or firm other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 8.00-CONFLICT OF INTEREST

The Consultant represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The Consultant further agrees that no person having any such interest shall be employed or engaged by the Consultant for said performance.

If Consultant, for itself and on behalf of its sub-consultants, is about to engage in representing another client, which it in good faith believes could result in a conflict of interest with the work being performed by Consultant or such sub-consultant under this Agreement, then it will promptly bring such potential conflict of interest to the City's attention, in writing. The City will advise the Consultant, in writing, within ten (10) calendar days as to the period of time required by the City to determine if such a conflict of interest exists. If the City determines that there is a conflict of interest, Consultant or such sub-consultant shall decline the representation upon written notice by the City.

If the City determines that there is not such conflict of interest, then the City shall give its written consent to such representation. If Consultant or sub-consultant accepts such a representation without obtaining the City's prior written consent, and if the City subsequently determines that there is a conflict of interest between such representation and the work being performed by Consultant or such sub-consultant under this Agreement, then the Consultant or such sub-consultant agrees to promptly terminate such representation. Consultant shall require each of such sub-consultants to comply with the provisions of this section.

Should the Consultant fail to advise or notify the City as provided hereinabove of representation which could, or does, result in a conflict of interest, or should the Consultant fail to discontinue such representation, the City may consider such failure as justifiable cause to terminate this Agreement.

ARTICLE 9.00-ASSIGNMENT, TRANSFER AND SUBCONTRACTS

The Consultant shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfers that result from: (1) the merger or consolidation of Consultant with a third party; or (2) the disestablishment of the Consultant's professional practice and the establishment of a successor Consultant, or consulting organization. Nor shall the Consultant subcontract any of its service obligations hereunder to third parties, except as otherwise authorized in this Agreement thereto, without prior written approval of the City. The Consultant shall have the right, subject to the City's prior written approval, to employ other persons and/or firms to serve as sub-consultants and/or subcontractors to Consultant in connection with Consultant providing and performing services and work pursuant to the requirements of this Agreement. The City shall have the right and be entitled to withhold such approval. Such approval shall not be unreasonably withheld.

In providing and performing the services and work required pursuant to this Agreement, Consultant intends to engage the assistance of the sub-consultant(s) and/or subcontractor(s) set forth in Consultant's Associated Sub-Consultants and Subcontractors, which is attached hereto and made a part of this Agreement.

ARTICLE 10.00-APPLICABLE LAW
Unless otherwise specified, this Agreement shall be governed by the laws, rules, regulations of the State of Florida, or the laws, rules, and regulations of the United States when providing services funded by the United States Government.

ARTICLE 11.00-COVENANTS AGAINST DISCRIMINATION FOR PROJECTS WITH FUNDS APPROPRIATED FROM BONITA SPRINGS GENERAL REVENUES
The Consultant for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to City hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The Consultant shall comply with the state laws in the hiring of sub-consultants.

ARTICLE 12.00-WAIVER OF BREACH
Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

ARTICLE 13.00-INSURANCE
For the Insurance Section and Exhibit, Consultant will be referred to as "Vendor". The Vendor shall at its own expense, carry and maintain insurance coverage from responsible companies duly authorized to do business in the State of Florida as set forth in Insurance and Bonding Requirements of this solicitation.

The Vendor shall procure and maintain property insurance (Builder's Risk, Installation Floaters, etc.) upon the entire project, if required, to the full insurable value of the scope of work. The City and the Vendor waive against each other and the City's separate Vendors, Contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. The Vendor and City shall, where appropriate, require similar waivers of subrogation from the City's separate Vendors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts. All deductibles for property insurance procured by the Vendor shall be the responsibility of the Vendor.

Certificates issued as a result of the award of this solicitation must identify: "For any and all work performed on behalf of the City of Bonita Springs."

The General Liability Policy provided by Vendor to meet the requirements of this solicitation shall name the City of Bonita Springs, Florida, as an additional insured including completed operations (and products if applicable). The policy shall be endorsed to be primary to any similar coverage carried by the City.

The Certificate Holder shall be named as: City of Bonita Springs. The Certificates of Insurance must state the Contract Number, or Project Number, or specific project description, or must read: "For any and all work performed on behalf of the City of Bonita Springs."

The amounts and types of insurance coverage shall conform to the minimum requirements set forth in Insurance and Bonding Requirements with the use of Insurance Services Office (ISO) forms and endorsements or their equivalents. If Vendor has any self-insured retentions or deductibles under any of the below listed minimum required coverage, Vendor must identify on the Certificate of Insurance the nature and amount of such self-insured retentions or deductibles and provide satisfactory evidence of financial responsibility for such obligations. All self-insured retentions or deductibles will be Vendor's sole responsibility.

Coverage(s) shall be maintained without interruption from the date of commencement of the work until at least thirty (30) days beyond the date of completion or warranty period, whichever is greater, or otherwise as specified in this solicitation if longer.

The Vendor and/or its insurance carrier shall provide thirty (30) days written notice to the City of policy cancellation or non-renewal on the part of the insurance carrier or the Vendor except for non-payment which shall be ten (10) days. The Vendor shall also notify the City, in a like manner, within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverage or limits received by Vendor from its insurer and nothing contained herein shall relieve Vendor of this requirement to provide notice.

Should at any time the Vendor not maintain the insurance coverage(s) required herein, the City may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverage(s) and charge the Vendor for such coverage(s) purchased. If Vendor fails to reimburse the City for such costs within thirty (30) days after demand, the City has the right to offset these costs from any amount due Vendor under this Agreement or any other agreement between the City and Vendor. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverage(s) purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverage(s) shall in no way be construed to be a waiver of any of its rights under the Contract Documents.

If the initial or any subsequently issued Certificate of Insurance expires prior to the completion of the scope of work, the Vendor shall furnish to the City renewal or replacement Certificate(s) of Insurance not later than ten (10) calendar days after the expiration date on the certificate. Failure of the Vendor to provide the City with such renewal certificate(s) shall be considered justification for the City to terminate any and all contracts.

ARTICLE 14.00-DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

The duties and obligations imposed upon the Consultant by this Agreement and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

ARTICLE 15.00-REPRESENTATION OF THE CITY

The Consultant in providing and performing the services and work required pursuant to this Agreement thereto shall only represent the City in this manner and to the extent specifically set forth in writing in this Agreement or thereto, and as provided in any written change order(s) and supplemental task authorization(s) issued thereunder.

In the event the Consultant's services or work involves construction contract administrative support services, the Consultant is not authorized to act on the City's behalf, and shall not act on the City's behalf, in such a manner as to result in change(s) to (1) the cost or compensation to be paid the construction contractor; or (2) the time for completing the work as required and agreed to in the construction contract; or (3) the scope of the work set forth in the construction contract documents, unless such representation is specifically provided for, set forth and authorized in this Agreement or thereto.

The City will neither assume nor accept any obligation, commitment, responsibility or liability which may result from representation by the Consultant not specifically provided for and authorized as stated hereinabove.

ARTICLE 16.00-OWNERSHIP OF DOCUMENTS

All documents such as drawings, tracings, notes, computer files, photographs, plans, specifications, maps, evaluations, reports and other records and data relating to this project, other than working papers, specifically prepared or developed by the Consultant under this Agreement shall be property of the Consultant until the Consultant has been paid for providing and performing the services and work required to produce such documents.

Upon completion or termination of this Agreement, or upon the issuance by the City of a written change order deleting all or portions of the scope of services or task(s) to be provided or performed by the Consultant, all of the above documents, to the extent requested in writing by the City, shall be delivered by the Consultant to the City within seven (7) calendar days of the City making such a request. In the event the City gives the Consultant a written Notice of Termination of all or part of the services or work required, or upon the issuance to the Consultant by the City of a written change order deleting all or part of the services or work required, the Consultant shall deliver to the City the requested documents as set forth hereinabove, with the mutual understanding and commitment by the City that compensation earned or owing to the commitment by the City that compensation earned or owing to the Consultant for services or work provided or performed by the Consultant prior to the effective date of any such termination or deletion will be paid to the Consultant within thirty (30) calendar days of the date of issuance of the notice of termination or change order.

The Consultant, at its expense, may make and retain copies of all documents delivered to the City for reference and internal use. The Consultant shall not, and agrees not to, use any of these documents, data and information contained therein on any other project or for any other client without the prior expressed written permission of the City.

Any use by the City of said documents, data and information contained therein, obtained by the City under the provisions of this Agreement for therein, obtained by the City under the provisions of this Agreement for any purpose not within the scope of this Agreement shall be at the risk of the City, and without liability to the Consultant. The City shall be liable and agrees to be liable for and shall indemnify, defend and hold the Consultant harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the City's use of such documents in a manner contrary to the provisions set forth hereinabove. The City hereby acknowledges receipt of $10.00 (ten and no hundred dollars) and other good and valuable consideration from the Consultant which has been paid as specific consideration for the indemnification provided herein.

ARTICLE 17.00-MAINTENANCE OF RECORDS

The Consultant will keep and maintain adequate records and supporting documentation applicable to all of the services, work, information, expense, costs, invoices and materials provided and performed pursuant to the requirements of this Agreement. Said records and documentation will be retained by the Consultant for a minimum of five (5) years from the date of termination of this Agreement.

The City and its authorized agents shall, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the City deems necessary during the period of this Agreement, and during the period five (5) years thereafter; provided, however, such activity shall be conducted only during normal business hours and at the expense of the City, and provided further that to the extent provided by law the City shall retain all such records confidential.

17.01 COMPLIANCE WITH PUBLIC RECORDS LAW

The Consultant must comply with Florida public records laws, specifically to:

a) Keep and maintain public records required by the City to perform the service.

b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statutes §119 or as otherwise provided by law.

c) 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 Consultant does not transfer the records to the City.

d) Upon completion of the Contract, transfer, at no cost, to the City of Bonita Springs all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

e) The City will consider it a breach of contract should the Consultant fail to comply with any public records request.

f) A Consultant who fails to provide the public records to the City within a reasonable time may be subject to penalties under Florida Statutes §119.10.

g) **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DESGIN-BUILDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS (CITY CLERK) AT: 239-949-6262, CITY OF BONITA SPRINGS, 9101 BONITA BEACH ROAD, BONITA SPRINGS, FL 34135, debbie.filipek@cityofbonitasprings.org.**

h) If the Consultant is not providing the requested public records, the burden of proof is on the Consultant to show why they did not comply with the request.

ARTICLE 18.00-HEADINGS

The headings of the articles, sections, exhibits, attachments, phases or tasks as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such articles, sections, exhibits, attachments, phases or tasks.

ARTICLE 19.00-ENTIRE AGREEMENT

This Agreement and attachments hereto, constitutes the entire agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect whatever on this Agreement.

ARTICLE 20.00-NOTICES AND ADDRESS OF RECORD

20.01 NOTICES BY CONSULTANT TO CITY

All notices required and/or made pursuant to this Agreement to be given by the Consultant to the City shall be in writing and shall be given by the United States Postal Service Department first class mail service postage prepaid, addressed to the following City address of record and sent to the attention of the City's Project Manager unless waived by City:

Elly Soto McKuen, Senior Project Manager
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

Copy: City Attorney
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

20.02 NOTICES BY CITY TO CONSULTANT

All notices required and/or made pursuant to this Agreement to be given by the City to the Consultant shall be made in writing and shall be given by the United States Postal Service Department first class mail service, postage prepaid, addressed to the following Consultant's address of record unless waived by Consultant:

Consultant Name: Woodard and Curran, Inc.

Consultant Address: 210 South Florida Avenue

Consultant Address: Suite 220

Telephone Number: 800.426.4262

Fax Number: 207.774.6635

ATTENTION: Scott Shannon
Project Director

20.03 CHANGE OF ADDRESS OF RECORD

Either party may change its address of record by written notice to the other party per above contacts.

ARTICLE 21.00-TERM

This Agreement is effective as of the date first written above and shall remain in effect a period of two (2) years with the option to renew for one (1) additional year, upon mutual agreement.

ARTICLE 22.00-TERMINATION

This Agreement may be terminated by the City at its convenience, or due to the fault of the Consultant, by the City giving thirty (30) calendar days written notice to the Consultant.

If the Consultant is adjudged bankrupt or insolvent; if it makes a general assignment for the benefit of its creditors; if a trustee or receiver is appointed for the Consultant or for any of its property; if it files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; if it disregards the authority of the City's designated representatives; if it otherwise violates any provisions of this Agreement; or for any other just cause, the City may, without prejudice to any other right or remedy, and after giving the Consultant a thirty (30) calendar days written notice, terminate this Agreement.

In addition to the City's contractual right to terminate this Agreement in its entirety as set forth above, the City may also, at its convenience, stop, suspend, supplement or otherwise change all, or any part of, the Scope of Professional Services or the Project Guidelines and Criteria, or as such may be established by change order or supplemental task authorization. The City shall provide written notice to the Consultant in order to implement a stoppage, suspension, supplement or change.

The Consultant may request that this Agreement be terminated by submitting a written notice to the City dated not less than thirty (30) calendar days prior to the requested termination date and stating the reason(s) for such a request. However, the City reserves the right to accept or not accept the termination request submitted by the Consultant, effective unless and until Consultant is notified, in writing, by the City of its acceptance.

22.01 CONSULTANT TO DELIVER MATERIAL

Upon termination, the Consultant shall deliver to the City all papers, drawings, models, and other material in which the City has exclusive rights by virtue hereof or of any business done, or services or work performed by the Consultant on behalf of the City.

ARTICLE 23.00-AMENDMENTS

The covenants, terms and provisions set forth and contained in all of the articles to this Agreement may be amended upon the mutual acceptance thereof, in writing, by both parties to this Agreement. In the event of any conflicts between the requirements, provisions and/or terms of the Agreement and any written amendment, the requirements, provisions and/or terms of the amendment shall take precedence.

ARTICLE 24.00-MODIFICATIONS

Modifications to covenants, terms and provisions of this Agreement shall only be valid when issued in writing as a properly executed change order(s) or supplemental task authorization(s). In the event of any conflicts between the requirements, provisions, and/or terms of this Agreement and any written change order(s), and/or supplemental task authorizations, the latest executed change order(s), and/or supplemental task authorization(s) shall take precedence.

In the event the City issues a purchase order, memorandum, letter, or other instruments covering the professional services, work and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that such purchase order, memorandum, letter or other instruments are for the City's internal control purposes only, and any and all terms, provisions and conditions contained herein, whether printed or written, shall in no way modify the covenants, terms and provisions of this Agreement and shall have no force or effect thereon.

No modification, waiver, or termination of the Agreement or of any terms thereof shall impair the rights of either party.

ARTICLE 25.00-ACCEPTANCE

Acceptance of this Agreement shall be indicated by the signature of the duly authorized representative of the hereinabove named parties in the space provided hereinafter and being attested and witnessed as indicated.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the day and year first written above.

ATTEST:

BY: _____
CITY CLERK

DATE: _____

CITY OF BONITA SPRINGS CITY COUNCIL

BY: _____
MAYOR

APPROVED AS TO FORM

BY: _____
CITY ATTORNEY'S OFFICE

ATTEST:

Annette R. Miller
(Witness)

Bud Hayes
(Witness)

CORPORATE SEAL

CONSULTANT

BY: _____
(Authorized Signature)

Justin de Mello, Senior Principal

DATE: September 25, 2020

EXHIBIT A

Scope of Professional Services
Grant Writing and Support Services CN 20-10

Date: September 25, 2020

Basic Services

Section 1 General Scope Statement

The Consultant shall provide and perform the following professional services, which shall constitute the general scope of the basic services under the covenants, terms, and provisions of this Professional Services Agreement.

Section 2 Tasks

Pursuant to the general scope of the basic services stated herein above, the Consultant shall perform all services and/or work necessary to complete the following task(s) and/or provide the following item(s) which are enumerated to correspond to the task(s) and/or items set forth in Compensation and Method of Payment.

The Consultant will assist the City in administrating various tasks to supplement City staff support. The following is a program specific description of tasks:

- Provide ongoing program administration, policy, grants and financial management services to support the City's grant programs for the currently funded grant sources.
- Establish and administer a quality assurance and quality control system to comply with HUD, CDBG-DR, FDEO, FEMA and FDEM.
- Provide ongoing project implementation, compliance management support/supervision and reporting services.
- Support the City in responding to any audits requested by external organizations.
- Assist with document verification insuring no duplication of benefits in HUD, CDBG-DR, FDEO, FEMA and FDEM.
- Work with the City to provide a report that includes metrics that demonstrate the implementation costs to date with projected spending for the duration of the various grants.
- Provide a detailed timeline for implementation consistent with the milestones outlined in the subrecipient agreement between the City and the funding agencies.
- Assist with project final inspections, audits and compliance with all applicable HUD, CDBG-DR, FDEO, FEMA and FDEM rules, regulations, policies, procedures.
- Provide close-out reports in compliance with all sub-recipient agreements.
- Provide support for strategic planning and coordination for citywide, countywide and regional infrastructure related projects of all disaster and non-disaster related efforts that would meet federal and state funding criteria(s).
- Provide expert programmatic and policy advice on federal disaster relief programs. Provide extensive knowledge, experience and technical competence in dealing with Federal regulations, specifically including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Post-Katrina Emergency Management Reform Act of 2006, and the Sandy Recovery Improvement Act of 2013, and 2CFR Part 200.217-238 and others as may be identified.
- Attend meetings in conjunction with and on behalf of City Representatives.
- Provide guidance on damage assessment and assist in Project Worksheet formulation.
- Proactively identify opportunities to maximize Public Assistance and Post-Disaster Mitigation funding within the current regulatory framework.
- Work with the City to coordinate all FEMA grant programs, both through the emergency and annual funding programs, i.e., annual Public Assistance (PA) and Hazard Mitigation Assistance (HMA) program, as well as applicable Hazard Mitigation Grant Program.
- Progressively work with City officials to resolve disputes with FEMA, including the preparation of appeals or responses to arbitration if necessary.

This list of activities is not meant to be complete and absolute. The City reserves the right to add additional related activities as the City implements these programs and other grant related projects.

EXHIBIT B

Compensation and Method of Payment
Grant Writing and Support Services CN 20-10

Date: September 25, 2020

Section 1 Basic Services/Task(s)

The City shall compensate the Consultant for providing and performing the task(s) set forth and enumerated in the Scope of Professional Services, as follows:

NOTE: A lump sum (LS) or not-to-exceed (NTE) amount of compensation to be paid the Consultant should be established and set forth below for each task or sub-task described and authorized in the Scope of Professional Services. Tasks to be paid on a work-in-progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (WIPP)
TOTAL				

(Unless list is continued on next page.)

Compensation and Method of Payment – Page 2
Grant Writing and Support Services CN 20-10

Consultant's Personnel Hourly Rate Schedule*

Date: September 25, 2020

Should it be mutually agreed to base compensation for additional services on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained below.

CONSULTANT OR SUB-CONSULTANT NAME Woodard and Curran, Inc. (Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct** Payroll Average Hourly Rate	(3) Multiplier***	(4) Hourly Rate To Be Charged (Column 2x3)
Chief Technologist/Principal	$225		$225
Director of Practice/Licensed Site Professional	$220		$220
Practice Leader/Senior Project Mgr/Senior Tech Mgr	$215		$215
Principal Project Mgr/Project Mgr2/Tech Expert2/Technical Mgr2	$195		$195
Project Mgr/Technical Expert1/Tech Leader/Tech Mgr1	$182		$182
Sr Engineer/Senior Geologist/Senior Project Engineer/Service Mgr	$179		$179
Project Engineer 2	$177		$177
Senior Planner	$172		$172
Project Scientist2/Project Tech Spec 2	$170		$170
Project Engineer/GIS Manager	$164		$164
Construction Mgr/Engineer3/Project Geologist2/Project Tech Spec1	$154		$154
GIS App Developer/Project Mgmt Prof.	$150		$150
Project Geologist/Project Scientist	$143		$143
Engineer 2	$140		$140
GIS Solutions Analyst/Planner	$137		$137
Senior Designer/Tech Service Spec 2	$136		$136
Engineer1/GIS Analyst2/Scientist 3	$130		$130
Geologist 3	$129		$129

Designer 3	$126		$126
Geologist 2	$125		$125
Scientist 2/Resident Engineer	$123		$123
Staff Engineer2/Tech Service Spec1	$120		$120
Scientist 1	$113		$113
Designer2/Geologist1/GIS Developer	$112		$112
Staff Engineer 1	$105		$105
GIS Analyst/Operations Specialist	$98		$98
Inspector/Technician2	$97		$97
Technician	$94		$94
Designer	$91		$91
Procurement Specialist	$102		$102
Project Assistant	$97		$97
Drafter	$83		$83
Administrative	$73		$73

*NOTE: A separate personnel hourly rate schedule should also be attached for each sub-consultant listed in Consultant's Associated Sub-Consultant(s) and Subcontractor(s).

**NOTE: Direct Payroll Hourly Rate means the actual gross hourly wage paid.

***NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative and overhead costs and profit.

EXHIBIT C

Time and Schedule of Performance
Grant Writing and Support Services CN 20-10

Date: September 25, 2020

This Exhibit establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in the Scope of Professional Services. The Time and Schedule of Performance set forth hereinafter is established pursuant to Time and Schedule of Performance.

Phase and/or Task Reference As Enumerated in Scope of Professional Services	Name or Title of Phase and Task	Number of Calendar Days For Completion of Each Phase and/or Task	Cumulative Number of Calendar Days for Completion From Date of Notice to Proceed

EXHIBIT D

Consultant's Associated Sub-Consultant(s) and Subcontractor(s)
Grant Writing and Support Services CN 20-10

Date: September 25, 2020

Consultant has identified the following sub-consultant(s) and/or subcontractor(s) which may be engaged to assist the Consultant in providing and performing services and work on this project:

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage (Yes or No)
	N/A	

EXHIBIT E

Project Guidelines and Criteria
Grant Writing and Support Services CN

Date: September 25, 2020

The City has established the following guidelines, criteria, goals, objectives, constraints, schedule, budget and/or requirements which shall serve as a guide to the Consultant in performing the professional services and work to be provided pursuant to this Agreement:

(If none, enter the word "none" in the space below)

Item No. 1

NONE

EXHIBIT F

Truth in Negotiation Certificate
Grant Writing and Support Services CN 20-10

Date: September 25, 2020

This Certificate is executed and given by the undersigned as a condition precedent to entering into a Professional Services Agreement with the City Council of the City of Bonita Springs for the project known as the Grant Writing and Support Services CN 20-10.

Before me, the undersigned authority personally appeared, who having personal knowledge as to the facts and statements contained herein after being duly sworn, deposes and states under oath that:

1. This Certificate shall be attached to and constitute an integral part of the above said Professional Services Agreement as provided in Truth-In-Negotiations Certificate.

2. The undersigned hereby certifies that the wage rates and other factual unit costs supporting the compensation on which this Professional Services Agreement is established are accurate, complete, and current on the date set forth hereinabove.

3. The truth of statements made herein may be relied upon by the City and the undersigned is fully advised of the legal effect and obligations imposed upon him by the execution of this instrument under oath.

Executed on behalf of the Party to the Professional Services Agreement referred to as the Consultant, doing business as:

COMPANY NAME: Woodard & Curran, Inc.

BY: _____

TITLE: Senior Principal

The foregoing instrument was signed and acknowledged before me this 25th day of September

by Justin deMello (Print or Type Name) who is personally known OR has produced Florida Driver License (Type of Identification & Number) D540-420-83-164-0

as identification.

Alysa Michele Schielka
Notary Public Signature

GG240896 July 23, 2022
Notary Commission Number/Expiration

ALYSA MICHELE SCHIE
State of Florida-Notary Pub
Commission # GG 240896
My Commission Expires
July 23, 2022

EXHIBIT G

Insurance and Bonding Requirements

All policies shall be Best's Rated "A-" or better or subject to approval

Insurance / Bond Type	**Required Limits**
☒ Worker's Compensation	Statutory Limits of Florida Statutes, Chapter 440 and all Federal Government Statutory Limits and Requirements. ☒ **The policy shall be endorsed to provide a waiver of subrogation in favor of the City.** NOTE: Any "non-construction industry" company employing more than 3 employees (not including a sole proprietor owner) must have workers' compensation coverage. ALL "construction industry" (as defined by FL Rule # 69L-6.021) companies with ANY employees must have coverage or if no statutory employees, then up to three officers or a sole proprietor MUST have a current exemption certificate from the Division of Workers' Compensation on file.
☒ Employer's Liability	**$**1,000,000 single limit per occurrence (Workers' Compensation Part B)
☒ Commercial General Liability (Occurrence Form) patterned after the current ISO form	Bodily Injury and Property Damage ☒ **$**1,000,000 per occurrence, **$**1,000,000 aggregate (Per Project) for Bodily Injury Liability and Property Damage Liability. This shall include Premises and Operations; Independent Contractors; Products and Completed Operations and Contractual Liability.
☒ Indemnification	To the fullest extent permitted by Florida law and to the limit by Florida Statutes § 725.08, the Contractor/Vendor/ Consultant shall be liable and agrees to be liable for and shall indemnify and hold harmless the City of Bonita Springs, its officers and employees from any and all liabilities, damages, losses and costs, to person or property including, but not limited to, reasonable attorneys' fees arising out of or caused in whole or in part by any act, omission, error or default by the Contractor/Vendor/Consultant, its subcontractors, materialmen, or agents of any tier or their employees arising out of this agreement or its performance. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph. This section does not pertain to any incident arising from the sole negligence of the City of Bonita Springs.
☒ Automobile Liability	☒ **$** 1,000,000 Each Occurrence; Bodily Injury & Property Damage Owned/Non-owned/Hired; Automobile Included
☒ Other insurance as noted:	☐ Watercraft **$** _____ Per Occurrence ☐ United States Longshoreman's and Harbor Worker's Act coverage shall be maintained where applicable to the completion of the work. **STATUTORY** ☐ Maritime Coverage (Jones Act) shall be maintained where applicable to the completion of the work. **$** _____ Per Occurrence ☐ Property Insurance (Or Builder's Risk) **Full insurable value of the scope of the work** ☐ Pollution **$** _____ Per Occurrence ☒ Professional Liability **$**1,000,000 per claim and in the aggregate

☐ Railroad Right of Way	☐ Umbrella Excess **$** _____ Per Occurrence ☐ Railroad Protective Liability Insurance per occurrence limit of not less than **Two Million Dollars ($2,000,000)** and aggregate limits of **Six Million Dollars ($6,000,000)** to include Seminole Gulf Railway LP and CSX Transportation, Inc. as a named Insured. Seminole Gulf Railway also requires your General Liability policy coverage to be $5,000,000. They require you to include Seminole Gulf Railway LP and CSX Transportation, Inc. as a named Additional Insured for General Liability and the policy must include the endorsement CG 2417, Contractual Liability and must not exclude underground coverage. For additional information on their insurance requirements and other requirements such as payment for and scheduling Railroad Inspector / Flagman, please contact Seminole Gulf Railway LP, 4110 Centerpointe Dr. Suite 207, Ft. Myers FL 33916, Phone # 239-275-6060 and FAX 239-275-0581.
☐ Bid bond	Shall be submitted with proposal response in the form of certified funds, cashiers' check or an irrevocable letter of credit, a cash bond posted with the City Clerk, or proposal bond in a sum equal to 5% of the cost proposal. All checks shall be made payable to the City of Bonita Springs on a bank or trust company located in the State of Florida and insured by the Federal Deposit Insurance Corporation.
☐ Performance and Payment Bonds	If the box is checked for a project less than $200,000, a performance bond will be required. For projects in excess of $200,000, bonds shall be submitted with the executed contract by Proposers receiving award, and written for 100% of the Contract award amount, the cost borne by the Proposer receiving an award. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to Owner; provided, however, the surety shall be rated as "A-" or better as to general policy holders rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holder's surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038. **Per FS §255.05, the Contractor shall provide a certified copy of the recorded bond to the City.**

☒ Vendor shall ensure that all subcontractors comply with the same insurance requirements that he is required to meet. The same Vendor shall provide City with certificates of insurance meeting the required insurance provisions.

☒ The City of Bonita Springs must be named as "**ADDITIONAL INSURED**, **INCLUDING PRODUCTS AND COMPLETED OPERATIONS"** on the Insurance Certificate for Commercial General Liability.

☒ The Certificate Holder shall be named as the City of Bonita Springs. The Certificates of Insurance must state the Contract Number, or Project Number, or specific Project description, or must read: "For any and all work performed on behalf of the City of Bonita Springs."

☒ **Thirty (30) Days Cancellation Notice (Except for Non-Payment of Premium which is ten (10) days)** Provided by the Insurance Carrier and/or the Vendor.

Policy shall be endorsed for Thirty (30) Days' Notice of Cancellation by the Insurance Carrier and a copy of the endorsement provided to the City of Bonita Springs.

EXHIBIT H

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Vendor Covered Transactions

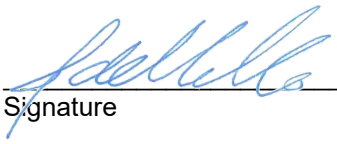
(1) The prospective vendor certifies, by submission of this Annual Agreement, that neither it nor its principles are presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the vendor is unable to certify to the above statement, the prospective vendor shall attach an explanation to this form.

VENDOR

Woodard & Curran, Inc.
Company Name

037708708
DUNS Number


Signature

September 25, 2020
Date

Justin deMello
Print Name and Title

210 S. Florida Avenue, Suite 220
Street Address

Lakeland, FL 33801
City, State, Zip

For City of Bonita Springs use only

To access the debarment search: https://www.sam.gov/SAM/ > Search Records tab > Enter DUNS number > Click Search

Company: [ ] is debarred [ ] is not debarred

Verified by: _____ Date: _____
Name

EXHIBIT I

Scrutinized Companies Statement

SWORN STATEMENT UNDER SECTION 287.135(5), FLORIDA STATUTES: THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Proposal, Quote, or Contract Number **CN 20-10**, for **Grant Writing and Support Services.**

2. This sworn statement is submitted by Woodard & Curran, Inc. whose business
[Name of entity submitting sworn statement]

address is 210 S. Florida Avenue, Suite 200, Lakeland, FL, 33801 and (if

applicable) its Federal Employer Identification Number (FEIN) is 01-0363222 (If the entity has no

FEIN, include the Social Security Number of the individual signing this sworn statement: _____.

3. My name is Justin deMello and my relationship to the above is
[Please print name of individual signing]

Senior Principal.

4. I understand that "awarding body" as defined in section 287.135(1) (a), Florida Statutes, means, for purposes of state contracts, an agency or the department, and for purposes of local contracts, the governing body of the local governmental entity.

5. I understand that "Boycott of Israel" as defined in section 287.135(1) (b), Florida Statutes, has the same meaning as defined in s. 215.4725.

6. I understand that "business operations" as defined in section 287.135(1) (c), Florida Statutes, means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.

7. I understand that "local governmental entity" as defined in section 287.135(1) (d) means a county, municipality, special district, or other political subdivision of the state.

8. Based on information and belief, the statement, which I have marked below, is true in relation to the entity submitting this sworn statement. **[Please indicate which statements apply].**

X Scrutinized Companies that Boycott Israel List (bid, proposal or contract renewal for any amount)
[ ] The entity submitting this sworn statement is not on the Scrutinized Companies that Boycott Israel List.
[ ] The entity submitting this sworn statement is on the Scrutinized Companies that Boycott Israel List.

[ ] Scrutinized Companies with Activities in Sudan List (bid, proposal or contract renewal for $1 Million or more)
[ ] The entity submitting this sworn statement is not on the Scrutinized Companies with Activities in Sudan List.
[ ] The entity submitting this sworn statement is on the Scrutinized Companies with Activities in Sudan List.

[ ] Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (bid, proposal or contract renewal for $1 Million or more)
[ ] The entity submitting this sworn statement is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.
[ ] The entity submitting this sworn statement is on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

[ ] Business Operations in Cuba or Syria (bid, proposal or contract renewal for $1 Million or more)
[ ] The entity submitting this sworn statement does not have business operations in Cuba or Syria.
[ ] The entity submitting this sworn statement does have business operations in Cuba or Syria.

The City will follow Florida Statute §287.135. If the City determines this Vendor has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel after the contract is executed, the contract may be terminated by the City by written notification. If the City determines this Vendor is found to have submitted a false certification, placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations with Cuba or Syria, the City shall notify the Vendor of its determination by written notification.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided in this attachment, Scrutinized Companies Statement, is truthful and correct at the time of submission.

AFFIANT

Justin deMello
Typed Name of AFFIANT

Senior Principal
Title

STATE OF Florida COUNTY OF Pasco

The foregoing instrument was executed before me this 25th day of September, 2020, by Justin DeMello as Senior Principal of Woodard & Curran, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has produced Florida Driver's License as identification.

Alyssa Michele Schielka
NOTARY PUBLIC, State of Florida

(stamp)

ALYSA MICHELE SCHIELKA
State of Florida-Notary Public
Commission # GG 240896
My Commission Expires
July 23, 2022

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For City of Bonita Springs use only

To access the lists: http://www.sbafla.com/fsb/ > Funds We Manage tab > FRS Pension Plan - Global Governance Mandates > Global Governance Mandate Quarterly Reports > most current quarter

Scrutinized Companies that Boycott Israel List:
[ ] entity is **NOT** on list [ ] entity is on list

Scrutinized Companies with Activities in Sudan List:
[ ] entity is **NOT** on list [ ] entity is on list

Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List:
[ ] entity is **NOT** on list [ ] entity is on list

Business Operations in Cuba or Syria:
[ ] entity is **NOT** on list [ ] entity is on list

Verified by:_____ Date:_____
Print Name

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-291

AGENDA ITEM SUMMARY

REQUESTED MOTION: Review of August 2020 Monthly Financial Reports

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Anne 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: **Financial Highlights of the General Fund for the Eleven Months ended August 31, 2020**

- Total FY 2020 General Fund Revenues as of August 31, 2020 **are greater than** the FY 2019 Revenues as of August 31, 2019 by $955,881, representing a 5.84% increase over FY 2019. This favorable variance is from increases over the prior year General Fund revenue in Ad Valorem Taxes of $572,692, Code Enforcement Fines of $100,130, and increases to the General Fund from the two revenue sources which in previous years were partially allocated to the Debt Service Fund: Local Communications Services Tax increase to the General Fund of $554,222, and Electricity Franchise Fees increase to the General Fund of $526,281, offset by decreases in Administrative Services Fees of ($221,028), Miscellaneous Revenue of ($243,413), Half Cent Sales Tax of ($150,989), Solid Waste Franchise Fees of ($74,659), Planning and Zoning Fees of ($31,172), Park & Recreation Revenue of ($36,351), and Revenue Sharing of ($6,844). Note: In FY 2019, Miscellaneous Revenue included a $194,266 contribution from Village Walk for the Logan Blvd project. In FY 2019, the third quarter payment for the Solid Waste Franchise Fee was received in August, but in FY 2020, this payment was received in early September which is why there is a decrease from the prior fiscal year noted above.
- Total FY 2020 General Fund Revenues collected for the eleven months ended August 31, 2020 are 91.02% of the total Revenues budgeted for FY 2020.
- Total FY 2020 General Fund Expenditures as of August 31, 2020 are **less than** FY 2019 Expenditures as of August 31, 2019 by $143,575. The July monthly report showed General Fund expenditures **greater** than the prior by $564,722. During August 2020, $655,381 of expenditures that had been previously recorded in the General Fund were reallocated to the Stormwater Management Fund, resulting in a reduction in the General Fund expenditure year to date amount as compared to the prior year.
- FY 2020 General Fund Transfers In as of August 31, 2020 are $4,781,893 **less than** the FY 2019 Transfers In for the Eleven months ended August 31, 2019, as the prior year reflects FEMA reimbursements for Hurricane Irma expenditures.
- Total FY 2020 Expenditures for the eleven months ended August 31, 2020 are 78.29% of the Total Expenditures budgeted for FY 2020. Although this is the eleventh month of the City's fiscal year, these statements reflect payments for only ten months of costs associated with certain operating expenditures which are paid in the month following the month of service.
- FY 2020 General Fund Transfers Out to Other Funds as of August 31, 2020 are $367,827 **less than** the FY 2019 Transfers Out as of August 31, 2019.
- FY 2020 General Fund Revenues and Transfers In **are greater than** FY 2020 Expenditures and Transfers Out for the eleven months ended August 31, 2020 by $8,068,435. FY 2019 Revenues and Transfers In were $11,383,045 **greater than** FY 2019 Expenditures and Transfers Out for the eleven months ended August 31, 2019.

A General Fund Summary showing a comparison to the prior year is attached. Also included is a Summary of Cash Balances as of August 31, 2020, 2019 and 2018.

Attachments: Fund Balance Summary as of September 30, 2019 and August 31, 2020 Balance Sheet and Statements of Revenue and Expenditures by fund.

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

IF YES, WHICH STRATEGIC OBJECTIVE? #7 Government Transparency

STAFF RECOMMENDATIONS: Review the Financial Reports

REVIEWED BY:

City Manager: **Arleen Hunter**

City Attorney: **Derek Rooney**

City Clerk: **Debra Filipek**

Department Director: **Anne Wright**

COUNCIL ACTION:

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

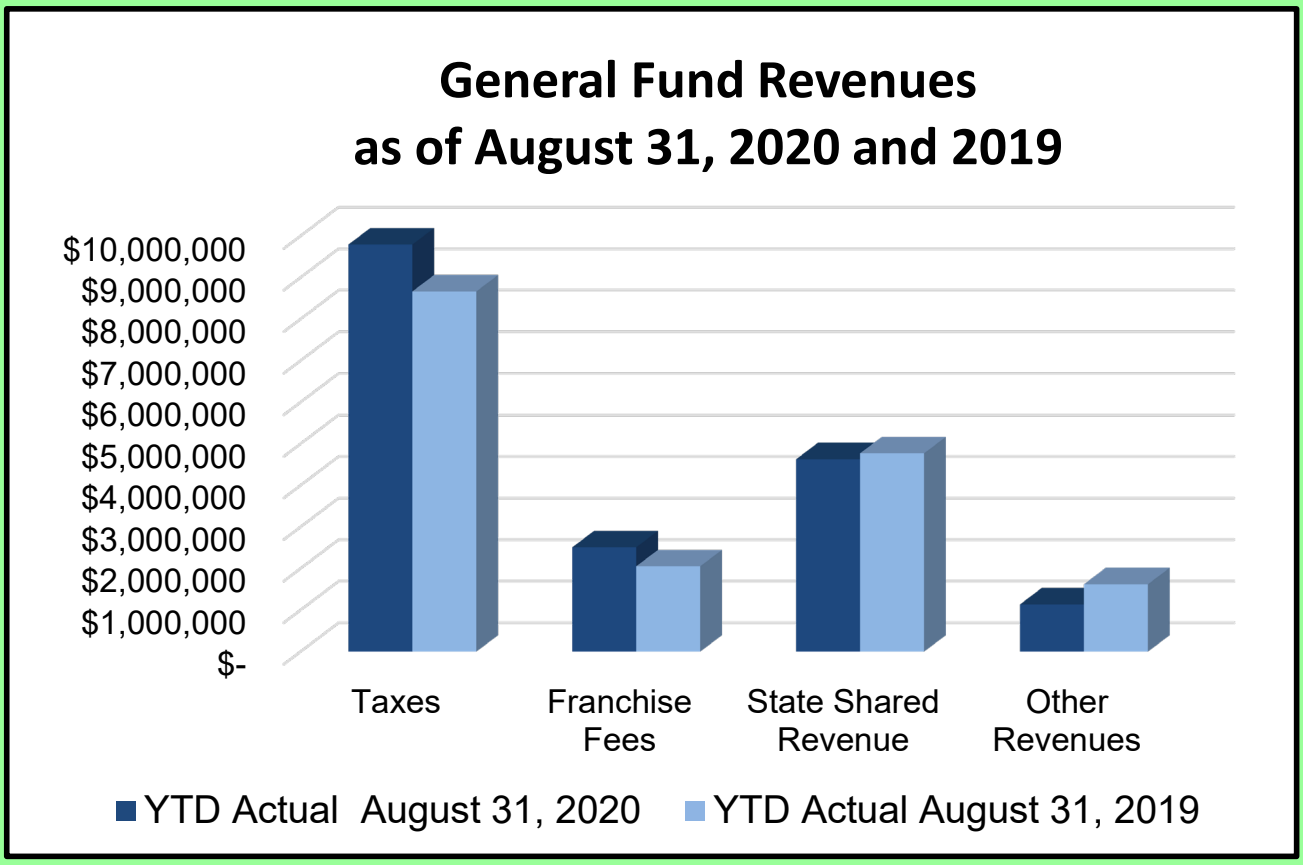
General Fund	**FY 2020**				**FY 2019**	
Revenues:	Amended Budget	YTD Actual Aug. 31, 2020	Variance – Over (Under) Budget	Actual as a % of Budget	YTD Actual Aug. 31, 2019	FY 2020 Actual Over (Under) FY 2019 Actual
Taxes	$ 9,914,804	$ 9,794,526	$ (120,278)	98.79%	$ 8,667,536	$ 1,126,990
Franchise Fees	3,115,583	2,510,814	(604,769)	80.59%	2,055,026	455,788
State Shared Revenue	5,564,040	4,630,316	(933,724)	83.22%	4,772,274	(141,958)
Other Revenues	1,263,090	1,137,985	(125,105)	90.10%	1,622,924	(484,939
Total Revenues	**$ 19,857,517**	**$ 18,073,641**	**$ (1,783,876)**	**91.02%**	**$ 17,117,760**	**$ 955,881**
Expenditures:						
General Government	$ 5,638,605	$ 4,349,317	$ (1,289,288)	77.13%	$ 4,745,387	$ (396,070)
Public Safety	2,572,090	2,461,811	(110,279)	95.71%	2,279,005	182,806
Physical Environment	227,022	3,743	(223,279)	1.65%	103,630	(99,887)
Transportation	2,314,232	1,503,221	(811,011)	64.96%	1,988,972	(485,751)
Economic Environment	27,550	27,500	(50)	99.82%	27,550	(50)
Human Services	173,491	108,010	(65,481)	62.26%	80,051	27,959
Culture & Recreation	2,442,214	1,842,193	(600,021)	75.43%	1,914,955	(72,762)
Hurricane Irma	-	-	-	0.00%	274,552	(274,552)
Special Items: COVID -19 and Plaintiff Legal Fees	1,000,316	974,732	(25,584)	97.44%	-	974,732
Total Expenditures	**$ 14,395,520**	**$ 11,270,527**	**$ (3,124,993)**	**78.29%**	**$ 11,414,102**	**$ (143,575)**
Excess (deficiency) of revenues over (under) expenditures	$ 5,461,997	$ 6,803,114	$ 1,341,117		$ 5,703,658	$ 1,099,456
Other Financing Sources (Uses):						
Transfers In	$ 2,447,189	$ 2,432,188	$ (15,001)	99.39%	$ 7,214,081	$ (4,781,893)
Transfers Out	(13,534,037)	(1,166,867)	(12,367,170)	8.62%	(1,534,694)	(367,827)
Total Other Financing Sources (Uses) - net	**$ (11,086,848)**	**$ 1,265,321**	**$ (12,352,169)**		**$ 5,679,387**	**$ (4,414,066)**
Total Surplus (Deficit)		**$ 8,068,435**			**$ 11,383,045**	**$ (3,314,610)**

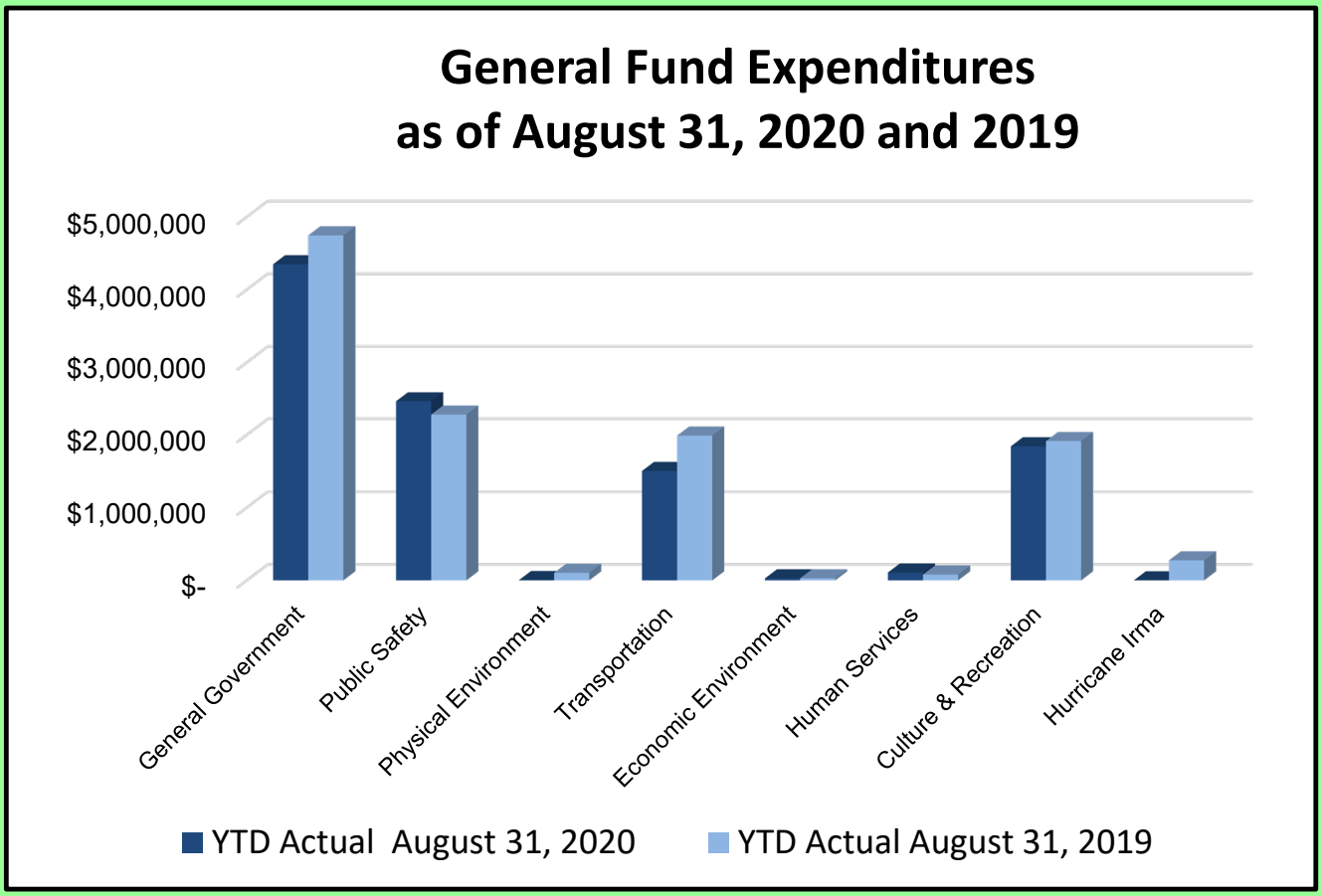
Below is the City's Cash Position as of Aug. 31, 2020, 2019 and 2018.

	Cash Balances as of		
	8/31/2020	**8/31/2019**	**8/31/2018**
Fund:			
General Fund	$ 23,924,399	$ 22,230,420	$ 11,412,905
Gas Tax	3,676,515	4,294,042	4,151,908
Road Impact Fee	20,886,399	20,147,944	16,136,553
Park Impact Fee	2,984,675	3,456,993	2,832,570
Stormwater Management	875,031	-	-
Building Fees Fund	8,680,537	8,526,968	7,587,363
2011 Debt Fund	450,660	2,764,593	1,781,148
2014 Debt Fund	-	70,739	68,203
Downtown Revenue Sharing	175,038	-	-
Total Cash by Fund	**$ 61,653,254**	**$ 61,491,699**	**$ 43,970,650**

OBSERVATION:

A cash flow concern could arise if the Local Mitigation Strategy (LMS) grants and other grants for the projects in our CIP, as well as the recently approved CDBG-DR property buy-out grant, are not reimbursed on a timely basis. A reimbursement basis requires the City to make the payments for the costs upfront, as was the case with the FEMA Public Assistance Grant for funding the debris removal. We understand that with the LMS grants, we can submit invoices as they are paid and the reimbursements will be processed. With timely reimbursements, our cash flow should be able to be managed through temporary inter-fund borrowings until reimbursements are received.


General Fund Revenues
as of August 31, 2020 and 2019
$10,000,000
$9,000,000
$8,000,000
$7,000,000
$6,000,000
$5,000,000
$4,000,000
$3,000,000
$2,000,000
$1,000,000
$-
Taxes
Franchise Fees
State Shared Revenue
Other Revenues
YTD Actual August 31, 2020
YTD Actual August 31, 2019


General Fund Expenditures
as of August 31, 2020 and 2019
$5,000,000
$4,000,000
$3,000,000
$2,000,000
$1,000,000
$-
General Government
Public Safety
Physical Environment
Transportation
Economic Environment
Human Services
Culture & Recreation
Hurricane Irma
YTD Actual August 31, 2020
YTD Actual August 31, 2019

Fund Balance - September 30, 2019

	General Fund	Special Revenue Funds				Debt Service Funds		Total Governmental Funds
		Gas Tax Fund	Road Impact Fee Fund	Park Impact Fee Fund	Building Fee Fund	2011 Debt Service	2014 Debt Service	
Total Fund Balance as of Sept 30,2018	$ 11,073,524	$ 4,355,866	$ 16,120,384	$ 2,940,459	$ 7,665,707	$ 2,005,600	$ 68,204	$ 44,229,744
FY 2019 Activity								
Revenues and Transfers In	26,202,918	2,030,484	7,134,238	808,306	3,610,400	3,552,153	1,079,359	44,417,858
Expenditures	(19,323,563)	(933,927)	-	-	(2,726,287)	(2,557,093)	(1,076,824)	(26,617,694)
Transfers out to:								
General Fund	-	-	-	-	(20,000)	-	-	(20,000)
Debt Service	(49,490)	(37,334)	(2,173,529)	-	-	-	-	(2,260,353)
Grants	(15,838)	-	-	-	-	-	-	(15,838)
Capital Projects	(1,843,836)	(1,031,159)	(487,849)	(263,268)	-	-	-	(3,626,112)
Total Fund Balance as of Sept 30,2019	$ 16,043,715	$ 4,383,930	$ 20,593,244	$ 3,485,497	$ 8,529,820	$ 3,000,660	$ 70,739	$ 56,107,605
Allocation of Fund Balance by Category:								
Nonspendable	$ 425,117	$ -	$ -	$ -	$ -	$ -	$ -	$ 425,117
Restricted	-	1,636,432	3,830,782	878,527	7,111,826	-	-	13,457,567
Restricted- Capital projects carry-over	-	2,295,109	7,168,580	2,495,380	57,700	-	-	12,016,769
Restricted - Capital outlay carry-over	-	-	-	-	9,383	-	-	9,383
Restricted - Subsequent Year's Budget *	-	452,389	9,593,882	111,590	1,350,911	-	-	11,508,772
Committed to:								
Capital projects carry-over	5,248,069	-	-	-	-	-	-	5,248,069
Capital outlay carry-over	33,383	-	-	-	-	-	-	33,383
Assigned:								
Disaster & Operating Reserves	5,100,000	-	-	-	-	-	-	5,100,000
Subsequent Year's Budget*	603,652	-	-	-	-	2,550,225	70,739	3,224,616
Debt Service	-	-	-	-	-	450,435	-	450,435
Other purposes	112,700	-	-	-	-	-	-	112,700
Unassigned	4,520,794	-	-	-	-	-	-	4,520,794
Total Fund Balance as of Sept 30,2019	$ 16,043,715	$ 4,383,930	$ 20,593,244	$ 3,485,497	$ 8,529,820	$ 3,000,660	$ 70,739	$ 56,107,605

* These amounts appear in the FY 2020 Budget Book on page 4 and reflect the amounts of which the FY2020 Budget anticipates the use of September 30, 2019 fund balance.

Nonspendable fund balance - amounts that are not in a spendable form (i.e.: prepaid expense, inventories) or are long-term receivables legally or contractually required to be maintained intact.

Restricted fund balance - amounts that can be spent only for the specific purposes stipulated by external resource providers (ie: grants), constitutionally, or through enabling legislation (i.e.: impact fees, building fees). These restrictions may be changed or lifted only with the consent of resource providers.

Committed fund balance- amounts that can be used only for the specific purpose determined by a formal action of City Council. Such commitments may be changed or lifted only by the City Council taking the same formal action that imposed the constraint originally (ie:carry-forward of unspent capital outlay budgets). Amounts classified as “committed” will be so designated by Council Resolution or Ordinance, and can only be changed by the same action that initially authorized them, unless that authorizing document states otherwise (ie: City Charter, Section 47 states “An appropriation for a capital expenditure shall continue in force until expended, revised, or repealed; the purpose of any such appropriation shall be deemed abandoned if 3 years pass without any disbursement from or encumbrance of the appropriation.)

Assigned fund balance - amounts intended to be used by the City for specific purposes. City Council delegates the authority to classify fund balance as “assigned” to the City Manager.

Unassigned fund balance - amounts of General Fund fund balalance not contained in the other classifications. Unassigned amounts are available for any purpose. If a governmental fund, other than the General Fund, has a fund balance deficit, it will be reported as a negative amount in the unassigned classification as these funds can never have a positive amount classified as unassigned.

City of Bonita Springs, Florida

Balance Sheet

as of August 31, 2020

		Special Revenue Funds									
		Impact Fee Funds							Debt Service Fund	Debt Service Fund	
	General Fund	Road	Park	Gas Tax	Grants	Building Fees	Downtown Area Revenue Sharing	Stormwater Management	Downtown Redevelopment	2011 Debt	Total Governmental Funds
ASSETS											
Cash and cash equivalents	$ 23,924,399	$ 20,886,399	$ 2,984,675	$ 3,676,515	$ -	$ 8,680,537	$ 175,038	$ 875,031	$ -	$ 450,660	$ 61,653,254
Restricted Cash	-	-	-	-	-	-	-	-	-	-	-
Receivables (net)	427,350	-	-	-	-	-	-	-	-	-	427,350
Due from other funds	20,918	-	-	-	-	-	-	-	-	-	20,918
Due from other governments	-	-	-	-	-	-	-	-	-	-	-
Advances to other funds	-	-	-	-	-	-	-	-	-	-	-
Total assets	$ 24,372,667	$ 20,886,399	$ 2,984,675	$ 3,676,515	$ -	$ 8,680,537	$ 175,038	$ 875,031	$ -	$ 450,660	$ 62,101,522
LIABILITIES AND FUND BALANCES											
Liabilities:											
Accounts and contracts payable	$ 43,679	$ -	$ -	$ 24,025	$ 1,877	$ 23,416	$ -	$ -	$ -	$ -	$ 92,996
Accrued liabilities	192,022	-	-	-	-	-	-	-	-	-	192,022
Due to other funds	-	-	-	-	20,918	-	-	-	-	-	20,918
Due to other governments	24,814	154,721	-	-	-	-	-	-	-	-	179,535
Unearned revenue	-	-	-	-	-	-	-	-	-	-	-
Total liabilities	260,516	154,721	-	24,025	22,795	23,416	-	-	-	-	485,472
Total fund balances, beginning of the year	16,043,716	20,593,244	3,485,497	4,383,930	-	8,529,820	-	-	70,739	3,000,659	56,107,605
Revenues and Other Financing Sources over (under) Expenditures and Other Financing Uses for the period ended August 31, 2020	8,067,435	138,434	(500,822)	(731,439)	(22,795)	127,301	175,038	875,031	(70,739)	(2,549,999)	5,507,445
Fund balances as of August 31, 2020	24,111,151	20,731,678	2,984,675	3,652,491	(22,795)	8,657,122	175,038	875,031	-	450,660	61,615,050
Total liabilities and fund balances	$ 24,371,667	$ 20,886,399	$ 2,984,675	$ 3,676,515	$ -	$ 8,680,537	$ 175,038	$ 875,031	$ -	$ 450,660	$ 62,100,522

City of Bonita Springs, FL

General Fund Budget Report

Group Summary

For Fiscal: 2019-2020 Period Ending: 08/31/2020

ExpFinStmtLineItem;RevAccountType	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Fund: 00 - General Fund					
Revenue					
311 - Ad Valorem Taxes	8,642,600.00	8,642,600.00	0.00	8,663,410.37	-20,810.37
315 - Communications Services Taxes	1,231,504.00	1,231,504.00	107,060.38	1,105,942.24	125,561.76
316 - Local Business Taxes	35,700.00	35,700.00	9,181.93	18,573.85	17,126.15
319 - Other General Taxes	5,000.00	5,000.00	0.00	6,600.00	-1,600.00
323 - Franchise Fees	3,115,583.00	3,115,583.00	286,105.64	2,510,813.68	604,769.32
329 - Other Permits, Fees & Special Assessment	79,125.00	79,125.00	1,165.00	54,216.00	24,909.00
335 - State Shared Revenue	5,564,040.00	5,564,040.00	480,062.19	4,630,315.55	933,724.45
341 - General Government	525,680.00	525,680.00	28,191.00	418,359.29	107,320.71
343 - Physical Environment	96,300.00	96,300.00	5,300.00	105,900.00	-9,600.00
347 - Culture/Recreation	136,000.00	136,000.00	2,476.05	83,435.38	52,564.62
349 - Other Charges for Services	61,500.00	61,500.00	9,638.94	70,370.68	-8,870.68
351 - Judgements, Fines-Traffic	27,500.00	27,500.00	1,228.11	21,352.21	6,147.79
354 - Fines Local Ordinance	65,000.00	65,000.00	2,065.00	122,322.68	-57,322.68
361 - Interest & Other Earnings	205,000.00	205,000.00	6,133.75	190,104.12	14,895.88
362 - Rents & Royalties	30,000.00	30,000.00	1,038.64	21,793.78	8,206.22
366 - Contributions	0.00	4,180.00	0.00	4,640.00	-460.00
369 - Other Misc Revenues	32,805.00	32,805.00	0.00	45,491.33	-12,686.33
381 - Transfers In	2,186,936.00	2,447,189.00	0.00	2,432,188.26	15,000.74
Revenue Total:	**22,040,273.00**	**22,304,706.00**	**939,646.63**	**20,505,829.42**	**1,798,876.58**
Expense					
51 - General Government	6,688,421.00	5,638,605.00	388,094.40	4,349,316.79	1,289,288.21
52 - Public Safety	2,517,421.00	2,572,090.00	74,407.97	2,461,810.69	110,279.31
53 - Physical Environment	277,022.00	227,022.00	-109,896.75	3,743.50	223,278.50
54 - Transportation	2,352,113.00	2,314,232.00	-414,426.28	1,503,221.57	811,010.43
55 - Economic Environment	27,550.00	27,550.00	0.00	27,500.00	50.00
56 - Human Services	173,491.00	173,491.00	890.00	108,010.50	65,480.50
57 - Culture & Recreation	2,610,471.00	2,442,214.00	138,878.48	1,842,192.67	600,021.33
58 - Other Uses/Transfers Out	7,997,436.00	13,534,037.00	91,912.77	1,166,866.58	12,367,170.42
59 - Other Nonoperating	0.00	1,000,316.00	10,303.07	974,731.97	25,584.03
Expense Total:	**22,643,925.00**	**27,929,557.00**	**180,163.66**	**12,437,394.27**	**15,492,162.73**
Fund: 00 - General Fund Surplus (Deficit):	**-603,652.00**	**-5,624,851.00**	**759,482.97**	**8,068,435.15**	**-13,693,286.15**
Total Surplus (Deficit):	**-603,652.00**	**-5,624,851.00**	**759,482.97**	**8,068,435.15**	

General Fund Department Expenditures Excluding Transfers

City of Bonita Springs, FL

Group Summary

For Fiscal: 2019-2020 Period Ending: 08/31/2020

Department	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Fund: 00 - General Fund					
101 - City Council	468,074.00	418,074.00	27,432.00	343,624.40	74,449.60
102 - Boards & Committees	150,000.00	122,682.00	2,300.00	21,602.74	101,079.26
201 - City Manager	451,941.00	451,941.00	35,464.08	368,517.36	83,423.64
211 - Planning & Zoning	1,881,691.00	1,866,124.00	139,397.37	1,582,468.18	283,655.82
220 - Law Enforcement/Security	1,815,729.00	1,815,729.00	3,500.80	1,817,639.01	-1,910.01
230 - Neighborhood Services	677,262.00	731,931.00	57,260.83	613,567.11	118,363.89
240 - Information Technologies	187,576.00	187,576.00	7,861.24	140,221.39	47,354.61
250 - Public Works	2,563,645.00	2,516,582.00	-524,323.03	1,503,512.67	1,013,069.33
260 - Emergency Preparedness	24,430.00	24,430.00	13,646.34	30,604.57	-6,174.57
270 - Non-Departmental Expenditures	1,417,952.00	1,385,768.00	15,931.44	1,181,738.33	204,029.67
301 - City Attorney	770,305.00	721,899.00	33,632.36	482,948.53	238,950.47
401 - Adminstrative Services	461,808.00	468,865.00	32,501.26	340,413.70	128,451.30
402 - City Hall	162,855.00	169,455.00	21,494.82	148,961.42	20,493.58
410 - Human Resources	86,147.00	86,147.00	3,736.49	49,306.15	36,840.85
430 - Communications	647,273.00	680,273.00	31,393.79	481,889.21	198,383.79
501 - Finance	591,986.00	591,986.00	51,525.73	466,492.08	125,493.92
601 - Parks & Recreation Adminstration	658,843.00	599,731.00	41,769.09	492,632.97	107,098.03
602 - Receation Center	389,854.00	391,529.00	30,375.95	327,482.21	64,046.79
603 - Community Park & Ball Fields	191,665.00	191,665.00	6,743.63	162,146.66	29,518.34
604 - Community Pool	353,218.00	353,218.00	26,892.16	306,884.51	46,333.49
605 - Riverside Park	208,733.00	130,233.00	4,154.72	93,055.39	37,177.61
609 - Formerly Community Hall/Sherriff Substation	14,905.00	14,905.00	-590.07	10,334.01	4,570.99
610 - Dog Park	113,066.00	113,066.00	3,030.12	59,009.09	54,056.91
611 - Beach Parks	11,180.00	11,180.00	47.49	6,815.69	4,364.31
613 - BS Soccer Complex	92,118.00	97,678.00	2,575.01	68,576.08	29,101.92
614 - Kentucky Street Park	5,150.00	5,150.00	3,915.00	3,915.00	1,235.00
615 - Liles Hotel	54,171.00	54,171.00	5,941.16	43,336.56	10,834.44
617 - Bonita Nature Place	22,700.00	22,700.00	6,714.83	22,775.58	-75.58
618 - Windsor Road Preserve	8,500.00	8,500.00	24.34	462.32	8,037.68
620 - Marni Fields	115,150.00	109,590.00	1,304.21	64,248.95	45,341.05
621 - BS River Park	15,011.00	15,011.00	49.96	11,553.67	3,457.33
622 - Cullum's Bonita Trail	9,800.00	9,800.00	2,483.77	8,752.96	1,047.04
623 - Carpenter Lane Canoe & Kayak	1,124.00	1,124.00	0.00	99.82	1,024.18
624 - Leitner Creek Neighborhood Park	4,277.00	4,277.00	0.00	2,743.00	1,534.00
626 - Oak Creek Preserve	13,350.00	13,350.00	0.00	6,225.00	7,125.00
883 - Veterans	5,000.00	5,180.00	64.00	1,971.37	3,208.63
890 - Film Festival	0.00	4,000.00	0.00	4,000.00	0.00
Fund: 00 - General Fund Total:	**14,646,489.00**	**14,395,520.00**	**88,250.89**	**11,270,527.69**	**3,124,992.31**
Total Surplus (Deficit):	**-14,646,489.00**	**-14,395,520.00**	**-88,250.89**	**-11,270,527.69**	

ExpFinStmtLineItem;RevAccountType	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Fund: 10 - Gas Tax Fund					
Revenue					
312 - Local Option Taxes	1,657,560.00	1,657,560.00	121,133.25	1,293,161.97	364,398.03
335 - State Shared Revenue	290,546.00	290,546.00	36,390.79	234,155.80	56,390.20
361 - Interest & Other Earnings	40,000.00	40,000.00	1,046.00	36,718.00	3,282.00
Revenue Total:	**1,988,106.00**	**1,988,106.00**	**158,570.04**	**1,564,035.77**	**424,070.23**
Expense					
54 - Transportation	1,090,495.00	1,090,495.00	69,827.10	848,978.35	241,516.65
58 - Other Uses/Transfers Out	1,350,000.00	3,645,109.00	34,350.00	1,446,496.29	2,198,612.71
Expense Total:	**2,440,495.00**	**4,735,604.00**	**104,177.10**	**2,295,474.64**	**2,440,129.36**
Fund: 10 - Gas Tax Fund Surplus (Deficit):	**-452,389.00**	**-2,747,498.00**	**54,392.94**	**-731,438.87**	**-2,016,059.13**
Fund: 13 - Grant Fund					
Revenue					
331 - Federal Grants	300,000.00	17,434,663.00	70,122.29	1,060,950.51	16,373,712.49
334 - State Grants	7,425,000.00	10,367,516.00	0.00	15.50	10,367,500.50
337 - Local Gvmt Grants	40,000.00	212,378.00	0.00	143,138.50	69,239.50
381 - Transfers In	40,000.00	40,000.00	0.00	21,376.00	18,624.00
Revenue Total:	**7,805,000.00**	**28,054,557.00**	**70,122.29**	**1,225,480.51**	**26,829,076.49**
Expense					
52 - Public Safety	80,000.00	80,000.00	7,072.00	56,352.00	23,648.00
58 - Other Uses/Transfers Out	7,725,000.00	27,974,557.00	79,317.29	1,191,923.51	26,782,633.49
Expense Total:	**7,805,000.00**	**28,054,557.00**	**86,389.29**	**1,248,275.51**	**26,806,281.49**
Fund: 13 - Grant Fund Surplus (Deficit):	**0.00**	**0.00**	**-16,267.00**	**-22,795.00**	**22,795.00**
Fund: 14 - Road Impact Fee Fund					
Revenue					
324 - Impact Fees	2,557,595.00	2,557,595.00	405,080.00	3,751,583.97	-1,193,988.97
361 - Interest & Other Earnings	130,000.00	130,000.00	5,711.08	165,657.54	-35,657.54
Revenue Total:	**2,687,595.00**	**2,687,595.00**	**410,791.08**	**3,917,241.51**	**-1,229,646.51**
Expense					
58 - Other Uses/Transfers Out	12,281,477.00	19,450,057.00	0.00	3,778,807.71	15,671,249.29
Expense Total:	**12,281,477.00**	**19,450,057.00**	**0.00**	**3,778,807.71**	**15,671,249.29**
Fund: 14 - Road Impact Fee Fund Surplus (Deficit):	**-9,593,882.00**	**-16,762,462.00**	**410,791.08**	**138,433.80**	**-16,900,895.80**
Fund: 16 - Park Impact Fee Fund					
Revenue					
324 - Impact Fees	298,410.00	298,410.00	45,156.00	377,850.00	-79,440.00
361 - Interest & Other Earnings	28,000.00	28,000.00	833.00	32,733.00	-4,733.00
Revenue Total:	**326,410.00**	**326,410.00**	**45,989.00**	**410,583.00**	**-84,173.00**
Expense					
58 - Other Uses/Transfers Out	438,000.00	3,082,980.00	94,334.13	911,405.18	2,171,574.82
Expense Total:	**438,000.00**	**3,082,980.00**	**94,334.13**	**911,405.18**	**2,171,574.82**
Fund: 16 - Park Impact Fee Fund Surplus (Deficit):	**-111,590.00**	**-2,756,570.00**	**-48,345.13**	**-500,822.18**	**-2,255,747.82**
Fund: 18 - Stormwater Management					
Revenue					
325 - Special Assessments - Charges for Public Services	1,716,555.00	1,716,555.00	0.00	1,608,123.57	108,431.43
361 - Interest & Other Earnings	0.00	0.00	358.00	5,319.00	-5,319.00
Revenue Total:	**1,716,555.00**	**1,716,555.00**	**358.00**	**1,613,442.57**	**103,112.43**
Expense					
53 - Physical Environment	1,716,555.00	1,716,555.00	655,381.29	738,411.79	978,143.21

ExpFinStmtLineItem;RevAccountType	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Expense Total:	**1,716,555.00**	**1,716,555.00**	**655,381.29**	**738,411.79**	**978,143.21**
Fund: 18 - Stormwater Management Surplus (Deficit):	**0.00**	**0.00**	**-655,023.29**	**875,030.78**	**-875,030.78**
Fund: 19 - Building Fees Fund					
Revenue					
322 - Building Permits	2,400,000.00	2,400,000.00	234,100.81	2,510,683.27	-110,683.27
329 - Other Permits, Fees & Special Assessment	0.00	0.00	0.00	44,028.50	-44,028.50
361 - Interest & Other Earnings	110,000.00	110,000.00	2,316.00	81,295.00	28,705.00
Revenue Total:	**2,510,000.00**	**2,510,000.00**	**236,416.81**	**2,636,006.77**	**-126,006.77**
Expense					
52 - Public Safety	2,733,911.00	2,733,911.00	249,004.87	2,508,705.43	225,205.57
54 - Transportation	0.00	9,383.00	0.00	0.00	9,383.00
58 - Other Uses/Transfers Out	1,127,000.00	1,184,700.00	0.00	0.00	1,184,700.00
Expense Total:	**3,860,911.00**	**3,927,994.00**	**249,004.87**	**2,508,705.43**	**1,419,288.57**
Fund: 19 - Building Fees Fund Surplus (Deficit):	**-1,350,911.00**	**-1,417,994.00**	**-12,588.06**	**127,301.34**	**-1,545,295.34**
Fund: 23 - Downtown Area Revenue Sharing					
Revenue					
311 - Ad Valorem Taxes	218,300.00	218,300.00	0.00	226,788.00	-8,488.00
337 - Local Gvmt Grants	919,600.00	919,600.00	0.00	955,380.00	-35,780.00
Revenue Total:	**1,137,900.00**	**1,137,900.00**	**0.00**	**1,182,168.00**	**-44,268.00**
Expense					
58 - Other Uses/Transfers Out	1,007,361.00	1,007,361.00	0.00	1,007,130.29	230.71
Expense Total:	**1,007,361.00**	**1,007,361.00**	**0.00**	**1,007,130.29**	**230.71**
Fund: 23 - Downtown Area Revenue Sharing Surplus (Deficit):	**130,539.00**	**130,539.00**	**0.00**	**175,037.71**	**-44,498.71**
Total Surplus (Deficit):	**-11,378,233.00**	**-23,553,985.00**	**-267,039.46**	**60,747.58**	

City of Bonita Springs, FL

Debt Service Funds Budget Report

Group Summary

For Fiscal: 2019-2020 Period Ending: 08/31/2020

ExpFinStmtLineItem;RevAccountType	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Fund: 20 - 2011 Debt Fund					
Revenue					
361 - Interest & Other Earnings	5,000.00	5,000.00	77.00	5,220.00	-220.00
381 - Transfers In	2,171,936.00	2,171,936.00	0.00	2,171,936.00	0.00
Revenue Total:	**2,176,936.00**	**2,176,936.00**	**77.00**	**2,177,156.00**	**-220.00**
Expense					
51 - General Government	2,555,225.00	2,555,225.00	0.00	2,555,218.90	6.10
58 - Other Uses/Transfers Out	2,171,936.00	2,171,936.00	0.00	2,171,936.00	0.00
Expense Total:	**4,727,161.00**	**4,727,161.00**	**0.00**	**4,727,154.90**	**6.10**
Fund: 20 - 2011 Debt Fund Surplus (Deficit):	**-2,550,225.00**	**-2,550,225.00**	**77.00**	**-2,549,998.90**	**-226.10**
Fund: 21 - 2014 Debt Fund					
Revenue					
381 - Transfers In	1,007,361.00	1,007,361.00	0.00	1,007,130.29	230.71
Revenue Total:	**1,007,361.00**	**1,007,361.00**	**0.00**	**1,007,130.29**	**230.71**
Expense					
51 - General Government	1,078,100.00	1,078,100.00	0.00	1,077,868.97	231.03
Expense Total:	**1,078,100.00**	**1,078,100.00**	**0.00**	**1,077,868.97**	**231.03**
Fund: 21 - 2014 Debt Fund Surplus (Deficit):	**-70,739.00**	**-70,739.00**	**0.00**	**-70,738.68**	**-0.32**
Total Surplus (Deficit):	**-2,620,964.00**	**-2,620,964.00**	**77.00**	**-2,620,737.58**	

City of Bonita Springs, FL

Capital Project Funds Budget Report

Group Summary

For Fiscal: 2019-2020 Period Ending: 08/31/2020

ExpFinStmtLineItem;RevAccountType	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
Fund: 30 - Cap Projects Fund					
Revenue					
366 - Contributions	0.00	0.00	0.00	0.00	0.00
369 - Other Misc Revenues	0.00	0.00	0.00	0.00	0.00
381 - Transfers In	28,481,977.00	65,300,614.00	299,914.19	5,816,850.44	59,483,763.56
384 - Debt Proceeds	0.00	5,100,000.00	5,060,000.00	5,060,000.00	40,000.00
Revenue Total:	**28,481,977.00**	**70,400,614.00**	**5,359,914.19**	**10,876,850.44**	**59,523,763.56**
Expense					
51 - General Government	1,982,500.00	4,081,943.00	78,030.87	384,304.98	3,697,638.02
53 - Physical Environment	12,936,936.00	38,577,662.00	5,006,325.27	5,161,840.09	33,415,821.91
54 - Transportation	12,734,541.00	26,822,592.00	218,380.20	5,210,461.85	21,612,130.15
57 - Culture & Recreation	828,000.00	918,417.00	0.00	63,065.67	855,351.33
Expense Total:	**28,481,977.00**	**70,400,614.00**	**5,302,736.34**	**10,819,672.59**	**59,580,941.41**
Fund: 30 - Cap Projects Fund Surplus (Deficit):	**0.00**	**0.00**	**57,177.85**	**57,177.85**	**-57,177.85**
Fund: 31 - Other Capital Projects Fund					
Revenue					
366 - Contributions	0.00	0.00	0.00	0.00	0.00
381 - Transfers In	210,000.00	1,083,637.00	0.00	225,084.57	858,552.43
Revenue Total:	**210,000.00**	**1,083,637.00**	**0.00**	**225,084.57**	**858,552.43**
Expense					
53 - Physical Environment	0.00	0.00	0.00	0.00	0.00
55 - Economic Environment	150,000.00	312,869.00	0.00	24,575.00	288,294.00
57 - Culture & Recreation	60,000.00	770,768.00	0.00	200,509.57	570,258.43
Expense Total:	**210,000.00**	**1,083,637.00**	**0.00**	**225,084.57**	**858,552.43**
Fund: 31 - Other Capital Projects Fund Surplus (Deficit):	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
Total Surplus (Deficit):	**0.00**	**0.00**	**57,177.85**	**57,177.85**	

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-287

AGENDA ITEM SUMMARY

REQUESTED MOTION: Review of August 2020 Monthly Capital Improvement Projects Report

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	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:
Attached is the Capital Improvement Projects Monthly Report as of August 31, 2020.

This report categorizes the capital projects by the City Council's adopted Strategic Priorities.

As of August 31, 2020, the total Capital Improvement Project budget, including carry-over from the prior year and current year amendments, is $71,197,751. Project expenditures as of August 31, 2020 for the year ending September 30, 2020 total $11,044,757.

This report is provided for informational purposes.

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ **YES** ☐ **NO**
IF YES, WHICH STRATEGIC OBJECTIVE? #7 Government Transparency

STAFF RECOMMENDATIONS: Informational item.

REVIEWED BY:

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

COUNCIL ACTION:

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

CAPITAL IMPROVEMENT PROJECTS MONTHLY REPORT

as of August 31, 2020

Capital Projects

Account	Project Description	Funding/Revenue Source	Budget Carry-over from FY 2019 approved by Council on 12/18/19	FY 2020 Adopted Budget	FY 2020 Adopted Budget with Budget Carry-over and FY 2020 budget transfers	FY 2020 Expenditures as of August 31, 2020	Budget Variance as of August 31, 2020
IMPROVE STORM WATER MANAGEMENT (1st STRATEGIC PRIORITY)							
30.250.538.6802	Spring Creek Restoration Plan	General Fund	110,104	-	106,104	106,279	(175)
30.250.538.6809	Spring Creek/Bonita Springs Golf Course Flood Improvement	General Fund	-	2,475,000	2,475,000	24,970	2,450,030
		Local Mitigation Strategy Grant	-	7,425,000	7,425,000	-	7,425,000
		TOTAL	-	**9,900,000**	**9,900,000**	**24,970**	**9,875,030**
30.250.538.6807	Logan Blvd Regional Floodway/Drainage	General Fund	564,855	-	564,855	26	564,829
		Local Mitigation Strategy Grant	1,762,500	-	1,762,500	-	1,762,500
		TOTAL	**2,327,355**	**-**	**2,327,355**	**26**	**2,327,329**
30.250.538.6806	Pine Lake Preserve	Local Mitigation Strategy Grant	712,500	-	580,000	-	580,000
		General Fund	237,500	-	370,000	-	370,000
		TOTAL	**950,000**	**-**	**950,000**	**-**	**950,000**
30.250.538.6808	Storm Water Utility	General Fund	-	55,000	55,000	17,033	37,967
30.250.538.6100	Land acquired for storm water purposes	General Fund	-	2,671,936	2,671,936	6,675	2,665,261
30.250.538.6811	Felts Ave. Bio-Reactor Phase II	Grant	-	-	400,000	-	400,000
30.250.538.6110	Quinn/Downs/Dean Buyout Program	Grant	**-**	**-**	5,000,000	-	5,000,000
30.250.538.6810	Quinn/Downs/Dean/ Imperial Pky Stormwater Improvements	Grant	-	-	11,025,919	4,035	11,021,884
30.250.538.6106	East Bonita Springs Stormwater Improvement	Loan Proceeds	-	-	5,100,000	5,002,822	97,178
	TOTAL IMPROVE STORM WATER MANAGEMENT		**3,387,459**	**12,626,936**	**37,536,314**	**5,161,840**	**32,374,474**
TRANSPORTATION (2nd STRATEGIC PRIORITY)							
Bonita Beach Road Visioning and Quadrant:							
30.250.541.6317	Bonita Bch Rd/US 41 Quadrant	General Fund	182,913	-	182,913	-	182,913
		Gas Tax	899,988	-	899,988	-	899,988
		Road Impact Fee	6,003,186	3,750,000	9,753,186	1,181,022	8,572,164
		TOTAL	**7,086,087**	**3,750,000**	**10,836,087**	**1,181,022**	**9,655,065**
30.250.541.6318	Bonita Bch Rd Vision Implementation	General Fund	1,070,820	50,000	143,515	10,467	133,048
	TOTAL Bonita Beach Road Visioning and Quadrant		**8,156,907**	**3,800,000**	**10,979,602**	**1,191,489**	**9,788,113**
Sidewalks and Multi-Use Pathways:							
30.250.541.6320	Multi-Use Pathways & Sidewalks	General Fund	481,794	50,000	88,561	47,249	41,312
		Gas Tax	478,127	-	415,427	-	415,427
		Road Impact Fee	493,479	-	493,479	-	493,479
		Grant - CDBG	-	300,000	439,752	-	439,752
		Park Impact Fee	608,749	-	507,155	7,577	499,578
		TOTAL	**2,062,149**	**350,000**	**1,944,374**	**54,826**	**1,889,548**
30.250.541.6337	Dean St Sidewalks/Infra Mosaic	Road Impact Fee	-	-	532,332	532,332	-
		General Fund	-	-	180,979	39,136	141,843

CAPITAL IMPROVEMENT PROJECTS MONTHLY REPORT

as of August 31, 2020

Capital Projects

Account	Project Description	Funding/Revenue Source	Budget Carry-over from FY 2019 approved by Council on 12/18/19	FY 2020 Adopted Budget	FY 2020 Adopted Budget with Budget Carry-over and FY 2020 budget transfers	FY 2020 Expenditures as of August 31, 2020	Budget Variance as of August 31, 2020
30.250.541.6332	Cochran St./ Pauling Lane Multi-use Pathway	Grant - CDBG	6,065	-	6,065	4,165	1,900
30.250.541.6333	Bonita Drive Pathway-Old 41 to Streetsboro Lane	Grant - CDBG	116,083	-	116,083	94,914	21,169
30.250.541.6334	Maddox Lane Sidewalk	Road Impact Fee	17,995	-	17,995	10,439	7,556
30.250.541.6335	W. Terry St Pathway Extension East of Pine Ave.	Grant - CDBG	23,871	-	23,871	9,901	13,970
30.250.541.6336	Imperial Shores Blvd Sidewalk	Road Impact Fee	30,823	-	30,823	24,922	5,901
30.250.541.6344	W. Terry-Pine to Railroad	Gas Tax	-	-	62,700	-	62,700
30.250.541.6323	W. Terry St. Multi-Use Pathway	Park Impact Fee	1,575,193	400,000	1,975,193	757,027	1,218,166
		Road Impact Fee	623,097	1,359,541	1,982,638	-	1,982,638
		Grants- Other	200,000	-	200,000	-	200,000
		General Fund	-	475,000	475,000	-	475,000
		Grant - CDBG	543,341	-	543,341	691,078	(147,737)
		TOTAL	**2,941,631**	**2,234,541**	**5,176,172**	**1,448,105**	**3,728,067**
30.250.541.6324	Sun Trail	Park Impact Fee	50,000	-	50,000	-	50,000
		Road Impact Fee		5,000,000	4,467,668	-	4,467,668
		TOTAL	**50,000**	**5,000,000**	**4,517,668**	**-**	**4,517,668**
30.250.541.6331	Pine Ave. Multi-use Pathway	Grant - CDBG	23,395	-	23,395	9,850	13,545
	TOTAL Sidewalks and Multi-Use Pathways		**5,272,012**	**7,584,541**	**12,632,457**	**2,228,590**	**10,403,867**
30.250.541.6908	Logan Boulevard	Gas Tax	500,000	-	500,000	506,985	(6,985)
30.250.541.6300	Minor Road, Sidewalk & Drainage Improvements	Gas Tax	-	250,000	250,000	245,733	4,267
30.250.541.6308	Asphalt Overlays	Gas Tax	60,163	300,000	360,163	142,523	217,640
30.250.541.6319	Roadway Restriping	Gas Tax	-	250,000	250,000	-	250,000
30.250.541.6321	Rail Road Crossing Improvements	Gas Tax	13,255	340,000	353,255	-	353,255
	TOTAL TRANSPORTATION		**14,002,337**	**12,524,541**	**25,325,477**	**4,315,320**	**21,010,157**
ENVIRONMENTAL PROTECTION (4th STRATEGIC PRIORITY)							
30.000.537.6100	Water Issues/Land Acquisition from willing sellers	Building Fees (A)	57,700	-	57,700	-	57,700
		General Fund	5,060	200,000	205,060	-	205,060
		TOTAL	**62,760**	**200,000**	**262,760**	**-**	**262,760**
30.611.537.6000	Beach Renourishment 2024	General Fund	418,588	110,000	528,588	-	528,588
	TOTAL ENVIRONMENTAL PROTECTION		**$ 481,348**	**$ 310,000**	**$ 791,348**	**$ -**	**$ 791,348**
COMMUNITY AESTHETICS: DEVELOP AND IMPLEMENT URBAN DESIGN (5th STRATEGIC PRIORITY)							
30.250.541.6314	Street Light Uniformity	Gas Tax	26,826	10,000	36,826	34,505	2,321
30.000.519.6000	Exotic Removal of FPL ROW Path	General Fund	-	10,500	10,500	-	10,500

CAPITAL IMPROVEMENT PROJECTS MONTHLY REPORT

as of August 31, 2020

Capital Projects

Account	Project Description	Funding/Revenue Source	Budget Carry-over from FY 2019 approved by Council on 12/18/19	FY 2020 Adopted Budget	FY 2020 Adopted Budget with Budget Carry-over and FY 2020 budget transfers	FY 2020 Expenditures as of August 31, 2020	Budget Variance as of August 31, 2020
31.603.572.6001	Community Park Improvements	General Fund	6,365	-	14,015	-	14,015
30.603.572.6015	Baseball Complex Master Plan	General Fund	18,672	500,000	518,672	26,965	491,707
30.603.572.6008	Comm Park Sealcoating Parking Lot	General Fund	-	15,000	15,000	-	15,000
30.617.572.6001	Nature Place Shade Structure	Park Impact Fee	18,000	-	18,000	-	18,000
30.604.572.6000	Pool Geothermal Heater/Chiller	General Fund	-	100,000	100,000	-	100,000
31.000.552.6311	Downtown Redevelopment	General Fund	162,869	150,000	312,869	24,575	288,294
31.602.572.6000	Recreation Center Improvements	General Fund	46,856	-	44,664	44,664	-
30.605.572.6009	Riverside Park Sealcoating Parking Lot	General Fund	-	15,000	15,000	-	15,000
30.610.572.6016	Dog Park Shade Structures	Park Impact Fee	-	38,000	38,000	23,347	14,653
31.605.572.6004	Bandshell Resod/Re-grade	General Fund	-	60,000	85,745	-	85,745
30.605.572.6017	Riverside Park Bandshell Security	General Fund	-	-	14,336	-	14,336
31.605.572.6008	Skate Park	Park Impact Fee	165,340	-	314,940	36,357	278,583
30.605.572.6013	Bandshell Area Improvements, Sidewalk/brick paver and flag pole holder replacement	General Fund	36,009	-	36,009	-	36,009
31.610.572.6004	E Terry St Park-Dog Park	Park Impact Fee	5,824	-	5,824	-	5,824
31.610.572.6005	Additional Trails/Entrance	Park Impact Fee	7,329	-	7,329	196	7,133
30.628.572.6001	Mayhood Park Exotics Removal	General Fund	-	60,000	60,000	9,038	50,962
31.615.572.6001	Resod Liles Hotel Plaza Lawn	General Fund	19,563	-	19,563	-	19,563
31.621.572.6007	River Prk-US 41	Park Impact Fee	13,430	-	13,430	(2,470)	15,900
		Grant-TDC	172,378	-	172,378	121,763	50,615
31.628.572.6000	Mayhood Playground	Park Impact Fee	14,905	-	14,905	-	14,905
30.250.541.6315	East Terry Vegetative Buffer/Wall	General Fund	67,642	-	67,642	-	67,642
30.250.541.6906	Median Landscape Enhancement	General Fund	11,261	-	11,261	-	11,261
31.604.572.6000	Pool Landscaping	General Fund	74,870	-	41,475	-	41,475
30.270.519.4910	Highway Monuments/Welcome Signs	General Fund	300,000	-	300,000	-	300,000
30.270.519.4920	Flagpole along I-75	General Fund	40,000	-	40,000	-	40,000
30.250.541.6310	FDOT Pond on Arroyal Rd	General Fund	94,243	-	94,243	7,075	87,168
30.270.541.6322	Imperial River US 41 Bridge Beautification Project	General Fund	114,000	-	114,000	-	114,000
30.270.519.4912	Goodbread Grocery (AKA Dixie Moon)	General Fund	42,243	100,000	142,243	-	142,243
30.250.541.6325	Logan Boulevard Landscape & Lighting	Gas Tax	316,750	200,000	516,750	516,750	-
		General Fund	656,393	-	656,393	336,811	319,582
		TOTAL	**973,143**	**200,000**	**1,173,143**	**853,561**	**319,582**
30.270.519.4932	Dean St. Kayak Launch	Park Impact Fee	-	-	101,594	89,372	12,222

CAPITAL IMPROVEMENT PROJECTS MONTHLY REPORT

as of August 31, 2020

Capital Projects							
Account	**Project Description**	**Funding/Revenue Source**	**Budget Carry-over from FY 2019 approved by Council on 12/18/19**	**FY 2020 Adopted Budget**	**FY 2020 Adopted Budget with Budget Carry-over and FY 2020 budget transfers**	**FY 2020 Expenditures as of August 31, 2020**	**Budget Variance as of August 31, 2020**
30.270.519.4911	Urban Design	General Fund	91,746	50,000	141,746	88,821	52,925
30.270.575.6014	Everglades Wonder Gardens Café	General Fund	3,400	100,000	103,400	3,716	99,684
	TOTAL COMMUNITY AESTHETICS STRATEGIC PRIORITY		**$ 2,526,914**	**$ 1,408,500**	**$ 4,198,752**	**$ 1,361,485**	**$ 2,837,267**
GOVERNMENT TRANSPARENCY:INCREASE OUTREACH/ACCESSIBILITY TO CITIZENS (7th STRATEGIC PRIORITY)							
30.240.513.6400	Technology Enhancements- Community Development Building Permits	Building Fee Fund	-	1,112,000	1,112,000	-	1,112,000
	TOTAL GOVERNMENT TRANSPARENCY STRATEGIC PRIORITY		**$ -**	**$ 1,112,000**	**$ 1,112,000**	**$ -**	**$ 1,112,000**
OTHER							
30.240.513.6401	Technology Equipment Replacement Reserve	General Fund	-	10,000	10,000	9,820	180
30.270.519.6400	Vehicle Major Repairs and Replacement Reserve	General Fund	-	200,000	69,532	-	69,532
30.270.519.4909	Contingency	General Fund	13,991	-	1,847	-	1,847
		Park Impact Fee	36,610	-	36,610	-	36,610
		TOTAL	**50,601**	**-**	**38,457**	**-**	**38,457**
30.270.519.4924	City Facilities Major Repairs	General Fund	376,312	500,000	2,115,871	196,292	1,919,579
		Total Other	**426,913**	**710,000**	**2,233,860**	**206,112**	**2,027,748**
		TOTAL	**$ 20,824,971**	**$ 28,691,977**	**$ 71,197,751**	**$ 11,044,757**	**$ 60,152,994**
		FUNDING SOURCES					
		General Fund	5,248,069	7,957,436	13,203,537	999,612	12,203,925
		Road Impact Fee	7,168,580	10,109,541	17,278,121	1,748,715	15,529,406
		Gas Tax	2,295,109	1,350,000	3,645,109	1,446,496	2,198,613
		Park Impact Fee	2,495,380	438,000	3,082,980	911,406	2,171,574
		Building Fees	57,700	1,112,000	1,169,700	-	1,169,700
		Grant	3,560,133	7,725,000	27,718,304	935,706	26,782,598
		Loan Proceeds	-	-	5,100,000	5,002,822	97,178
		TOTAL	**$ 20,824,971**	**$ 28,691,977**	**$ 71,197,751**	**$ 11,044,757**	**$ 60,152,994**

A. This funding source has environmental restrictions, i.e., Option 2 which was exercised by the developer requires that if a fee in lieu is paid to the City of Bonita Springs, the City must purchase, restore, and maintain 0.825 acres of Pine Flatwoods (or higher, oak scrub) to mitigate for this indigenous area. This fee in lieu payment was received under Zoning

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-289

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve Budget Resolution to transfer FY 2020 General Fund budget from the Historic Preservation Project and Grant budgets in the General Fund to the Goodbread Grocery (also known as the Dixie Moon) relocation and restoration Capital Project Fund account.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☒	STATUTE §166.241	Mike Fiigon Senior Planner Anne K. Wright, CPA, CGFO Finance Director
☒	CONSENT	☐	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	OTHER- CITY CHARTER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:

Section 46(a) of the City Charter allows for the transfer of all or part of any unrestricted appropriations from one department to another. Florida Statutes §166.241 allows a municipality to amend a budget within 60 days following the fiscal year end.

On June 25, 2020, the Historic Preservation Board made, and passed unanimously, a motion to transfer unspent budget from the Historic Preservation Board Grant Program account and the Historic Preservation Project account to the Goodbread Grocery (Dixie Moon) capital project account to assist with the costs associated with restoring the Goodbread Grocery (Dixie Moon). The attached resolution transfers the uncommitted budget balances in the General Fund Historic Preservation Project and the Historic Preservation Board Grant Program accounts to the Capital Projects Fund account for the Goodbread Grocery (Dixie Moon) relocation and restoration account.

Attachments: Budget Resolution, Minutes of the Historic Preservation Board

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

IF YES, WHICH STRATEGIC OBJECTIVE? #7 Government Transparency

STAFF RECOMMENDATIONS: Approve Budget Resolution

REVIEWED BY:

City Manager: **Arleen Hunter**

City Attorney: **Derek Rooney**

City Clerk: **Debra Filipek**

Department Director: **Anne Wright**

COUNCIL ACTION:

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

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

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING FISCAL YEAR 2020 BUDGET TRANSFERS FROM HISTORIC PRESERVATION BOARD ACCOUNTS IN THE GENERAL FUND TO THE GOODBREAD GROCERY (DIXIE MOON) PROJECT IN THE CAPITAL PROJECTS FUND TO ASSIST WITH THE COSTS ASSOCIATED WITH RESTORATION; 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, Section 46(d) of the City Charter allows the transfer for all or part of any unrestricted appropriations from one department to another; and

WHEREAS, Florida Statutes, 166.241 allows a municipality to amend a budget within 60 days following the fiscal year end, and

WHEREAS, on July 25, 2020, the Historic Preservation Board made, and passed unanimously, a motion to transfer unspent budget from the Historic Preservation Board Grant Program and the Historic Preservation Project account, to the Goodbread Grocery (also known as the Dixie Moon) capital project account, to assist with the costs associated with restoring the Goodbread Grocery (Dixie Moon).

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 to adjust budgeted amounts for the indicated accounts:

	Budget Increase (Decrease)
General Fund:	
Historic Preservation Grant Program	$(50,000)
Historic Preservation Project	(7,905)
Transfer out to the Capital Projects Fund	57,905
Capital Projects Fund:	
Transfer in from the General Fund	57,905
Goodbread Grocery (Dixie Moon) project	57,905

3. This Resolution shall become effective retroactive to September 30, 2020 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 7th day of October, 2020.

AUTHENTICATION:

_____ _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:

Carr	Purdon
Corrie	Quaremba
Forbes	Simmons
Gibson	

Date filed with City Clerk: _____

PUBLIC MEETING OF THE
HISTORIC PRESERVATION BOARD
THURSDAY, JUNE 25, 2020, 5:30 P.M.
CITY HALL, 9101 BONITA BEACH ROAD
BONITA SPRINGS, FLORIDA 34135

MINUTES

I. MEETING CALLED TO ORDER

Meeting called to order at 5:30 p.m.

Mr. Fiigon announced they will be recommending Mr. Welsch to City Council for the Board Chair position and noted that Mr. Welsch will be chairing today's meeting.

II. ROLL CALL

Present	**Staff**
J. Welsch	Mike Fiigon
Alex Grantt	Elly McKuen
Bonnie Whittemore	**Guest**
Alan Glazier	Charlie Strader
Absent	
Alisha Feezor	

III. PUBLIC COMMENT

Mr. Strader asked if, due to COVID-19, he would be allowed to receive the packet since he cannot come to City Hall to pick it up. Mr. Fiigon will find out.

IV. DEMOLITION DELAY WAIVER

a. 10920 Citrus Drive

Mr. Fiigon opened the discussion explaining that there was a substantial fire that destroyed a large portion of the home. The owner is requesting a waiver to the demolition delay ordinance. It is an eye sore and the property has had several code enforcement violations.

The Board discussed. Ms. Whittemore concurred the property is in very sad shape. Mr. Grantt noted that there is nothing salvageable. Mr. Glazier stated he did not think the property had any historical value.

Mr. Grantt made a motion to grant the demolition delay waiver, Ms. Whittemore seconded; motion passed unanimously.

V. HISTORIC VILLAGE FEASIBILITY STUDY

a. Plan update

- Ms. McKuen reported that the last meeting was February 2020 since discussed and wanted to talk to the Board about the next phase, timing and concept. Ms. McKuen

asked the Board if they wanted to table this for a year due to current conditions citing sales tax loss and budget shortfalls due to COVID-19 in addition to the City's focus on downtown.

Discussion ensued. Mr. Welsch stated since they have extensive documentation, he would like to see the Board finish this phase and present to Council.

Public Comment:
Mr. Strader agrees with the Board's discussion points, but he was expecting more from Parker Mudgett. Ms. McKuen replied that original their proposal was for $85K, the Board did not have $85K, they had $25K for the study and borrowed $5K from another fund, so this study concentrated on what was feasible from a market standpoint, which Parker Mudgett has provided in part so far.

The Board discussed and agreed that a rendering is essential to present to Council. Ms. McKuen directed the Board to the two concept drawings provided in the packet. The renderings consisted of one plan with an approximately 7-acre plot and one plan for a lot approximately 3 acres. The Board discussed the concept drawings:

- Mr. Glazier liked the larger plan
- Ms. Whittemore agreed that the larger plan shows a pond, a park and parking spaces
- Mr. Glazier liked the opportunity in the larger plan for expansion
- Ms. McKuen suggested 4.8 acres to where the street is.
- Ms. Whittemore stated they could have a historic museum, art gallery, a café

Ms. Carr advised the Board to be realistic when presenting to Council focusing on what the Board would like to incorporate and that the Board is willing to wait. Mr. Glazier stated this gives the Board the opportunity to show Council what has been accomplished.

The Board directed Ms. McKuen to reach out to Parker Mudgett stating that the Board would like a 3D rendering of the 4.8-acre site.

Ms. McKuen recommended keeping this topic live and think about creating a program to acquire houses. Ms. Whittemore agreed that they need a process.

VI. GOODBREAD GROCERY FUND ALLOCATION

a. Discussion to move unspent funds to this project
b. Grant application submittal

Ms. McKuen reported that she has applied for a $200K grant with the Department of State, Division of Historic Resources. Ms. McKuen expects to hear about the grant decision around October.

Ms. McKuen asked if the Board would support allocating unused funds for the rehabilitation of the Good Bread Grocery, explaining they are getting close to the budget meetings to take a motion to Council.

Ms. McKuen estimates the Goodbread Grocery will cost approximately $400K and expects it will be closer to $500K.

Ms. Whittemore asked what they would use it for. Ms. McKuen replied she does not know, but has heard suggestions for a museum, art gallery, mercantile or welcome center. Ms. McKuen stated it is difficult to envision due to its current condition.

Mr. Fiigon reported that they have about $9K for education. Mr. Correia's oral tradition project will cost $2K, which leaves $7K. They have $50K in the grant fund.

Mr. Grantt made a motion to allocate any unused money from the project and grant budgets at the end of the fiscal year to the Goodbread Grocery rehabilitation, Mr. Glazier seconded; all in favor, motion passed unanimously.

VII. BOARD MEMBER ITEMS

a. 2020 Goals

Mr. Fiigon stated that the Board had wanted to talk about goals for 2020 and shared a list of goals that Mr. Welsch had submitted for discussion.

Ideas discussed:

- Holding Board meeting in City Council Chambers as opposed to room 118
- Board brochure in pdf format outlining the Board's goals and vision
- Increase public awareness

Mr. Welsch asked the Board to review the list of goals and submit their ideas and feedback to Mr. Fiigon to be discussed at the next meeting.

b. Discussion regarding the election of a vice chair

Mr. Fiigon asked the Board if they wanted to select a Vice-chair. The Board decided to wait until the next meeting when all members are present and table this discussion for the next meeting.

c. Mr. Glazier announced his resignation from the Board.

Mr. Glazier asked the Board to consider Bonita Springs residents when selecting Board members. Mr. Glazier also recommended having representatives from real estate and construction fields when considering applications.

Mr. Welsch thanked Mr. Glazier for his service and hard work on the Board. Mr. Glazier stated he believes the Board is moving in the right direction.

VIII. STAFF UPDATES

Mr. Fiigon stated that he will follow the same procedure as with the previous Chair, he will send the agenda to Mr. Welsch for his review prior to sending to the Board.

Mr. Fiigon reported that they will keep the next agenda light for the next couple of meetings to focus on Board goals and the Historic Village.

IX. PUBLIC COMMENT

X. APPROVAL OF MINUTES

a. October 26, 2019; November 26, 2019; December 12, 2019; January 30, 2020; February 27, 2020

Mr. Grantt made a correction to the February 27, 2020 meeting minutes, page 2, Item VI, third paragraph:

> *Ms. Whittemore asked if there was a time period for the migrant workers and railroad lines. Mr. Correia replied the migrant workers is around the 1940s. Mr. Grantt replied the ~~North~~ Atlantic Coastline Railroad and Seaboard Air Line Railroad came in around the mid 1920's*.

Remove the word "North", Mr. Grantt stated it should read the "Atlantic Coastline Railroad".

Ms. Whittemore made a motion to approve the October 26, 2019, November 26, 2019, December 12, 2019, January 30, 2020 and February 27, 2020 (as amended above), Mr. Glazier seconded; motion carried unanimously.

XI. CONFIRM NEXT MEETING DATE: July 30, 2020

The Board confirmed Thursday, July 30, 2020 for the next Historic Preservation Board meeting. Ms. Chiaramonte will send out mail a week prior to the meeting to confirm attendance.

Mr. Fiigon announced that starting next month, City Hall will be undergoing major renovations. Mr. Glazier recommended meeting at the Liles Hotel.

XII. ADJOURNMENT

Mr. Glazier made a motion to adjourn, Mr. Grantt seconded; all in favor, meeting adjourned at 7:15 p.m.

Respectfully submitted,

Nadine Chiaramonte, 8/17/2020

Nadine Chiaramonte, Office Assistant

APPROVED

HISTORIC PRESERVATION BOARD:

Date: _____

AUTHENTICATED:

_____

Jurgen Welsch, Chair

Any person requiring special accommodations at any of the meetings because of a disability or physical impairment should contact Meg Weiss 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 proceedings is made, to include the testimony and evidence upon which such appeal is to be based.

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-290

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve award to Antonio Correia for consulting services for Government Access Cable Channel BTV98 pursuant to RFP 20-17.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Lora Taylor Communications 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 current continuing services consulting agreement relative to BTV 98 expires on September 30, 2020. In anticipation of a new contract period, staff went out to the public for new proposals for services to run concurrently with the upcoming fiscal year.

September 3, 2020 –City Staff advertised RFP 20-17 for consulting services, which gave a return date deadline of September 21st, for submissions by interested parties. The RFP was advertised on the City Website Procurement Portal.

September 21, 2020 – At the announced deadline for submissions only one party had responded. Staff reviewed the submission and found it to be responsive.

The recommendation of staff is acceptance of the submission by Antonio Correia, with direction to enter into an agreement for continuing services for a period of two years, with the possibility of two additional one-year extensions. This is a designated item in the 2020-2021 budget line item 00.430.5133425, at a maximum not-to-exceed amount of $55,000.

Attachment: RFP Cable Channel BTV 98 2020 Contract

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

STAFF RECOMMENDATIONS: Approve acceptance of the submission by Antonio Correia for consulting services relative to the operation and organization of Government Access Cable Channel BTV 98, direction to enter into an ongoing agreement as prepared in the RFP, subject to the agreement being approved as to form by the City Attorney.

REVIEWED BY:

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

COUNCIL ACTION:

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

CITY OF BONITA SPRINGS
PROFESSIONAL SERVICES AGREEMENT
RELATIVE TO THE DEVELOPMENT OF GOVERNMENT ACCESS
CABLE CHANNEL BTV 98

This Professional Services Agreement is made and entered into this _____ day of _____, 2020, between the City Council of the City of Bonita Springs, a municipality incorporated in the State of Florida hereinafter referred to as the "CITY" and _____ hereinafter referred to as the "CONSULTANT".

WITNESSETH

WHEREAS, the CITY desires to obtain the PROFESSIONAL SERVICES of said CONSULTANT to provide and perform PROFESSIONAL SERVICES as further described hereinafter concerning the PROJECT to be referred to and identified as: Government Access Cable Channel BTV 98, and

WHEREAS, the CONSULTANT has reviewed the PROFESSIONAL SERVICES required pursuant to this agreement and is qualified, willing and able to provide and perform all such services in accordance with the provisions, conditions and terms hereinafter set forth; and

NOW, THEREFORE, in consideration of the mutual covenants, terms and provisions contained herein, the parties hereto agree that with the mutual acceptance of this agreement as indicated hereinafter by the execution of this agreement by both parties that a contract shall exist between both parties consisting of:

ARTICLE 1.00 - SCOPE OF PROFESSIONAL SERVICES
CONSULTANT hereby agrees to provide and perform the PROFESSIONAL SERVICES required and necessary to complete the services and work as set forth in Attachment A, entitled "Scope of Services", which Attachment A is attached hereto and made a part of this agreement.

ARTICLE 2.00 - DEFINITIONS
Definitions are available upon request.

ARTICLE 3.00 - OBLIGATIONS OF THE CONSULTANT
The obligations of the CONSULTANT with respect to all the BASIC SERVICES and ADDITIONAL SERVICES authorized pursuant to this agreement shall include, but not be limited to, the following:

3.01 LICENSES
The CONSULTANT agrees to obtain and maintain throughout the period this agreement is in effect all such licenses as are required to do business in the State of Florida, Lee County and in the City of Bonita Springs, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the PROFESSIONAL SERVICES provided and performed by the CONSULTANT pursuant to this agreement.

3.02 PERSONNEL

1) QUALIFIED PERSONNEL
The CONSULTANT agrees when the services to be provided and performed relate to a PROFESSIONAL SERVICE(S) which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in responsible charge of all BASIC SERVICES and ADDITIONAL SERVICES to be provided pursuant to this agreement.

2) CONSULTANT'S PROJECT DIRECTOR
The CONSULTANT agrees to employ and designate, in writing, a qualified and, who may be the Consultant, the CONSULTANT'S PROJECT DIRECTOR. The CONSULTANT'S PROJECT DIRECTOR shall be authorized and responsible to act on behalf of the CONSULTANT with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this agreement thereto. The CONSULTANT'S PROJECT DIRECTOR shall have full authority

to bind and obligate the CONSULTANT on any matter arising under this agreement unless substitute arrangements have been furnished to the CITY in writing. The CONSULTANT agrees that the PROJECT DIRECTOR shall devote whatever time is required to satisfactorily direct, supervise and manage the services provided and performed by the CONSULTANT throughout the entire period this agreement is in effect. The person selected by the CONSULTANT to serve as the CONSULTANT'S PROJECT DIRECTOR shall be subject to the prior approval and acceptance of the CITY.

3) REMOVAL OF PERSONNEL

The CONSULTANT agrees, within thirty (30) calendar days of receipt of a written request from the CITY, to promptly remove and replace the CONSULTANT'S PROJECT DIRECTOR, or any other personnel employed or retained by the CONSULTANT, or personnel of the SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S) engaged by the CONSULTANT to provide and/or perform services and/or work pursuant to the requirements of this agreement, which the request may be made by the CITY with or without cause.

3.03 TIMELY ACCOMPLISHMENT OF SERVICES

The timely performance and completion of the required services, work and materials is vitally important to the interests of the CITY. The CONSULTANT agrees to employ, engage, retain and/or assign an adequate number of personnel throughout the period of this agreement so that all BASIC SERVICES and ADDITIONAL SERVICES will be provided, performed and completed in a timely and diligent manner throughout.

3.04 STANDARDS OF PROFESSIONAL SERVICE

The work and/or services to be provided and/or performed by the CONSULTANT and by any SUB-CONSULTANT(S) and/or SUBCONTRACTOR(S) engaged by the CONSULTANT as set forth in the Scope of Services, Attachment A, shall be done in accordance with the generally accepted standards of professional practice and in accordance with the laws, rules, regulations, ordinances, codes, policies, standards or other guidelines issued by those governmental agencies which have jurisdiction over all or a portion of this PROJECT and which are in effect at the time the CITY approves this agreement, or which may subsequently be changed or revised. Any subsequent change or revision to such laws, rules, regulations, ordinances, codes, policies, standards or other guidelines which requires the CONSULTANT to provide and/or perform work and/or services which are significantly different from that set forth in the Scope of Services, Attachment A, shall serve as a basis for the CITY to consider the development and issuance of a CHANGE ORDER to provide for a change to, or ADDITIONAL SERVICES to the services set forth in the agreement.

3.05 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

1) RESPONSIBILITY TO CORRECT

The CONSULTANT agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and other services, work and materials performed, provided, and/or furnished by CONSULTANT or by any SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S) retained or engaged by the CONSULTANT pursuant to this agreement. The CONSULTANT shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents and instruments, and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of CONSULTANT or any SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S) engaged by the CONSULTANT.

2) CITY'S APPROVAL SHALL NOT RELIEVE CONSULTANT OF RESPONSIBILITY

Neither review, approval, or acceptance by the CITY of data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and incidental PROFESSIONAL SERVICES, work and materials furnished hereunder by the CONSULTANT, or any SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S) engaged by the CONSULTANT, shall in any way relieve CONSULTANT of responsibility for the adequacy, completeness and accuracy of its services, work and materials and the services, work and materials of any and all SUB-CONSULTANTS and/or SUB-CONTRACTORS engaged by the CONSULTANT to provide and perform services in connection with this agreement. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the CONSULTANT'S services, work and materials shall be construed to operate as a waiver of any of the CITY'S rights

under this agreement, or any cause of action it may have arising out of the performance of this agreement.

3.06 LIABILITY

1) CONSULTANT TO HOLD CITY HARMLESS

To the fullest extent permitted by Florida law, the Contractor/Vendor/Consultant shall be liable and agrees to be liable for an shall indemnify and hold harmless the City of Bonita Springs, its officers and employees from any and all liabilities, damages, losses and costs, to person or property including, but not limited to, reasonable attorneys' fees arising out of or caused in whole or in part by any act, omission, error or default by the Contractor/Vendor/Consultant, its subcontractors, materialmen, or agents of any tier or their employees arising out of this agreement or its performance. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph. This section does not pertain to any incident arising from the sole negligence of the City of Bonita Springs.

3.07 NOT TO DIVULGE CERTAIN INFORMATION

CONSULTANT agrees, during the term of this agreement, not to divulge, furnish or make available to any third person, firm, or organization, without CITY'S prior written consent, or unless incident to the proper performance of CONSULTANT'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by CONSULTANT or any SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S) pursuant to this agreement. CONSULTANT shall require all of its employees, SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S) to comply with the provisions of this paragraph.

3.08 CONSULTANT TO REPAIR PROPERTY DAMAGE CAUSED BY THE CONSULTANT

CONSULTANT agrees to promptly repair and/or replace, or cause to have repaired and/or replaced, at its sole cost and expense and in a manner acceptable to and approved by the CITY, any property damage arising out of, or caused by, the willful or negligent acts of the CONSULTANT, or of its SUB-CONSULTANTS and/or SUB-CONTRACTORS. This CONSULTANT'S obligation under this sub-article does not apply to property damage caused by any other CONSULTANT or Contractor engaged directly by the CITY.

The CITY reserves the right, should the CONSULTANT fail to make such repairs and/or replacement within a reasonable period of time, to cause such repairs and/or replacement to be made by others and for all costs and expenses associated with having such repairs and/or replacement done to be paid for by the CONSULTANT, or by the CONSULTANT reimbursing the CITY for all such costs and expenses.

3.09 RESPONSIBILITY FOR ESTIMATES, not applicable

3.10 PERMITS, if applicable

The CONSULTANT will be responsible for preparing and submitting all required applications and other supportive information necessary to assist the CITY in obtaining all reviews, approvals and permits, with respect to the CONSULTANTS design, drawings and specifications required by any governmental body having authority over the PROJECT. Any fees required for such reviews, approvals or permits will be covered by a check issued by the CITY and made payable to the respective governmental body upon the CONSULTANT furnishing the CITY satisfactory documentation of such fees. The CONSULTANT will be similarly responsible for preparing and submitting all required applications and other supportive information necessary to assist the CITY in obtaining any renewals and/or extensions of reviews, approvals or permits that may be required while this agreement is in effect. The CITY shall, at the CONSULTANT'S request, assist in obtaining required signatures and provide the CONSULTANT with all information known to be available to the CITY so as to assist the CONSULTANT in the preparation and submittal of any original, renewal or extension of required reviews, approvals or permits.

3.11 ADDITIONAL SERVICES

Should the CITY request the CONSULTANT to provide and perform professional services for this project which are not set forth in Attachment A, the CONSULTANT agrees to provide and perform such ADDITIONAL SERVICES as may be agreed to in writing by both parties to this agreement.

Such ADDITIONAL SERVICES shall constitute a continuation of the PROFESSIONAL SERVICES covered under this agreement and shall be provided and performed in accordance with the covenants, terms, and provisions set forth in this agreement thereto.

ADDITIONAL SERVICES shall be administered and authorized as SUPPLEMENTAL TASK AUTHORIZATION(S) or CHANGE ORDER(S) under the agreement. The CONSULTANT shall not provide or perform, nor shall the CITY incur or accept any obligation to compensate the CONSULTANT for any ADDITIONAL SERVICES unless and until a written SUPPLEMENTAL TASK AUTHORIZATION(S) or CHANGE ORDER(S) shall have been agreed to and executed by both parties.

Each such SUPPLEMENTAL TASK AUTHORIZATION or CHANGE ORDER shall set forth a comprehensive, detailed description of: (1) the scope of the ADDITIONAL SERVICES requested; (2) the basis of compensation; and (3) the period of time and/or schedule for performing and completing said ADDITIONAL SERVICES.

3.12 TRUTH-IN-NEGOTIATIONS CERTIFICATE, if applicable

The CITY may request the CONSULTANT to execute a Truth-in-Negotiations Certificate ("Certificate"). The Certificate shall state that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time this agreement is executed. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the CITY determines the contract price was increased due to inaccurate, incomplete or non-current wage rates or other factual unit costs.

3.13 COMPLETION OF TASKS

Unless otherwise set forth in the agreement the CONSULTANT shall be responsible for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete all of the tasks set forth in Attachment A – Scope of Services and CHANGE ORDER(S), SUPPLEMENTAL TASK AUTHORIZATION(S) authorized. The compensation to be paid the CONSULTANT as set forth in Attachment E – Compensation and Method of Payment and CHANGE ORDER(S) and SUPPLEMENTAL TASK AUTHORIZATIONJ(S) authorized thereto shall be understood and agreed to adequately and completely compensate the CONSULTANT for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete the tasks set forth in agreement, Attachment A and CHANGE ORDER(S), SUPPLEMENTAL TASK AUTHORIZATION(S), and WORK ORDER(S) authorized thereto as stated above.

ARTICLE 4.00 - OBLIGATIONS OF THE CITY

4.01 DESIGNATION OF PROJECT MANAGER

The CITY agrees after the execution of this agreement to promptly advise the CONSULTANT, in writing, of the person designated to serve and act as the CITY'S PROJECT MANAGER pursuant to the provisions of Article 2.12 of this agreement. Such notification shall be provided to the CONSULTANT by the PROJECT MANAGER.

4.02 AVAILABILITY OF CITY INFORMATION

1) PROJECT GUIDELINES AND CRITERIA

Guidelines to the CONSULTANT regarding requirements the CITY has established or suggests relative to the PROJECT including, but not limited to such items as: goals, objectives, constraints, and any special financial, budgeting, space, site, operational, equipment, technical, construction, time and scheduling criteria are set forth in Attachment B – Project Guidelines and Criteria, which Attachment B is attached hereto and made a part of this agreement.

2) CITY TO PROVIDE PERTINENT REFERENCE MATERIAL

At the CONSULTANT'S request, the CITY agrees to provide to the CONSULTANT, at no cost to the CONSULTANT, all pertinent information known to be available to the CITY to assist the CONSULTANT in providing and performing the required PROFESSIONAL SERVICES. Such information may include, but not be limited to: previous reports; plans, drawings and specifications; maps; property, boundary, easement, right-of-way, topographic, reference monuments, control points, plats and related survey data; data prepared or services furnished by others to the CITY such as sub-surface investigations, laboratory tests, inspections of natural and man-made materials, property appraisals, studies, designs and reports.

4.03 AVAILABILITY OF CITY'S DESIGNATED REPRESENTATIVES

The CITY agrees that the CITY MANAGER and the PROJECT MANAGER shall be available within a reasonable period of time, with reasonable prior notice given by the CONSULTANT, to meet and/or consult with the CONSULTANT on matters pertaining to the services to be provided and performed by the CONSULTANT. The CITY further agrees to respond within a reasonable period of time to written requests submitted by the CONSULTANT.

4.04 ACCESS TO CITY PROPERTY

The CITY agrees, with reasonable prior written notice given by the CONSULTANT, to provide the CONSULTANT with access within a reasonable period of time to CITY property, facilities, buildings and structures to enable the CONSULTANT to provide and perform the required PROFESSIONAL SERVICES and work pursuant to this agreement. Such rights of access shall not be exercised in such a manner or to such an extent as to impede or interfere with CITY operations, or the operations carried on by others under a lease, or other contractual arrangement with the CITY, or in such a manner as to adversely affect the public health and safety. Such access may, or may not be, within the CONSULTANT'S normal office and/or field work days and/or work hours.

ARTICLE 5.00 - COMPENSATION AND METHOD OF PAYMENT

5.01 BASIC SERVICES

The CITY shall pay the CONSULTANT for all requested and authorized BASIC SERVICES rendered hereunder by the CONSULTANT and completed in accordance with the requirements, provisions, and/or terms of this agreement and accepted by the CITY in accordance with the provisions for compensation and payment of said BASIC SERVICES set forth and prescribed in Attachment E – Compensation and Method of Payment, which Attachment E is attached hereto and made a part of this agreement, or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this agreement as evidenced by written CHANGE ORDER(S) executed by both parties.

5.02 ADDITIONAL SERVICES

The CITY shall pay the CONSULTANT for all such ADDITIONAL SERVICES as have been requested and authorized by the CITY and agreed to, in writing, by both parties to this agreement and which have been rendered as ADDITIONAL SERVICES by the CONSULTANT and completed in accordance with the requirements, provisions, and/or terms of this agreement and accepted by the CITY in accordance with the provisions for compensation and payment of said ADDITIONAL SERVICES as set forth and prescribed in Attachment E – Compensation and Method of Payment, which Attachment E is attached hereto and made a part of this agreement, or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this agreement as evidenced by written CHANGE ORDER(S) or SUPPLEMENTAL TASK AUTHORIZATION(S) executed by both parties.

5.03 METHOD OF PAYMENT

1) BI-WEEKLY STATEMENTS

The CONSULTANT shall be entitled to submit not more than one (1) invoice statement to the city every two weeks covering services rendered during the preceding two weeks. The CONSULTANT'S invoice statement(s) shall be itemized to correspond to the basis of compensation as set forth in the agreement, CHANGE ORDER(S) and/or SUPPLEMENTAL TASK AUTHORIZATION(S) thereunder.

2) PAYMENT FOR SERVICES PERFORMED

The CITY shall pay the CONSULTANT for services performed using either of the following methods, or using a combination thereof:

a) The CITY shall pay the CONSULTANT on the basis of services completed for tasks set forth in Attachments A and E, as evidenced by work products such as reports, drawings, specifications, etc., submitted by the CONSULTANT and accepted by the CITY. No payments shall be made for CONSULTANT'S Work-in-Progress until service items for which payment amounts have been established and set forth in this agreement have been completed by the CONSULTANT and accepted by the CITY. Whenever an invoice statement covers services for which no work product is required to be furnished by the CONSULTANT to the CITY, the CITY reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

b) The CITY shall pay the CONSULTANT for services performed for tasks set forth in Attachments A and E on the basis of an invoice statement covering CONSULTANT'S work-in-progress expressed as a percentage of the total cost of the service and/or work required for each task invoiced in this manner. All such work-in-progress percentages are subject to the review and approval of the CITY. The decision of the CITY shall be final as to the work-in-progress percentages paid. Payment by the CITY for tasks on a work-in-progress percentage basis shall not be deemed or interpreted in any way to constitute an approval or acceptance by the CITY of any such service or work-in-progress. The CONSULTANT shall be responsible for correcting, re-doing, modifying or otherwise completing the services and work required for each task before receiving final, full payment whether or not previous work-in-progress payments have been made. All tasks to be paid for on a work-in-progress percentage basis shall be agreed to by both parties to the agreement and each task to be paid in this manner shall be identified in Attachment E with the notation (WIPP). Only tasks so identified will be paid on a work-in-progress percentage basis. The CITY reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

3) PAYMENT SCHEDULE

The CITY shall issue payment to the CONSULTANT pursuant to section 218.70, Florida Statutes, Local Government Prompt Payment Act.

5.04 PAYMENT WHEN SERVICES ARE TERMINATED AT THE CONVENIENCE OF THE CITY

In the event of termination of this agreement at the convenience of the CITY, not at the fault of the CONSULTANT, the CITY shall compensate the CONSULTANT only for: (1) all services performed prior to the effective date of termination; (2) reimbursable expenses then due; and (3) reasonable expenses incurred by the CONSULTANT in affecting the termination of services and work, and incurred by the submittal to the City of project drawings, plans, data, and other project documents.

5.05 PAYMENT WHEN SERVICES ARE SUSPENDED

In the event the CITY suspends the CONSULTANT'S services and work on all or part of the services required to be provided and performed by the CONSULTANT pursuant to this agreement, the CITY shall compensate the CONSULTANT only for the services performed prior to the effective date of suspension and reimbursable expenses then due and any reasonable expenses incurred or associated with, or as a result of such suspension.

5.06 NON-ENTITLEMENT TO ANTICIPATED FEES IN THE EVENT OF SERVICE TERMINATION, SUSPENSION, ELIMINATION, CANCELLATION AND/OR DECREASE

In the event the services required pursuant to this agreement are terminated, eliminated, cancelled, or decreased due to: (1) termination; (2) suspension in whole or in part; and (3) and/or are modified by the subsequent issuance of SUPPLEMENTAL TASK AUTHORIZATION(S) and/or CHANGE ORDER(S), other than receiving the compensation set forth in Sub-Articles 5.04 and 5.05, the CONSULTANT shall not be entitled to receive compensation for anticipated professional fees, profit, general and administrative overhead expenses or for any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, cancelled or decreased.

ARTICLE 6.00 - TIME AND SCHEDULE OF PERFORMANCE

6.01 NOTICE TO PROCEED

Following the execution of this agreement by both parties, and after the CONSULTANT has complied with the insurance requirements set forth hereinafter, the CITY may authorize specific tasks to be completed. Upon agreement on the scope and fee for this work and execution of SUPPLEMENTAL TASK AUTHORIZATION, the CITY will issue the CONSULTANT a written notice to proceed. Following the issuance of such notice to proceed the CONSULTANT shall be authorized to commence work and the CONSULTANT thereafter shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion.

6.02 TIME OF PERFORMANCE

The CONSULTANT agrees to complete the services required pursuant to this agreement within the time period(s) for completion of the various phases and/or tasks of the project services set forth and described in this agreement.

Should the CONSULTANT be obstructed or delayed in the prosecution or completion of its obligations under this agreement as a result of causes beyond the control of the CONSULTANT, or its SUB-

CONSULTANT(S) and/or SUB-CONTRACTOR(S), and not due to their fault or neglect, the CONSULTANT shall notify the CITY, in writing, within five (5) calendar days after the commencement of such delay, stating the cause(s) thereof and requesting an extension of the CONSULTANT'S time of performance. Upon receipt of the CONSULTANT'S request for an extension of time, the CITY shall grant the extension if the CITY determines the delay(s) encountered by the CONSULTANT, or its SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S), is due to unforeseen causes and not attributable to their fault or neglect.

6.03 CONSULTANT WORK SCHEDULE

The CONSULTANT may be required as a condition of this agreement to prepare and submit to the CITY, on a monthly basis, commencing with the issuance of the notice to proceed, a CONSULTANT'S work schedule. The work schedule shall set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of the services and work required completion of the various phases and/or tasks of the project services set forth and described in this agreement, as set forth in Attachment B, pursuant to this agreement in such a manner that the CONSULTANT'S planned and actual work progress can be readily determined. The CONSULTANT'S work schedule of planned and actual work progress shall be updated and submitted by the CONSULTANT to the CITY on a monthly basis.

6.04 FAILURE TO PERFORM IN A TIMELY MANNER

Should the CONSULTANT fail to commence, provide, perform and/or complete any of the services and work required pursuant to this agreement in a timely and diligent manner, the CITY may consider such failure as justifiable cause to terminate this agreement. As an alternative to termination, the CITY at its option, may, upon written notice to the CONSULTANT, withhold any or all payments due and owing to the CONSULTANT, not to exceed the amount of the compensation for the work in dispute, until such time as the CONSULTANT resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements set forth in this agreement, or any CHANGE ORDER(S) or SUPPLEMENTAL TASK AUTHORIZATION(S) issued thereto.

ARTICLE 7.00 - SECURING AGREEMENT

The CONSULTANT warrants that the CONSULTANT has not employed or retained any company or person other than a bona fide, regular, full time employee working for the CONSULTANT to solicit or secure this agreement and that the CONSULTANT has not paid or agreed to pay any person, company, corporation or firm other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this agreement.

ARTICLE 8.00 - CONFLICT OF INTEREST

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The CONSULTANT further agrees that no person having any such interest shall be employed or engaged by the CONSULTANT for said performance.

If CONSULTANT, for itself and on behalf of its sub-consultants, is about to engage in representing another client, which it in good faith believes could result in a conflict of interest with the work being performed by CONSULTANT or such sub-consultant under this agreement, then it will promptly bring such potential conflict of interest to the CITY'S attention, in writing. The CITY will advise the CONSULTANT, in writing, within ten (10) calendar days as to the period of time required by the CITY to determine if such a conflict of interest exists. If the CITY determines that there is a conflict of interest, CONSULTANT or such SUB-CONSULTANT shall decline the representation upon written notice by the CITY.

If the CITY determines that there is not such conflict of interest, then the CITY shall give its written consent to such representation. If CONSULTANT or SUB-CONSULTANT accepts such a representation without obtaining the CITY'S prior written consent, and if the CITY subsequently determines that there is a conflict of interest between such representation and the work being performed by CONSULTANT or such SUB-CONSULTANT under this agreement, then the CONSULTANT or such SUB-CONSULTANT agrees to promptly terminate such representation. CONSULTANT shall require each of such SUB-CONSULTANTS to comply with the provisions of this Section.

Should the CONSULTANT fail to advise or notify the CITY as provided hereinabove of representation which could, or does, result in a conflict of interest, or should the CONSULTANT fail to discontinue such representation, the CITY may consider such failure as justifiable cause to terminate this agreement.

ARTICLE 9.00 - ASSIGNMENT, TRANSFER AND SUBCONTRACTS

The CONSULTANT shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfers that result from: (1) the merger or consolidation of CONSULTANT with a third party: or (2) the disestablishment of the CONSULTANT'S professional practice and the establishment of a successor CONSULTANT, or consulting organization. Nor shall the CONSULTANT subcontract any of its service obligations hereunder to third parties, except as otherwise authorized in this agreement thereto, without prior written approval of the CITY. The CONSULTANT shall have the right, subject to the CITY'S prior written approval, to employ other persons and/or firms to serve as SUB-CONSULTANTS and/or SUB-CONTRACTORS to CONSULTANT in connection with CONSULTANT providing and performing services and work pursuant to the requirements of this agreement. The CITY shall have the right and be entitled to withhold such approval. Such approval shall not be unreasonably withheld.

ARTICLE 10.00 - APPLICABLE LAW

Unless otherwise specified, this agreement shall be governed by the laws, rules, regulations of the State of Florida, or the laws, rules, and regulations of the United States when providing services funded by the United States government.

ARTICLE 11.00 - COVENANTS AGAINST DISCRIMINATION

11.01 FOR PROJECTS WITH FUNDS APPROPRIATED FROM BONITA SPRINGS GENERAL REVENUES

The CONSULTANT for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to CITY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The CONSULTANT shall comply with the state laws in the hiring of SUB-CONSULTANTS.

ARTICLE 12.00 - WAIVER OF BREACH

Waiver by either party of a breach of any provision of this agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this agreement.

ARTICLE 13.00 - DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

The duties and obligations imposed upon the CONSULTANT by this agreement and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

ARTICLE 14.00 - REPRESENTATION OF THE CITY

The CONSULTANT in providing and performing the services and work required pursuant to this agreement thereto shall only represent the CITY in the manner and to the extent specifically set forth in writing in this agreement or thereto, and as provided in any written SUPPLEMENTAL TASK AUTHORIZATION(S), and CHANGE ORDER(S) issued thereunder.

In the event the CONSULTANT'S services or work involves construction contract administrative support services, the CONSULTANT is not authorized to act on the CITY'S behalf, and shall not act on the CITY'S behalf, in such a manner as to result in change(s) to (1) the cost or compensation to be paid the construction contractor; or (2) the time for completing the work as required and agreed to in the construction contract; or (3) the scope of the work set forth in the construction contract documents, unless such representation is specifically provided for, set forth and authorized in this agreement or thereto.

The CITY will neither assume nor accept any obligation, commitment, responsibility or liability which may result from representation by the CONSULTANT not specifically provided for and authorized as stated hereinabove.

ARTICLE 15.00 - OWNERSHIP OF DOCUMENTS

All documents such as drawings, tracings, notes, computer files, photographs, plans, specifications, maps, evaluations, reports and other records and data relating to this project, other than working papers, specifically prepared or developed by the CONSULTANT under this agreement shall be property of the CONSULTANT until the CONSULTANT has been paid for providing and performing the services and work required to produce such documents.

Upon completion or termination of this agreement, or upon the issuance by the CITY of written CHANGE ORDER(S) deleting all or portions of the scope of services or task(s) to be provided or performed by the CONSULTANT, all of the above documents, to the extent requested in writing by the CITY, shall be delivered by the CONSULTANT to the CITY within seven (7) calendar days of the CITY making such a request. In the event the

CITY gives the CONSULTANT a written notice of termination of all or part of the services or work required, or upon the issuance to the CONSULTANT by the CITY of written CHANGE ORDER(S) deleting all or part of the services or work required, the CONSULTANT shall deliver to the CITY the requested documents as set forth hereinabove, with the mutual understanding and commitment by the CITY that compensation earned or owing to the commitment by the CITY that compensation earned or owing to the CONSULTANT for services or work provided or performed by the CONSULTANT prior to the effective date of any such termination or deletion will be paid to the CONSULTANT within thirty (30) calendar days of the date of issuance of the notice of termination or CHANGE ORDER(S).

The CONSULTANT, at its expense, may make and retain copies of all documents delivered to the CITY for reference and internal use. The CONSULTANT shall not, and agrees not to, use any of these documents, and data and information contained therein on any other project or for any other client without the prior expressed written permission of the CITY.

Any use by the CITY of said documents, and data and information contained therein, obtained by the CITY under the provisions of this agreement for therein, obtained by the CITY under the provisions of this agreement for any purpose not within the scope of this agreement shall be at the risk of the CITY, and without liability to the CONSULTANT. The CITY shall be liable and agrees to be liable for and shall indemnify, defend and hold the CONSULTANT harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the CITY'S use of such documents in a manner contrary to the provisions set forth hereinabove. The CITY hereby acknowledges receipt of $10.00 (ten and no hundreds dollars) and other good and valuable consideration from the CONSULTANT which has been paid as specific consideration for the indemnification provided herein.

ARTICLE 16.00 - MAINTENANCE OF RECORDS

The CONSULTANT will keep and maintain adequate records and supporting documentation applicable to all of the services, work, information, expense, costs, invoices and materials provided and performed pursuant to the requirements of this agreement. Said records and documentation will be retained by the CONSULTANT for a minimum of five (5) years from the date of termination of this agreement.

The CITY and its authorized agents shall, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the CITY deems necessary during the period of this agreement, and during the period five (5) years thereafter; provided, however, such activity shall be conducted only during normal business hours and at the expense of the CITY, and provided further that to the extent provided by law the CITY shall retain all such records confidential.

COMPLIANCE WITH PUBLIC RECORDS LAW

The Consultant must comply with Florida public records laws, specifically to:

a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

b) Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Florida Statutes §119 or as otherwise provided by law.

c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law. The Consultant agrees to meet these requirements for retaining public records and transfer, at no cost, to the City of Bonita Springs all public records in possession of the Consultant upon termination of the Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City. The City will consider it a breach of contract should the Consultant fail to comply with any public records request.

d) **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS (CITY CLERK) AT: 239-949-6262, CITY OF BONITA SPRINGS, 9101**

BONITA BEACH ROAD, BONITA SPRINGS, FL 34135, debbie.filipek@cityofbonitasprings.org.

e) If the Consultant is not providing the requested public records, the burden of proof is on the Consultant to show why they did not comply with the request.

ARTICLE 17.00 - HEADINGS

The HEADINGS of the Articles, Sections, Exhibits, Attachments, Phases or Tasks as contained in this agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such Articles, Sections, Exhibits, Attachments, Phases or Tasks.

ARTICLE 18.00 - ENTIRE AGREEMENT

This agreement, including referenced Exhibits and Attachments hereto, constitutes the entire agreement between the parties hereto and shall supercede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect whatever on this agreement.

The following listed documents, which are referred to hereinbefore, are attached to and are acknowledged, understood and agreed to be an integral part of this agreement:

Attachment A entitled "Scope of Services"
Attachment B entitled "Guidelines and Criteria"
Attachment E entitled "Compensation and Method of Payment"

ARTICLE 19.00 - NOTICES AND ADDRESS OF RECORD

19.01 NOTICES BY CONSULTANT TO CITY

All notices required and/or made pursuant to this agreement to be given by the CONSULTANT to the CITY shall be in writing and shall be given by the United States Postal Service Department first class mail service postage prepaid, addressed to the following CITY address of record and sent to the attention of the CITY'S PROJECT MANAGER:

Lora Taylor
Communications Director
c/o City of Bonita Springs Parks and Recreation
26740 Pine Avenue
Bonita Springs, FL 34135

Copy: City Attorney
City of Bonita Springs Parks & Recreation
26740 Pine Avenue
Bonita Springs, FL 34135

19.02 NOTICES BY CITY TO CONSULTANT

All notices required and/or made pursuant to this agreement to be given by the CITY to the CONSULTANT shall be made in writing and shall be given by the United States Postal Service Department first class mail service, postage prepaid, addressed to the following CONSULTANT'S address of record:

(CONSULTANT)_____

(ADDRESS)_____

(CITY)_____(STATE)_____(ZIP CODE)_____

Telephone Number: _____

Fax Number: _____

ATTENTION: _____
Project Director

19.03 CHANGE OF ADDRESS OF RECORD

Either party may change its address of record by written notice to the other party given in accordance with the requirements of this Article.

ARTICLE 20.00 - TERM AND TERMINATION

The term of this agreement is for two years, with the option to renew the agreement for two additional years upon mutual written agreement of both CONSULTANT and CITY. Any term of renewal shall be under the same terms and conditions set forth in this agreement.

This agreement may be terminated by the CITY at its convenience, or due to the fault of the CONSULTANT, by the CITY giving thirty (30) day written notice to the CONSULTANT.

If the CONSULTANT is adjudged bankrupt or insolvent; if it makes a general assignment for the benefit of its creditors; if a trustee or receiver is appointed for the CONSULTANT or for any of its property; if it files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; if it disregards the authority of the CITY'S designated representatives; if it otherwise violates any provisions of this agreement; or for any other just cause, the CITY may, without prejudice to any other right or remedy, and after giving the CONSULTANT a thirty (30) calendar day written notice, terminate this agreement.

In addition to the CITY'S contractual right to terminate this agreement in its entirety as set forth above, the CITY may also, at its convenience, stop, suspend, supplement or otherwise change all, or any part of, the Scope of Services as set forth in Attachment A, or the Guidelines and Criteria as set forth in Attachment B, or as such may be established by SUPPLEMENTAL TASK AUTHORIZATION(S) or CHANGE ORDER(S). The CITY shall provide written notice to the CONSULTANT in order to implement a stoppage, suspension, supplement or change.

The CONSULTANT may request that this agreement be terminated by submitting a written notice to the CITY dated not less than thirty (30) calendar days prior to the requested termination date and stating the reason(s) for such a request. However, the CITY reserves the right to accept or not accept the termination request submitted by the CONSULTANT, effective unless and until CONSULTANT is notified, in writing, by the CITY of its acceptance.

20.01 CONSULTANT TO DELIVER MATERIAL

Upon termination, the CONSULTANT shall deliver to the CITY all papers, drawings, models, and other material in which the CITY has exclusive rights by virtue hereof or of any business done, or services or work performed or provided by the CONSULTANT on behalf of the CITY.

ARTICLE 21.00 - AMENDMENTS

The covenants, terms and provisions set forth and contained in all of the articles to this agreement may be amended upon the mutual acceptance thereof, in writing, by both parties to this agreement. In the event of any conflicts between the requirements, provisions and/or terms of the agreement and any written amendment the requirements, provisions and/or terms of the amendment shall take precedence.

ARTICLE 22.00 - MODIFICATIONS

Modifications to covenants, terms and provisions of this agreement shall only be valid when issued in writing as properly executed CHANGE ORDER(S) or SUPPLEMENTAL TASK AUTHORIZATION(S). In the event of any conflicts between the requirements, provisions, and/or terms of this agreement and any written CHANGE ORDER(S), and/or SUPPLEMENTAL TASK AUTHORIZATION(S), the latest executed CHANGE ORDER(S), and/or SUPPLEMENTAL TASK AUTHORIZATION(S) shall take precedence.

In the event the CITY issues a purchase order, memorandum, letter, or other instruments covering the PROFESSIONAL SERVICES, work and materials to be provided and performed pursuant to this agreement, it is hereby specifically agreed and understood that such purchase order, memorandum, letter or other instruments are for the CITY'S internal control purposes only, and any and all terms, provisions and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms and provisions of this agreement and shall have no force or effect thereon.

No modification, waiver, or termination of the agreement or of any terms thereof shall impair the rights of either party.

ARTICLE 23.00 - ACCEPTANCE

Acceptance of this agreement shall be indicated by the signature of the duly authorized representative of the hereinabove named parties in the space provided hereinafter and being attested and witnessed as indicated.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this agreement effective the day and year first written above.

ATTEST:
CITY CLERK
Debbie Filipek, CITY CLERK
BY: _____

CITY OF BONITA SPRINGS CITY COUNCIL

BY: _____
MAYOR

APPROVED AS TO FORM

BY: _____
CITY ATTORNEY'S OFFICE

ATTEST:

(CONSULTANT)

_____
(Witness)

BY: _____
(Authorized Signature)

_____
(Witness)

_____
(Title)

CORPORATE SEAL:

ATTACHMENT A

Scope of Services

Development of Government Access Cable Channel BTV 98

Basic Services

Section 1. General Scope Statement
The Consultant shall provide and perform the following professional services, which shall constitute the general scope of the basic services under the covenants, terms and provisions of this professional services agreement.

The Consultant shall assist staff in the efforts to enhance the functions and operation of Government Access Cable Channel BTV 98 as further described in Section 2 below.

This contract document does not entitle any firm to exclusive rights to City contracts. The City reserves the right to perform any and all required work in house or by any means it so desires, including procuring other consultants. Nothing within the scope will preclude a retained Consultant from being able to submit Letters of Interest on other work for professional services that the City of Bonita Springs is issuing an invitation for Letters of Interest.

The Consultant's services could be retained for any of the tasks separately or all of the tasks collectively.

Section 2. Tasks
Pursuant to the general scope of the basic services stated hereinabove, the Consultant shall perform all services and/or work necessary to complete the following task(s) and/or provide the following item(s) which are enumerated to correspond to the task(s) and/or item(s) set forth in Attachment E – Compensation and Method of Payment:

1. coordinate enhanced partnering possibilities with the Sheriff's Office, other constitutional officers, FGCU, and other commercial and professional service providers
2. investigate and report on any and all other partnering possibilities
3. develop and implement "branding" initiatives designed to raise awareness and promote the identity of BTV 98
4. develop and coordinate operational initiatives such as intern and apprentice programs
5. oversee and coordinate and participate in day to day operations
6. assist and advise relative to appropriate equipment purchases necessary to achieve the initiatives outlined above
7. any other such initiative as mutually agreed to and described herein
8. produce and make ready for airing, programming specific to the City at the direction of staff
9. oversee and monitor compliance requirements relative to Florida Statutes Ch. 610, related to the operation of the City's channel.

ATTACHMENT B

Guidelines and Criteria

Development of Government Access Cable Channel BTV 98

The City has established the following guidelines, criteria, goals, objectives, constraints, schedule, budget and/or requirements which shall serve as a guide to the Consultant in performing the professional services and work to be provided pursuant to this agreement:

Item No. 1
Man hour rates and all other expenses negotiated will remain in effect throughout the duration of the 2020 contract. The Consultant will certify the approved, assigned personnel's actual salary to the authorizing department, adjusted by the negotiated multiplier, and will provide detailed time sheets and receipts for expenditures with each monthly invoice.

On the lump-sum items the City will pay the Consultant the actual hourly rate plus the multiplier, which includes the profit, overhead and all additional costs.

On the not-to-exceed items, the City reserves the right to obtain the time sheets and pay the Consultant based on the hourly rate and multiplier.

Item No. 2
It is anticipated that other sub-consultants may be needed that are not included in the original contract. When such sub-consultants are needed to perform an assigned project, their qualifications and experience (and their rates and multipliers) will be reviewed at that time and they will be included in the supplemental task authorization or change order that awards the associated work.

Item No. 3
In reference to Attachment E – Compensation and Method of Payment, it is understood that local travel mileage is incidental to the work and not an extra expense, and that man hours spent in travel time to and from work or the assigned job site are not compensable.

Item No. 4
The professional services to be provided and performed by the Consultant for this project are anticipated to be, but are not necessarily limited to, those set forth in Attachment A – Scope of Services.

The Consultant's Letter of Interest shall be prepared in the format of Attachment C – Letter of Interest Response Form. Any material such as firm brochures will be discarded. Proposals not submitted in the required format will not be considered.

ATTACHMENT E

Compensation and Method of Payment

Development of Government Access Cable Channel BTV 98

Section 1. Basic Services/Task(s)
The City shall compensate the Consultant for providing and performing the task(s) set forth and enumerated in Attachment A – Scope of Services as follows:

NOTE: A lump sum (L.S.) or not-to-exceed (N.T.E.) amount of compensation to be paid the Consultant should be established and set forth below for each task or sub-task described and authorized in Attachment A. In accordance with Attachment G # 5.03(2) – Method of Payment, tasks to be paid on a work-in-progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (WIPP)
	Professional Services for development of Bonita Springs Gaverment Access Channel BTV 98	50,000		
	TOTAL	50,000		

(Unless list is continued on next page.)

Section 2. Additional Services
The City shall compensate the Consultant for such additional services as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this agreement. The basis and/or amount of compensation to be paid the Consultant for additional services requested and authorized in writing by the City shall be as set forth in Attachment G # 3.11 of this agreement.

Should it be mutually agreed to base compensation for additional services on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in page 2 of this attachment hereto dated [ENTER MONTH AND YEAR HERE], entitled Consultant's Personnel Hourly Rate Schedule.

Section 3. Reimbursable Expenses And Costs
When the Consultant's compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the Consultant shall, in addition to such hourly rates as are set forth in page 2 of this attachment hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs.

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-294

AGENDA ITEM SUMMARY

REQUESTED MOTION: Authorize the third extension of the agreement allowing the Bonita Springs Lions Club to operate a Farmers Market on Wednesdays from 8:00am -1:00 pm at the Lemon Tree Lot commencing October 14, 2020- September 30, 2021.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Lora Taylor Communications 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 2017, City Council approved a one-year agreement for the Lion's Club to hold a Farmers Market Nov. 1st – April 30th. There is an option to renew the agreement for five additional one-year periods upon mutual agreement. The Lion's Club would like to renew the agreement for the third time and extend the agreement for the October 14, 2020 through September 30, 2021 time-period.

The terms of the extension provide for a once weekly farmer's market to be held at the Lemon Tree Lot with volunteers assisting and organizing the farmers. This Farmer's Market is listed as a community farmers market by the Florida Department of Agriculture and Consumer Services. The Lion's Club uses the funds from the market to provide funding to the Bonita Lions Eye Clinic, scholarship programs and other local charities.

During the pandemic, Farmers Markets have been considered essential services for the public per the Office of the Governor Executive Order number 20-91 (Essential Services and Activities During COVID-19 Emergency) Essential services means and encompasses the list detailed by the U.S. Department of Homeland Security in its Guidance on the Essential Critical Infrastructure Workforce, v. 2 (March 28, 2020) and any subsequent lists published. B. Essential services also include those businesses and activities designated by Executive Order 20-89 and its attachment which consists of a list propounded by Miami-Dade County in multiple orders.

The Bonita Springs Lion's Club is aware that final approval is subject to them submitting a COVID Safety Plan before operating their Farmer's Market. Should it be determined that the applicant is failing to implement safety precautions related to the coronavirus pandemic, the city may revoke the permit.

Attachment: Farmers Market Agreement BSC-17-10-147
Third Extension of the Farmer's Market Agreement

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

STAFF RECOMMENDATIONS: Authorize the third extension of the agreement allowing the Bonita Springs Lions Club to operate a Farmers Market on Wednesdays from 8:00am -1:00pm at the Lemon Tree Lot commencing October 14, 2020 – September 30, 2021.

REVIEWED BY:

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

COUNCIL ACTION:

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

Document1

FARMER'S MARKET AGREEMENT

This Farmer's Market Agreement is made this 1st day of October, 2017, between the City of Bonita Springs, a Florida Municipal Corporation ("City") and Bonita Springs Lions Club, a nonprofit organization, ("Lessee" or "Lion's Club"). The City hereby agrees for Lion's Club to use a portion of space in Depot Park, as mutually agreed upon by the parties, and subsequently called the "premises". This agreement is made upon the following terms, conditions and covenants:

1. Term: The original term of this agreement shall be for one year, commencing October 1, 2017 and ending September 30, 2018. Pursuant to the terms below, the parties may renew for five (5) additional one year terms after September 30, 2018, upon mutual agreement. After the expiration of the original term, the agreement shall automatically renew for consecutive one (1) year periods upon the same terms and conditions. Either party must notify the other party in writing of its election to discontinue this agreement by August 1 of the year that it does not intend to have the Farmer's Market located on the premises.

2. Use: The Farmer's Marker will operate one day a week (as mutually agreed to by the parties) from October 1st to the last week in September of each year. Lion's Club agrees that the premises shall only be used for the Farmer's Market and not for any other purpose.

3. Parking: Lion's Club will have volunteer's assist with directing customers with parking. Parking will remain free. Lion's Club will be allowed to use the parking lots directly across from the railroad tracks (Riverside) and a portion of the Depot Park parking lot, except that it will maintain for other park patrons at least 15 spaces near the Lion's Pride Park (playground) area. Lion's Club will use its parking lot across from the park for any overflow parking needs. The Lion's Club will be responsible for coordinating with the Lee County Sheriff's Office for any assistance in crossing Pennsylvania Avenue when customers are using the parking lot at the Lion's Club facility (10322 Pennsylvania Avenue).

4. Rent: There is no rent as long as the property is used only as a Farmer's Market following the terms and conditions of this agreement.

5. Maintenance: The City agrees to have a Parks and Recreation employee available to open and close restrooms for each Wednesday there is a Farmer's Market and to provide one trash can. Lion's Club will co-ordinate with Bonita Springs Parks and Recreation for this employee. Lion's Club will make sure that its vendors set up without any permanent structure and will assist with picking the litter and debris following each event. Lion's Club may not make alterations to the property, with exception to space markers to allocate the vendor locations.

6. Charging Fees: Lion's Club may charge and collect a reasonable fee for use of the spaces for the vendors using the Farmer's Market. Lion's Club will be responsible for collection of fees from its vendors.

BSC-17-10-147

7. Inspection: The City shall at all times have the right to inspect the premises, and to enter on them for any public purpose.

8. Compliance: Lion's Club shall diligently comply with all applicable Florida, Federal and local laws, ordinances and regulations of governmental authorities and agencies, including the requirements of the Fire Marshal. Lion's Club has the right to make and enforce reasonable rules for the vendors to follow. Lion's Club agrees to abide by any rules and regulations that may be issued by the City of Bonita Springs, including but not limited to, rules and regulations governing the hours during which the market will be open, hours and locations at which merchandise may be received or delivered, hours during which access will be permitted for vegetable cleaning and storage areas, and the type, character and dimensions of signs, fixtures and displays. At all times, Lion's Club must follow LDC §4-1434.

9. Insurance: Lion's Club will continue to maintain insurance, as noted on the attached Certificate of Insurance, attached hereto and incorporated by reference, during the operation of the Farmers Market. Prior to commencement each year, the Lion's Club will submit a new Certificate of Insurance to the City Clerk to keep on file.

10. Licenses: Lion's Club is responsible for assuring that vendors selling at the Farmer's Market have its applicable licenses and permits, including any sales tax and Lee County Business License Tax. Lion's Club will allow the City of Bonita Springs to review copies of its vendor's licenses upon request. Lion's Club will not permit a vendor from selling at the market who does not have its applicable licenses and permits.

11. Hold Harmless: Lion's Club agrees to indemnify and hold the City harmless from any and all claims, suits, judgments and damages resulting from its providing the services hereunder, including but not limited to, all claims, refutes and expenses made by any vendor, customer or patron using the farmers market.

12. Display and Selling Goods: The existing Farmer's Market is listed as a community farmers market by the Florida Department of Agriculture and Consumer Services, identified as a distinct part of our American culture and a unique feature of many Florida towns and cities. Fruits, vegetables, nursery stock and other commodities are available on a seasonal basis reminiscent of a bygone era when local markets were the heart of commercial districts.

13. In keeping with this purpose, goods may be sold directly from trucks. Goods must be appropriate for Farmer's Market, i.e., items which are grown or harvested from the land. The Farmer's Market is not a flea market. Vendors must furnish their own tables, chairs or other display arrangements. In case of rain, vendors must furnish their own protection, as the market is in Depot Park with limited shelter

provided. The Vendors at the close of the market must remove all refuse each week.

14. Notice shall be provided as follows:

Robert Hilliard
Bonita Springs Lion's Club
10346 Pennsylvania Avenue
Bonita Springs, FL 34136-6776

Carl L. Schwing, City Manager
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, Florida, 34135

With copies to:
City Clerk and City Attorney
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, Florida 34135

HAVING WITNESS WHEREOF, Lion's Club has caused this agreement to be executed and the City has caused this agreement to be executed by Carl L. Schwing, City Manager. Said agreement shall be effective and operative of the fixing of the last signature hereto.

BONITA SPRINGS LION'S CLUB

(Witness)

By: _____
Robert Hilliard

(Witness)

BONITA SPRINGS, FLORIDA

BY: _____
CITY CLERK

BY: _____
Carl L. Schwing, City Manager

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

_____
CITY ATTORNEY

THIRD EXTENSION OF THE FARMER'S MARKET AGREEMENT

THIS THIRD EXTENSION to the Farmer's Market Agreement is made this ___day of September, 2020 between the City of Bonita Springs, a Florida municipal corporation ("City"), and the Bonita Springs Lions Club, a nonprofit organization, ("Lessee" or "Lion's Club")

The City and Lion's Club hereby agree:

1. Consistent with paragraph one, renew the Farmer's Market Agreement for an additional one-year period with the Farmer's Market commencing October 7, 2020 and ending September 30, 2021.
2. The Premises on which the Farmer's Market shall be held is that City-owned parcel located at 27400 Old 41 Road, Bonita Springs, Florida 34135 (the "Lemon Tree Lot")
3. All of the remaining terms in the Agreement, attached hereto as Exhibit "A" and incorporated herein by reference, remain the same.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by its appropriate authority. This agreement shall be effective and operative as of the fixing of the last signature hereto.

BONITA SPRINGS LION'S CLUB

_____ By: Al Greenwood, Pres.

(Witness) Al Greenwood, President

_____

(Witness)

CITY OF BONITA SPRINGS, FLORIDA

_____ By:_____

CITY CLERK Arleen M Hunter, City Manager

APPROVED AS TO LEGAL FORM: _____

CITY ATTORNEY'S OFFICE

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-307

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve the purchase and installation of HD camera equipment and video production system for Council Chambers, to be installed concurrently with the City Hall construction project.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Lora Taylor Communications 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 cost for the HD camera equipment and video production upgrade is $118,380.15. This project was approved in the budget for fiscal year 20/21 in the capital improvement line item 30.402.513.6400 Cameras - City Hall Chambers. The vendor, Encore Broadcast Solutions, is requesting a 25% deposit of $29,595.00 before ordering the equipment. The vendor anticipates a six-week turnaround to receive the equipment, after ordering.

The HD Camera and Production equipment includes five ceiling mounted HD cameras and a compatible controller with five years support and warranty. There is an eight-input video production system and control panel with a one-year support contract. The system will also include three HD monitors, a power over ethernet network switch, an HDMI to SDI converter, transmitter and receiver. A back-up recorder and a carousel bulletin board server are included, with five years hardware and software assurance. All installation is included in the price.

Attachment: HD Camera and Switcher Upgrade quote

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

STAFF RECOMMENDATIONS: Approve the purchase and installation of HD camera equipment and video production system to be installed in coordination with the City Hall construction project.

REVIEWED BY:

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

COUNCIL ACTION:

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

2104 W. KENNEDY BOULEVARD
TAMPA, FL 33606-1535
PH (813) 253-2774 / FAX (813) 254-5907
DTAYLOR@ENCOREBROADCAST.COM

PRO FORMA

6/18/2020

COMPANY:	**City of Bonita Springs**	**FOB:**	**Destination**
ATTENTION:	**Addison Smelko**	**DELIVERY:**	**45-60 Days ARO**
ADDRESS:	**9101 Bonita Beach Road**	**VALID:**	**30 Days**
CITY/STATE/ZIP:	**Bonita Springs, FL 34135**	**TERMS:**	**Net 30 w/ APO**
PHONE:	**239-949-6262**	**NOTES:**	**HD Upgrade for Cameras & Production**
EMAIL:	addison.smelko@cityofbonitasprings.org		

Item	Qty.	Mfg.	Model	Description	List Price	0	Ext. Cost
				HD Camera & HD Switcher Upgrade			
1	5	Panasonic		3CCD HD/SD-SDI PTZ Camera	$ 7,295.00	15.00%	$ 31,003.75
2	5	Panasonic		Wall / Ceiling Mount	$ 245.00	15.00%	$ 1,041.25
3	1	Panasonic		PTZ & CCU Controller for PTZ Cameras	$ 4,995.00	15.00%	$ 4,245.75
4	5	Panasonic		Premium Support & Warranty (Cameras)-5yr	$ 625.00	0.00%	$ 3,125.00
5	1	Panasonic		Premium Support & Warranty (Control)-5yr	$ 925.00	0.00%	$ 925.00
6	1	Broadcast Pix		8 Input Video Production System w/ CG	$ 19,995.00	15.00%	$ 16,995.75
7	1	Broadcast Pix		Control Panel	$ 5,995.00	15.00%	$ 5,095.75
8	1	Broadcast Pix		Rack Rails	$ 200.00	15.00%	$ 170.00
9	1	Broadcast Pix		Annual Support Contract - 1st Year	$ 1,560.00	0.00%	$ 1,560.00
10	1	Broadcast Pix		1 Day On-Site & 8 Hr On-Line Training	$ 4,500.00	0.00%	$ 4,500.00
11	2	Samsung		32" HD Monitors	$ 795.00	15.00%	$ 1,351.50
12	1	Viewz		18" HD/SD-SDI Monitor w/ Wave & Vector	$ 1,950.00	15.00%	$ 1,657.50
13	1	Winsted		Custom Control Room Desk	$ 6,035.00	15.00%	$ 5,129.75
14	1	Hardware		Rack, Monitor Mounts, UPS, Misc Hardware	$ 5,900.00	15.00%	$ 5,015.00
15	1	Cables		Cables, Connectors & Misc Accessories	$ 3,300.00	15.00%	$ 2,805.00
16	1	Encore		Installation & Removal of Old Equipment	$ 20,425.00	0.00%	$ 20,425.00
17	1	Trendnet		POE+ Network Switch (Cameras and Controller)	$ 595.00	15.00%	$ 505.75
18	1	AJA		Sync Generator	$ 425.00	15.00%	$ 361.25
19	1	BMD		1x8 Program SDI Distribution Amplifier	$ 549.00	15.00%	$ 466.65
20	2	Ensemble		1x6 Analog Composite DA (Genlock)	$ 295.00	15.00%	$ 501.50
21	1	Extron		HDMI to SDI Converter w/ Genlock (Podium Feed)	$ 1,800.00	15.00%	$ 1,530.00
22	1	Extron		DTP HDMI Wall Plate Transmitter (Podium Feed)	$ 795.00	15.00%	$ 675.75
23	1	Extron		DTP HDMI Receiver (Podium Feed)	$ 760.00	15.00%	$ 646.00
24	1	BMD		Back Up Recorder (SDHC)	$ 795.00	15.00%	$ 675.75
25	1	AJA		Frame Sync and Audio Embedder	$ 2,995.00	15.00%	$ 2,545.75
26	1	TRMS		Carousel Bulletin Board Server w/ SDI Out-3yr Wty	$ 2,995.00	15.00%	$ 2,545.75
27	1	TRMS		Hardware Assurance (Yrs 4 & 5)	$ 900.00	0.00%	$ 900.00
28	1	TRMS		Software Assurance (Yrs 2-5)	$ 1,080.00	0.00%	$ 1,080.00
29	1	TRMS		6 hrs of On-Line Web Training	$ 900.00	0.00%	$ 900.00
						TOTAL	**$ 118,380.15**

TERMS:

*Quoted price does not include applicable Sales Tax or shipping charges unless indicated above.
*Shipping is FOB Origin - Pre Paid and added to invoice unless indicated above.
*All credit card payments will be assessed a 3% convenience fee unless otherwise noted.

I have read and accept, by my signature, the terms of this ProForma Invoice which govern the sale of products or services to me or, if a corporation, by me as a duly authorized representative of said corporation. When sent by facsimile or email, I agree that my signature shall be conclusive evidence of the Buyer's acceptance of these terms.

be conclusive evidence of the Buyer's acceptance of these terms.

ACCEPTED AND AGREED BY:

PRINT NAME: _____ **DATE:** _____

SIGNATURE: _____

ENCORE REPRESENTATIVE: DOUGLAS TAYLOR *"Experience Empowering Excellence"*

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-288

AGENDA ITEM SUMMARY

REQUESTED MOTION: Review of Five Year Financial Projections

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	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:
Attached are financial projections for the City's funds which provide transfers in to the Capital Projects Fund, as well as the Debt Service Funds. These projections provide support to the City's five year Capital Improvement Plan, which relies on funding from the various funds. Each projection begins with the approved budget for FY 2020-2021, to which assumptions are applied to each subsequent year.

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ **YES** ☐ **NO**
IF YES, WHICH STRATEGIC OBJECTIVE? #7 Government Transparency

STAFF RECOMMENDATIONS: Informational item.

REVIEWED BY:

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

COUNCIL ACTION:

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

City of Bonita Springs, Florida

as of September 29, 2020

ASSUMPTIONS: Projected results are based on assumptions as indicated below in the notes and by the percentages to the left of the numbers in the "% Chg" column in Years 2 - 5. Actual results are subject to economic conditions and other factors that are not known at the time these projections were prepared. This presentation is an estimate based on the underlying assumptions, and as events occur that are not consistent with these assumptions, the projection becomes less reliable.

General Fund

	Expected Fiscal Year 2019-2020	Approved Budget **Fiscal Year 2020-2021**	>>>>> Projected >>>>> Year 2 % Chg	Year 2 Fiscal Year 2021-2022	Year 3 % Chg	Year 3 Fiscal Year 2022-2023	Year 4 % Chg	Year 4 Fiscal Year 2023-2024	Year 5 % Chg	Year 5 Fiscal Year 2024-2025
Ad Valorem Tax [3,4]	8,662,021	**8,993,781**	3.21%	9,282,481	3.28%	9,586,946	3.15%	9,888,935	3.02%	10,187,581
Franchise Fees [5]	2,915,256	**2,923,256**	0.50%	2,937,872	[5]	2,637,233	[5]	2,474,438	0.50%	2,486,810
Communication Srvs Tax [5]	1,313,124	**1,295,827**	0.10%	1,297,123	[5]	775,852	[5]	623,358	0.10%	623,981
Other Taxes	27,640	**25,000**	0.50%	25,125	0.50%	25,251	0.50%	25,377	0.50%	25,504
Licenses and Permits	55,025	**55,900**	0.50%	56,180	0.50%	56,461	0.50%	56,743	0.50%	57,027
State Shared Revenue	856,272	**1,012,153**	0.50%	1,017,214	0.50%	1,022,300	0.50%	1,027,412	0.50%	1,032,549
1/2 Cent Sales Tax	3,973,732	**4,227,165**	1.00%	4,269,437	2.00%	4,354,826	2.00%	4,441,923	2.00%	4,530,761
State License/US41 Light Maintenance	187,041	**191,801**	0.00%	191,801	2.00%	195,637	2.00%	199,550	2.00%	203,541
Charges for Service	714,391	**700,300**	2.00%	714,306	2.00%	728,592	2.00%	743,164	2.00%	758,027
Fines and Forfeitures	108,000	**106,000**	2.00%	108,120	2.00%	110,282	2.00%	112,488	2.00%	114,738
Investment Earnings	190,000	**175,000**	0.50%	175,875	0.50%	176,754	0.50%	177,638	0.50%	178,526
Other Revenue	64,184	**52,805**	0.00%	52,805	1.00%	53,333	1.00%	53,866	1.00%	54,405
Total Revenues	19,066,686	**19,758,988**	1.87%	20,128,339	-2.01%	19,723,467	0.51%	19,824,892	2.16%	20,253,450
Transfers in from Other Funds	2,447,188 [6]	**15,000** [6]		10,000		10,000		10,000		10,000
Total Revenues and Transfers In	21,513,874	**19,773,988**		20,138,339		19,733,467		19,834,892		20,263,450
Personal Services	4,410,262	**4,787,830**	4.00%	4,979,343	5.00%	5,228,310	5.00%	5,489,726	5.00%	5,764,212
Operating	9,247,919	**9,687,765**	5.00%	10,172,153	5.00%	10,680,761	5.00%	11,214,799	5.00%	11,775,539
Capital Outlay	246,363	**79,516**	1.00%	80,311	2.00%	81,917	2.00%	83,555	2.00%	85,226
Total Expenditures	13,904,544	**14,555,111**	4.65%	15,231,807	4.98%	15,990,988	4.98%	16,788,080	4.99%	17,624,977
Addition to Fund Balance from Operations before Transfers Out	*7,609,330*	***5,218,877***		*4,906,532*		*3,742,479*		*3,046,812*		*2,638,473*
Prior Year's Assigned Fund Balance to Disaster & Operating Reserves	5,100,000	**5,300,000**		5,500,000		5,700,000		5,900,000		6,200,000
Prior Year's Unassigned Fund Balance	5,124,446	**4,536,340**		4,355,578		6,267,282		7,106,767		7,733,926
Transfers to Debt Service Funds [2]	-	**(116,900)**		(439,328)		(460,994)		(462,653)		(459,062)
Transfers to Grant Fund	(21,376)	**(40,000)**		(40,000)		(40,000)		(42,000)		(42,000)
Transfers to Capital Projects Fund[1]	(7,976,060)	**(5,042,739)**		(2,315,500)		(2,202,000)		(1,615,000)		(878,987)
Total Projected Spendable Fund Balance	**9,836,340**	**9,855,578**		**11,967,282**		**13,006,767**		**13,933,926**		**15,192,350**
Projected Reserve Requirement (4 months operating expense based on the average actual spending in the preceeding 2 years):										
Operating Reserves	4,300,000	**4,500,000**		4,700,000		4,900,000		5,200,000		5,400,000
Disaster Reserves	1,000,000	**1,000,000**		1,000,000		1,000,000		1,000,000		1,000,000
Total Projected Reserves	5,300,000	**5,500,000**		5,700,000		5,900,000		6,200,000		6,400,000
Projected Unassigned Fund Balance	**4,536,340**	**4,355,578**		**6,267,282**		**7,106,767**		**7,733,926**		**8,792,350**

[1] Transfers to Capital Projects are presented assuming that all amounts budgeted will be spent during that fiscal year, although any unspent amounts will be carried-forward. These transfers are presented conservatively to facilitate calculation of the unassigned Fund Balance.

[2] Debt Service payments assume the continued trend of increased property values in the Downtown Redevelopment area to allow for additional funding from the County towards the debt payment, resulting in the assumption that during FY 2020 through FY 2025, no funding will be required from the General Fund. Debt service payments previously paid on the 2011 Debt by the General Fund is assumed to be paid by the accumulated Communications Services Tax and the Electricity Franchise Fee Revenue recorded in the 2011 Debt Service Fund, until FY 2022 when the final payment will require General Fund funding. Beginning in FY 2021, debt service payments for the 2020 Land acquisition loan are assumed to be paid by the General Fund.

[3] The Ad Valorem Tax shown as the adopted budget for FY 2021 has been calculated based on the Tax Year 2020 Preliminary Taxable Values received on July 1, 2020 and the Tax Year 2020 millage rate.

[4] For FY 2022-FY 2025, an increase in Ad Valorem tax revenues is assumed based on the Ad Valorem Estimating Conference projected increase in Lee County for each of these years, multiplied by 63% which represents the City's increase for Tax Year 2020 as a percentage of the entire County. The Tax Year 2020 millage is assumed for all years in the projection.

[5] FY 2020 includes the revenue from the rate/fee increases approved in FY 2016 for Communications Services Tax and Electricity Franchise Fee, which sunset December 31, 2022. The FY 2022 year reflects the last full year of revenue before the sunset. FY 2023 will receive only three months of revenue before the sunset. FY 2024 and FY 2025 were calculated assuming the same annual increase as shown for FY 2022, at the reduced rates following the sunset.

[6] In FY 2020, the transfer in includes a transfer in of $2,171,936 from the 2011 Debt Service Fund of Communications Services Tax and Electricity Franchise Fees.

City of Bonita Springs, Florida
Five Year Financial Plan

as of September 29, 2020

ASSUMPTIONS: Projected results are based on assumptions as indicated below, in the notes and by the percentages to the left of the numbers in the "% Chg" column in Years 2 - 5. Higher operating costs are anticipated in future years as a result of the landscape maintenance. The Capital Projects Fund transfers agree to the City Manager's Requested five year Capital Improvement Plan, which details the projects planned to be funded from the Gas Tax Fund. The 2014 Debt Service transfers are based on a projection of the funding needed in the 2014 Debt Service Fund after consideration of the revenues generated by the Funding Participation Agreement with Lee County. Actual results are subject to economic conditions and other factors that are not known at the time these projections were prepared. This presentation is an estimate based on the underlying assumptions, and as events occur that are not consistent with these assumptions, the projection becomes less reliable.

			>>>>> Projected >>>>>							
	Expected	**Approved Budget**	Year 2		Year 3		Year 4		Year 5	
Gas Tax Fund	Fiscal Year 2019-2020	**Fiscal Year 2020-2021**	% Chg	Fiscal Year 2021-2022	% Chg	Fiscal Year 2022-2023	% Chg	Fiscal Year 2023-2024	% Chg	Fiscal Year 2024-2025
Local Option Gas Tax -6 cent[1]	831,000	**879,035**	2.00%	896,616	2.00%	914,548	2.00%	932,839	2.00%	951,496
Local Option Gas Tax - 5 cent[1]	607,000	**631,258**	2.00%	643,883	2.00%	656,761	2.00%	669,896	2.00%	683,294
State Shared Revenues - Fuel Tax[2]	251,000	**286,478**	2.00%	292,208	2.00%	298,052	2.00%	304,013	2.00%	310,093
Investment Earnings	37,000	**40,000**		1,089		-		-		-
Total Revenues	1,726,000	**1,836,771**	-0.16%	1,833,796	1.94%	1,869,361	2.00%	1,906,748	2.00%	1,944,883
Operating [3]	1,059,239	**1,197,000**	3.00%	1,232,910	4.00%	1,282,226	4.00%	1,333,515	4.00%	1,386,856
Total Expenditures	1,059,239	**1,197,000**	3.00%	1,232,910	4.00%	1,282,226	4.00%	1,333,515	4.00%	1,386,856
Addition to (Deduction from) Fund Balance from Operations before Transfers Out	*666,761*	***639,771***		*600,886*		*587,135*		*573,233*		*558,027*
Prior Year's Spendable Fund Balance	2,088,821	**1,405,582**		217,716		319,226		136,083		255,329
Transfers to Capital Projects Fund[4]	(1,350,000)	**(1,827,637)**		(499,376)		(770,278)		(453,987)		(540,000)
Projected Unassigned Fund Balance	**1,405,582**	**217,716**		**319,226**		**136,083**		**255,329**		**273,356**

[1] 1 to 6 cents local option fuel tax per Florida Statute 336.025(7) may be expended for public transportation operations and maintenance, roadway and right-of way maintenance, drainage, street lighting, traffic signs, engineering, signalization and pavement markings and bridge maintenance and operation. 1 to 5 cents local option fuel tax per Florida Statute for construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads excluding maintenance.

[2] Municipal tax on motor fuel per Florida Statute 206.605(2), may be expended for purchase of transportation facilities, road and street right of ways, construction, reconstruction, and maintenance of roads, streets, bicycle paths and pedestrian pathways.

[3] Beginning in FY 2014-2015, and continuing in the years presented above, the City has allocated transportation operating and maintenance costs to the Gas Tax fund to relieve pressure on the General Fund.

[4] Transfers to Capital Projects are presented assuming that all amounts budgeted will be spent during that fiscal year, although any unspent amounts will be carried-forward. These transfers are presented conservatively to facilitate calculation of the unassigned Fund Balance.

City of Bonita Springs, Florida

Five Year Financial Plan

ASSUMPTIONS: Projected results are based on assumptions as indicated below in the notes. Actual results are subject to economic conditions and other factors that are not known at the time these projections were prepared. This presentation is an estimate based on the underlying assumptions, and as events occur that are not consistent with these assumptions, the projection becomes less reliable.

Road Impact Fee Fund Projection Assumptions:

A. The residential impact fee revenues are based on projections by the City's Community Development Department, who have analyzed the current development orders and projected the timing of when permits will be issued and impact fees collected. This revenue projection does incorporate the financial impact of anticipated impact fee credits that may be used by developers to offset the payment of impact fees. The commercial impact fees are much more difficult to estimate.

B. The Capital Project Fund transfers agree to the City's five year Capital Improvement Plan, which details the projects planned to be funded with impact fees.

C. The Transfer to the 2011 Debt Service Fund is 85% of the annual debt service payment of the 2011 Bank Loan. Final payment on that debt is due Nov. 1, 2021 (FY 2022).

as of September 29, 2020

			>>>>> Projected >>>>>			
	Expected	**Approved Budget**	Year 2	Year 3	Year 4	Year 5
	Fiscal Year	**Fiscal Year**	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year
Road Impact Fees	2019-2020	**2020-2021**	2021-2022	2022-2023	2023-2024	2024-2025
Impact Fees- Residential	2,700,000	**2,160,585**	3,319,902	2,791,754	2,470,000	1,803,100
Impact Fees-Commercial	558,000	**300,000**	500,000	628,187	500,000	300,000
Investment Earnings	170,000	**150,000**	64,302	51,971	50,531	55,265
Total Revenues	3,428,000	**2,610,585**	3,884,204	3,471,912	3,020,531	2,158,365
Total Expenditures	-	**-**	-	-	-	-
Addition to (Deduction from) Fund Balance from Operations	3,428,000	**2,610,585**	3,884,204	3,471,912	3,020,531	2,158,365
Prior Year's Spendable Fund Balance	13,424,664	**4,571,187**	2,860,354	394,243	106,269	1,053,059
Transfers to 2011 Debt Service Fund	(2,171,936)	**(2,171,067)**	(2,173,404)	-	-	-
Transfers to Capital Projects Fund [1]	(10,109,541)	**(2,150,351)**	(4,176,911)	(3,759,886)	(2,073,741)	(755,664)
Projected Unassigned Fund Balance	**4,571,187**	**2,860,354**	**394,243**	**106,269**	**1,053,059**	**2,455,760**

[1] Transfers to Capital Projects are presented assuming that all amounts budgeted will be spent during that fiscal year, although any unspent amounts will be carried-forward. These transfers are presented conservatively to facilitate calculation of the unassigned Fund Balance.

City of Bonita Springs, Florida

Five Year Financial Plan

ASSUMPTIONS: Projected results are based on assumptions as indicated below in the notes. Actual results are subject to economic conditions and other factors that are not known at the time these projections were prepared. This presentation is an estimate based on the underlying assumptions, and as events occur that are not consistent with these assumptions, the projection becomes less reliable.

Park Impact Fee Funds Projection Assumptions:

A. The residential impact fee revenues have been based on information provided by the City's Community Development Department, who have analyzed the current development orders and projected the timing of when permits will be issued and impact fees collected, and has been updated for recent development approvals.

B. The Capital Project Fund transfers agree to the City's five year Capital Improvement Plan, which details the projects planned to be funded with impact fees.

as of September 29, 2020

	Expected	**Approved Budget**	>>>>> Projected >>>>>			
	Fiscal Year	**Fiscal Year**	Year 2 Fiscal Year	Year 3 Fiscal Year	Year 4 Fiscal Year	Year 5 Fiscal Year
Park Impact Fees	2019-2020	**2020-2021**	2021-2022	2022-2023	2023-2024	2024-2025
Impact Fees- Residential	335,000	**259,710**	282,868	211,380	182,400	133,152
Impact Fees-Commercial	-	**-**	-	-	-	-
Investment Earnings	32,000	**30,000**	12,888	15,825	10,233	13,122
Total Revenues	367,000	**289,710**	295,756	227,205	192,633	146,274
Total Expenditures	-	**-**	-	-	-	-
Addition to (Deduction from) Fund Balance from Operations	367,000	**289,710**	295,756	227,205	192,633	146,274
Prior Year's Spendable Fund Balance	990,117	**769,517**	859,227	1,054,983	682,188	874,821
Transfers to Capital Projects Fund [1]	(587,600)	**(200,000)**	(100,000)	(600,000)	-	(500,000)
Projected Unassigned Fund Balance	**769,517**	**859,227**	**1,054,983**	**682,188**	**874,821**	**521,095**

[1] Transfers to Capital Projects are presented assuming that all amounts budgeted will be spent during that fiscal year, although any unspent amounts will be carried-forward. These transfers are presented conservatively to facilitate calculation of the unassigned Fund Balance.

City of Bonita Springs, Florida
Five Year Financial Plan
DRAFT

ASSUMPTIONS: Projected results are based on assumptions as indicated below in the notes and by the percentages to the left of the numbers in the "% Chg" column in Years 2 - 5. Actual results are subject to economic conditions and other factors that are not known at the time these projections were prepared. This presentation is an estimate based on the underlying assumptions, and as events occur that are not consistent with these assumptions, the projection becomes less reliable.

Assumptions:

A. For FY 2022-FY 2024, an increase in Ad Valorem tax revenues is assumed based on the Ad Valorem Estimating Conference projected increase in Lee County for each of these years.

B. For FY 2024-FY 2025, the Lee County funding is limited to the amount that brings the cumulative funding to be received to the maximum amount included in the Lee County funding agreement.

C. The Tax Year 2020 millage is assumed for all years in the projection.

D. Debt Service amounts are per the City of Bonita Springs 2014 Bank Loan Agreement.

as of September 29, 2020

Downtown Area Revenue Sharing		Expected Fiscal Year 2019-2020	Approved Budget Fiscal Year 2020-2021	>>>>> Projected >>>>> Year 2 % Chg	Year 2 Fiscal Year 2021-2022	Year 3 % Chg	Year 3 Fiscal Year 2022-2023	Year 4 % Chg	Year 4 Fiscal Year 2023-2024	Year 5 % Chg	Year 5 Fiscal Year 2024-2025
Downtown Redevelopment Area											
Ad Valorem Tax	[1,2]	226,788	**255,291**	3.2%	263,460	3.28%	272,101	3.15%	280,672	3.02%	289,148
Lee County Participation	[1,2]	955,380	**1,265,243**	3.2%	1,305,731	3.28%	1,348,559	3.15%	1,391,039	see note 2	759,327
Investment Earnings		-	**2,000**		3,118		5,612		8,380		11,400
Total Revenues		1,182,168	**1,522,534**		1,572,309		1,626,272		1,680,091		1,059,875
Total Expenditures		-	**-**		-		-		-		-
Addition to (Deduction from) Fund Balance from Operations before Transfers Out		1,182,168	1,522,534		1,572,309		1,626,272		1,680,091		1,059,875
Transfers to 2014 Debt Service Fund		(1,007,361)	(1,073,650)		(1,073,564)		(1,072,738)		(1,076,098)		(1,073,644)
Addition to Fund Balance		174,807	**448,884**		498,745		553,534		603,993		(13,769)
Prior Year's Spendable Fund Balance		-	**174,807**		623,691		1,122,436		1,675,970		2,279,963
Projected Unassigned Fund Balance		174,807	**623,691**		**1,122,436**		**1,675,970**		**2,279,963**		**2,266,194**

[1] The Ad Valorem Tax shown as the adopted budget for FY 2021 is based on the Tax Year 2020 Preliminary Taxable Values received on July 1, 2020.

[2] For FY 2022-FY 2024, an increase in Ad Valorem tax revenues is assumed based on the Ad Valorem Estimating Conference projected increase in Lee County for each of these years. This same increase is assumed for the Lee County Participation. For FY 2025, The amount shown is the amount that brings the County funding to the maximum amount as per the agreement with the County.

City of Bonita Springs, Florida

Five Year Financial Plan

ASSUMPTIONS: Actual results are subject to economic conditions and other factors that are not known at the time these projections were prepared. This presentation is an estimate based on the underlying assumptions, and as events occur that are not consistent with these assumptions, the projection becomes less reliable.

Assumptions:

1.Debt Service amounts are per the amortization schedule for the 2020 Bank Loan of $5,060,000 at 2.49% interest for 15 years.

as of September 29, 2020

2020 Debt Service Fund	***Expected*** Fiscal Year 2019-2020	**Approved Budget Fiscal Year 2020-2021**	% Chg	>>>>> Projected >>>>> Year 2 Fiscal Year 2021-2022	% Chg	Year 3 Fiscal Year 2022-2023	% Chg	Year 4 Fiscal Year 2023-2024	% Chg	Year 5 Fiscal Year 2024-2025
Total Revenues	$ -	$ -		$ -		$ -		$ -		$ -
Transfers In from General Fund	-	**116,900**		125,994		460,994		462,653		459,062
Total Revenues and Transfers In	-	**116,900**		125,994		460,994		462,653		459,062
Debt Service Payments	-	**(116,900)**		(125,994)		(460,994)		(462,653)		(459,062)
Addition to/reduction of Fund Balance	-	**-**		**-**		**-**		-		-
Prior Year's Unassigned Fund Balance	-	**-**		-		-		-		-
Projected Unassigned Fund Balance	**-**	**-**		-		-		-		-

City of Bonita Springs, Florida
Five Year Financial Plan
DRAFT

ASSUMPTIONS: Projected results are based on assumptions as indicated below in the notes. Debt Service amounts are per the City of Bonita Springs 2011 Bank Loan Agreement, with funding from Road Impact Fees (85%) and Communications Services Tax/Electricity Franchise Fee (15%) collected through September 30, 2019. These revenues have been generated from the rate increases of the respective tax/fee which sunset December 31, 2022. In FY 2022, a transfer from the General Fund will be required to cover the 15% portion of the payment. Actual results are subject to economic conditions and other factors that are not known at the time these projections were prepared. This presentation is an estimate based on the underlying assumptions, and as events occur that are not consistent with these assumptions, the projection becomes less reliable.

updated September 29, 2020

			>>>>> Projected >>>>>	
	Expected	**Draft Budget**		
	Fiscal Year	**Fiscal Year**	Fiscal Year	Fiscal Year
2011 Debt Service Fund	2019-2020	**2020-2021**	2021-2022	2022-2023
Interest Income	5,200	**2,000**	695	-
Total Revenues	5,200	**2,000**	695	-
Transfers In from General Fund	-	**-**	313,334	-
Transfers In from Road Impact Fee Fund	2,171,936	**2,171,067**	2,173,404	-
Total Revenues and Transfers In	2,177,136	**2,173,067**	2,487,433	-
Debt Service Payments- 2011 Debt	2,555,219	**2,554,196**	2,556,945	-
Addition to (Deduction from) Fund Balance from Operations before Transfers Out	(378,083)	**(381,129)**	(69,512)	-
Transfer to General Fund	(2,171,936)	**-**	-	-
Addition to/reduction of Fund Balance	(2,550,019)	**(381,129)**	(69,512)	-
Prior Year's Unassigned Fund Balance	3,000,660	**450,641**	69,512	-
Projected Unassigned Fund Balance	**450,641**	**69,512**	**-**	**-**

[1] Revenue from the Rate/ Fee increases approved in FY 2016 for Communications Services Tax and Electricity Franchise Fee is budgeted in the General Fund effective with FY 2020 until these rate increases sunset December 31, 2022.

City of Bonita Springs, Florida
Five Year Financial Plan
DRAFT

ASSUMPTIONS: Projected results are based on assumptions as indicated below. Actual results are subject to economic conditions and other factors that are not known at the time these projections were prepared. This presentation is an estimate based on the underlying assumptions, and as events occur that are not consistent with these assumptions, the projection becomes less reliable.

Assumptions:

Debt Service payments are per the City of Bonita Springs 2014 Bank Loan Agreement.
Effective October 1, 2019, debt service payments are funded by transfers from the Downtown Area Revenue Sharing Fund.

as of September 29, 2020

2014 Debt Service Fund	***Expected*** Fiscal Year 2019-2020	**Approved Budget Fiscal Year 2020-2021**	>>>>> Projected >>>>> Fiscal Year 2021-2022	Fiscal Year 2022-2023	Fiscal Year 2023-2024	Fiscal Year 2024-2025
Total Revenues	-	**-**	-	-	-	-
Transfers In from Downtown Area Revenue Sharing Fund	1,007,361	**1,073,650**	1,073,564	1,072,738	1,076,098	1,073,644
Total Revenues and Transfers In	1,007,361	**1,073,650**	1,073,564	1,072,738	1,076,098	1,073,644
Debt Service Payments	1,078,100	**1,073,650**	1,073,564	1,072,738	1,076,098	1,073,644
Bank Charges	-	**-**	-	-	-	-
Total Expenditures	1,078,100	**1,073,650**	1,073,564	1,072,738	1,076,098	1,073,644
Addition to (Deduction from) Fund Balance from Operations before Transfers Out	(70,739)	-	-	-	-	-
Transfers to Capital Projects Fund	-	**-**	-	-	-	-
Addition to Fund Balance	(70,739)	**-**	-	-	-	-
Prior Year's Spendable Fund Balance	70,739	**-**	-	-	-	-
Projected Unassigned Fund Balance	**-**	**-**	-	-	-	-

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-309

AGENDA ITEM SUMMARY

REQUESTED MOTION: Presentation by Bonita Bay addressing lake management processes and environmental concerns.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Councilman Chris Corrie District 4
☐	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:
A presentation by members of the Bonita Bay Board of Directors addressing their lake management processes and environmental concerns.

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

STAFF RECOMMENDATIONS: Receive presentation.

REVIEWED BY:

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

COUNCIL ACTION:

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

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-305

AGENDA ITEM SUMMARY

REQUESTED MOTION: A Resolution appointing Members to the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals (Zoning Board) to fill vacancies on the Board.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Peter Simmons Mayor
☐	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 City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals currently has four vacancies. Ordinance No. 00-06, Section 2., states "The Board shall be comprised of 7 members, who shall be legal residents of the City, appointed by the Mayor, with the advice and consent of the City Council." Attached are applications from Bruce Galloway (District 6), Gary Gambrell (District 2), Benjamin "Ben" Hershenson (District 4), Arthur Nor (District 6), and Mr. Kelly Macklin (District 6). All five have expressed a desire to be appointed. Mr. Gambrell was recently appointed to the LPA, and would resign his seat if appointed to the Zoning Board. Mr. Hershenson currently serves on the Tree Advisory Committee. Mr. Hershenson would also submit his resignation if appointed.

Current members of the Board include Tony Rascio (District 4), Russ Winn (District 2), Richard Donnelly (District 5).

Attachments: Committee Applications from all five applicants.

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

STAFF RECOMMENDATIONS: Council's pleasure.

REVIEWED BY:

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

COUNCIL ACTION:

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

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 20 -

A RESOLUTION APPOINTING MEMBERS TO THE CITY OF BONITA SPRINGS BOARD FOR LAND USE HEARINGS AND ADJUSTMENTS AND ZONING BOARD OF APPEALS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance 00-06 states that the Zoning Board shall be comprised of 7 members, who shall be legal residents of the City, appointed by the Mayor, with the advice and consent of the City Council. Each Councilmember is entitled to make a recommendation to the Council of at least one zoning board members; and

WHEREAS, there are currently four vacancies on the Zoning Board.

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

Section 1. The following persons are hereby appointed to the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals:

_____, _____,

_____, _____.

Section 2. Effective date.

This resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of October, 2020.

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM:_____
City Attorney

Vote:

Quaremba	Purdon
Forbes	Simmons
Gibson	Carr
Corrie	

Date filed with City Clerk: _____

APPLICATION TO SERVE ON ADVISORY COMMITTEE

(PLEASE TYPE OR PRINT)

PLEASE BE ADVISED THAT ALL INFORMATION CONTAINED IN THIS APPLICATION BECOMES PUBLIC RECORD ONCE SUBMITTED TO CITY OF BONITA SPRINGS

Note: Applications will be kept on file and active for a period of two years from date received.

City Council District 6 _____

DATE:

PLEASE COMPLETE ALL SECTIONS		
NAME: Galloway	K	Bruce
Last	First	Middle Initial
RESIDENCE ADDRESS:		
28097 Quiet Water Way	Bonita Springs	34135
Street	City	Zip Code
BUSINESS ADDRESS:		
Street	City	Zip Code
MAILING ADDRESS:		
28097	Bonita Springs	34135
Street	City	Zip Code
PHONE NO.	CELL PHONE #	410-903-8226
	Home	Business
E-MAIL ADDRESS:	bruce.galloway@gmail.com	
FAX:		

I hereby submit my name for consideration to serve in an advisory capacity to the City of Bonita Springs on the following Advisory Committee: Zoning

NAME OF ADVISORY COMMITTEES

OCCUPATION: Retired

CIVIC/PROFESSIONAL ACCOMPLISHMENTS/OFFICES HELD: See attached Resume

Do you reside in Bonita Springs? ☐ X Yes Address: See above _____

☐ No

APPLICATION TO SERVE ON A CITY OF BONITA SPRINGS ADVISORY COMMITTEE - CONTINUED

My qualifications to be eligible are as follows: See attached resume

If applicable, please indicate any employment, contractual relationship or status that you may have, or have had within the past 12 months, with any private business entity that rents, leases or sells any realty, or provides any goods or services to the City or that is conducting any business with the City. None

If you have previously served on a City of Bonita Springs Advisory Committee or are currently serving and seeking reappointment, please indicate the number and general nature of any voting conflict disclosure memorandum filed (Form 8B) while serving on the committee:

If applicable, attach a résumé of additional personal and professional qualifications and experience that pertains to the above.

I understand that:

1.) Some of the Boards and Committees appointed by the City Council are required to comply with Chapter 112, Florida Statutes, the Financial Disclosure Law and you may be required to file a Form 1 Financial Disclosure.

2.) City of Bonita Springs, an equal opportunity/affirmative action employer, considers the selection and appointment of persons to advisory committees in a non-discriminatory manner consistent with the requirements of Federal, State and Local non-discrimination laws.

Signature Bruce Galloway Date 8/28//2020

PLEASE RETURN THIS COMPLETED FORM TO: CITY OF BONITA SPRINGS
ADVISORY COMMITTEES
9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135

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K. BRUCE GALLOWAY

Mr. Galloway is an independent planning consultant and author with over forty years of experience in writing, urban planning, community design, strategic business planning, economic analysis, and land development. This background is in both the public and private sectors and for clients ranging from the U.S. Congress and multinational corporations to small towns and individual property owners.

For public clients, he has directed or authored projects for federal, state, and local governments in military base realignment, industrial facility reuse, planning program design, economic development, planning education, environmental analysis, coastal area management, site design, comprehensive planning, fiscal impact analysis, development regulation and costs, recreation and open space planning, solid waste management, zoning, annexation, and housing and community revitalization. Recent work includes developing a new project development process for Maryland's local highway work (this won the annual President's Award from AASHTO) and obtaining the funding for and management of multi-year, multi-million dollar community revitalization projects in Maryland and Delaware. He has lectured and taught on urban planning, community design, growth management, the role of public officials and has hosted a weekly radio talk show on Maryland public issues. He has also scripted and filmed television presentations on community design principles and energy efficient affordable housing.

For private clients, he has designed strategies and layouts for scores of residential, commercial, and industrial development projects; provided expert testimony on planning and zoning issues; and has prepared strategic business plans on facility use and re-use for such major organizations as Lockheed Martin, Olin Corporation, Hess Oil, and the Kansas City Aviation Department.

Mr. Galloway has built over 140 single-family homes and several apartment buildings as a developer. He has also written a book on the American military published by Simon & Schuster and a book on the Chesapeake Bay for the CPG publishing group of California. He is now working on a non-fiction work on American cultural history. Other writings have appeared in professional journals, reference works, national magazines, and on public television.

Revitalization Projects

Port Deposit, MD
Rehoboth Beach, DE
Queenstown, MD
Union Bridge, MD
Elkton, MD
Wachapreague, VA
Snow Hill, MD
Bethany Beach, DE
Middlesex Beach, DE

Urban Design

Anne Arundel County, MD
Prince Frederick, MD
Betterton, MD
Charles County, MD
Parole, MD
Odenton, MD
Rock Hall, MD
Glen Burnie, MD
Brooklyn Park, MD
Church Hill, MD
Middletown, MD
North East, MD
Takoma Park, MD
Bethany Beach, DE
MD SHA
Chestertown, MD

Comprehensive Planning & Zoning

Lewes, DE
Rock Hall, MD
Rehoboth Beach, DE
Galena, MD
Baltimore, MD
Chesapeake Beach, MD
Montgomery County, MD
Millington, MD
Snow Hill, MD
Chestertown, MD
Betterton, MD
Anne Arundel County, MD
Kent County, MD
Queen Anne's County, MD
Queenstown, MD
New Market, MD
Greensboro, MD
US Virgin Islands

Economic Development Strategies

Kansas City Aviation Dept.
Lockheed Martin
Olin Corporation
Hess Oil Corp.
MD Dept. of the Environment
Republic of Guinea

PUBLICATIONS

General Market:

West Point - Simon & Schuster
Treasuring the Chesapeake - CPG, Inc

Environmental Subjects:

A Work In Progress - a 10-Year retrospective of the Chesapeake Bay Program.
Coastal Zone Management - a citizen's guide
Maryland Forest Conservation Technical Manual - a guide to the law and how to meet it
The National Estuarine Research Reserve - a citizen's guide
The Oyster Roundtable - a guide to the oyster recovery program
Restoring the Chesapeake - 1992, 1993, 1995, 1996, and 1997 Chesapeake Bay progress reports
Maryland Streams; Take a Closer Look - a guide to the form, structure, and function of streams
The Importance of Maryland's Forest - the past and future of forest management

Professional Subjects:

A Reference Journal for Maryland Planning Officials
Land Use: Choices for The Future
A Handbook for Citizen Planners
Improving the Design of Residential Communities
Redesigning Commercial Corridors
Handbook for Economic Development
Settlement Patterns and the Cost of Public Services
Economic Planning in Tennessee
Case History: Clover Fork Clinic
Areawide Action Program of the Appalachian Regional Commission
Questions for Appalachia
Using Roberts Rules of Order
How to Prepare a Comprehensive Plan
"Raising Your Sites" - a video presentation for urban designers
"A House in the Sun" - a video presentation on rural housing
When Main Street is a State Highway
Promoting Ecosystem-Based Management in a Chesapeake Bay Coastal Community. 2009 Chesapeake Research Consortium Regional Conference. Boomer, K.B., P. Faux, B. Galloway, L. Kalin, X. Li, and D. Weller, 2009

Contact Info:

Bruce Galloway
28097 Quiet Water Way
Bonita Springs, FL 34135
Ph. 410-903-8226
bruce.galloway@gmail.com

APPLICATION TO SERVE ON ADVISORY COMMITTEE

(PLEASE TYPE OR PRINT)

PLEASE BE ADVISED THAT ALL INFORMATION CONTAINED IN THIS APPLICATION BECOMES PUBLIC RECORD ONCE SUBMITTED TO CITY OF BONITA SPRINGS

Note: Applications will be kept on file and active for a period of two years from date received.

City Council District # 2

DATE: 6/17/2021

PLEASE COMPLETE ALL SECTIONS		
NAME: Grumbrell	Gary	C
Last	First	Middle Initial
RESIDENCE ADDRESS:		
27371 Tortoise Trail	Bonita Springs	34135
Street	City	Zip Code
BUSINESS ADDRESS:		
Street	City	Zip Code
MAILING ADDRESS:		
27371 Tortoise Trail	Bonita Springs	34135
Street	City	Zip Code
PHONE NO.	CELL PHONE # 336-749-3940	
	Home	Business
E-MAIL ADDRESS:	ggrumbrell@charter.us	
FAX:		

I hereby submit my name for consideration to serve in an advisory capacity to the City of Bonita Springs on the following Advisory Committee:

Zoning Board

NAME OF ADVISORY COMMITTEES

OCCUPATION: Self employed Banking consultant

CIVIC/PROFESSIONAL ACCOMPLISHMENTS/OFFICES HELD:

See resume

Do you reside in Bonita Springs? [X] Yes [ ] No Address: 27371 Tortoise Trail

APPLICATION TO SERVE ON A
CITY OF BONITA SPRINGS ADVISORY COMMITTEE - CONTINUED

My qualifications to be eligible are as follows:

See resume

If applicable, please indicate any employment, contractual relationship or status that you may have, or have had within the past 12 months, with any private business entity that rents, leases or sells any realty, or provides any goods or services to the City or that is conducting any business with the City.

Vendors used by Hertz: TLS Lawn Service; Sweetwater Pools; Stilwell Solar; Todd B. Allen, atty; Davis & Associates; Lake Doctors; Collier Environmental; Natives of Corkscrew; Arthur J. Gallagher & Co Insurance; Southern Coast Land Services; Sewer-Viewer, Inc.; Benchmark Land Services

If you have previously served on a City of Bonita Springs Advisory Committee or are currently serving and seeking reappointment, please indicate the number and general nature of any voting conflict disclosure memorandum filed (Form 8B) while serving on the committee:

NA

If applicable, attach a résumé of additional personal and professional qualifications and experience that pertains to the above.

I understand that:

1.) Some of the Boards and Committees appointed by the City Council are required to comply with Chapter 112, Florida Statutes, the Financial Disclosure Law and you may be required to file a Form 1 Financial Disclosure.

2.) City of Bonita Springs, an equal opportunity/affirmative action employer, considers the selection and appointment of persons to advisory committees in a non-discriminatory manner consistent with the requirements of Federal, State and Local non-discrimination laws.

Signature

6/17/2020
Date

PLEASE RETURN THIS COMPLETED FORM TO: CITY OF BONITA SPRINGS
ADVISORY COMMITTEES
9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135

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GARY C. GAMBRELL

27371 Tortoise Trail, Bonita Springs, FL 34135
(336) 749-3840 ggambrell@cdaa.us

EXPERIENCE

Community Development Associates of America — Bonita Springs, FL
Independent Consultant, New Markets Tax Credits — August 2004 to present
Work with several certified Community Development Financial Institution (CDFI) banks and for-profit corporations on their New Markets Tax Credit (NMTC) programs. NMTC is a federal program whose purpose is to spur new economic activity in poverty-stricken census tracts across America. Created programs that were detailed in three successful applications for tax credit awards in this extraordinarily competitive process. Received $124.5 million in tax credit allocations in four separate applications. Coordinate the efforts of clients' staff, outside vendors, and local government agencies to utilize the tax credits in a manner that maximizes new economic activity that benefits low-income residents in major metropolitan areas across the country. This includes development and direction of a competitive process that selects the projects that receive below market-rate financing that is subsidized by the tax credits. Have closed on 23 different projects, totaling $344.2 million in costs utilizing these allocations. Responsible for all compliance and reporting after investments are made.

Louisville Community Development Bank — Louisville, KY
Vice President, Director of Marketing — May 1998 – August 2004
Led marketing, sales (increasing deposits), and public relations efforts for this CDFI bank. Created 50+ page website, quarterly newsmagazine, and a wide variety of collateral and sales support materials, including annual reports. Increased deposit base by 57% in three years, with a retention rate of 94% of current depositors. Responsible for positioning the bank as a national leader in CDFI field. Coordinated bank's participation in and compliance with federal programs such as the Bank Enterprise Award (BEA) and New Markets Tax Credit (NMTC). These efforts resulted in Bank receiving four separate NMTC allocations, $15.5 million in deposits from other banks and $3.5 million in cash awards from the BEA program.

The MEGA Life and Health Insurance Company — Clearwater, FL / Louisville, KY
Division Manager / Student Financial Aid Consultant — July 1995 – May 1998
Assisted families in planning for college expenses by advising on sources of financial aid. Sold company's annuities and guaranteed student loans to families needing additional funding.

PlayMakers Repertory Company, The University of North Carolina — Chapel Hill, NC
Director of Development / Marketing Consultant — May 1990 – June 1995
Direct responsibility for all unearned revenues, including donations from individuals and corporations, for North Carolina's only full season, nonprofit, professional theatre. Restructured individual contribution campaign, resulting in 32% increase over four years. Revamped corporate benefits' package, and significantly increased interaction with local business community, resulting in 300% increase in support over same period. Directed total PC system upgrade. Revitalized all special events, quadrupling proceeds of the largest fund raising event (an annual black tie dinner-dance) and brought Opening Nights from the brink of cancellation to a profitable status.

Meridian Lines Typesetting and Graphics Chapel Hill, NC
Sole Proprietor January 1979 – May 1990
Provided design, typesetting, and layout for wide variety of promotional material. Solely responsible for all aspects of operation – payroll, personnel, capital equipment expenditures and financial reporting. Also provided marketing consultation for small to medium-size businesses – included networking, public relations, promotions, and long-term planning. Employed as many as six full-time and 30 part-time staff.

ADDITIONAL EXPERIENCE

Board of Directors, The Preserve in Bonita HOA Inc., at-large : 2018, President : 2019 - present
49-door neighborhood. Returned Surface Water System and two nature preserves to permitted standards.

Board of Directors, Community Development Bankers Association (CDBA), 2002 – 2005
CDBA is a trade association of 20 Community Development Financial Institution (CDFI) banks with a mission of promoting community banking and socially responsible investing, and to share best practices among the membership.

Board of Directors, Chapel Hill Flying Club, Inc., Secretary : 1987, President : 1988
Oversaw operations of 200-member, 13-aircraft, nonprofit club chartered in 1961 to provide low-cost flight instruction and aircraft rentals. As President, orchestrated a controlled expansion. 1987 revenues of $250,000; 1988 revenues exceeded $400,000 with a 30% increase in membership and doubling of aircraft fleet.

Eagle Scout

EDUCATION

Master of Business Administration, May 1989
Kenan-Flagler School of Business, The University of North Carolina, Chapel Hill, NC
Concentration in marketing and strategic planning. Coursework included major projects in brand management, and new venture management.

Bachelor of Science, Business Administration, May 1984
The University of North Carolina, Chapel Hill, NC. Concentration in marketing.

APPLICATION TO SERVE ON ADVISORY COMMITTEE

(PLEASE TYPE OR PRINT)

PLEASE BE ADVISED THAT ALL INFORMATION CONTAINED IN THIS APPLICATION BECOMES PUBLIC RECORD ONCE SUBMITTED TO CITY OF BONITA SPRINGS

Note: Applications will be kept on file and active for a period of two years from date received.

City Council District # 4

DATE: 9/17/20

PLEASE COMPLETE ALL SECTIONS		
NAME: HENSHENSON	BENJAMIN "BEN"	R.
Last	First	Middle Initial
RESIDENCE ADDRESS:		
10228 AVONLEIGH DR	BONITA SPRINGS, FL	34135
Street	City	Zip Code
BUSINESS ADDRESS:		
N.A		
Street	City	Zip Code
MAILING ADDRESS:		
10228 AVONLEIGH DR	BONITA SPRINGS, FL	34135
Street	City	Zip Code
PHONE NO.	CELL PHONE # 305-304-4230	
Home		Business
E-MAIL ADDRESS: BENEFW@HOTMAIL.COM		
FAX:		

I hereby submit my name for consideration to serve in an advisory capacity to the City of Bonita Springs on the following Advisory Committee:

ZONING BOARD OF APPEALS

NAME OF ADVISORY COMMITTEES

OCCUPATION: RETIRED

CIVIC/PROFESSIONAL ACCOMPLISHMENTS/OFFICES HELD:

SEE ATTACHED

Do you reside in Bonita Springs? ☑ Yes ☐ No Address: 10228 AVONLEIGH DR

SEP 17 2020

APPLICATION TO SERVE ON A CITY OF BONITA SPRINGS ADVISORY COMMITTEE – CONTINUED

My qualifications to be eligible are as follows:

Have served on numerous professional boards and committees always cognizant of the specific scope of the particular committee and to stay within those boundaries. My personal commitment is to know the laws and statutes that govern the Zoning Board and be obligated to be respectful of all parties with a duty to be impartial on any matter that comes before the Zoning Board.

If applicable, please indicate any employment, contractual relationship or status that you may have, or have had within the past 12 months, with any private business entity that rents, leases or sells any realty, or provides any goods or services to the City or that is conducting any business with the City.

NONE.

If you have previously served on a City of Bonita Springs Advisory Committee or are currently serving and seeking reappointment, please indicate the number and general nature of any voting conflict disclosure memorandum filed (Form 8B) while serving on the committee:

NONE

If applicable, attach a résumé of additional personal and professional qualifications and experience that pertains to the above.

I understand that:

1.) **Some of the Boards and Committees appointed by the City Council are required to comply with Chapter 112, Florida Statutes, the Financial Disclosure Law and you may be required to file a Form 1 Financial Disclosure.**

2.) **City of Bonita Springs, an equal opportunity/affirmative action employer, considers the selection and appointment of persons to advisory committees in a non-discriminatory manner consistent with the requirements of Federal, State and Local non-discrimination laws.**

Barbara N. Hesler — **Signature**

9/17/20 — **Date**

PLEASE RETURN THIS COMPLETED FORM TO:

CITY OF BONITA SPRINGS
ADVISORY COMMITTEES
9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135

Ben Hershenson earned his Ph.D from the Massachusetts College of Pharmacy and Health Sciences. Before retiring Ben was a Professor and the Vice President for Academic Affairs at Massachusetts College of Pharmacy. Ben has a passion for serving his community and is a strong advocate for outreach to those in need. He committed himself to combating drug use, working with teachers on conducting drug education programs and serving on the Governor's and Attorney General's Committee on Drug Education for Massachusetts schools. Ben has served as board member and chair of the Fundraising Committee for AIDS Help, Inc. of the Florida Keys and was the former Cochair for the Bonita Springs Partnering for Success Grant Program. Ben serves as President of the Fairwinds HOA, member of the Bonita Springs Tree Board and as the Chair of the Bonita Springs Golf and Country Club Steering Committee whose prime concern is the mitigation of storm water flooding in the area.

APPLICATION TO SERVE ON ADVISORY COMMITTEE

(PLEASE TYPE OR PRINT)

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Note: Applications will be kept on file and active for a period of two years from date received.

City Council District # 6

DATE: 9/18/20

PLEASE COMPLETE ALL SECTIONS		
NAME: Nor	ARTHUR	G.
Last	First	Middle Initial
RESIDENCE ADDRESS:		
28260 Kipper LN	Bonita Springs	34135
Street	City	Zip Code
BUSINESS ADDRESS: N/A		
Street	City	Zip Code
MAILING ADDRESS: 28260 Kipper LN	Bonita Springs,	34135
Street	City	Zip Code
PHONE NO. 239-908-9988	CELL PHONE # 616-886-1295	
Home	Business	
E-MAIL ADDRESS: artnor49@gmail.com		
FAX: N/A		

I hereby submit my name for consideration to serve in an advisory capacity to the City of Bonita Springs on the following Advisory Committee:

Zoning Board

NAME OF ADVISORY COMMITTEES

OCCUPATION: Retired

CIVIC/PROFESSIONAL ACCOMPLISHMENTS/OFFICES HELD:

Douglas (MI) Downtown Development Authority

National Grain & Feed Assn. Country Elevator Council Arbitration Appeals Panal

Do you reside in Bonita Springs? ☒ Yes ☐ No Address: 28260 Kipper LN

APPLICATION TO SERVE ON A
CITY OF BONITA SPRINGS ADVISORY COMMITTEE – CONTINUED

My qualifications to be eligible are as follows:

Full time resident - 5 years

Experienced in negotiations

US Naval Reserve - 6 years

If applicable, please indicate any employment, contractual relationship or status that you may have, or have had within the past 12 months, with any private business entity that rents, leases or sells any realty, or provides any goods or services to the City or that is conducting any business with the City.

N/A

If you have previously served on a City of Bonita Springs Advisory Committee or are currently serving and seeking reappointment, please indicate the number and general nature of any voting conflict disclosure memorandum filed (Form 8B) while serving on the committee:

N/A

If applicable, attach a résumé of additional personal and professional qualifications and experience that pertains to the above.

I understand that:

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2.) City of Bonita Springs, an equal opportunity/affirmative action employer, considers the selection and appointment of persons to advisory committees in a non-discriminatory manner consistent with the requirements of Federal, State and Local non-discrimination laws.

Signature

9/18/20
Date

PLEASE RETURN THIS COMPLETED FORM TO:

CITY OF BONITA SPRINGS
ADVISORY COMMITTEES
9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135

Arthur Nor

Bonita Springs, FL 34135 ◆ (239) 908-9988 ◆ artnor49@gmail.com

Professional Summary

Veteran commodity trader with top-level skills in futures and options. Likeable personality and customer-focused background coupled with expertise in trading. Enthusiastic manager with many years of experience planning, leading and improving activities to support successful business operations. Strategic in developing policies, managing staff. Focused on motivating staff and working with diverse personality types to drive improvements.

Skills

- Effective leader
- Relationship development
- Team management
- Relationship building
- Supervision

Work History

Grain Division Manager/Price Risk Management, 08/2009 to 12/2015
Sietsema Farms – Allendale, MI

- Created, managed and executed business plan and communicated company vision and objectives to motivate teams.
- Managed purchasing, price risk management, marketing and customer account operations efficiently.
- Drove year-over-year business growth while leading operations, strategic vision and long-range planning.
- Worked directly with the owners, and feed production personnel to brainstorm, discuss strategy and mitigate price risk issues.
- Delivered business strategy and developed systems and procedures to improve operational quality and team efficiency
- Collaborated with assistant managers to handle large transactions and manage inventory.
- Built loyal account base and long-term business relationships with supplier accounts.

Grain and Ingredient Manager, 09/1998 to 08/2009
Hamilton Farm Bureau – Hamilton, MI

- Established inventory targets, stock level and risk mitigation targets and managed flexibility strategy to optimize inventory.
- Capitalized on opportunities to make significant cost savings to areas of supplies, services and capital requirements when optimizing resource management.
- Managed production levels, identified material shortages and monitored inventory levels to meet order

delivery requirements.

- Deployed logistics systems and outsourced transportation to maximize efficiency, cost and benefit.
- Built supplier relationships to mitigate risk and establish effective purchasing arrangements with indirect and logistics customers.

Grain Division Manager, 09/1979 to 07/1998
AgMax, Inc. – Frankort, IN

- Directed recruitment and hiring of top-notch candidates to fill management, hourly and part-time positions.
- Established clear and consistent policies and procedures.
- Monitored customer buying trends, market conditions and competitor actions to adjust strategies and achieve profit goals.
- Aligned company goals with customer outcomes and increased satisfaction by automating contact management systems.
- Liaised with customers, management and sales team to better understand customer needs and recommend appropriate solutions.
- Investigated and integrated new strategies to expand business operations and grow customer base.
- Coached and promoted high-achieving employees to fill leadership positions with qualified staff and boost company growth.
- Drove team and company profits by developing and strengthening relationships with industry partners and potential clients.
- Resolved problems with high-profile customers to maintain relationships and increase return customer base.
- Encouraged cross-selling of additional products and services through relationship-building and acquired understanding of customer business needs.

Education

Bachelor of Science: Agriculture
University of Illinois - Urbana, IL

MBA: Finance
Butler University - Indianapolis, iN

Affiliations

- Rotary International - Paul Harris Fellow
- Indiana Ag Leadership Alumni
- University of Illinois Alumni Association Life Member

APPLICATION TO SERVE ON ADVISORY COMMITTEE

(PLEASE TYPE OR PRINT)

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Note: Applications will be kept on file and active for a period of two years from date received.

City Council District # 6

DATE: 10/01/2020

PLEASE COMPLETE ALL SECTIONS		
NAME: MACKLIN	Kelly	S
Last	First	Middle Initial
RESIDENCE ADDRESS:		
28051 Costa Lane unit #1	Bonita Springs FL.	34135
Street	City	Zip Code
BUSINESS ADDRESS:		
912 Ricewood Dr.	ST. Louis MO	63129
Street	City	Zip Code
MAILING ADDRESS:		
912 Ricewood Dr.	ST. Louis MO	63129
Street	City	Zip Code
PHONE NO. (314) 341-1613	CELL PHONE # (314) 341-1613	
	Home	Business (651) 605-4749
E-MAIL ADDRESS: Kelly MacKlin @ SDCGlobal.NET		
FAX: N/A		

I hereby submit my name for consideration to serve in an advisory capacity to the City of Bonita Springs on the following Advisory Committee:

Zoning Board

NAME OF ADVISORY COMMITTEES

OCCUPATION: U.S. Bank – Project Management Oversight (Tech. Projects)

CIVIC/PROFESSIONAL ACCOMPLISHMENTS/OFFICES HELD:

V.P. US Bank, President Sorrento Condo Association

28051 Costa Lane #1 Bonita Springs FL. 34135

Do you reside in Bonita Springs? ☐ Yes ☒ No Address: 912 Ricewood ST. Louis MO. 63129

6 months out of the year – generally come down monthly

APPLICATION TO SERVE ON A CITY OF BONITA SPRINGS ADVISORY COMMITTEE – CONTINUED

My qualifications to be eligible are as follows:

Extensive Knowledge in Project management, 100^{+}mm dollar Infrastructure and Digital Development efforts, 40^{+} year experience in all aspects of Banking. Considerable background in Building & Landscape development & design. Extensive experience in budget & Financial management.

If applicable, please indicate any employment, contractual relationship or status that you may have, or have had within the past 12 months, with any private business entity that rents, leases or sells any realty, or provides any goods or services to the City or that is conducting any business with the City.

N/A

If you have previously served on a City of Bonita Springs Advisory Committee or are currently serving and seeking reappointment, please indicate the number and general nature of any voting conflict disclosure memorandum filed (Form 8B) while serving on the committee:

N/A

If applicable, attach a résumé of additional personal and professional qualifications and experience that pertains to the above.

I understand that:

1.) **Some of the Boards and Committees appointed by the City Council are required to comply with Chapter 112, Florida Statutes, the Financial Disclosure Law and you may be required to file a Form 1 Financial Disclosure.**

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[signature] **Signature**

10/01/2020 **Date**

PLEASE RETURN THIS COMPLETED FORM TO:

CITY OF BONITA SPRINGS
ADVISORY COMMITTEES
9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135

Kelly Macklin

912 Ricewood Drive
St. Louis Mo. 63129
Home: 314-894-1613 Cellular: 314-341-1613

Summary of Qualifications

- Goal-oriented leader and mentor with 40 years of experience in the Banking industry; the last 27 with U.S. Bank, 21 years of Project Management experience and a certified facilitator.
- Extensive knowledge in all Global Treasury Management products and services.
- Deep knowledge in Regulatory and Compliance guidelines to include KYC, Fraud Behavior Analytics Automation, RDC Risk reduction, Dodd Frank etc.
- Creation of monthly reporting to senior leadership on Third Party Risk Assessments, BCI and BCRA actions and deliverables.
- Successfully led high-profile industry changing IT and operational projects overseeing cross-functional teams of over 35 staff members and budgets of up to $58 million.
- Managed all elements of Global Treasury Management's Technical projects from 2001 through 2014. Guiding up to 50 plus projects across 14 lines of business annually.
- In-depth working knowledge of all aspects of banking; having served as a director with management oversight of a 4 branch Bank's Operations.
- Managed Item and Remittance processing departments and the transformation from paper base to image based technologies.
- Highly adaptable leader with natural aptitude for leveraging a deep knowledge of PM and IT processes, quality standards and technical requirements to drive key business initiatives.
- Skilled relationship manager with proven ability to quickly establish trust and credibility across a diverse range of functions including operational logistics, business development, marketing, IT, vendors and legal.
- Excellence in team building dynamics focused on team and individual success recognition. Recognizes individual accomplishments through personal and team recognition. Focuses the staff to "own" their projects and support as if it is their personal business.
- Has established ongoing mutually respectful relationships with Development, ETM, and Senior business line representatives, assisting in working towards current and future year plans.
- Ongoing proven success in creating and maintaining close working relationship with vendors.
- Active partner with methodology and project tool owners to drive process direction and improvements.
- Board of Directors - President for Sorrento Condominium and Master Association with an annual budget of $2.9 million; 2016- current.

1997- Current U.S. Bank St. Louis, Mo

VP – Group Manager / Program Manager / Project Manager – Wholesale Banking (TOS) and Global Treasury Management (GTM)

- GTM Project Management oversight and support on key client projects consisting of vendor

delivered products with complex product enhancements, complex client implementations with customized delivery and complex client implementations with cross-company product implementations.

- TOS - Project Management oversight and support for Wholesale Banking and Corporate Services.
- Builds strong teams through leadership, focusing on success, commitment and ownership from the initial business case through successful implementations.
- Has established mutual trust and respect across the Product and Operational business lines, Development, ETM and all aligned channels.
- Continual evaluation of project impact across entire area of responsibility, ensuring other projects don't impact one another and introduces multiple projects' activities to a single forum for discussion.
- Managed and developed a successful core staff of 30-43 Project Managers to support the capacity and deployment of Programs and Projects for 14 Product and Operational business lines.
- Annual support of over 50 plus in-flight projects, ranging in size from BAU to $57 million.
- Annual overall Portfolio financial oversight exceeding $130 million in total Cap Ex support over the life of the AFEs.
- Led Business Lines and Development partners through establishing, managing, and coordinating the consolidation of 14 business lines' efforts into 5 Portfolios.
    - Key accomplishments include planning project objectives, minimizing numerous small projects and consolidating into larger projects that obtain funding and resource approval.
    - Works closely with all partners (Development, ETM, Infrastructure, Architecture, etc.) validating the ability to meet the business lines' objectives through cross project reviews to ensure resource availability.
    - Assists the business lines in building solid business cases.
    - Established 12, 24 and 36 month objectives ensuring the Business Lines' objectives are met during Tech Planning and Enterprise Prioritization.
- Effective communication emphasizing goals to success, quickly dealing with difficult and challenging issues.

AVP – Portfolio Manager / Program Manager – Corporate Services

- Program Management oversight and support for SinglePoint and Portfolio Management over International and Lockbox Projects.
- Managed and developed a core staff of project managers to support the capacity and deployment of Programs and Projects for 6 Product and Operational Business lines. Grew the team from 7 to 12 project managers.
- Transitioned Lockbox Program Management from within the business line to a formal project management office, with initial responsibilities for 52 small/medium projects. Implemented Project Management disciplines and methodologies within all the Lockbox projects.
- Successfully worked with the Business line to move numerous projects into one 4 year $22 million strategic effort.

AVP – Program Manager / Project Manager – Transaction Processing Services

- Program Management oversight of a 3-year, multi-million dollar initiative for the complete re-engineering of paper process flows to image: Image Web, Image Statement and Returned Deposit Item delivery of captured Images from Viewpointe.
- Provided program management leadership and strategic direction for the creation of U.S. Bank's state of the art Image Archive, from conceptual design, through build, test, and implementation, a 4-year, multi-million dollar project. This was the initial creation of the

banking industries' move from check handling to image capture and the automation of check processing at U.S. Bank.

- Worked closely with Viewpointe (check archive vendor) in the development of archive guidelines and the creation of image and index structures to enable the entire banking industry to populate images to the Viewpointe archive.
- Managed a major, corporate wide upgrade of Item Processing to a single check processing system, CPCS, and the migration to a common Hogan DDA platform for 9 Item Processing sites.
- Managed all facets of 3 separate Data Center Operation conversions.

1993–1997 U.S. Bank / Firstar / Mercantile Bank St. Louis, Mo.

AVP – Manager – Item Processing

- Managed an Item Processing department consisting of 120 individuals in three functional areas. Total budget and asset responsibility in excess of $12 million annually.
- Provided overall coordination of 36 bank acquisitions. Required oversight and validation of development, consolidation of systems, testing and revisions of procedures for all consolidated and acquired banks.
- Identified and achieved $1.2 million in annual savings through process improvements.
- Provide overall coordination of development, installation, and support of vendor products being installed in the IP department.
- Oversight responsible for all Y2K system testing, validation and communication to internal and external departments and customers
- Interacted with key internal and external departments to establish SLAs and implement performance tracking measurements in all areas.
- Liaison with software and hardware vendors (IBM, Unisys, NCR, FSS, SEI, and Carreker-Antinori).

1993 - Current K.M. Landscaping St. Louis, Mo

Owner K.M. Landscaping

- Commercial and Residential Landscaping company
- Specializing in hardscape construction and weekly landscaping maintenance

1989–1993 Allegiant Bank, N.A St. Louis, Mo.

Vice President – Director of Operations

- Bank Director / Manager of a start-up bank which included all front office and back office operations, e.g., Teller Operations, Call Reporting, Wire Transfers, CD-IRA, Loan Operations, DDA and Savings, Vault, Statement Rendering. Responsibility for the daily positioning of the Bank's capital through the Federal Reserve Bank and Bond investments. Additional responsibilities included coordination of the Bank's Courier, Security, and Facilities. Provided monthly reporting to the Board of Directors.
- Extensive involvement with Corporate and Retail customers, selling services and assisting in problem resolution.
- Managed the expansion to 3 new branch operations, with and which to include Teller, Loan Servicing, Proof, Statement Rendering, Vault, Wire, ACH, EFT's, Call Reporting, year-end reporting, and Facilities operations.
- Coordinated the conversion from an external processor to an internal processing system (Jack Henry IBM AS/400-RS/6000 system).
- Liaison with all vendors i.e. software, hardware, purchasing and printing.

1981–1989 Centerre/Boatmen's Bank St. Louis, Mo.

Vice President – Manager – Remittance Processing

- Managed 120 people in five functional areas: 24 hour/day Wholesale and Retail Lockbox

processing operation, customer service, and support.
- Budget responsibility of $8 million annually.

Education: Fontbonne University St. Louis, Mo.
- Master of Business Administration, 2002
- Bachelors of Business Administration, 2000
- Fontbonne Dean's Award recipient, 2000
- Certified Facilitator, 2014

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BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-293

AGENDA ITEM SUMMARY

REQUESTED MOTION: A Resolution appointing a Chair to the Board for Land Use Hearings and Adjustments and Zoning Board of Appeals.

MEETING DATE: October 7, 2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	Peter Simmons Mayor
☐	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:

Ordinance No. 01-20 states "The Mayor shall appoint the Chair and the Board shall elect a Vice-Chairman from among its membership." The attached Resolution is to appoint a Chairman to the Board for Land Use Hearings and Adjustments and Zoning Board of Appeals.

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

STAFF RECOMMENDATIONS: Adopt Resolution appointing a Chairman.

REVIEWED BY:

City Manager: **Arleen Hunter**
City Attorney: **Derek Rooney**
City Clerk: **Debra Filipek**
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; APPOINTING A CHAIR TO THE CITY OF BONITA SPRINGS BOARD FOR LAND USE HEARINGS AND ADJUSTMENTS AND ZONING BOARD OF APPEALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs adopted Ordinance No. 00-06, creating the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals; and

WHEREAS, Ordinance No. 01-20 provides that the Mayor shall appoint the Chair and the Zoning Board shall elect a Vice-Chair from among its membership;

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

Section 1. The following person is hereby appointed as the Chair to the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals: _____. Said term as Chair shall expire December 31, 2020.

Section 2. Effective date. This resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of October 2020.

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM:_____

City Attorney

Vote:

Quaremba	Forbes
Purdon	Gibson
Carr	Simmons
Corrie	

Date filed with City Clerk: _____

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-297

AGENDA ITEM SUMMARY

REQUESTED MOTION: AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING) AND 6 (SIGNS); RELATING TO THE OLD U.S. 41 REDEVELOPMENT OVERLAY DISTRICT; SECTIONS 4-866 THROUGH SECTION 4-885 TO REPEAL AND REPLACE THE OLD U.S. 41 REDEVELOPMENT OVERLAY DISTRICT WITH THE DOWNTOWN FORM-BASED CODE FOR THE DOWNTOWN DISTRICT; REPEAL AND REPLACE SECTION 6-116 PERMANENT SIGNS ON OLD U.S. 41 FROM BONITA BEACH ROAD TO ROSEMARY STREET WITH THE NEW FORM-BASED CODE RECOMMENDATIONS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	John Dulmer, AICP Community Development Director Jacqueline Genson, AICP Planning & Zoning Manager Jay Sweet. AICP, PSM City Planner & 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: These are the proposed LDC amendments that are designed to accompany and effectuate the Comprehensive Plan amendments for the Old 41 Redevelopment Area (aka Downtown District). At the direction of City Council, Staff has worked closely with DPZ on the changes proposed. The amendments are scheduled to go to the Local Planning Agency for review and consideration on October 8, 2020. The Ordinance and backup materials will be provided via Addendum by the City Attorney.

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

IF YES, WHICH STRATEGIC OBJECTIVE? Objective 8- Economic Development: Attract highest quality economic development through City's vision of high urban design standards, multimodal and downtown revitalization, and vision.

STAFF RECOMMENDATIONS: Approve and advance to second reading on October 21, 2020

REVIEWED BY:

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

COUNCIL ACTION:

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

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-286

AGENDA ITEM SUMMARY

REQUESTED MOTION: First Reading and Public Hearing of the following ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF BONITA SPRINGS, FLORIDA, ADOPTING THE 2020 FIVE YEAR CAPITAL IMPROVEMENT PROGRAM ANNUAL UPDATE; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXCLUSION FROM CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☒	STATUTE	Anne K. Wright, CPA, CGFO Finance Director Arleen M. Hunter City 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:

Florida Statutes §163.3177(3) (a) requires that local government comprehensive plans contain a capital improvements element designed to consider the need for and the location of public facilities. There is also the requirement that local governments review the capital improvements element on an annual basis. As part of the mandatory EAR, Bonita Springs updates the five-year capital improvements schedule annually by ordinance.

A "capital improvement" generally means physical assets constructed or purchased to provide, improve, or replace a public facility, typically large scale, high in cost, and may require multi-year financing.

Exhibit A includes the budget for FY 2021 which was adopted by City Council at the budget hearing on September 16, 2020. The exhibit also includes an adjustment in funding sources from what was presented in the Staff Requested CIP draft in August. The adjustment was to move some funding from the Gas Tax Fund to the General Fund in FY 2022 through FY 2025 as the recent financial projections indicate that the Gas Tax Fund will not have sufficient revenues to fund the CIP at the initially requested levels, however the General Fund is projected to have the ability to fund these costs. This funding change relates to the following projects: Minor road, sidewalk & drainage project, asphalt overlay project, and roadway restriping project.

If approved, the ordinance will be scheduled for a second reading and public hearing for October 21, 2020.

Attachment: Draft Ordinance

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

IF YES, WHICH STRATEGIC OBJECTIVE? #5 Financial Stewardship

STAFF RECOMMENDATIONS: Hold the first public hearing, with public comment, and schedule to for a second reading and public hearing on December 18, 2019.

REVIEWED BY:

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

COUNCIL ACTION:

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

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 20-

AN ORDINANCE OF THE CITY COUNCIL OF BONITA SPRINGS, FLORIDA, ADOPTING THE 2020IVE YEAR CAPITAL IMPROVEMENT PROGRAM ANNUAL UPDATE; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statute §163.3177(3)(a) requires that local government comprehensive plans contain a capital improvements element designed to consider the need for and the location of public facilities; and

WHEREAS, Florida Statute §163.3177(3)(b) requires that local governments review the capital improvements element on an annual basis, and provides that modifications to update the five-year capital improvements schedule may be accomplished by ordinance; and

WHEREAS, "capital improvement" generally means physical assets constructed or purchased to provide, improve, or replace a public facility, typically large scale, high in cost, and may require multi-year financing; and

WHEREAS, Florida Statute §163.3177(3)(a)4 requires that projects necessary to achieve and maintain adopted levels of service for the five-year planning period be included in the capital improvement schedule; and

WHEREAS, review by the City of Bonita Springs Local Planning Agency is not required for a capital improvements schedule update, which is not an amendment to the Comprehensive plan; and

WHEREAS, the Bonita Springs City Council held the required public hearings with all required public notice for the purpose of hearings.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

SECTION 1: RECITALS/INTENT. The recitals set forth above are true and correct, and constitute legislative findings of the City Council.

SECTION 2: AMENDMENT TO THE CAPITAL IMPROVEMENT SCHEDULE. The Capital Improvement Program Annual Update is hereby adopted as set forth in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 3: CODIFICATION. It is the intent of the City of Bonita Springs City Council that the provisions of this Ordinance shall be codified into the Bonita Springs Comprehensive Plan, specifically as an update to Objective 1.5 of the Capital Improvements Element. The Code Codifier is hereby granted authority to update the Capital Improvement Program or to otherwise make notation by reference to this Ordinance in the City of Bonita Springs Comprehensive Plan, as amended.

SECTION 4: EFFECTIVE DATE. The effective date of this Ordinance shall be thirty days from its adoption date.

SECTION 5: CONFLICTS. This ordinance shall supersede any ordinances in conflict herewith to the extent that such conflict exists.

SECTION 6: SEVERABILITY. If any part of this ordinance is found to be invalid, preempted, or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such invalid, preempted, or superseded part.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 21nd of October 2020.

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM: _____

City Attorney

Vote:

Quaremba	Gibson
Purdon	Forbes
Carr	Simmons
Corrie	

Date filed with City Clerk: _____

Capital Improvement Program Annual Update

Exhibit A

ATTACHMENT A - CAPITAL IMPROVEMENT PLAN

as of October 1, 2020

Capital Projects		Funding/Revenue Source	FY 2020-2021 Adopted Budget	FY 2021-2022	FY 2022-2023	FY 2023-2024	FY 2024-2025	Next Five Fiscal Years: FY 2025-2026 through FY 2029-2030	Total Ten Year Plan
Account	**Project Description**								
IMPROVE STORM WATER MANAGEMENT (1st STRATEGIC PRIORITY)									
30.250.538.6810	Quinn/Downs/Dean/Imperial Storm Wtr Improve	State Legislative Appropr.	750,000	-	-	-	-	-	750,000
30.250.538.6100	Land acquired for storm water purposes	General Fund	1,000,000	-	-	-	-	-	1,000,000
		HMGP Grant	7,050,000	-	-	-	-	-	7,050,000
		Funding to be Identified	-	-	-	-	-	5,000,000	5,000,000
		TOTAL	**8,050,000**	**-**	**-**	**-**	**-**	**5,000,000**	**13,050,000**
30.250.538.6811	Bio-Reactor Phase II	General Fund	150,000	-	-	-	-	-	150,000
30.250.538.6812	Big Bend Road Drainage	Gas Tax	65,978	379,376	-	-	-	-	445,354
	TOTAL IMPROVE STORM WATER MANAGEMENT		**$ 9,015,978**	**$ 379,376**	**$ -**	**$ -**	**$ -**	**$ 5,000,000**	**$ 14,395,354**
TRANSPORTATION (2nd STRATEGIC PRIORITY)									
Bonita Beach Road Visioning and Quadrant:									
30.250.541.6317	Bonita Bch Rd/US 41 Quadrant	State & Federal Agencies	-	-	-	-	-	11,500,000	11,500,000
		Road Impact Fee	-	1,500,000	1,500,000	1,573,741	-	-	4,573,741
		TOTAL	**-**	**1,500,000**	**1,500,000**	**1,573,741**	**-**	**11,500,000**	**16,073,741**
30.250.541.6318	Bonita Bch Rd Vision Implementation	General Fund	750,000	250,000	250,000	250,000	250,000	6,175,000	7,925,000
	TOTAL Bonita Beach Road Visioning and Quadrant		**750,000**	**1,750,000**	**1,750,000**	**1,823,741**	**250,000**	**17,675,000**	**23,998,741**
Sidewalks and Multi-Use Pathways:									
30.250.541.6320	Multi-Use Pathways & Sidewalks	Gas Tax	314,538	-	-	-	-	-	314,538
		Road Impact Fee	443,233	-	-	-	-	-	443,233
		Grant - CDBG	332,389	300,000	300,000	300,000	300,000	1,500,000	3,032,389
		Park Impact Fee	-	-	-	-	-	1,000,000	1,000,000
		TOTAL	**1,090,160**	**300,000**	**300,000**	**300,000**	**300,000**	**2,500,000**	**4,790,160**
30.250.541.6334	Maddox Lane Sidewalk	Road Impact Fee	334,671	-	-	-	-	-	334,671
30.250.541.6336	Imperial Shores Blvd Sidewalk	Road Impact Fee	-	-	-	-	-	1,022,867	1,022,867
30.250.541.6323	W. Terry St. Multi-Use Pathway	General Fund	250,000	-	-	-	-	-	250,000
		Road Impact Fee	764,705	-	-	-	-	-	764,705
		TOTAL	**1,014,705**	**-**	**-**	**-**	**-**	**-**	**1,014,705**
30.250.541.6324	Sun Trail (Rails to Trails)	Road Impact Fees	200,000	282,332	-	-	-	-	482,332
		General Fund	-	-	-	-	-	1,000,000	1,000,000
		TOTAL	**200,000**	**282,332**	**-**	**-**	**-**	**1,000,000**	**1,482,332**
30.250.541.6331	Pine Ave. Multi-use Pathway	Road Impact Fees	-	-	-	-	-	558,128	558,128
30.250.541.6338	W. Terry Street South Sidewalk	Road Impact Fees	-	110,137	330,410	500,000	755,664	2,500,000	4,196,211
	TOTAL Sidewalks and Multi-Use Pathways		**2,639,536**	**692,469**	**630,410**	**800,000**	**1,055,664**	**7,580,995**	**13,399,074**
to be assigned	Dean Street	Road Impact Fee	-	-	-	-	-	2,624,892	2,624,892
30.250.541.6327	Goodwin Street	Gas Tax	57,788	-	354,966	-	-	-	412,754
		Road Impact Fees	407,742	2,284,442	1,929,476	-	-	-	4,621,660
30.250.541.6300	Minor Road, Sidewalk & Drainage Improvemts	Gas Tax	400,000	-	-	-	350,000	1,750,000	2,500,000
		General Fund	-	400,000	350,000	350,000	-	-	1,100,000
30.250.541.6308	Asphalt Overlays	Gas Tax	240,000	-	-	-	125,000	750,000	1,115,000
		General Fund	-	200,000	200,000	125,000	-	-	525,000
30.250.541.6319	Roadway Restriping	Gas Tax	-	-	188,987	188,987	-	944,935	1,322,909
		General Fund	-	250,000	-	-	188,987	-	438,987

CAPITAL IMPROVEMENT PLAN

as of October 1, 2020

Capital Projects		Funding/Revenue Source	FY 2020-2021 Adopted Budget	FY 2021-2022	FY 2022-2023	FY 2023-2024	FY 2024-2025	Next Five Fiscal Years: FY 2025-2026 through FY 2029-2030	Total Ten Year Plan
Account	Project Description								
30.250.541.6321	Rail Road Crossing Improvements	Gas Tax	-	-	126,325	200,000	-	1,566,430	1,892,755
30.250.541.6343	Bridge Maintence	Gas Tax	224,672	75,000	75,000	50,000	50,000	200,000	674,672
30.250.541.6342	Traffic Calming	Gas Tax	45,000	45,000	25,000	15,000	15,000	250,000	395,000
30.250.541.6328	Decorative Street Lights conversion to LED	Gas Tax	479,661	-	-	-	-	-	479,661
	TOTAL TRANSPORTATION		**$ 5,244,399**	**$ 5,696,911**	**$ 5,630,164**	**$ 3,552,728**	**$ 2,034,651**	**$ 33,342,252**	**$ 55,501,105**
ENVIRONMENTAL PROTECTION (4th STRATEGIC PRIORITY)									
30.000.537.6105	Environmentally Sensitive Land Acquisitions	General Fund	200,000	200,000	200,000	200,000	200,000	1,000,000	2,000,000
30.611.537.6000	Beach Renourishment 2024	General Fund	110,000	110,000	110,000	110,000	110,000	550,000	1,100,000
	TOTAL ENVIRONMENTAL PROTECTION		**$ 310,000**	**$ 310,000**	**$ 310,000**	**$ 310,000**	**$ 310,000**	**$ 1,550,000**	**$ 3,100,000**
COMMUNITY AESTHETICS: DEVELOP AND IMPLEMENT URBAN DESIGN (5th STRATEGIC PRIORITY)									
30.603.572.6008	Comm Park Sealcoating and Stop Replacements at Parking Lot	General Fund	37,000	13,500	-	-	-	-	50,500
30.603.572.6009	Comm Park Parking Lot Lighting to LED	General Fund	-	-	12,000	-	-	-	12,000
30.605.572.6009	Riverside Park Sealcoating and Stop Replacements on Parking Lot	General Fund	20,000	-	-	-	-	-	20,000
30.605.572.6010	Riverside Park Lighting to LED	General Fund	-	18,000	-	-	-	-	18,000
30.621.572.6020	River Park Landscaping and Lighting Enhanc.	TDC Grant	270,000	-	-	-	-	-	270,000
30.628.572.6001	Mayhood Park Exotics Removal	General Fund	25,000	-	-	-	-	-	25,000
31.000.552.6311	Downtown Redevelopment	General Fund	85,000	-	-	-	-	-	85,000
31.605.572.6008	Skate Park	FDEP/LWCF Grant	279,849	-	-	-	-	-	279,849
30.610.572.6021	Dog Park Trail Overlay	General Fund	45,000	-	-	-	-	-	45,000
30.603.572.6015	Baseball Complex Master Plan for Design & Construction Phase I	General Fund	550,000	-	-	-	-	500,000	1,050,000
30.604.572.6001	Pool and Fountain Resurfacing	General Fund	65,000	-	-	-	-	-	65,000
30.602.572.6022	Small Recreation Building Improvements	Park Impact Fees	-	100,000	-	-	-	-	100,000
		General Fund	60,000	-	-	-	-	-	60,000
# to be assigned	Dog Beach Park	TDC Grant	-	-	-	-	-	2,100,000	2,100,000
# to be assigned	Community Hall Site & Amenities Master Plan	Park Impact Fees	-	-	-	-	500,000	-	500,000
# to be assigned	Dog Park Restroom Facility	Park Impact Fees	-	-	300,000	-	-	-	300,000
30.250.541.6315	East Terry Vegetative Buffer/Wall	General Fund	282,358	-	-	-	-	-	282,358
30.250.541.6906	Median Landscape Enhancement	General Fund	750,000	75,000	425,000	-	-	4,000,000	5,250,000
30.604.572.6023	Pool Roof Replacement	General Fund	50,000	-	-	-	-	-	50,000
30.270.573.4928	Acquisition of Public Art	General Fund	50,000	-	-	-	-	-	50,000
30.604.572.6024	Pool Family Restroom	Park Impact Fees	100,000	-	-	-	-	-	100,000
30.270.519.4910	Highway Monuments/Welcome Signs	General Fund	-	250,000	250,000	250,000	-	-	750,000
30.270.519.4920	Flagpole along I-75	General Fund	-	50,000	-	-	-	-	50,000

CAPITAL IMPROVEMENT PLAN

as of October 1, 2020

Capital Projects		Funding/Revenue Source	FY 2020-2021 Adopted Budget	FY 2021-2022	FY 2022-2023	FY 2023-2024	FY 2024-2025	Next Five Fiscal Years: FY 2025-2026 through FY 2029-2030	Total Ten Year Plan
Account	**Project Description**								
30.270.541.6322	Imperial River US 41 Bridge Beautification	General Fund	-	-	100,000	100,000	100,000	-	300,000
30.270.519.4912	Goodbread Grocery (AKA Dixie Moon)	General Fund	100,000	100,000	-	-	-	-	200,000
		FL Historic Resources Grant	-	200,000	-	-	-	-	200,000
		TOTAL	**100,000**	**300,000**	**-**	**-**	**-**	**-**	**400,000**
30.250.541.6325	Logan Boulevard Landscape & Lighting	Gas Tax	-	-	-	-	-	700,000	700,000
31.602.572.6000	Recreation Center Expansion and Improvements	General Fund	-	-	-	200,000	-	-	200,000
		Park Impact Fees	-	-	300,000	-	-	-	300,000
30.270.572.6000	Additional Soccer Fields	Park Impact Fees	100,000	-	-	-	-	-	100,000
# to be assigned	Sealcoating Soccer Marni Fields Parking	General Fund	-	17,000	-	-	-	-	17,000
# to be assigned	Sealcoating Soccer Complex Parking	General Fund	-	17,000	-	-	-	-	17,000
30.270.519.4911	Urban Design	General Fund	100,000	200,000	200,000	-	-	-	500,000
	TOTAL COMMUNITY AESTHETICS STRATEGIC PRIORITY		**$ 2,969,207**	**$ 1,040,500**	**$ 1,587,000**	**$ 550,000**	**$ 600,000**	**$ 7,300,000**	**$ 14,046,707**
OTHER CAPITAL EXPENDITURES									
30.270.519.4924	City Facilities Major Repairs	General Fund	-	60,000	-	-	-	250,000	310,000
30.402.513.6400	Cameras in Council Chambers	General Fund	118,381	-	-	-	-	-	118,381
30.615.572.6019	Liles Roof Replacement & Stucco Repairs	General Fund	75,000	-	-	-	-	-	75,000
30.270.519.4927	Securty Upgrades in City Facilities	General Fund	65,000	-	-	-	-	-	65,000
30.270.519.6400	Vehicle Major Repairs and Replacement	General Fund	55,000	75,000	75,000	-	-	550,000	755,000
30.240.513.6401	Technology Equipment	General Fund	50,000	30,000	30,000	30,000	30,000	500,000	670,000
		Total Other	**363,381**	**165,000**	**105,000**	**30,000**	**30,000**	**1,300,000**	**1,993,381**
		TOTAL	**$ 17,902,965**	**$ 7,591,787**	**$ 7,632,164**	**$ 4,442,728**	**$ 2,974,651**	**$ 48,492,252**	**$ 89,036,547**

FUNDING SOURCES

Funding/Revenue Source	FY 2020-2021	FY 2021-2022	FY 2022-2023	FY 2023-2024	FY 2024-2025	Next Five Fiscal Years: FY 2024-2025 through FY 2028-2029	Total Ten Year Plan
General Fund	5,042,739	2,315,500	2,202,000	1,615,000	878,987	14,525,000	26,579,226
Road Impact Fee	2,150,351	4,176,911	3,759,886	2,073,741	755,664	6,705,887	19,622,440
Gas Tax	1,827,637	499,376	770,278	453,987	540,000	6,161,365	10,252,643
Park Impact Fee	200,000	100,000	600,000	-	500,000	1,000,000	2,400,000
State and Federal Agencies	-	-	-	-	-	11,500,000	11,500,000
State Legislative Approp	750,000	-	-	-	-	-	750,000
Grants	7,932,238	500,000	300,000	300,000	300,000	3,600,000	12,932,238
Funding to be Identified	-	-	-	-	-	5,000,000	5,000,000
TOTAL	**$ 17,902,965**	**$ 7,591,787**	**$ 7,632,164**	**$ 4,442,728**	**$ 2,974,651**	**$ 48,492,252**	**$ 89,036,547**

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-306

AGENDA ITEM SUMMARY

REQUESTED MOTION: First reading and public hearing on proposed Land Development Code (LDC) amendment: AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING CHAPTER 4, ZONING, OF THE LAND DEVELOPMENT CODE; CLARIFYING DEVELOPMENT STANDARDS RELATING SINGLE AND TWO-FAMILY RESIDENTIAL DEVELOPMENTS IN MOBILE HOME ZONING DISTRICTS; AND, PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	John Dulmer, AICP, Community Development Director Jacqueline Genson, AICP Planning and Zoning Manager
☐	CONSENT	☒	ORDINANCE	
☒	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	OTHER: PERMISSION TO ADVERTISE LDC AMENDMENTS	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:
In 2014 and 2016, the City Council adopted amendments to the LDC to allow conventional single-family homes in Mobile Home (MH-1 and MH-2) districts and two-family attached dwelling units in the Two Family Conservation (TFC-2) Zoning District. Community Development Staff has found areas in the LDC that require clarifying language such as specific development standards to implement the intent of those amendments accordingly.

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

IF YES, WHICH STRATEGIC OBJECTIVE?

STAFF RECOMMENDATIONS: Hold public hearing and move to second reading.

REVIEWED BY:

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

COUNCIL ACTION:

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

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 20-__

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING CHAPTER 4, ZONING, OF THE LAND DEVELOPMENT CODE; CLARIFYING DEVELOPMENT STANDARDS RELATING SINGLE AND TWO-FAMILY RESIDENTIAL DEVELOPMENTS IN MOBILE HOME ZONING DISTRICTS; AND, PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs, Florida is the governing body of Bonita Springs; and

WHEREAS, the City of Bonita Springs in 2014 and 2016, the City Council adopted amendments to the Land Development Code to allow conventional single-family homes in Mobile Home (MH-1 and MH-2) districts and two-family attached dwelling units in the Two Family Conservation (TFC-2) Zoning District; and

WHEREAS, the City of Bonita Springs desires to add clarifying language such as specific development standards to implement the intent of those amendments accordingly; and

WHEREAS, pursuant to the Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

WHEREAS, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Amending Land Development Code

The Bonita Springs City Code is hereby amending Chapter 4 - Zoning of the City's Land Development Code, with deletions depicted with ~~strikethroughs~~ and <u>underlined</u> language as additions, as follows:

Sec. 4-555. - Use regulations table.

Use regulations for mobile home districts are as follows:

TABLE 4-555. USE REGULATIONS FOR MOBILE HOME DISTRICTS

	Special Notes or Regulations	MH-1	MH-2
Accessory uses, buildings, and structures:	4-923 et seq., 4-2012 et seq.	P	P
Amateur radio antennas and satellite earth stations	4-927	Refer to 4-927 for regulations.	
Animals (equines)	4-1045 et seq.	-	-
Docks, seawalls	4-1588	P	P
Fences, walls	4-1841 et seq.	P	P
Gatehouses, entrance gates	4-1841 et seq.	P	P
Nonroofed accessory structures	4-1894(c)(3)	P	P
Signs in compliance with chapter 6		P	P
Administrative offices		P	P
Aircraft landing facilities, private:			
Lawfully existing:			
Expansion of aircraft landing strip or helistop landing pad	4-982 et seq.	SE	SE
New accessory buildings	4-982 et seq.	P	P
New:			
Aircraft landing strip and ancillary hangars, sheds and equipment	4-982 et seq.	-	-
Heliport	4-982 et seq.	-	-
Helistop	4-982 et seq.	SE	SE
Animals and reptiles:			
Keeping, raising or breeding of Class I animals (df)	4-1045	-	-
Keeping, raising or breeding of American alligators, venomous reptiles or Class II animals (df)	4-1045	SE	SE
Boat ramps	Note (6)	EO/SE	EO/SE
Clubs, private		SE	SE
Communications facility, wireless	4-1215 et seq.	Refer to 4-1215 et seq. for regulations.	
Community residential home		P	P
Community gardens	Sec. 4-1435	AA	AA

Consumption on premises	4-1020 et seq.	AA/SE	AA/SE
Day care center, adult or child:			
Adult		SE	SE
Child	Note (5)	SE	SE
Dwelling unit:			
Mobile home	4-1637 et seq. Note (7)	P/EO	P/EO
Single-family residence, conventional	Note (8)	P	P
Essential services	4-1362 et seq.	P	P
Essential service facilities (4-408(c)(13)):			
Group I	4-1362 et seq., 4-1841 et seq., 4-1841 et seq.	P	P
Group II	4-1362 et seq., 4-1841 et seq., 4-1841 et seq.	SE	SE
Excavation:			
Oil or gas	4-1380 (c)	SE	SE
Water retention	4-1380 (b)	P	P
Golf course	2-2037 et seq.	EO	EO
Heliport or helistop	4-982 et seq.	See Aircraft landing facilities, private.	
Home occupation:			
No outside help		P	P
With outside help	4-1496 (c)	AA	AA
Laundromat	4-2095	EO/SE	EO/SE
Models:			
Display center	4-1662 et seq.	SE	SE
Model home	4-1662 et seq.	AA/SE	AA/SE
Parks (4-408(c)(30)), Group I	Note (4)	P	P
Park trailer		-	P
Place of worship	4-1762 et seq.	EO/SE	EO/SE
Real estate sales office	Note (2), 4-1662 et seq., 4-2095	EO/SE	EO/SE
Recreational facilities:			
Personal		P	P

Private—on-site		EO/SE	EO/SE
Private—off-site		EO	EO
Religious facilities	Note (1), 4-1762 et seq.	SE	SE
Residential accessory uses (4-408(c)(39))	4-923 et seq.	P	P
Signs in compliance with chapter 6		P	P
Stable, private	4-1046	-	-
Subordinate commercial uses:	Note (3), 4-2095		
Food stores, Group I (4-408(c)(16))		EO/SE	EO/SE
Parts and supplies for mobile homes or RVs		EO/SE	EO/SE
Personal services (4-408(c)(31)):			
Group I		EO/SE	EO/SE
Group II		EO/SE	EO/SE
Specialty retail store (4-408(c)(44), Group I		EO/SE	EO/SE
Temporary uses	4-2124 et seq.	P	P

Notes:

(1) Expansion of facility to ten or more acres requires PD zoning. See section 4-272 and Table 4-740.

(2) Real estate sales are limited to sales of lots, homes or units within the development, except as may be permitted in section 4-1662 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding three years from the date the certificate of occupancy for the sales office is issued. The director may grant one two-year extension. Additional time will require a new special exception approval.

(3) Subordinate uses permitted only in conformity with section 4-2095.

(4) Recreational halls require a special exception approval.

(5) Family day care home exemption. F.S. 166.0445 exempts family day care homes from needing the special exception. See section 4-195(e)(9).

(6) Non-commercial only.

(7) In the interstate interchange area, mobile homes are existing only and may not be replaced or relocated into the interchange areas.

(8) Single-family development in the MH zoning districts is permitted by right for individual single-family development (must conform to property development regulations in sec. 4-2399 relative to setbacks and minimum lot size requirements). Any redevelopment of an existing mobile home park under unified control/ownership, into a single-family development, requires approval of planned development zoning.

Sec. 4-556. - Property development regulations table.

Property development regulations for mobile home districts are as follows:

TABLE 4-556. PROPERTY DEVELOPMENT REGULATIONS FOR MOBILE HOME RESIDENTIAL DISTRICTS

	Special Notes or Regulations	MH-1 (2)	MH-2 (1), (2)
Nonresidential uses:			
Minimum lot area and dimensions:			
Lot area (square feet)		10,000	10,000
Lot width (feet)		100	100
Lot depth (feet)		100	100
Minimum setbacks:			
Side yard (feet)	Note (3), 4-1892 et seq.	15	15
Rear yard (feet)	Note (3), 4-1892 et seq.	20	20
Residential uses:			
Minimum lot area and dimensions:	4-1921. 4-1922, 4-1841		
Lot area (square feet)		7,500	5,000
Lot width (feet)		75	50
Lot depth (feet)		100	100
Minimum setbacks:			
Side yard (feet):	Note (3), 4-1892 et seq. **Note (7), 4-2399 et seq.**		
Internal park lot		7.5	7
Park perimeter		7.5	7
Rear yard (feet):	Note (3), 4-1892 et seq. **Note (7), 4-2399 et seq.**		
Internal park lot		20	15
Park perimeter		20	15
All uses:			

Street (feet):	Notes (3) 4-1892 et seq.	Variable according to the functional classification of the street or road. See section 4-1893.	
Internal park street (feet)			
Off-site street			
Water body (feet):	4-1892 et seq.		
Gulf of Mexico		50	50
Other		25	25
Maximum height (feet)	4-1871 et seq.	35	35
		Note: Special height limitations apply to all uses located within Bonita Beach and the Bonita Beach Corridor. See section 4-1874.	
Maximum lot coverage (percent of total lot area)		40%	40%
Special regulations:		Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.	
Animals, reptiles, marine life	4-1045 et seq.		
Consumption on premises	4-1020 et seq.		
Docks, seawalls, etc.	4-1588 et seq.		
Essential services	4-1362 et seq.		
Essential service facilities (4-408(c)(13))	4-1362 et seq., 4-1841		
Fences, walls, gatehouses, etc.	4-1841 et seq.		
Non-roofed accessory structures	4-1894(c)(3)		
Railroad right-of-way	4-1895		

Notes:

(1) Developments built between January 5, 1978, and July 31, 1986, see section 4-553 for minimum and maximum area requirements.

(2) For developments built after August 1, 1986, see section 4-554 for emergency shelter requirements.

(3) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted only by variance. See section 4-1892 et seq.

(4) May be reduced to 3,750 square feet if on a central sewage system.

(5) If adjacent to another mobile home or recreational vehicle park or to a commercial or industrial use, setback may be reduced to 15 feet.

(6) Lot coverage includes parking spaces unless off-street parking is provided elsewhere.

(7) Conventional single-family homes permitted by right must conform to property development regulations in sec. 4-2399 for setbacks and minimum lot size requirements.

Sec. 4-489. - Property development regulations table.

Property development regulations for one- and two-family residential districts are as follows:

TABLE 4-489. PROPERTY DEVELOPMENT REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TFC-1	**TFC-2**	TF-1
Minimum lot area and dimensions:	4-1921, 4-1922, 4-1841									
Single-family detached:										
Lot area (square feet)		6,500	7,500	12,500	20,000	40,000	2 acres	6,000	7,500	7,500
Lot width (feet)		65	75	100	100	100	130	50	75	75
Lot depth (feet)		75	100	100	100	100	130	100	100	100
Duplex:										
Lot area (square feet)		-	-	-	-	-	-	6,000	7,500	10,000
Lot width (feet)		-	-	-	-	-	-	50	75	75
Lot depth (feet)		-	-	-	-	-	-	100	100	100
Two-family attached:										
Lot area **per unit** (square feet)		-	-	-	-	-	-	-	~~7,500~~ 3,750	12,000
Lot width **per unit** (feet)		-	-	-	-	-	-	-	~~75~~ **37.5**	120
Lot depth (feet)		-	-	-	-	-	-	-	100	100
Minimum setbacks:										

Street (feet)	Note (1) 4-1892 et seq.	Variable according to the functional classification of the street or road. See section 4-1893.								
Side yard (feet):	Notes (1) and (3), 4-1892 et seq.									
Single-family or duplex		6.5	7.5	10	12	15	15	6	7.5	7.5
Two-family attached		-	-	-	-	-	-	-	- **0/7.5**	10 (2)
Rear yard (feet)	Note (1), 4-1892 et seq.	20	20	20	20	20	20	20	20	20
Water body (feet):	4-1892 et seq.									
Gulf of Mexico:		50	50	50	50	50	50	50	50	50
Other		25	25	25	25	25	25	25	25	25
Special regulations:		Refer to the section specified for exceptions or additions to the minimum setback requirements listed in this table.								
Animals, reptiles, marine life	4-1045 et seq.									
Consumption on premises	4-1020 et seq.									
Docks, seawalls, etc.	4-1588 et seq.									
Essential services	4-1362 et seq.									
Essential service facilities (4-408(c)(13))	4-1362 et seq.									
Fences, walls, gate-houses	4-1841 et seq.									
Nonroofed accessory structures	4-1894(c)(3)									
Railroad right-of-way	4-1895									
Maximum height (feet)	4-1871 et seq.	35	35	35	35	35	35	35	35	35
		Note: Special height limitations apply to all uses located within Bonita Beach and the Bonita Beach Road Corridor. See section 4-1874.								
Maximum lot coverage (percent of total lot area)		45%	40%	40%	40%	40%	40%	45%	40%	45%

Notes:

(1) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted by variance only. See section 4-1892 et seq.

(2) Accessory buildings and uses can be located closer to the front of the property than the main building, but must comply with all other setback requirements for accessory building uses.

(3) No side yard setback required from common side lot line for two-family attached.

Section 3. SEVERABILITY

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any court of competent jurisdiction shall hold any of the provisions of this Ordinance unconstitutional, the decision of such court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would be adopted had such unconstitutional provision not been included therein.

Section 4. CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted City of Bonita Springs ordinance or Florida Statutes, the more restrictive shall apply.

Section 5. CODIFICATION AND SCRIVENER'S ERRORS

It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.

Section 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon its adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 21st day of October, 2020.

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:

Carr	Gibson
Purdon	Quaremba
Forbes	Simmons
Corrie	

Date filed with City Clerk: _____

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-308

AGENDA ITEM SUMMARY

REQUESTED MOTION: First reading and public hearing of the following Ordinance:
AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING CHAPTER 4 ZONING, ARTICLE VI SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 30 PROPERTY DEVELOPMENT REGULATIONS, SUBDIVISION III SETBACKS, OF THE LAND DEVELOPMENT CODE; PROVIDING FOR PERMITTED ENCROACHMENTS RELATING TO MECHANICAL EQUIPMENT; AND, PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

MEETING DATE: 10/7/2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	STATUTE	John Dulmer, AICP, Community Development Director Jacqueline Genson, AICP Planning and Zoning Manager
☐	CONSENT	☒	ORDINANCE	
☐	PUBLIC HEARING	☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	OTHER: PERMISSION TO ADVERTISE LDC AMENDMENTS	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☐	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:
Prior to 2012, standards for permitted encroachments existed for wing walls, overhangs, shutters, awnings and canopies. No standards existed for encroachment of stairs, decks, or mechanical equipment; the Land Development Code (LDC) was silent. Community Development staff proposed an LDC amendment in 2012 to establish a standard of 3.5', which allowed for a 6'' separation from the building (HVAC efficiency) and a 3' encroachment, which was consistent with the standard for overhangs, awnings, and canopies. The City Attorney's Office modified staff's language to the present day version. Community Development staff had concerns with this application relative to planned developments (existing, new and approved) where lot areas and dimensions were approved by the City Council in accordance with LDC 4-741(d)(1)a, which typically included side setbacks less than 7.5'. Similar concerns also apply to residential multi-family districts (RM-2 requires a 7' side setback), existing non-conforming lots measuring less than 75ft in width and 86-36 developments (mobile home and recreational vehicle parks). At the August 1, 2018, City Council provided direction on how to process HVAC replacements on existing structures acknowledging that this section of the LDC should be brought back for further discussion.

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

STAFF RECOMMENDATIONS: Move to second reading.

REVIEWED BY:

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

COUNCIL ACTION:

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

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 20-__

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING CHAPTER 4 ZONING, ARTICLE VI SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 30 PROPERTY DEVELOPMENT REGULATIONS, SUBDIVISION III SETBACKS, OF THE LAND DEVELOPMENT CODE; PROVIDING FOR PERMITTED ENCROACHMENTS RELATING TO MECHANICAL EQUIPMENT; AND, PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs, Florida is the governing body of Bonita Springs; and

WHEREAS, the City of Bonita Springs desires to clarify regulations relating to the placement of mechanical equipment within building setbacks; and

WHEREAS, pursuant to the Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

WHEREAS, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Amending Land Development Code

The Bonita Springs City Code is hereby amending Chapter 4 - Zoning, Article VI – Supplementary District Regulations, Division 3 – Property Development Regulations, Subdivision III – Setbacks, of the City's Land Development Code, with deletions depicted with ~~strikethroughs~~ and underlined language as additions, as follows:

Sec. 4-1892. - Measurement; permitted encroachments.

All setbacks shall be measured to the nearest point of a building or structure. Notwithstanding this section, none of these encroachments may be placed if the

structure will violate the state building code or the state fire prevention code. Encroachment into the setback shall be permitted as follows:

(1) *Wing walls.*

a. A wing wall which is part of a building may be permitted to encroach into a side or rear setback, provided that such encroachment is no higher than would be permitted for a fence or wall.

b. When measuring the setback for a wing wall, the setback shall be measured from the property line to the nearest point of the wing wall which meets the maximum height permitted for a fence or wall within the side or rear setback.

(2) *Overhangs.* An overhang which is part of a building may be permitted to encroach into any setback as long as the overhang does not extend more than three feet into the setback and does not permit any balcony, porch or living space located above the overhang to extend into the setback.

(3) *Shutters.* A shutter which is attached to a building may be permitted to encroach one foot into the setbacks.

(4) *Awnings and canopies.*

a. Awnings and canopies which are attached to a building may be permitted to encroach three feet into the setbacks, as long as their location does not interfere with traffic, ingress and egress, or life safety equipment.

b. For purposes of this section, awnings and canopies may be attached to a nonconforming building and shall not be considered an extension or enlargement of a nonconformity, as long as the building is properly zoned for its use and the conditions as set forth in this section are met.

(5) *Open deck.* Elevated decks that are not enclosed may be permitted closer to the minimum rear setback as follows:

a. Minimum rear setback shall be 19 feet from the rear property line;

b. Side yard setbacks shall comply with property development regulations for the zoning district;

c. Decks must have a minimum eight foot clearance from grade to the lowest horizontal member (where uncertainty exists in determining grade, measurement shall be obtained from the centerline of the road fronting the subject property);

d. Base of the deck may not be higher than the door exiting the principal structure;

e. Stairs and landings which are above 3½ feet must satisfy the 19-rear-foot setback;

f. Railings may not exceed four feet from the top of the deck;

g. No roofed structure may be placed above the deck;

h. No opaque material, including walls, may be placed below the deck, except for six-inch by six-inch maximum supporting columns.

(6) *Stairways/steps.* Stairways or steps, including associated railings and landing area, which are attached to a building and provide for pedestrian/occupant access may be permitted to encroach a maximum of three linear feet into setbacks, provided that the setback is greater than 7½ feet.

(7) *Mechanical equipment.* Mechanical equipment that is placed on an exterior concrete pad may be permitted to encroach a maximum of 3½ linear feet into the rear or side yard setbacks provided that the setback is greater than 7½ feet. For purposes of this section, mechanical equipment includes heating, ventilating and air-conditioning (HVAC) units, swimming pool equipment and back-up electrical generators. It does not include chimneys or oven exhaust systems.

a. Encroachments for legally approved PUD's and PD's or specific portions thereof that require a side setback of less than 7 ½ feet and were not approved as part of a zero lot line pattern of development may follow the below development standards and conditions for mechanical pads and equipment.

b. Unless a zero foot setback has been approved for the PUD/PD, mechanical equipment shall maintain a minimum setback of one foot from the property line.

c. Any new mechanical equipment must be offset and not directly aligned with other mechanical equipment on adjacent property. The offset measurement shall be no less than three (3) feet between equipment. The measurement must be indicated on the site plan and drainage exhibits provided to the City of Bonita Springs during the permitting process.

d. Generators:
    i. In addition to the above, every effort shall be made to site generators at the furthest possible distance from the abutting single-family dwelling unit's windows and/or doors; and
    ii. All generators shall have user preselected exercise times limited between the hours of 10:00 am – 4:00 pm; and

e. At time of building permit, applicants shall submit a narrative and drainage exhibit showing how the installation of the mechanical equipment does not impede flow of drainage.
    i. The drainage exhibit shall show the following:
        1. The location of the proposed mechanical equipment on the property and adjacent properties with full measurements.
        2. existing elevations; and

3. drainage arrows; and
4. existing landscaping; and
5. existing gutters; and
6. a detailed cross section through the proposed mechanical pad, from the existing single-family building to the adjacent single-family building; and
7. any other elements that are located between homes.
8. These requirements may be modified if an acceptable alternate plan is provided

f. In addition to the submittal requirements above, when mechanical equipment is proposed to be located less than 5' from the property line, the following are required:
   i. Written HOA approval of proposed location of equipment.
   ii. Approval from the adjacent neighbor for location of equipment.
   iii. An elevated, open-style platform for the mechanical equipment to ensure drainage is not obstructed, as required. The elevated platform must provide a minimum of 1' of clearance area under the pad so drainage may pass. The area under the platform must be maintained at all times.
   iv. Gutters and downspouts on the side of the homes to reroute drainage to the front and back of the home, as required.
   v. Install yard drain(s) and piping, as required.
   vi. Landscaping alterations to ensure proper drainage flow.
   vii. Property line survey.
   viii. A final grading/engineering inspection prior to Certificate of Completion of building permit.
   ix. Items A-H may be modified if an acceptable alternate plan is provided.

Section 3. SEVERABILITY

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any court of competent jurisdiction shall hold any of the provisions of this Ordinance unconstitutional, the decision of such court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would be adopted had such unconstitutional provision not been included therein.

Section 4. CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted City of Bonita Springs ordinance or Florida Statutes, the more restrictive shall apply.

Section 5. **CODIFICATION AND SCRIVENER'S ERRORS**

It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.

Section 6. **EFFECTIVE DATE**

This Ordinance shall be effective immediately upon its adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of October, 2020.

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM: _____

City Attorney

Vote:

Carr	Gibson
Purdon	Quaremba
Forbes	Simmons
Corrie	

Date filed with City Clerk: _____

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-310

AGENDA ITEM SUMMARY:

REQUESTED MOTION: Continued from September 16, 2020: Second reading and public hearing of the following Ordinance: An Ordinance of the City of Bonita Springs, Florida, amending Division 37., Subdivision II, Temporary Uses and Subdivision III. Mobile Food Vendors of the Land Development Code relating to Mobile Food Vendors; providing for severability, conflicts, codification, scrivener's errors; and providing for an effective date.

MEETING DATE: 10/7/2020

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:

The current standards for mobile food vendors were adopted in 2015. These regulations allow for up to five mobile food vendors within the City. These standards also require vendors leave the site after vending and limits the time a vendor can locate at a particular location. In previous discussions, Council has directed staff to modify the ordinance to remove the maximum number of vendors and instead review and approve locations and not vendors. Vendors would be able to operate at a permitted site by providing necessary credentials from State inspections and approval.

In 2019 City Council requested staff bring the mobile food vendor ordinance forward to discuss current regulations and determine if amendments are appropriate. This item was last discussed by City Council on March 4th. At that time, Council has requested this item be brought back to discuss several items:

- Look to remove the limit of food trucks within the City and require only the location be permitted by City Council
- Look for an approval process for food truck parks with appropriate locational and performance standards.
- Provide mitigation strategies and provide for protections of existing residents.

The draft was presented to the LPA who unanimously considered it consistent with the Bonita Springs Comprehensive Plan. The second reading of Ordinance before Council was held on September 16, 2020, and Council continued the second reading to October 7, 2020 to allow for the discussion on the prohibition of Little Hickory Island.

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

STAFF RECOMMENDATIONS: Adopt Ordinance.

REVIEWED BY:

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

COUNCIL ACTION:

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

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 20-__

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING DIVISION 37. SUBDIVISION II, TEMPORARY USES AND SUBDIVISION III. MOBILE FOOD VENDORS OF THE LAND DEVELOPMENT CODE RELATING TO MOBILE FOOD VENDORS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs, Florida is the governing body of Bonita Springs; and

WHEREAS, the City previously adopted Ordinance 13-02 creating a registry and establishing regulations for mobile food vendors within the municipal boundaries of the City; and

WHEREAS, City Council recognizes the regular need to update its regulations to adapt to changes in market conditions, while protecting public health, safety, and welfare; and

WHEREAS, City Council in responding to public input now desires to open up its regulations with respect to food trucks while mitigating any impacts to existing and adjacent uses; and

WHEREAS, City Council desires locational and development standards should be created to allow for food truck parks within certain commercial districts of the City while limiting their impact in predominantly residential areas such as Little Hickory Island or areas sensitive to redevelopment; and

WHEREAS, pursuant to the Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

WHEREAS, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Amending Land Development Code

The Bonita Springs City Code is hereby amending Chapter 4 - Zoning, Article VI – Supplementary District Regulations, Division 37 – Subordinate and Temporary Uses, Subdivision III – Mobile Food Vendors of the City's Land Development Code, with deletions depicted with ~~strikethroughs~~ and underlined language as additions, as follows:

Sec. 4-2153. - Applicability, purpose and intent.

~~(a) This subdivision provides minimum regulations for mobile food vendors and food stands. The purpose and intent of this subdivision is to provide regulations for mobile food vendors and food stands, as their use is listed in section 4-408(c)(29) Group III and section 4-408(c)(43) Group I, food stands. The provisions below are intended to provide economic development and entrepreneurial opportunities for applicable businesses, while protecting public health, safety, and welfare, minimizing visual impacts to the public realm, and mitigating fiscal impacts to standard restaurants and related businesses. It is not the intent of these provisions to regulate mobile food vendors from operating that are in transit, i.e., making stops at locations within the city less than a half hour per location.~~

(a) Applicability – The City of Bonita Springs recognizes that this use is temporary and mobile in nature. These regulations are intended to define the locations and development standards for a site to be permitted for mobile food vendors. The standards established in these regulations are intended to allow mobile food vendors to operate while mitigating impacts to the site in which they operate and adjacent properties and right of ways. These regulations do not address mobile food carts, or mobile vendors that visit sites to temporarily vend for a period of minutes and not days or hours (i.e. ice cream trucks, construction or work site vendors). These vehicles are permitted by other agencies and cannot operate in the same manner as a mobile food vendor.

Permit Required – No mobile food vendor location is permitted without an approved permit. Such a permit only address the location. Food vendors are required to provide evidence of all applicable inspections and permits with the City and not permitted or registered through this ordinance.

(b) Property owners that have a fixed (stationery) mobile food vendor permitted before January 1, 2013, and have made substantial improvements to the property (obtained development orders and expended at least $10,000.00 in site improvements) may continue to have a mobile food vendor on that site for eight years from adoption of the ordinance from which this subdivision is derived, subject to loss of nonconforming status per Section 4-2320 et seq. The community development director may grant a two year extension to the property owner. Property owner may replace the mobile food vendor, who may remain as originally permitted. Any new mobile food vendor located at the site must comply with S~~s~~ection 4-2156 except for the duration and physical movement of the vendor.

Sec. 4-2154. - Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commissary means an approved facility that provides support services for specific required functions of a mobile food vendor, including, but not limited to, mobile food vehicles and mobile food carts. Any food establishment permitted or licensed by a regulatory agency, such as a catering operation, restaurant, grocery store or similar establishment or any otherwise approved facility by FDACS in which food, containers, or supplies are kept, handled, prepared, packaged or stored can be considered for approval as a commissary. When not required at the mobile food establishment, commissaries may provide a three compartment sink for washing, rinsing and sanitization of equipment/utensils in addition to hand wash and rest room facilities. Services required of the commissary will be based on the food sold and the mobile food establishment type and capabilities. A private residence may not be used as a commissary (~~see F.S. ch. 500~~See Chapter 500, Florida Statutes).

Food stand means a temporary, non-motorized food unit with limited infrastructure, which serves food and/or beverage intended for immediate consumption and does not provide indoor seating.

Mobile food cart means any non-motorized mobile food unit with limited infrastructure, which serves food and/or beverages intended for immediate consumption. Mobile food carts may not exceed six feet in length, three feet in width (exclusive of wheels), or four feet in height (exclusive of wheels and umbrellas).

Mobile food vehicle means a motorized mobile food unit, which may be self-sufficient in terms of potable water, sanitary sewer and electric utilities, and generally consists of an enclosed truck, trailer or similar vehicle, where food may be stored, prepared, cooked, and/or served. An open bed truck, van or converted automobile is not considered a mobile food vehicle and is not eligible for a mobile food vending permit pursuant to this division.

~~*Mobile food vending permit* means a permit granted by the city to a mobile food vendor to conduct food vending from a mobile food cart, vehicle, or food stand.~~

Mobile food vendor means any person or business selling foods other than fresh fruits or vegetables from a mobile food vehicle, mobile food cart or food stand.

~~*Mobile food vendor group site* means the temporary siting of two or more mobile food vendors on a single property during a special event, subject to an approved temporary use permit.~~

Mobile Food Vendor Park means a site approved through a Special Exception to allow for permanent location for three or more mobile food vehicles. Such sites must

include required infrastructure and generally include public seating for all vehicles serving in the park.

Sec. 4-2155. - Permit required.

~~(a)~~ No mobile food vendor shall be permitted to operate within the city unless a permit has been obtained for the proposed location upon which the vendor will operate ~~from the department of community development~~.

~~(b) A mobile food vendor permit granted under this subdivision authorizes a vendor to sell food and/or beverages subject to all other applicable requirements in this chapter.~~

~~(c) Mobile food vendor permits shall be regulated as follows:~~

~~(1) No more than five mobile food vendor permits, as defined in this subdivision, shall be in effect at any time within the city, excluding temporary use permits issued pursuant to this subdivision.~~

~~(2) Permits shall be issued on a first come, first serve basis, and are non-transferable.~~

~~(3) A mobile food vendor may request approval to vend at a maximum of two locations per application, subject to the submittal requirements of this subdivision.~~

~~(4) Permits, unless sooner suspended or revoked, shall be valid for an initial period of six months from the date of issuance.~~

~~(5) Permit holders may apply to renew the permit for a period of 12 months no sooner than 30 days prior to permit expiration.~~

~~(6) Approved permits must be attached to the mobile food vendor unit where they are readily visible and shall include the name, mailing address, and valid phone number of the mobile food vendor unit owner and shall list the addresses and parcel identification numbers where the permit is valid.~~

~~(7) Routine inspections may be conducted by building or fire inspectors on each mobile food vendor at any time and at any frequency deemed appropriate by the city.~~

~~(8) Any mobile food vendor unit that has been issued a notice of health violation by the state, and on a subsequent inspection, a state inspector determines that the mobile food vendor has not corrected the violation, shall have its city-issued mobile food vendor permit revoked and food service shall cease in the city.~~

~~(d) Submittal requirements. Applications for mobile food vendor permits must include the following information:~~

~~(1) The name, address, telephone number, and email address of the applicant.~~

~~(2) A description of the type of food and/or beverages to be sold.~~

(3) Color photograph of the mobile food vehicle, cart or food stand depicting the current condition of the unit.

(4) Address of proposed vending site, including the property address, property owner's name and telephone number, and the name of the principal business located on the property (where applicable).

(5) A site plan for each proposed vending site, drawn to scale, depicting the following information:

(a) Total square footage of the property;

(b) Location and square footage of the existing principal and accessory uses, where applicable;

(c) Location and number of existing parking spaces, including a calculation that demonstrates the number of parking spaces required for the principal uses, and the number of parking spaces available to service the mobile food vehicle, cart or food stand pursuant to section 4-1732;

(d) Proposed location for the mobile food vehicle, cart or food stand;

(e) Location of ingress/egress to the site; and

(f) Table demonstrating the minimum setbacks in compliance with the underlying zoning district and this subdivision.

(6) Address of proposed location to store the mobile food vehicle, cart or food stand when not in use.

(7) A copy of all permits and business licenses required by the state, the county and the city.

(8) A notarized commissary agreement confirming the mobile food vendor is operating in conjunction with a licensed commissary in accordance with state statutes, where applicable. All commissaries must be pre-approved by the city prior to issuance of a mobile food vendor permit.

(9) A notarized affidavit signed by each property owner indicating that the vendor has permission to vend on the site. The affidavit must also indicate that the property owner acknowledges the following requirements:

(a) The property owner shall comply with all ordinances regarding solid waste disposal and must provide the vendor access to solid waste collection on the subject property;

(b) The property owner shall require that the vendors meet all applicable federal, state and local statutes, regulations, laws, ordinances, rules and

~~codes; including, but not limited to, permitting requirements regarding his or her specific business;~~

~~(c) The property owner shall acknowledge that he understands the regulations governing mobile food vendors and will be held responsible, along with the vendor, for any code violations; and~~

~~(d) The property owner shall ensure that the property will be continuously maintained in a neat, clean, and orderly manner.~~

~~(10) Proof of business insurance, issued by an insurance company that is licenses to do business in the state, protecting the applicant from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with mobile food vending. Such insurance shall name the city as an addition insured party and shall be in at least the amount of $500,000.00 for occurrence for injury and $200,000.00 per person.~~

~~(11) Letters of no objections from any school, church, restaurant Group II through IV or residence within 500 feet, or where applicable pursuant to section 4-2157.~~

~~(12) Application fee as outlined in the city's adopted fee schedule.~~

Permit Submittal Requirements –

1. Completed application.
2. Signed authorization from the property owner or authorized representative.
3. Proof of business insurance, issued by an insurance company that is licensed to do business in the state, protecting the applicant from all claims for damages to property and bodily injury, including death, which may arise from operations under, or in connection with mobile food vending. Such insurance shall name the city as an addition insured party and shall be in at least the amount of $500,000.00 for occurrence for injury and $200,000.00 per person.
4. Site Plan based on a valid survey, approved development order, or Master Concept Plan with dimensions and infrastructure identified, including the proposed location of the mobile food vendors. For large or phased projects, the plan submitted must provide enough detail to determine pedestrian and vehicular access to a public right of way.
5. All sidewalks, driveways, rights of way, parking areas, outdoor seating areas, buildings with entry locations.
6. A statement declaring if biodegradable packaging will be utilized, and if not, why.
7. If required parking spaces are to be utilized, the times businesses use those spaces and the proposed time they would be used for mobile food vending.

Non-Compliance with Permit

1. If a permit holder is found to operating inconsistent with the standards of the permit, as documented by a violation notice or conviction from the Bonita Springs Hearing Examiner, the permit may be suspended or revoked by the City Council after hearing evidence of the violation in a public hearing. The burden to maintain the permit will be with the permit holder.

Sec. 4-2156. - General standards.

~~The following standards shall apply to all mobile food vendor permits:~~

~~(1) Mobile food vehicles, carts or food stands may be permitted on nonresidentially zoned properties as specified in the zoning district regulations, in compliance with this subdivision.~~

~~(2) Establishments and/or vendors governed by this subdivision shall be limited in operation on site from 7:00 a.m. to 9:00 p.m., Monday through Sunday, unless additional hours are permitted pursuant to this subdivision.~~

~~(3) The mobile food vehicle or cart must physically be moved at least daily and cannot remain in a permitted vending location outside the approved hours of operation.~~

~~(4) Maximum duration. Mobile food vehicles, carts and food stands may not vend at the same location for more than a three days per week (beginning and ending at 7:00 a.m. on Mondays). The mobile food vehicles, carts and food stands must be moved to a different location (permitted) when not in use at the permitted vending locations.~~

~~(5) Exterior colors. Neon and fluorescent colors are prohibited. The use of black paint is limited to trim.~~

~~(6) No products shall be sold from any mobile food vendor vehicle or cart which is stopped, standing, or parked in any public street/right-of-way, crosswalk, and/or driveway. The mobile food vehicle or cart shall not impede the flow of traffic or pedestrians on the sidewalk, or obstruct access to fire hydrants.~~

~~(7) The mobile food vendor shall not block/interfere with required parking spaces, building access, loading areas, stormwater drainage systems, or landscape buffers associated with the principal use.~~

~~(8) Mobile food vehicles, carts, food stands and associated displays must be located in accordance with the principal structure setbacks of the underlying property's zoning district. Mobile food carts must be located in accordance with the accessory structure setbacks of the underlying property's zoning district.~~

~~(9) Parking spaces shall be provided in accordance with section 4-1732. Existing parking spaces for the principal use may count towards the required parking for the mobile food vendor use. However, at no time may the required number of parking spaces for the principal use be rendered nonconforming due to mobile food vendor use.~~

~~(10) The sale of alcohol beverages from a mobile food vehicle or cart is prohibited.~~

~~(11) Amplified music or other sounds from any mobile food vehicle or cart for the purposes of vending products is prohibited.~~

~~(12) Mobile food vendors are prohibited from discharging fat, oil, grease, and waste water into the sanitary sewer system. Waste shall be properly stored and disposed of at the commissary or other permitted recycling/disposal facility.~~

~~(13) Ice must be drained into a retention tank to be properly disposed of at the commissary or designated servicing area. No wastewater leakage will be allowed.~~

(1) Locations must not interfere with vehicular, multi-modal, pedestrian access and access ways.

(2) Cannot be located in a required parking space or driveway, unless it is specifically demonstrated the parking or driveway is not used during the time and/or days the mobile food vendor location is permitted.

(3) A mobile food vendor cannot install or create features, signs, or other identification not utilized while driving, that extend more than 3' from the vending vehicle in any direction.

(4) Must be located on property or within a development with completed infrastructure improvements.

(6) All mobile food vendors shall be located in areas and in a manner that they do not create an adverse view or vista. More specifically, the food truck or anything associated with its operation shall block the view of signs or vehicular or multi-modal access ways.

(7) No more than two mobile food vendors can be requested on a single site. For purposes of this specific requirement, a site includes an entire commercial development even if that development consists of more than one parcel.

(8) A mobile food vehicle cannot be permitted within 250 feet of another permitted location, or mobile food vendor park. This separation requirement will not reduce or amend locational standards for particular overlay districts.

(9) Permitted sites will have the mobile food vendor removed at the end of permitted operating hours.

(11) Cannot be located on the site of an active, or abandoned gas station or convenience store.

(12) Alcohol shall not be sold or consumed from a mobile food vendor.

(13) Advertising signs may be permitted upon the mobile food vendor, but there will not be additional signage installed in any other location.

(14) Notification will only be provided by courtesy mailing for property owners within 1,000' and be the responsibility of the applicant. The mailing list and copy of notification

will be provided to the City. The request for approval will also be listed on the advertised City Council agenda.

(15) Property Owner Responsibilities will include; and

a) Provision of sanitary facilities consistent with the standards of the Florida Building Code while considering aesthetics of the site; and
b) The responsibility to ensure vendors meet all applicable federal, state, and local statues, regulations, laws, ordinances, rules and codes; and
c) Acknowledgement that the regulations governing mobile food vendors hold the vendor and property owner responsible for violations of code.
d) Ensure that the property (both the subject site, and other properties that may be directly impacted by mobile food vending) be kept in a continuously neat, clean, and orderly manner.

Sec. 4-2157. - Prohibited locations.

(a) Mobile food vending is prohibited on all parcels zoned for residential uses, except as authorized under this Code pursuant to the special event or temporary use permit. Notwithstanding, mobile food vending may also be authorized at clubhouse or other portion of a residential community separate from the residences with the authorization of the homeowners association.

(b) Mobile food vending is prohibited on Little Hickory Island, except as authorized under this Code pursuant to the special event or temporary use permit.

(c) Mobile food vending is prohibited within the Downtown District on the Future Land Use Map except as authorized under this Code pursuant to the special event or temporary use permit.

~~(b) Mobile food vending is prohibited within the Old U.S. 41 Redevelopment Overlay District (see section 4-866), unless approved pursuant to a temporary use permit for a permitted special event.~~

~~(c) A maximum of one mobile food vendor may be permitted to vend per lot at the same time, unless the location has been permitted as a mobile food vendor group site pursuant to a temporary event/use permit.~~

~~(d) Setbacks.~~

~~(1) Unless there is a letter of no objection, mobile food vehicles, carts and food stands shall not be located closer than 500 feet from:~~

~~(a) Any school (noncommercial) or day care center (child).~~

~~(b) Church of place of worship.~~

~~(c) Restaurants, Groups II through IV.~~

~~(d) Any residentially used properties.~~

~~(2) A letter of no objection is not required when the applicant subject mobile food vehicle, cart or food stand is the school, day care center, church, or Groups II through IV restaurant.~~

~~(3) Mobile food vehicles, carts and food stands shall not be located closer than 200 feet from any other mobile food vehicle or cart, unless operating at an approved special event. For the purposes of this subsection, the distance shall be measured in a straight line from the subject mobile food vehicle, cart or food stand to the nearest mobile food vehicle, cart or food stand, and/or from the subject mobile food vehicle, cart or food stand to the property line of the school, day care center, church, or Groups II through IV restaurant.~~

Sec. 4-2159. – Mobile Food Vendor Park.

Applicability – This applies to any location that intends to provide permanent locations for mobile food vendors either through dedicated parking within an existing facility, or the creation of parking for such purpose. It is the permanent nature and not the number of mobile food vendors that distinguishes a mobile food vendor Park from temporary mobile food vendor locations.

General Standards

1. Must provide stabilized surface for the parking of the intended number of mobile food vendors
2. Central water and sewer must be provided for all mobile food vendors and the general public.
3. A mobile food vendor park can only co-locate on a site with existing uses if the tenants of those legal uses sign a no objection form
4. Any accessory structures, seating areas, pedestrian access must be specifically approved as part of the submitted plan.
5. There shall be no more than one mobile food vending park within 250 feet of another permitted park or mobile food vending location. This separation requirement will not reduce or amend locational standards for particular overlay districts.
6. Parking will be provided at three spaces per mobile food vendor, plus 1 additional parking space per 15 seats.
7. Restroom facilities will be required based on the standards of the Florida Building Code.
8. Cannot be located on the site of an active, or abandoned gas station or convenience store.
9. A food truck site will not be permitted on Little Hickory Island or within the Downtown District on the Future Land Use Map as provided by Section 4-2157.
10. Neighborhood meetings are required consistent with Bonita Springs LDC 4-28.
11. Public notice will include courtesy mailed notices for property owners within 2,000' for both Zoning Board and City Council hearings.

12. Mobile food vendors may have advertising on their vehicles, however, signage for a mobile food vending park must be consistent with the standards of Bonita Springs Land Development Code Chapter 6.

Permit Submittal Requirements

1. Mobile Food Vendor Parks may only be approved through a Special Exception permit
2. All required submittal requirements for a Special Exception, and
3. For open air central seating areas, an analysis for off-site impacts.
4. Analysis for off-site impacts of glare, dust, vibration, and odor on the adjacent and surrounding community.
5. For applications with outdoor entertainment, analysis for off-site impacts for noise.

Mobile Food Vendors

1. For Mobile Food vendors to locate at an approved location (both an approved site or approved mobile food vendor park), they must provide evidence that all required permits, inspections, licensure, or other approvals as needed by either county, state, or federal agencies prior to operating within the City.
2. Documentation will be submitted to the City through copies or accepted electronic forms.
3. Submittal of these documents will not produce a permit and other than maintain evidence of documents for public records, it will not produce a registry or registration.

Section 3. SEVERABILITY

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any court of competent jurisdiction shall hold any of the provisions of this Ordinance unconstitutional, the decision of such court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would be adopted had such unconstitutional provision not been included therein.

Section 4. CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted City of Bonita Springs ordinance or Florida Statutes, the more restrictive shall apply.

Section 5. CODIFICATION AND SCRIVENER'S ERRORS

It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to

"section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.

Section 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon its adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of October, 2020.

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM: _____

City Attorney

Vote:

Carr	Gibson
Purdon	Quaremba
Forbes	Simmons
Corrie	

Date filed with City Clerk: _____

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-08-292

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve Addendum to FGCU Riverkeeper Agreement

MEETING DATE: 10/7/2020

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	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☒	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			

BACKGROUND:

On September 2, 2020 the City approved the Riverkeeper agreement with and prepared by FGCU. After being executed by FGCU on September 10th it was determined that one of the provisions of the agreement was in conflict with the scope of the agreement. Attached is an addendum clarifying the intent of the parties.

Attachment: (1) Original Agreement, and (2) First Amendment to Agreement

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ **YES** ☐ **NO**
IF YES, WHICH STRATEGIC OBJECTIVE? 4) Environmental Protection

STAFF RECOMMENDATIONS: Approve Addendum Agreement

REVIEWED BY:

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

COUNCIL ACTION:

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

AGREEMENT

THIS AGREEMENT is entered into as of the date of the last signature on this Agreement (the "Effective Date") by CITY OF BONITA SPRINGS with offices located at 9101 Bonita Beach Road, Bonita Springs, FL 34135 (Sponsor) and the FLORIDA GULF COAST UNIVERSITY BOARD OF TRUSTEES (University), a public body corporate of the state of Florida located at, 10501 FGCU Blvd South, Fort Myers, FL 33965, collectively referred to as the "Parties." Sponsor and University agree to the following.

BACKGROUND

The research contemplated by this Agreement is designed to produce results of mutual interest to the University and Sponsor and will advance the instruction, research, and public service missions of the University in a manner consistent with its status as a tax-exempt, non-profit institution. Sponsor would like to engage the University to conduct research by hiring a full-time research lab technician at University's Vester Field Station to monitor for and respond to harmful algae, fish kills, and water quality concerns in the Imperial River, Estero Bay and along Bonita Beach.

The University's research capabilities reflect a substantial public investment, which the University as a part of its mission as a public University of research and higher education wishes to utilize in a cooperative and collaborative research effort with Sponsor.

ARTICLE 1 - RESEARCH WORK

1.1 Research Efforts. University shall use diligent efforts to perform the work that is described in Appendix A ("Scope of Work") according to the standards of a United States institution of higher education. The work will be performed by Nicole Weigold. Nicole is a recent graduate of FGCU (BS Marine Science) and is currently a non-student OPS employee at FGCU. Nicole is a great fit for the position based on her experience with the Fort Myers Beach "What's in the Water?" citizen science/outreach program (a collaboration between the FGCU Vester Field Station and the Mound House) and as a Vester Blair Scholar as a student. Through these experiences, Nicole has built a great rapport with the local community, which will be of great benefit as the Bonita Water Steward. Her organizational skills were also an asset for the "What's in the Water?" program. As a Blair Scholar, Nicole was trained to operate Vester boats and has become familiar with our local waterways over the past two years. Nicole also has experience conducting water quality analysis, has assisted in nutrient analyses, and is currently being trained in harmful algae analysis. All of these are skills required for the position. Nicole is qualified for the position, is great at community outreach, and is committed to the region.

1.2 Period of Performance. The period of performance for the Project will begin on October 1, 2020 and ends on September 30, 2022.

1.3 Principal Investigator. The "Principal Investigator" is Dr. Michael Parsons, who is responsible for performance of the Project on behalf of University. If named Principal Investigator ceases to serve as Principal Investigator for any reason, University shall promptly notify Sponsor, and University and Sponsor shall use good faith efforts to identify a mutually acceptable replacement within sixty (60) days, failing which University or Sponsor may terminate the Agreement.

ARTICLE 2 – RECORDS AND REPORTS

2.1 Records. The Principal Investigator shall prepare and maintain records containing the Research Results, including laboratory notebooks, in accordance with customary University practice. For

the duration of this Agreement at the convenience of the Principal Investigator, the Principal Investigator shall provide the Sponsor Technical Representative with reasonable access to research records.

2.2 Reports. The Principal Investigator shall deliver written progress reports to the Sponsor Technical Representative that assess the accomplishments of the Project as follows.

Report Type	**Due Date**
Final Report	September 1, 2022

ARTICLE 3 - COSTS, BILLINGS AND OTHER SUPPORT

3.1 Total Funding. Sponsor shall fund a maximum amount of $83,780 for the Project as indicated in Appendix B.

3.2 Payments. Sponsor shall pay University as invoice in accordance with the Florida Prompt Payment Act.

3.3 Billing Addresses.

University shall send invoices to:
Bonita Springs
Public Works Department
9101 Bonita Beach Road
Bonita Springs, FL 34135

Sponsor shall remit payments to:
Florida Gulf Coast University
Office of Research and Graduate Studies
10501 FGCU Blvd South
Fort Myers, FL 33965-6565
Via email: ORSP_SRBI@fgcu.edu

Sponsor shall include the Project number, if known, on all fiscal correspondence.

ARTICLE 4 – PUBLICATIONS; CONFIDENTIAL INFORMATION; PROPRIETARY MATERIALS

4.1 Publications.

(a) Policy. Under University policy research results must be publishable, and researchers may present at symposia or professional meetings and publish in journals, theses or dissertations, or otherwise of their own choosing. However, University researchers shall provide Sponsor copies of any proposed publication or presentation at least thirty (30) days in advance of submission to a journal, editor, or other third party to allow Sponsor to determine whether patentable subject matter or Sponsor's Confidential Information (defined in Subsection 4.2(a)) would be disclosed.

(b) Patentable Subject Matter. If Sponsor determines within thirty (30) days after receipt of the copies that the proposed presentation or publication contains patentable subject matter which needs protection, the researcher(s) shall refrain from making the presentation or publication for a maximum of three (3) months in order for University to file patent application(s).

(c) Confidential Information. If Sponsor determines within thirty (30) days after receipt of the copies that the proposed presentation or publication contains Sponsor's confidential information, the researcher(s) shall delete Sponsor's confidential information.

(d) Publication. If Sponsor does not respond within the thirty (30) days, the researcher(s) may proceed with the presentation or publication.

4.2 Confidential Information.

(a) Definition. "Confidential Information" means any confidential or proprietary information furnished by one Party to the other in connection with the Project that is specifically marked as confidential or followed up in writing to document its confidentiality as soon as possible but no more than fifteen (15) days after disclosure.

(b) Obligations. For three (3) years after disclosure of Confidential Information, the receiving Party may only disclose Confidential Information to its directors, officers, employees, consultants, and contractors who are obligated to maintain its confidentiality and who need to know Confidential Information for the performance of the Project. University may refuse to accept any Confidential Information offered by Sponsor.

(c) Exceptions. The obligations of Section 4.2(b) do not apply to information that the receiving Party can demonstrate (i) is publicly available; (ii) is independently known, developed, or discovered without use of Confidential Information; (iii) is made available by a third Party without a known obligation of confidentiality to the disclosing Party; (iv) is required to be disclosed to comply with a law, regulation, or court or administrative order provided that the receiving Party uses reasonable efforts to provide prior written notice of the disclosure. University is required by Section 1004.22 of the Florida Statutes to make available upon request the title and description of the Project, the name of the Principal Investigator, the name of the Sponsor, and the amount of funding.

(d) Ownership and Return. The disclosing Party (or a third party entrusting its information to the disclosing Party) owns its Confidential Information. Upon expiration or termination of this Agreement or at the request of the disclosing Party, the receiving Party shall return all originals, copies, and summaries of Confidential Information in its possession or control, except that legal counsel of the receiving Party may retain one (1) copy of the Confidential Information for the purpose of monitoring its obligations under this Agreement.

4.3 Proprietary Materials.

(a) Definition. "Proprietary Materials" means any proprietary materials that are furnished by one Party to the other Party in connection with performance of the Project. Proprietary Materials do not include materials that are developed in the Project.

(b) Limited Use and Transfer. The recipient may use Proprietary Materials only for performance of the Project and only in compliance with applicable federal, state, and local laws and regulations. The recipient may not use Proprietary Materials in any in vivo experiments on human subjects. The recipient may not transfer any Proprietary Materials to any third party without the prior written consent of the supplier. University and the Principal Investigator reserve the right to refuse to accept any Proprietary Materials offered by Sponsor.

(c) Warranty Disclaimer. Proprietary Materials that are furnished pursuant to this Agreement are provided for experimental purposes and may have hazardous properties. THE SUPPLIER MAKES NO REPRESENTATIONS AND EXTENDS NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO ANY PROPRIETARY MATERIALS, INCLUDING, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER PARTY MAKES ANY ASSURANCES THAT THE USE OF PROPRIETARY MATERIALS WILL NOT INFRINGE ANY PATENT RIGHTS OR OTHER PROPRIETARY RIGHTS OF A THIRD PARTY.

(d) Ownership and Return. The supplier (or any third party entrusting its materials to the Supplier) owns its Proprietary Materials. Upon expiration or termination of this Agreement or at the request of the supplier, the recipient shall (at the instruction of supplier) either destroy or return any unused Proprietary Materials.

ARTICLE 5 -- PROJECT INTELLECTUAL PROPERTY

5.1 Definitions.

(a) "Intellectual Property" means discoveries, inventions, improvements, and prototypes whether patentable or not, including, software, copyrighted and copyrightable works other than publications and reports, trademarks, and service marks, which are conceived or made during performance of the Project.

(b) "Research Results" means data and technical information that are obtained in performance of the Project. The term Research Results does not include Intellectual Property.

5.2 Ownership. University owns Intellectual Property that is conceived or made by employees of University. Sponsor owns all Intellectual Property that is conceived or made by employees of Sponsor. University and Sponsor jointly own Intellectual Property that is conceived or made by employees of University and Sponsor.

5.3 Disclosure. University shall provide Sponsor with written disclosure of University Intellectual Property promptly after it is disclosed by a University employee to University's Office of Research and Graduate Studies. Sponsor shall provide University with a written disclosure of any Sponsor Intellectual Property promptly after it is disclosed by a Sponsor employee to Sponsor. Each Party shall retain all Intellectual Property disclosures submitted by the other Party in confidence.

5.4 Patent Rights.

(a) University Responsibility. If Sponsor directs that a patent application for University Intellectual Property or jointly owned Intellectual Property be filed, University shall promptly prepare, file, and prosecute, at the expense of Sponsor (subject to Subsection 5.4(c)), patent rights for that Intellectual Property, using patent counsel reasonably acceptable to Sponsor. Sponsor and University shall cooperate to assure that patent applications cover, to the best of Sponsor's knowledge, all items of commercial interest and importance. While University is responsible for making decisions regarding scope and content of the patent applications, Sponsor may review and provide input. University shall keep Sponsor reasonably apprised as to developments with respect to the patent applications and shall promptly supply to Sponsor copies of all papers received and filed in connection with the prosecution. If Sponsor decides to discontinue the financial support of the patent applications, University may file or continue prosecution and maintain any protection in the United States and any foreign countries at University's sole expense with no further obligation

to Sponsor.

(b) Cooperation. University and Sponsor shall cooperate in the preparation, filing, prosecution, and maintenance of all patent rights for University Intellectual Property and jointly owned Intellectual Property. Cooperation includes (i) promptly executing or requiring employees to execute papers and instruments as reasonable and appropriate; and (ii) promptly informing the other Party of matters that may affect the preparation, filing, prosecution, or maintenance of those patent rights.

(c) Payment of Expenses. Within thirty (30) days after University invoices Sponsor, Sponsor shall reimburse University for all reasonable patent-related expenses incurred by University pursuant to Subsection 5.4(a). Sponsor may elect, upon sixty (60) days' advance written notice to University, to cease payment of the expenses associated with obtaining or maintaining that patent protection for one or more patent rights in one or more countries. In that event, Sponsor loses all rights under this Agreement with respect to patent rights in those countries.

5.5 Option Rights. University grants Sponsor a first right to negotiate a worldwide, royalty-bearing, exclusive license to University Intellectual Property or to University's rights in jointly owned Intellectual Property (the "Option Right"). Sponsor's right commences when University notifies Sponsor pursuant to Section 5.3 and expires ninety (90) days later ("Option Period"). Sponsor may exercise the Option Right by written notice to University during the Option Period. If Sponsor does not exercise the Option Right during the Option Period, University may license its commercial rights under the relevant Intellectual Property to any third Parties. If Sponsor exercises the Option Right, University and Sponsor shall negotiate in good faith a license agreement with commercially reasonable terms. If the Parties fail to execute a license to University Intellectual Property or to University's rights in jointly owned Intellectual Property within six (6) months after Sponsor's exercise of the Option Right, University has no further obligation to Sponsor for that Intellectual Property.

5.6 Licenses. In any license University grants to Sponsor for University Intellectual Property or for University's rights in jointly owned Intellectual Property, among other customary license terms, the Parties shall include terms to obligate Sponsor to (a) develop the Intellectual Property diligently for practical application and (b) pay all patent costs.

5.7 Use of Research Results. Each Party may use Research Results for any purpose. However, in the case of Sponsor, the use may not infringe any claim of a patent application or an issued patent included in University Intellectual Property rights for which Sponsor has failed to obtain a license as provided in Section 5.5.

5.8 Copyrightable Works. University or its employees own any copyrighted or copyrightable works (including reports and publications) that are created by University employees in the performance of the Project. University and the Principal Investigator grant Sponsor an irrevocable, royalty-free, nontransferable, non-exclusive right to copy and distribute any research reports that are furnished to Sponsor under this Agreement.

5.9 Research Partially Funded by Third Parties. If any patentable invention in the Intellectual Property has been funded by the federal government, this Agreement and the grant of any rights in that invention are governed by federal law set forth in 35 U.S.C. §§ 201-211 and corresponding regulations, as amended, or any successor statutes and regulations. If any Intellectual Property has been funded by a non-profit organization or state or local agency, this Agreement and the grant of rights in that Intellectual Property are subject to the terms of the applicable agreement. If any term

of this Agreement fails to conform to applicable law, regulations, or agreements, the relevant term is invalid and the Parties shall modify the term. Upon the request of Sponsor, University shall make available to Sponsor the terms of any agreements that partially fund the Project.

ARTICLE 6 - PUBLICITY

6.1 Sponsor may not use the name of University or of any member of University's Project staff in any publicity, advertising, or news release without the prior written consent of University. University may not use the name of Sponsor or any employee of Sponsor who is involved in the Project in any publicity, advertising, or news release without the prior written consent of Sponsor.

ARTICLE 7 – WARRANTY DISCLAIMER

7.1 UNIVERSITY MAKES NO EXPRESS WARRANTIES AND DISCLAIMS ANY IMPLIED WARRANTIES AS TO ANY MATTER RELATING TO THIS AGREEMENT, INCLUDING, THE PERFORMANCE OR RESULTS OF THE PROJECT; THE AVAILABILITY OF LEGAL PROTECTION FOR RESEARCH RESULTS, INVENTIONS, OR ANY OTHER WORK PRODUCT OF THE PROJECT; OR THE VALIDITY OR ENFORCEABILITY OF ANY INTELLECTUAL PROPERTY PROTECTION THAT MAY BE OBTAINED PURSUANT TO THIS AGREEMENT. UNIVERSITY PROVIDES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR ANY RESEARCH RESULTS OR INTELLECTUAL PROPERTY RIGHTS. UNIVERSITY MAKES NO ASSURANCES THAT THE USE OF RESEARCH RESULTS OR INTELLECTUAL PROPERTY RIGHTS WILL NOT INFRINGE ANY PATENT RIGHTS OR OTHER PROPRIETARY RIGHTS OF A THIRD PARTY.

ARTICLE 8 - TERMINATION

8.1 Termination. Either Party may terminate this agreement within thirty (30) days of prior written notice to the other.

8.2 Termination for Breach. If either Party commits a material breach of this Agreement and fails to remedy that breach within sixty (60) days after receipt of written notice from the other Party, the Party giving notice may terminate this Agreement by written notice to the other Party, effective upon receipt.

8.3 Surviving Terms. Expiration or termination of this Agreement by either Party does not affect the rights and obligations of the Parties that accrued prior to the effective date of termination, except that Sponsor's rights under Article 5 do not survive termination for non-payment of any amounts due under this agreement or any other material breach by Sponsor. Except in the case of material breach by Sponsor, expiration or termination of this Agreement does not affect the Parties' rights and obligations under Articles 3, 4, 6, 7, 8, and 10.

8.4 Payments on Termination. If this Agreement is terminated prior to its expiration for any reason other than a material breach by University, then on the effective date of termination, Sponsor shall pay University (a) for costs that were incurred by University through the date of termination or for the work that was performed through the date of termination and (b) for all uncancellable financial commitments that University intended to pay through Sponsor's funding under this Agreement, including, salaries for appointed employees (e.g., postdoctoral associates) and tuition for graduate students for the remainder of their term of appointment.

ARTICLE 9 - NOTICES

The Parties shall provide notices for this Agreement in writing by email, recognized national overnight courier or registered or certified mail, postage prepaid, return receipt requested, to the following addresses:

If to Sponsor	If to University:
Administrative: City of Bonita Springs Public Works Department 9101 Bonita Beach Road Bonita Springs, FL 34135 Technical Matters: Matt Feeney Assistant City Manager (239) 949-6262 matt.feeneyt@cityofbonitasprings.org	Administrative: Office of Research and Graduate Studies Ms. Donna Gilmore, Director of Research Florida Gulf Coast University 10501 FGCU Blvd South Fort Myers FL 33965-6565 (239) 590-7020 dgilmore@fgcu.edu Technical Matters: Michael Parsons, Ph.D. 10501 FGCU Blvd South Fort Myers, FL 33965-6565 239-590-7526 mparsons@fgcu.edu

ARTICLE 10 -- MISCELLANEOUS

10.1 Independent Contractor. University and Sponsor are independent contractors. Neither Party may act as agent for the other or enter into any contract, warranty, or representation on behalf of the other. Neither Party is bound by the acts or conduct of the other.

10.2 Insurance; Liability.

(a) University and Sponsor each have adequate liability insurance for its officers, employees, and agents while acting within the scope of their employment. University and Sponsor each have no liability insurance policy that can extend protection to any other person.

(b) Pursuant to Section 768.28, Florida Statutes, each Party assumes all risks of personal injury and property damage attributable to the acts or omissions of that Party and its officers, employees, and agents.

10.3 Governing Law. This Agreement is governed and construed in accordance with the laws of the State of Florida. The Parties shall bring any action in connection with this Agreement in courts of competent jurisdiction in Lee County, Florida.

10.4 Assignment. Neither Party may assign this Agreement voluntarily, by operation of law, or through change of control without the prior written consent of the other, which the Party may not

unreasonably withhold or delay. This Agreement is binding upon and inures to the benefit of the Parties and their permitted successors and assigns.

10.5 Agreement Modification. The Parties may only modify this Agreement by a written instrument signed by both Parties. Any waiver of rights or failure to act in a specific instance relates only to that instance and is not an agreement to waive any rights or fail to act in any other instance.

10.6 Force Majeure. Neither Party is responsible for delays resulting from causes reasonably beyond its control, including fire, explosion, flood, tropical storm, hurricane, war, strike, or riot, provided that the nonperforming Party uses commercially reasonable efforts to avoid or remove causes of nonperformance and continues performance under this Agreement with reasonable dispatch after the causes are removed.

10.7 Export Controls. The Parties shall comply with United States export control laws and regulations that apply to information and materials that are exchanged under this Agreement. Sponsor shall notify University before providing University with any export controlled information or materials.

10.8 Dispute Resolution. For any dispute related to this Agreement that the Parties cannot resolve by mutual agreement, the Parties shall seek agreement through formal mediation in Fort Myers, Florida, failing which either Party may pursue any remedies legally available.

10.9 Severability. If any provision of this Agreement is held invalid or unenforceable for any reason, the invalidity or unenforceability does not affect any other provision of this Agreement, and the Parties shall negotiate in good faith to modify the Agreement to preserve (to the extent possible) their original intent.

10.10 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior agreements or understandings between the Parties relating to its subject matter.

10.11 Counterparts. The Parties may execute this Agreement in one or more counterparts, each of which is an original, and all of which together are the same instrument.

10.12 Headings. Headings are for convenience and do not affect the meaning of any provision of this Agreement.

THE PARTIES have caused this agreement to be executed by their duly authorized representatives as of the Effective Date.

CITY OF BONITA SPRINGS	FLORIDA GULF COAST UNIVERSITY BOARD OF TRUSTEES
By:_____	By:_____
Authorized Signature	
_____	Tachung Yih, Ph.D. Associate VP for Research
Printed Name & Title	Printed Name & Title
_____	_____
Date	Date

Appendix A

Scope of Work

The Bonita Water Steward - Nicole Weigold

Funds are requested to hire a full-time research lab technician at the Vester Field Station to monitor for and respond to harmful algae, fish kills, and water quality concerns in the Imperial River, Estero Bay, and along Bonita Beach.

Specific tasks include:

- Collect samples on a weekly from the Imperial River (at the US41 bridge) down to New Pass (6 stations).
- Measure water quality parameters (temperature, salinity, oxygen, and pH).
- Collect and analyze samples for nutrients (total nitrogen, nitrate + nitrite, ammonium, total phosphorus, phosphate).
- Collect and analyze samples for harmful algal blooms (red tide and blue green algae in particular).
- Collect samples within City's natural waterbodies for bacterial analyses (Enterococci, Fecal Coliform, to be conducted by other entities).
- Collect nutrient samples and measure water quality parameters for the City's bio-reactor project.
- Advocate on behalf of the City for the bio-reactor project and other nutrient reduction projects as the monitoring data supports.
- Coordinate and work with City staff, its consultants, and the Florida Department of Environmental Protection, to establish a pre-approved removed efficiency rate for the bio-reactor technology as the data collected becomes available and conclusive.
- Organize (or assist in) efforts to clean-up fish kills and to document/remove dead or injured sea turtles, manatees, or sharks.
- Organize (or assist in) beach/bay litter clean-up activities, to include but not limited to Earth Day and Coastal Cleanup.
- Coordinate with City and assist in providing responses to media inquiries.
- Provide weekly water status updates to the Bonita Springs City Council and engaged citizens
- Provide technical assistance to City staff and consultants in the preparation and administration of water quality and environmental enhancement related grants opportunities.

Appendix B

Costs:

1. Personnel: A full time research lab technician will be needed to conduct weekly sampling and reporting activities. A full time position would also provide better continuity in the position (less turn over) than a part-time position. We anticipate a full-time technician salary to be $40,000 per year. Florida Gulf Coast University fringe benefits (35%) amount to an additional $14,000. Total full-time position costs: **$54,000 per year**.
2. Sample collection and analysis: Weekly sampling and analysis costs include fuel, field supplies, reagents and supplies for microscopy, and nutrient analysis. These costs are estimated at **$17,000 per year***.
3. Total direct costs = $54,000 + $17,000 = $71,000
4. The off-campus Facilities and Administrative (F&A) costs at the Vester Field Station are an additional 17% (17% of $71,000 = $12,070).
5. **Total cost: $83,070 per year.**

* Additional funds may be needed for other, more intensive analyses (e.g., metals, herbicides, pesticides and toxins) and/or for event response sampling and analysis.

FIRST ADDENDUM TO AGREEMENT

THIS FIRST ADDENDUM TO the Agreement dated September 10, 2020 (the "Agreement") between the City of Bonita Springs with offices located at 9101 Bonita Beach Road, Bonita Springs, FL 34135, and Florida Gulf Coast University Board of Trustees, a public body corporate of the state of Florida, located at 10501 FGCU Blvd South, Fort Myers, FL 33965, is entered into by and between the Parties amending the Agreement effective as of the last date of signature, as follows:

1. Delete the following Article 3.1:

3.1 Total Funding. Sponsor shall fund a maximum amount of $83,780 for the Project as indicated in Appendix B.

2. Insert the following new Article 3.1:

3.1 Total Funding. Sponsor shall fund a maximum amount of $83,780 per year for the Project as indicated in Appendix B.

THE PARTIES have caused this First Addendum to Agreement to be executed by their duly authorized representatives as of the Effective Date.

CITY OF BONITA SPRINGS	FLORIDA GULF COAST UNIVERSITY BOARD OF TRUSTEES
By:_____	By:_____
Authorized Signature	Authorized Signature
Peter Simmons, Mayor	Tachung Yih, Ph.D. Associate VP for Research
Printed Name & Title	Printed Name & Title
_____	_____
Date	Date

Approved as to Form and Legality
Lisa Jones 9-17-20
Lisa Jones
Associate General Counsel
Florida Gulf Coast University
Board of Trustees

GC508766

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-10-304

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve a sub-recipient agreement between Lee County and City of Bonita Springs for Community Development Block Grant – Coronavirus (CDBG-CV) Entitlement Funds in the amount of $206,313

MEETING DATE: 10/7/2020

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:
In mid-June of this year, the City was notified by Lee County Human and Veteran Services that additional funding for the COVID-19 pandemic response would be available through the U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) entitlement program. As an entitled community, and through an Urban County Agreement with Lee County, Bonita Springs allocation for this program is $206,313.

HUD CDBG entitlement funds are income-based and must benefit people with an income of less than 80% of the Area Median Income (AMI) in the County. Lee County's AMI is $68,700 which means that the CDBG-CV funds must be targeted to people making no more than $55,100 for a family of 4.

A specific list of eligible activities for the use of the CDBG-CV funds is outlined in Attachment 1. Broad categories for eligible projects are:

- Acquisition of real property
- Public facilities and improvements
- Public services
- Microenterprise assistance
- Special economic development activities
- Housing activities including rehabilitation, homeownership assistance, etc.

However, as a reminder, the eligible activities must tie-back and respond to or assist in the prevention of COVID-19.

One possible project for consideration that would qualify for funding under the Public Services category above is the support of the local food pantries in the community. The City could partner with local food banks (through a Request for Proposal/Qualification process) to provide funding for food security assistance.

Attachments: 1) CDBG-CV Project Eligibility Overview; 2) CDBG-CV Sub-recipient Agreement

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

IF YES, WHICH STRATEGIC OBJECTIVE? 7) Government Transparency: Increase Outreach/Accessibility to Citizens

STAFF RECOMMENDATIONS: Approve sub-recipient agreement with Lee County and provide direction to staff on selected project for CDBG-CV funding.

REVIEWED BY:

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

COUNCIL ACTION:

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

Attachment 1

CDBG-CV Project Eligibility Overview

Purpose

CDBG is a flexible program with the goal of developing viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons.

CDBG-CV funds are supplemental awards under the CARES Act specifically for the purpose of ***preventing, preparing for, and responding to coronavirus***.

Award Information

HUD has released $1,900,157 in supplemental grant funding for Lee County under the CDBG-CV program. The City of Bonita Springs allocation is as follows:

	CDBG-CV	Administration	Total to City
Bonita Springs	$206,313	$0	$206,313

CDBG Eligible Activities (As Related to COVID-19)

ALL ACTIVITIES MUST TIE-BACK TO SUPPORT COVID-19 RESPONDING TO OR PREVENTION RELATED ACTIVITIES. In order to be funded, activities have to be eligible and meet a national objective. Activities must benefit principally (70%) low- and moderate-income persons (<80% AMI). Categories of CDBG eligible activities include:

- Acquisition of Real property
- Public Facilities and Improvements
- Public Services
- Microenterprise Assistance
- Special Economic Development Activities
- Housing Activities including rehabilitation, homeownership assistance, etc.

CDBG-CV Program Considerations:

- Flexibilities to use CDBG-CV funds expeditiously: 15% cap on public services eliminated to use the CDBG-CV funds to facilitate the use of funds to prevent, prepare for, and respond to COVID-19, and grantees can reimburse costs of eligible activities incurred for pandemic response regardless of the date.

What are communities using CDBG-CV to support?

Public Services to support those affected by the pandemic

- Food security – food vouchers or food banks; food delivery (Meals on Wheels); meals for high-risk individuals includes persons experiencing homeless, special need populations, low-income households

- Behavioral health counseling
- Childcare, e.g. adapting childcare centers by installing physical barriers, such as glass or plastic window to maintain distancing – *Current program through Lee County available to Bonita Springs residents/businesses*
- Transportation – travel for medical care or other essential services
- Services for seniors, e.g. medicine delivery
- Supplies/equipment
- Foreclosure counseling
- Landlord/tenant legal services

Small Business Assistance – *Current program through Lee County available to Bonita Springs businesses*

- Grants to microenterprises
- Grants or loans to for-profit businesses
- Job training

Rehabilitation of buildings

- Retrofitting buildings for public health reasons including high-contact/high-proximity places of business

Rental Assistance – *Current program through Lee County available to Bonita Springs residents*

- Up to 3 consecutive months of rent/utilities for emergency rental assistance for persons unemployed or underemployed due to COVID, or exiting homelessness

Deciding which activities to fund

- What are the needs seen in our community?
- Partnership possibilities
- Leveraging other resources

CSFA # _____
CFDA # 14.218

STANDARD GOVERNMENT CONTRACT **Contract No. _____**

Funding Source: HUD – CDBG-CV Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136
Federal Register 6218-N-01

SUBRECIPIENT CONTRACT BETWEEN
THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS
And
City of Bonita Springs

THIS CONTRACT between Lee County, a political subdivision and Charter county of the State of Florida, hereinafter referred to as "**COUNTY**" and City of Bonita Springs a Government/Municipality registered under the laws of Florida Chapter 99-428, operating under the laws of the State of Florida and, hereinafter referred to as "**PROVIDER**" will become effective upon the date approved by the Board of County Commissioners (BOCC).

WHEREAS, COUNTY believes it to be in the public interest to provide certain activities to the Lee County residents through the **PROVIDER** according to this Contract, the agency's intent as stated in the proposal and attachments and/or exhibits, and all other terms and conditions as specified.

NOW THEREFORE, in consideration of the mutual covenants, promises, and representations contained herein **COUNTY** and the **PROVIDER** agree as follows:

ARTICLE I: SCOPE OF SERVICES

Contract allocates **PROVIDER** CDBG-CV funds for response to the COVID-19 epidemic through the U.S. Department of Housing and Urban Development (HUD) as authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, signed March 27, 2020. City of Bonita Sprigs will utilize allocated funds to assist non-profit food pantries to provide services to citizens located in Bonita Springs through a Request for Proposal (RFP) process to prevent, prepare for, and respond to the coronavirus (COVID-19). Specific services to be determined through the RFP process and must be eligible under CDBG-CV regulations (FR-6218-N-01 and applicable revisions).

Any proposal/application submitted which resulted in this funding award are binding and incorporated herein as a part of this contract including all conditions and projected levels of service.

For federally funded projects, all requirements and conditions as described in Attachment A, Program Guidelines must also be followed.

All projects funded by Department of Housing and Urban Development (HUD) Homeless Assistance Grants must actively participate in the Centralized Intake/Coordinated Assessment process and input data into the Homeless Management Information System (HMIS).

All activities funded with CDBG/HOME funds must benefit persons of income levels at or below 80% of the area median income and as defined in the pertinent program requirements.

Subrecipient certifies that the activity carried out under this Agreement will meet the CDBG/HOME income eligibility requirements.

ARTICLE II: TERM OF CONTRACT

This Contract shall begin **August 1, 2020** and end**, September 30, 2021** unless terminated as specified in Article IX, Suspension/Termination.

For unit rate contracts, programs must be operational within 45 days of contract begin date (identified above).

ARTICLE III: COMPENSATION AND REPORTS

A. Contract Payment

The **COUNTY** will make payments on a reimbursement basis to the **PROVIDER** and the **PROVIDER** agrees to accept as full compensation the total amount not to exceed **$206,313.00.** Payments will be authorized only for work completed and/or services delivered during the term of the contract as stated in ARTICLE II: TERM OF CONTRACT and prior to the payment request date. Documentation of eligible expenses will be provided as stated in ARTICLE III C. Contract Deliverables. Payment is subject to the provisions of ARTICLE III B. Deferred Payment/Return of Funds and ARTICLE IX:SUSPENSION/TERMINATION. Funding is contingent upon the availability of funds.

The **COUNTY** has agreed to purchase the service(s) listed in Article I. For unit rate contracts, this contract is for the payment of a fixed number of units of service at the fixed unit rate. For line item contracts, this contract is for payment of line item amounts as identified in the approved budget.

Approved Budget Category	Annual Budget Amount
Services/Activities to to prevent, prepare for, and respond to the coronavirus (COVID-19).	$206,313.00

Once funding is approved and a contract issued by DHS it must be returned by the agency for execution within 30 days. In addition, funds must begin to be drawn within 60 days of contract execution unless Contract Specialist authorizes additional time. Failure to return signed contract or begin spending funds within allocated time frame may result in reduction or forfeiture of funds.

B. Deferred Payment/Return of Funds

The **COUNTY** may defer payment to the **PROVIDER** for noncompliance with contract deliverables or program requirements.

If, as a result of monitoring or audit, units of service provided are not documented a payment may be deferred. If units are found to be unallowable, no future payments will be made until the full amount of overpayment is remitted to Lee County or a repayment agreement is accepted by Lee County. If the monitoring or audit occurs after the term of this contract, the **PROVIDER** will be required to remit funds to the **COUNTY** in accordance with the repayment conditions below.

The **PROVIDER** agrees to return to the **COUNTY** any overpayments due to funds disallowed pursuant to the terms of this Contract and/or Federal requirements. For contracts funded under the Partnering for Results (local general fund) process, repayment will be required if the amount paid exceeds 40% of program expenses. Such funds shall be considered **COUNTY** funds and must be refunded to the **COUNTY** within thirty (30) days of receiving notice from the **COUNTY** in writing regarding the overpayment. Should repayment not be made in a timely manner, the **COUNTY** will charge interest of one (1) percent per month compounded on the outstanding balance after forty (40) calendar days after the date of notification or discovery. The **PROVIDER** will be required to reimburse the **COUNTY** for any acts of non-compliance resulting in disallowed costs or fines.

C. Contract Deliverables

1. Required Reports (checked boxes are applicable)

☑ **EXHIBIT 1- Payment Request - Due: Monthly by the 20th of the following month.** All payments will be **reimbursement** for eligible expenses/services defined as uncompensated expenses rendered during the contract term and paid prior to final payment request due date as indicated in the Contract Closeout Section (Article III 2 D). Copies of supporting documentation is required as part of the Payment Request for review of grant compliance and before payment will be authorized by Human and Veterans Services. **Reimbursement** for eligible expenses will be made after review and authorization of a correct and complete Exhibit 1 and all required back up documentation. Lee County must be payor of last resort, meaning that if services are eligible to be billed to any other entity including but not limited to: Medicaid, third party insurance or any other entity, then Lee County will not pay for that service.

Appropriate back-up/supporting documentation may include: cancelled checks, vendor invoices, authorized purchase orders, attendance/service logs, other funder invoices, expenditure spreadsheets or other original documentation, as well as a copy of the PROVIDER'S check issued with authorized signature. Two-sided copies of back-up documentation are preferred. For Construction Contracts, inspection reports from qualified officials should be submitted with the appropriate monthly payment request. For PFR contracts, documentation of expenses may be required as back-up/supporting documentation if the ratio of county funding to program expenses exceeds or is close to exceeding the 40/60% requirement.

The Exhibit 1 (Payment Request) must be submitted with an **authorized** signature. Cancelled checks, bank statements and/or other documentation from vendor that expense has been paid or service provided may be verified during monitoring.

Processing of payment requests is also subject to requirements and conditions as outlined in Attachment A, Program Guidelines.

☑ **EXHIBIT 2- Program/Demographics/Beneficiary Report –Due: As indicated on Exhibit 2.**

☐ **EXHIBIT 3 – Performance Outcomes Report – Due: As indicated on Exhibit 3.**
☐ **EXHIBIT 4 - Quarterly Unit Rate & Revenue Analysis Report – Due: 30 days following the end of each quarter. (Jan 31; April 30; July 31; Oct 31). Documentation**

to support expenditures and revenue MUST be attached i.e. QuickBooks; Profit/Loss Statement.

☐ **EXHIBIT 5- Annual Progress Report or Closeout Report- Due as indicated on Exhibit 5 and/or in Section D.**

☑ **EXHIBIT 6 - Certificate of Insurance -**

☐ **EXHIBIT 7 – Statement of Work** –

☐ **EXHIBIT 8 - Equipment/Fixed Assets Inventory Form- Due: 30 days from purchase of equipment or fixed assets, and annually on October 1.**

☐ **EXHIBIT 9 - Annual Certification of Continued Operation (ESG) - Due: As indicated on Exhibit 9.**

☐ **EXHIBIT 10- Current Board of Directors Roster**

An email or hard copy of all exhibits/reports is acceptable. Reports/Exhibits including the Exhibit 1 (Payment Request) requiring signatures can have an electronic signature or a scanned copy of the report with signature.

2. Required Documents

☑ Audited Financial Statement and Management Letter for fiscal year(s) in which contract funds are expended – **Due Date: Non profits - 180 days following the end of PROVIDER'S fiscal year(s); Governments/municipalities - 270 days following the end of fiscal year(s).**

☐ Copy of latest Form 990 - **Due Date: Non profits – -180 days following the end of PROVIDER'S fiscal year(s)**

☐ Monitoring Reports – A copy of monitoring reports issued from other sources that fund any program covered under this contract and copies of **PROVIDER'S** response to the funding agency are due to the **COUNTY** no later than **30 days** after receipt by the **PROVIDER.**

D. Contract Closeout

- ☐ Partnering for Results: Unit Rate Analysis Report -**Due: 30 days after contract end.**
- ☐ Partnering for Results: Final Payment Request –**Due: 4 business days after contract end.**
- ☐ Partnering for Results: Close Out Report – **Due 30 days after contract end**.
- ☐ State Mandated: Final Payment Request – **Due: 4 business days after contract end**
- ☐ HOME – Closeout package for each property –**Due: 120 days after final payment .**
- ☐ Supportive Housing Program and Rental Assistance (COC) – Final Payment Request and Annual Progress Report –**Due: 45 days end date of program year.**

☒ CDBG – Final Payment Request and Beneficiary Reports – **Due: 20th of the month after term end.**

☐ Other Funding Source – _____

☐ Final Closeout Payment Request – **Due:** _____

ARTICLE IV: AUDITS, MONITORING, AND RECORDS

A. Monitoring

The **PROVIDER** agrees to permit persons duly authorized by the **COUNTY** and the Federal or State grantor agency (if applicable) or any representatives to inspect all records, papers, documents, facility's goods and services of the **PROVIDER** and/or interview any clients and employees of the **PROVIDER** to be assured of satisfactory performance of the terms and conditions of this contract to the extent permitted by the law after giving the **PROVIDER** reasonable notice. The monitoring is a limited scope review of the contract and agency management and does not relieve the **PROVIDER** of its obligation to manage the grant in accordance with applicable rules and sound management practices.

Following such monitoring the **COUNTY** will deliver to the **PROVIDER** a written report regarding the manner in which services are being provided. The **PROVIDER** will rectify all noted deficiencies within the specified period of time indicated in the monitoring report or provide the **COUNTY** with a reasonable and acceptable justification for not correcting the noted shortcomings. The **PROVIDER**'**S** failure to correct or justify the deficiencies within the time specified by the **COUNTY** may result in the withholding of payments, being deemed in breach or default, or termination of this Contract.

B. Audits and Inspections

The **PROVIDER** will make all records referenced in ARTICLE IV C. and all items included on financial statements available for audit or inspection purposes at any time during normal business hours and as often as **COUNTY** deems necessary.

The Clerk of Courts Internal Audit Division, the Federal or State grantor agency (if applicable), Lee County employees, or any of their duly authorized representatives have the right of timely and unrestricted access to any books, documents, papers, or other records of **PROVIDER** or Certified Public Accountant (CPA) that are pertinent to the contract, in order to make audits, examinations, excerpts, transcripts and copies of such documents. If contract non-compliance or material weaknesses in the organization are noted, the **COUNTY** or other authorized representatives have the right to unlimited access to records during an audit or inspection. This includes timely and reasonable access to a **PROVIDER'S** personnel for the purpose of interview and discussion related to such documents.

C. Records

The **PROVIDER** shall retain all financial, client demographics, and programmatic records, supporting documentation, statistical records, and other records, which are necessary to document service provision, expenditures, income and assets of the **PROVIDER** by funding source, program, and functional expenses category during the term of this contract and a minimum of five (5) years from the date of contract expiration. The retention period may be longer depending on the funding source and it is the PROVIDER's obligation to comply with all

Federal and State of Florida retention schedules. If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the retention period, the records shall be retained for one (1) year after the final resolution of the action and final resolution of all issues that arise from such action.

PROVIDER specifically acknowledges its obligations to comply with §119.0701, F.S., as amended from time to time, with regard to public records, and shall:

1) keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the services required under this Contract;
2) upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 Florida Statutes or as otherwise provided by law;
3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
4) meet all requirements for retaining public records and transfer, at no cost to the County, all public records in possession of **PROVIDER** upon termination of this Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology system of the County.

IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, http://www.leegov.com/publicrecords.

D. Independent Audit

A complete independent financial audit of the agency's financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and/or current Generally Accepted Government Auditing Standards (GAGAS) as applicable is required and must include the following:

- auditor's opinion
- requisite reports on internal control and compliance, if required
- management letter addressing internal controls (Note: If there were no items to be addressed, the letter must still be completed and state that no comments were noted.)
- management's response to such letter
- the programs that are funded by this Lee County contract either in the statement of functional expenses, revenues and expenditures, footnotes, schedule of Federal awards and State financial assistance or as supplemental data in the financial statements. The statement should be consistent with programs detailed in the corresponding proposal(s), exhibit(s), and attachment(s).

An original, bound version must be submitted. As an alternative, an electronic format **sent from the auditing firm** is acceptable. The audit must be submitted to the **COUNTY** no later

than one hundred eighty (180) days following the end of a non profit **PROVIDER'S** fiscal year and two hundred seventy (270) days following the end of a government/municipality **PROVIDER'S** fiscal year. If applicable, any corrective action plan must be submitted. Failure to submit the report within the required time frame can result in the withholding of payment, or termination of the contract by the **COUNTY**.

The audit must be conducted by an independent, licensed certified public accountant with an unmodified opinion on their current peer review and must be in accordance with the General Accounting Office (GAO) Yellow Book, Generally Accepted Government Auditing Standards, OMB Circular A-133 "Audits of States, Local Governments and Non-Profit Organizations" if applicable, the Florida Single Audit Act (F.S. 215.97) if applicable, and the Auditor General Rule 10.550 (Government) or 10.650 (Not For Profit) as applicable.

Copy of the latest Form 990 must also be submitted no later than one hundred eighty (180) days following the end of a non profit **PROVIDER'S** fiscal year.

ARTICLE V: AMENDMENTS

PROVIDER must submit a written request (email is acceptable) for a contract amendment which details the nature of and justification for the requested change and the desired effective date of the change(s). The **COUNTY** reserves the right to approve or deny all contract amendments. An approved amendment shall be documented on the contract amendment form and signed by both parties.

The Department Director may approve amendments to the contract, which do not substantially change the original contracted scope of service and statement of work, including extensions to the end date of the contract as identified in ARTICLE II. The Board of County Commissioners must approve amendments which increase or decrease contract funds; significantly change program design including target population or major changes in outcomes; change or add to the standard provider contract language, which is not for the purpose of correcting original omissions or clarifying original contract intent.

For federally funded projects, HUD must approve (24 CFR 583.405), in writing, any **significant** changes to an approved Homeless Continuum of Care program prior to initiating a contract amendment. Amendments to CDBG, HOME, or ESG which involve new or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activities or beneficiaries must receive prior HUD approval.

ARTICLE VI: CONTRACTOR STATUS

A. Independent Contractor

It is the Parties' intention that the **PROVIDER** will be an independent contractor and not the County's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Florida revenue and taxation law, Florida Worker's Compensation law and Florida Unemployment Insurance Law. The **PROVIDER** will retain sole and absolute discretion in the judgment of the manner and means of carrying out the **PROVIDER'S**

activities and responsibilities hereunder. The **PROVIDER** agrees that it is a separate and independent enterprise from the public employer, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the **PROVIDER** and **COUNTY**, and **COUNTY** will not be liable for any obligation incurred by the **PROVIDER**, including, but not limited to, unpaid minimum wages and/or overtime premiums.

B. Subcontracts

Primary roles and responsibilities of **PROVIDER** cannot be subcontracted. It is mutually agreed that any program component that is subcontracted by **PROVIDER** must have a written contract upon execution of this contract. Provider must provide written notice to the **COUNTY** of all subcontractors as well as provide copies of all contracts entered into with subcontractors upon the **COUNTY**'s request. Procurement and/or bidding of non primary roles and responsibilities must be awarded on a fair and non collusive basis and must be in compliance with all applicable Lee County, State of Florida and Federal standards. The **PROVIDER** shall not enter into a transaction with a person or affiliate placed on the Florida Department of Management Services' Convicted Vendor List. For projects and services receiving federal funds, the **PROVIDER** shall also not enter into a transaction with debarred, suspended or ineligible contractors and participants included on the Federal Excluded Parties List. The **PROVIDER** must ensure each subcontractor conforms to the terms and conditions of this contract and if applicable Attachment A, Program Guidelines and must be subject to indemnification as stated in Article VIII.

ARTICLE VII: CONFLICT OF INTEREST

The **PROVIDER** agrees that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required in this contract. The **PROVIDER** further agrees that no person having any such interest shall be employed or engaged for said performance. The **PROVIDER** agrees that no employee, officer, agent of the provider or its sub-recipients shall participate in the selection, award or administration of a contract or construction bid if a conflict-of-interest, either real or implied, would be involved. The **PROVIDER** or sub-recipient employees, officers and agents should refrain from accepting gratuities, favors or anything of monetary value from contractors or potential contractors based on the understanding that the receipt of such an item of value would influence any action or judgment of the **PROVIDER**.

For federally-funded contracts, conflict of interest provisions described in 2 CFR 200.112 and all other HUD regulations currently in effect and as may be amended from time to time shall apply.

ARTICLE VIII: RISK MANAGEMENT

A. Hold Harmless and Indemnity Clause

To the fullest extent permitted by applicable law, **PROVIDER** shall protect, defend, indemnify, save and hold the County, the Board of County Commissioners, its agents, officials, and employees harmless from and against any and all claims, demands, fines, loss or destruction of property, liabilities, damages, for claims based on the negligence, misconduct, or omissions of the **PROVIDER** resulting from the **PROVIDER'S** work as further described in this contract and its attachments, which may arise in favor of any person or persons resulting from the

PROVIDER'S performance or non-performance of its obligations under this contract except any damages arising out of personal injury or property claims from third parties caused solely by the negligence, omission(s) or willful misconduct of the County, its officials, commissioners, employees or agents, subject to the limitations as set out in Florida general law, Section 768.28, Florida Statutes, as amended from time to time. Further, **PROVIDER** hereby agrees to indemnify the County for all reasonable expenses and attorney's fees incurred by or imposed upon the County in connection therewith for any loss, damage, injury, liability or other casualty. **PROVIDER** additionally agrees that the County may employ an attorney of the County's own selection to appear and defend any such action, on behalf of the County, at the expense of the **PROVIDER**. The **PROVIDER** further agrees to pay all reasonable expenses and attorney's fees incurred by the County in establishing the right to indemnity.

The **PROVIDER** further agrees that it is responsible for any and all claims arising from the hiring of individuals relating to activities provided under the Contract. All individuals hired are employees of the **PROVIDER** and not of the **COUNTY.**

B. Insurance Requirements

Insurance – Non Profit Providers

The **PROVIDER** agrees to secure and maintain the insurance coverage outlined below during the term of this Contract. The **PROVIDER** agrees that this insurance requirement shall not relieve or limit **PROVIDER**'S liability and that the **COUNTY** does not in any way represent that the insurance required is sufficient or adequate to protect the **PROVIDER**'S interests or liabilities, but are merely minimums. It is the responsibility of the **PROVIDER** to insure that all subcontractors comply with the insurance requirements.

Certificate(s) of Insurance ***naming Lee County Board of County Commissioners as Certificate Holder and additional insured*** will be attached to this contract as an exhibit. Name and address for Certificate Holder should be: Lee County Board of County Commissioners, P.O. Box 398, Fort Myers, FL 33902. Certificate(s) must be provided for the following coverage's at the time of contract execution and upon policy renewal. Renewal certificates are due to Lee County on or before expiration date.

1. **Workers' Compensation**– Statutory benefits as defined by Florida Statute 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees. Employers' liability will have minimum limits of:
   $100,000 per accident
   $500,000 disease limit
   $100,000 disease limit per employee

2. **Commercial General Liability** – Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:
   $500,000 bodily injury per person (BI)
   $1,000,000 bodily injury per occurrence (BI)
   $500,000 property damage (PD) or
   $1,000,000 combined single limit (CSL) of BI and PD

The General Liability Policy Certificate shall name "**Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials**" as **"Additional Insured".** The **PROVIDER** agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage being excess.

3. **Business Auto Liability** – The following Automobile Liability will be required and coverage shall apply to all owned, hired, and non-owned vehicles used with minimum limits of:
   $100,000 bodily injury per person (BI)
   $300,000 bodily injury per occurrence (BI)
   $100,000 property damage (PD) or
   $300,000 combined single limit (CSL) of BI and PD

4. **Directors & Officers Liability** – Entity coverage to cover claims against the organization directly for wrongful acts with limits not less than $100,000.

5. **Fidelity Bonding –** Covering all employees who handle the agency's funds. The bond amount must be equivalent to the highest daily cash balance or a minimum amount of $50,000.

Insurance – Government/Municipality
Documentation of the above coverage requirements are not applicable to government/municipalities that are self insured.

C. Notice of cancellation or modification

The **COUNTY** will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Lee County Risk Manager, P. O. Box 398, Ft. Myers, FL 33902.

ARTICLE IX: SUSPENSION/TERMINATION

A. Suspension

The **COUNTY** reserves the right to suspend funding for failure to comply with the requirements of this contract. Agencies that fail to submit required documents by the due date can be suspended, and payment will be withheld until all requirements are satisfied.

In the event **PROVIDER** ceases operation for any reason or files for protection from creditors under bankruptcy law, any remaining unpaid portion of this Contract, less funds for expenditures already incurred, shall be retained by the **COUNTY** and the **COUNTY** shall have no further funding obligation to the **PROVIDER** with regard to those unpaid funds.

For contracts funded under "Partnering for Results": If anticipated Program revenue from other sources exceeds expenses by 40%, Lee County reserves the right to suspend contract until final expenses/revenue is confirmed.

B. Termination by COUNTY

The **COUNTY** may at any time and for any reason cancel this Contract by giving twenty–four (24) hours written notice to the **PROVIDER** by Certified Mail, Process Server or Hand Delivery following a determination by the County Manager or designee, at its sole discretion, that such cancellation is in the best interest of the people of the county. From the date of cancellation, neither party shall have any further obligation unless specified in the termination notice.

If the financing for this project is contingent upon funding sources other than Lee County as identified in the proposal/application of the contract and such funds become unavailable the obligations of each party hereunder may be terminated upon no less than twenty-four (24) hours written notice.

For contracts funded under "Partnering for Results": If confirmed Program revenue from other sources exceeds expenses by 40%, Lee County reserves the right to terminate contract upon no less than twenty four (24) hours written notice.

For unit rate contracts, if program is not operational within 45 days from contract start date, funds for said program will be withdrawn and contract will be amended or terminated.

C. Termination by PROVIDER

The **PROVIDER** may at any time and for any reason cancel this Contract by giving seventy-two (72) hours prior written notice to the **COUNTY** by Certified Mail or Process Server of such and specifying the effective date.

COUNTY'S obligation to make any payments under any provision of this Contract shall cease on the effective date of termination.

ARTICLE X: ASSURANCE, CERTIFICATIONS, AND COMPLIANCE

The **PROVIDER** agrees that compliance with these assurances and certifications constitutes a condition of continued receipt of or benefit from funds provided through this Contract, and that it is binding upon the **PROVIDER**, its successors, transferees, and assignees for the period during which services are provided.

IMMIGRATION LAWS:

The **COUNTY** will not intentionally award contracts to any provider/contractor/vendor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act (INA).

The **COUNTY** shall consider the employment by any **PROVIDER** of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of the contract by The **COUNTY**.

OTHER REQUIREMENTS:

The **PROVIDER** further assures that all contractors, subcontractors, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs and activities are not discriminating against those participants or employees in violation of statutes, regulations, guidelines and standards. By acceptance of this funding, the **PROVIDER** assures and certifies the following:

A. That they will comply with all applicable laws, ordinances, and regulations of the United States, the State of Florida, the **COUNTY**, and the municipalities as said laws, ordinances, and regulations exist and are amended from time to time. In entering into this contract, the **COUNTY** does not waive the requirements of any **COUNTY** or local ordinance or the requirements of obtaining any permits or licenses that are normally required to conduct business or activity contemplated by the **PROVIDER**.

B. That they will comply with all applicable Federal, State and local anti-discrimination laws pertaining to nondiscrimination in programs receiving Federal financial assistance, including but not limited to:

- **Title VI of the Civil Rights Act of 1964,** as amended, and its implementing regulations – including that recipients/grantees of federal financial assistance are required to take reasonable steps to ensure meaningful access to persons who are Limited English Proficiency (LEP), as per Executive Order 13166.
- **Section 109 - Title I of the Housing & Community Development Act of 1974**
- **Section 504 of the Rehabilitation Act of 1973** (29 U.S.C. 794)
- **Age Discrimination Act of 1975** (42 U.S.C. 610 et. seq.)
- **Fair Housing Act**

Additional information can be accessed at the following websites:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp
https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep-mfh-faq

These requirements are designed to prevent discrimination in the delivery of benefits and services because of race, color, religion (creed), sex, national origin, age, familial status or disability. Affirmative marketing plans and use of universal design features for construction and rehabilitative projects should be incorporated when possible.

All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logotype, statement or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Different styles/types/sizes of logos and information regarding brochures and can be located at the following website: http://portal.hud.gov/hudportal/HUD?src=/library/bookshelf11/hudgraphics/fheologo

C. That they will comply with the Americans with Disabilities Act of 1990 ("ADA") (as codified at U.S.C 42.126 (sections 12101-12213) and 28CFR35, which gives civil rights protections to individuals with disabilities, guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, State and local government services, and telecommunications. A Single-Point-of-

Contact shall be required if the agency employs 15 or more employees. The Single-Point-of-Contact will ensure effective communication with deaf or hard-of-hearing customers or companions in accordance with Section 504 and the ADA and coordinate activities and reports with the provider's Single-Point-of-Contact.

D. That they will administer their programs under procedures, supervision, safeguards, and such other methods as may be necessary to prevent fraud and abuse, and that it will target its services to those who most need them.

E. That if clients are to be transported under this contract, the **PROVIDER** will comply with the provisions of Chapter 427, Florida Statutes, which requires the coordination of transportation for the disadvantaged.

F. That any products or materials purchased with contract funds shall be procured in accordance with the provisions of Chapter 403.7065, Florida Statues, which refers to the procurement of products or materials with recycled content.

G. That they will comply with Chapter 39.201, Florida Statutes, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).

H. That they will comply with Chapter 415.1034, Florida Statutes, that any person who knows or has reasonable cause to suspect that a vulnerable and or disabled adult has been abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).

I. That if personnel in programs under this contract work directly with children/youths and vulnerable or disabled adults, the **PROVIDER** will comply with applicable provisions under Florida Statutes 943.0542; 943.04351; 393.0655; 402, regarding employment screening.

J. That they will comply with Chapter 216.347, Florida Statutes, which prohibits the expenditure of contract funds for the purpose of lobbying the legislature, State or county agencies.

K. That they will notify the **COUNTY** immediately of any funding source changes and/or additions from other sources that are different from that shown in the **PROVIDER'S** application/proposal. This notification must include a statement as to how this change in funding affects provision of service as well as the use of and continued need for **COUNTY** funds.

L. That they will acknowledge support for activities funded wholly or in part by **COUNTY** funds. In publicizing, advertising, or describing the program, state "Funding provided by Lee County Board of County Commissioners".

M. That they will notify the **COUNTY** of any SIGNIFICANT changes to the **PROVIDER** organization to include Board Membership (roster), Articles of Incorporation and Bylaws within ten (10) working days of the effective date.

N. For federally funded programs, that they will comply with applicable uniform administrative requirements as described in 2 CFR Part 200 and all other established, applicable HUD regulations as now in effect and as may be amended from time to time.

O. The provider shall ensure that Lee County funds are restricted to people legally able to reside in the US.

P. The PROVIDER is prohibited from using contracted funds for the following: political activities; lobbying; political patronage; nepotism activities; and inherently religious activities such as worship, religious instruction, or proselytization.

Q. The PROVIDER must verify employment eligibility of all new employees hired during the contract term through the U.S. Department of Homeland Security's E-Verify system.

ARTICLE XI HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

Lee County, pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a "covered entity" as the law defines that term. Any "personal health information" (PHI) as defined by the law that the **COUNTY** receives pursuant to this Agreement is subject to the disclosure and security requirements of HIPAA. Transfer of information to the **COUNTY** sufficiently "de-identified" to no longer be considered PHI is encouraged as being in the best interest of client PHI confidentiality to the extent that client services are unaffected. Particular methods to accomplish the highest levels of client service coupled with PHI confidentiality shall be an on-going task of the effected staffs of the **COUNTY** and **PROVIDER**.

ARTICLE XII: CONTRACT DISPUTE RESOLUTION PROCEDURE

Any dispute between the parties with respect to provisions contained in a Lee County Department of Human and Veterans Service (DHS) contract or issues that arise pertinent to a contract shall be resolved as follows:

The parties may, by mutual agreement, attempt to resolve their dispute in the following manner within a thirty (30) day period. If both parties are in agreement, the thirty (30) day time period can be extended for an additional ten days.

a. Duly authorized representatives shall meet as often as mutually agreeable to discuss in good faith the dispute and to negotiate a mutually agreeable resolution. Authorized representatives for DHS include Contract Specialist, and Program Manager.
b. During the course of the dispute process requests made by one Party to the other for non-privileged information, reasonably related to the dispute shall be responded to in good faith.
c. If the dispute is unable to be resolved between the authorized representatives within the specified time period, it will be forwarded to the Department Director for resolution. A decision by the Director will be issued within ten days.
d. If the dispute remains unresolved after the Department Director's decision, the parties may proceed to litigation. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party

irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens. This Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles. Unless otherwise agreed in writing, Provider will be required to continue all obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual period of mediation or judicial proceedings.

e. Either Party may at any time commence formal court proceedings, which shall be immediately communicated, and will end the informal Dispute Resolution process as described in paragraph a-c above.

ARTICLE XIII: NOTICES

Official notices concerning this Contract will be directed to the following authorized representatives:

PROVIDER:	**COUNTY:**
Name: _____	Name: Attn:Anna Callwood (or designee)
Title: _____	Title: Contract Specialist
Agency: ___	Agency: Human and Veterans Services
Address:.___	Address: 2440 Thompson Street
	Fort Myers, Florida 33901
Telephone:	Telephone: (239) 533-7942
Fax:	Fax: (239) 533-7960
E-Mail :	E-Mail: ADavisCallwood@leegov.com

The signatures of the **two** persons shown below are designated and authorized to sign all applicable reports:

_____	OR	_____
Name (printed/typed)		Name (printed/typed)
_____		_____
Signature		Signature
_____		_____
Title		Title

In the event that Provider designates different representatives after execution of this contract, notice of the name and address of the new representative will be rendered in writing by authorized officer of **PROVIDER** to the **COUNTY**.

ARTICLE XIV: SPECIAL PROVISIONS

If needed, **PROVIDER** may be called upon to assist the **COUNTY** during a natural disaster or emergency. This includes the use of the **PROVIDER'S** facility to assist with Emergency Food Stamp pre registration if facility is operational and computer terminals are available. **PROVIDER** will be responsible to notify United Way 211 immediately after a disaster declaration if the location is accessible and operational and of any **PROVIDER** staff who are available to assist with recovery efforts.

ARTICLE XV: ALL TERMS AND CONDITIONS INCLUDED

This contract and its attachments, and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this contract shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of this contract is legally determined unlawful or unenforceable, the remainder of the contract shall remain in full force and effect and such terms or provisions shall be stricken.

IN WITNESS THEREOF, **PROVIDER** and **COUNTY** have caused this 16-page contract and all Contract Exhibits and Attachments as indicated on next page to be executed by their undersigned officials as duly authorized.

PROVIDER:

By:_____
Name (print)

_____
(Signature of authorized officer)

_____
Title

_____
Date

STATE OF FLORIDA
COUNTY OF _____
The foregoing instrument was acknowledged before me, **by means of ☐ physical presence or ☐ online notarization**, this ____ day of _____, __(year), by,_____ who is personally known to me or who has produced _____as identification and who ☐ did (☐ did not) take an oath.

NOTARY:
By: _____
Notary of Public (Signature)

_____
Name (typed)

COUNTY: LEE COUNTY

By: _____
Name (print)

_____
(Signature of authorized officer)
Board of County Commissioners
Title

_____
Date

ATTEST:
CLERK OF CIRCUIT COURT
By: _____
Title:_____
Date: _____

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

Date: _____
OFFICE of the COUNTY ATTORNEY

EXHIBIT 1
PAYMENT REQUEST
Line Item Contract

Email To: ADavisCallwood@leegov.com
Human and Veteran Services
2440 Thompson Street
Ft. Myers, FL 33901

Phone: 239-533-7935
FAX: 239-533-7960

Contract No._____
CDBG-CV PROJECT
TERM:
Reporting Period
____/ ___/ ____ - ____/ ____/ ___
Check appropriate line:
_____Regular Reimbursement
_____Final Reimbursement

Agency: City of Bonita Springs
Mailing Address: 9101 Bonita Springs Rd.
Bonita Springs, FL
Phone: (239) 949-6246
FAX: (239) 949-6245
E-mail: connie.dibruno@cityofbonitasprings.org

Reports are due by the twentieth calendar day after the end of the reporting period.

A. Approved Budget Categories	B. Approved Annual Budget Amount	C. Balance Forward end of prior month	D. Total Paid Expenditures for Reporting Period	E. Remaining Balance End of Reporting Period (Col. C-D)
Equirpment/Supplies Related to ovid Response	**$206,313.00**	$ -		$ -
Total:	**$ 206,313.00**	**$ -**	$ -	$ -

PROVIDER: By signing below, I certify that the work and/or services provided and reported in Exhibit 1 are for uncompensated expenses/units, and have been completed and/or delivered to the best of my knowledge. I further attest that payment has been made in accordance with all applicable statutes, regulations and approved County contract. I understand that knowingly providing false information could result in investigation and prosecution.

Signature of Authorized Official: _____

Date approved:

FOR LEE COUNTY USE ONLY
By signing below, I certify that to the best of my knowledge and abilities, the work and/or services provided have been inspected, monitored or reviewed and appear to be in compliance with all applicable statutes, regulations, and approved County contract.

AUTHORIZED BY: _____

APPROVED AMOUNT: $ -

DATE APPROVED: _____

LEE COUNTY CARES ACT
CDBG-CV CONTRACTS

EXHIBIT 2

To Be Completed Monthly During Contract Term
Due at time of monthly payment request submission.

Format and information requested may change during the course of the contract term.

AGENCY NAME:

ACTIVITY/SERVICES PROVIDED:

1. Narrative describing major accomplishments:

2. Total numbers served in the program (i.e. clients/families served; amount of food distributed; partner agencies assisted):

3. Have all funds been expended? Provide explanation if all funds have not been completed.

EXHIBIT 6
CERTIFICATES OF INSURANCE

Insert Certificates of Insurance naming
Lee County Board of County Commissioners

as

Certificate Holder

Name and address for Certificate Holder should be:
Lee County Board of County Commissioners,
P.O. Box 398, Fort Myers, FL 33902.

as required in Article VIII of the Contract, for the following policies:

- ☑- Worker's Compensation
- ☑- General Liability
- ☑- Business Auto Liability
- ☑- Directors & Officers Liability
- ☑- Fidelity Bonding

The General Liability Policy Certificate must name

"Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials"

as

"Additional Insured"

CERTIFICATE OF COVERAGE

Certificate Holder

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
PO BOX 398
FORT MYERS FLORIDA 33902

Administrator Issue Date 2/25/2020

Florida League of Cities, Inc.
Department of Insurance and Financial Services
P.O. Box 530065
Orlando, Florida 32853-0065

COVERAGES
THIS IS TO CERTIFY THAT THE AGREEMENT BELOW HAS BEEN ISSUED TO THE DESIGNATED MEMBER FOR THE COVERAGE PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE AGREEMENT DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH AGREEMENT

COVERAGE PROVIDED BY: FLORIDA MUNICIPAL INSURANCE TRUST

AGREEMENT NUMBER: FMIT 0927	COVERAGE PERIOD: FROM 10/1/19	COVERAGE PERIOD: TO 10/1/20 12:01 AM STANDARD TIME

TYPE OF COVERAGE - LIABILITY

General Liability

- [X] Comprehensive General Liability, Bodily Injury, Property Damage, Personal Injury and Advertising Injury
- [X] Errors and Omissions Liability
- [X] Employment Practices Liability
- [X] Employee Benefits Program Administration Liability
- [X] Medical Attendants'/Medical Directors' Malpractice Liability
- [X] Broad Form Property Damage
- [ ] Law Enforcement Liability
- [X] Underground, Explosion & Collapse Hazard

Limits of Liability

* Combined Single Limit

Deductible N/A

Automobile Liability

- [X] All owned Autos (Private Passenger)
- [X] All owned Autos (Other than Private Passenger)
- [X] Hired Autos
- [X] Non-Owned Autos

Limits of Liability

* Combined Single Limit

Deductible N/A

TYPE OF COVERAGE - PROPERTY

- [X] Buildings
  - [X] Basic Form
  - [X] Special Form
- [X] Personal Property
  - [ ] Basic Form
  - [X] Special Form
- [ ] Agreed Amount
- [X] Deductible $10,000
- [X] Coinsurance 80%
- [ ] Blanket
- [X] Specific
- [X] Replacement Cost
- [ ] Actual Cash Value
- [X] Miscellaneous
  - [X] Inland Marine
  - [X] Electronic Data Processing
  - [ ] Bond

Limits of Liability on File with Administrator

TYPE OF COVERAGE - WORKERS' COMPENSATION

- [X] Statutory Workers' Compensation
- [X] Employers Liability — $1,000,000 Each Accident; $1,000,000 By Disease; $1,000,000 Aggregate By Disease
- [ ] Deductible N/A
- [ ] SIR Deductible N/A

Automobile/Equipment - Deductible

[X] Physical Damage — Per Schedule - Comprehensive - Auto — Per Schedule - Collision - Auto — Per Schedule - Miscellaneous Equipment

Other

* The limit of liability is $200,000 Bodily Injury and/or Property Damage per person or $300,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to $5,000,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability/settlement for which no claims bill has been filed or liability imposed pursuant to Federal Law or actions outside the State of Florida.

Description of Operations/Locations/Vehicles/Special Items

RE: Agreement with Lee County Human and Veteran Services

Events, activities, elections and functions authorized by the certificate holder involving the designated member while being held upon the premises of the certificate holder. The certificate holder is hereby added as an additional insured, except for Workers' Compensation and Employers Liability, as respects the member's liability for the above described event.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE AGREEMENT ABOVE.

Designated Member

City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs FL 34135-4215

Cancellations

SHOULD ANY PART OF THE ABOVE DESCRIBED AGREEMENT BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED ABOVE, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE FMIT/JUA, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

FMIT-CERT (10/2011)

Certificate Holder	Administrator	Issue Date 2/27/20
LEE COUNTY BOARD OF COUNTY COMMISSIONERS PO BOX 398 FORT MYERS FLORIDA 33902	Florida League of Cities, Inc. Department of Insurance and Financial Services P.O. Box 530065 Orlando, Florida 32853-0065	

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- [X] Errors and Omissions Liability
- [X] Employment Practices Liability
- [X] Employee Benefits Program Administration Liability
- [X] Medical Attendants'/Medical Directors' Malpractice Liability
- [X] Broad Form Property Damage
- [ ] Law Enforcement Liability
- [X] Underground, Explosion & Collapse Hazard

Limits of Liability

* Combined Single Limit

Deductible N/A

Automobile Liability

- [X] All owned Autos (Private Passenger)
- [X] All owned Autos (Other than Private Passenger)
- [X] Hired Autos
- [X] Non-Owned Autos

Limits of Liability

* Combined Single Limit

Deductible N/A

TYPE OF COVERAGE - PROPERTY

- [X] Buildings
  - [X] Basic Form
  - [X] Special Form
- [X] Personal Property
  - [ ] Basic Form
  - [X] Special Form
- [ ] Agreed Amount
- [X] Deductible $1,000
- [X] Coinsurance 80%
- [ ] Blanket
- [X] Specific
- [X] Replacement Cost
- [ ] Actual Cash Value

- [X] Miscellaneous
  - [X] Inland Marine
  - [X] Electronic Data Processing
  - [X] Bond – Faithful Performance Blanket Employee Theft - Per loss

Limits of Liability on File with Administrator

TYPE OF COVERAGE - WORKERS' COMPENSATION

- [X] Statutory Workers' Compensation
- [X] Employers Liability — $1,000,000 Each Accident; $1,000,000 By Disease; $1,000,000 Aggregate By Disease
- [ ] Deductible N/A
- [ ] SIR Deductible N/A

Automobile/Equipment - Deductible

[X] Physical Damage — Per Schedule - Comprehensive - Auto; Per Schedule - Collision - Auto; Per Schedule - Miscellaneous Equipment

Other

* The limit of liability is $200,000 Bodily Injury and/or Property Damage per person or $300,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to $5,000,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability/settlement for which no claims bill has been filed or liability imposed pursuant to Federal Law or actions outside the State of Florida.

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CERTIFICATE OF COVERAGE

Certificate Holder

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
PO BOX 398
FORT MYERS FLORIDA 33902

Administrator

Issue Date 2/27/20

Florida League of Cities, Inc.
Department of Insurance and Financial Services
P.O. Box 530065
Orlando, Florida 32853-0065

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- [ ] Law Enforcement Liability
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Limits of Liability

* Combined Single Limit

Deductible N/A

Automobile Liability

- [X] All owned Autos (Private Passenger)
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Limits of Liability

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TYPE OF COVERAGE - PROPERTY

- [X] Buildings
  - [X] Basic Form
  - [X] Special Form
- [X] Personal Property
  - [ ] Basic Form
  - [X] Special Form
- [ ] Agreed Amount
- [X] Deductible $1,000
- [X] Coinsurance 80%
- [ ] Blanket
- [X] Specific
- [X] Replacement Cost
- [ ] Actual Cash Value
- [X] Miscellaneous
  - [X] Inland Marine
  - [X] Electronic Data Processing
  - [ ] Bond

Limits of Liability on File with Administrator

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- [ ] Deductible N/A
- [ ] SIR Deductible N/A

Automobile/Equipment - Deductible

[X] Physical Damage — Per Schedule - Comprehensive - Auto — Per Schedule - Collision - Auto — Per Schedule - Miscellaneous Equipment

Other

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4431583

CERTIFICATE OF COVERAGE

Certificate Holder

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
PO BOX 398
FORT MYERS FLORIDA 33902

Administrator Issue Date 2/27/20

Florida League of Cities, Inc.
Department of Insurance and Financial Services
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Limits of Liability

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Deductible N/A

TYPE OF COVERAGE - PROPERTY

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  - [X] Basic Form
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- [X] Deductible $1,000
- [X] Coinsurance 80%
- [ ] Blanket
- [X] Specific
- [X] Replacement Cost
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Limits of Liability on File with Administrator

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- [ ] Deductible N/A
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Automobile/Equipment - Deductible

[X] Physical Damage — Per Schedule - Comprehensive - Auto — Per Schedule - Collision - Auto — Per Schedule - Miscellaneous Equipment

Other

* The limit of liability is $200,000 Bodily Injury and/or Property Damage per person or $300,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to $5,000,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability/settlement for which no claims bill has been filed or liability imposed pursuant to Federal Law or actions outside the State of Florida.

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AUTHORIZED REPRESENTATIVE

FMIT-CERT (10/2011)

ATTACHMENT A: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM GUIDELINES
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
CFDA # 14.218

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

The CDBG program was authorized by the Housing and Community Development Act of 1974. The primary objective is the development of viable urban communities by providing decent housing, a suitable living environment, and expanded economic opportunities. Projects must principally benefit persons of low to moderate income. All projects must address one of three national objectives:

1. Benefit lower income families, or
2. Aid in preventing or eliminating "slums and blight" or
3. Meet an "urgent need"

Regulatory guidance on the CDBG program is found at 24 CFR part 570, specifically in subparts C, J, and K and other Federal regulations found at 24 CFR parts 5 and 2 CFR 200 also apply.

The **PROVIDER (SUBRECIPIENT)** shall comply with all federal laws and regulations described in the HUD regulations, 24 CFR Part 570, and other applicable Federal regulations, including 2 CFR 200. CDBG funds made available under this agreement shall be used to assist low and moderate-income families. This may be determined by individually qualifying households for eligibility or by the determination that the census block in which the project is located is a low income area. The method used to determine compliance will be at the discretion of Lee County.

A. SUBCONTRACTS

The **PROVIDER (SUBRECIPIENT)** shall insure that any County approved subcontracts let in the performance of this agreement shall be awarded on a fair and non-collusive basis. All provisions of this agreement shall be included and made part of any subcontract executed in the performance of this agreement. The **PROVIDER (SUBRECIPIENT)** shall not enter into a transaction with debarred, suspended or ineligible contractors and participants included on the Federal Excluded Parties List or, for contracts over $35,000, a person or affiliate placed on the Florida Department of Management Services' Convicted Vendor List. Verification of vendors can be found at:

http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists

B. PROCUREMENT

1. The **PROVIDER (SUBRECIPIENT)** shall comply with current Lee County policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property.

2. The **PROVIDER (SUBRECIPIENT)** shall procure all materials, property or services in accordance with the requirements of 2 CFR 200 Procurement Standards, and shall subsequently follow Property Management Standards in accordance to 2 CFR 200, covering utilization and disposal of property.

3. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

C. DOCUMENTATION AND RECORD-KEEPING

1. The **PROVIDER (SUBRECIPIENT)** shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this agreement, including but not limited to:
    a. A full description of each activity undertaken and its eligibility criteria.
    b. Client data demonstrating client eligibility for services provided.

    c. Documentation of the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR Parts 570.503, as applicable.
    d. Compliance with fair housing and equal opportunity components of the CDBG program.
    e. Financial records as required by 24 CFR Part 570.502 and 2 CFR 200; and other records to comply with Subpart K of 24 CFR 570.

D. RESTRICTIONS ON USE OF FUNDS

The **PROVIDER (SUBRECIPIENT)** is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

1. HATCH ACT- The **PROVIDER (SUBRECIPIENT)** agrees that no funds provided, nor personnel employed under this agreement shall be in any way engaged in the conduct of political activities in violation of Chapter 15 of Title V of the United States Code. Employment Restrictions.

2. CONFLICT OF INTEREST - The **PROVIDER (SUBRECIPIENT)** agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants and certifies that it presently has no financial interest, and that no employee, agent, consultant, or officer will acquire any financial interest, which would conflict in any manner or degree with the performance of any service required under this agreement.

3. LOBBYING - The **PROVIDER (SUBRECIPIENT)** hereby certifies that no federal funds have or will be paid by, or on its behalf, to any person influencing or attempting to influence a member of Congress, or an officer or employee of any agency, or of an office of Congress in connection with the award of any Federal contract, the making of any Federal grant or loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. If any non-Federal funds have been used for such influence, the **PROVIDER (SUBRECIPIENT)** shall submit a "Disclosure Form to Report Lobbying" in accordance with its instructions.

4. RELIGIOUS ORGANIZATION - The **PROVIDER (SUBRECIPIENT)** agrees that funds provided under this agreement to either a faith based organization or faith based program cannot be utilized for inherently religious activities, and must be utilized in accordance with the federal regulations specified in 24 CFR 570.200. Faith-based organizations must provide appropriate written notice in accordance to 24 CFR 5.109 describing certain protections available to applicants participating in the activities held at their facility.

E. ENVIRONMENTAL CONDITIONS

The **PROVIDER (SUBRECIPIENT)** agrees to comply with any instructions or requests made by the County pursuant to the completion of any applicable environmental review, as well as the following regulations insofar as they apply to the performance of this agreement:

1. Clean Air Act, 42 U.S. C. 7401, et seq.
2. Federal Water Pollution Control Act as amended, 33 U.S.C. 1251, et seq., as amended.
3. Environmental Protection Agency (EPA) regulations pursuant to 40 CFR, Part 50, as amended.
4. Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), which requires that activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards shall require flood insurance under the National Flood Insurance Program.

5. Lead-Based Paint regulations at 24 CFR 570.608, and 24 CFR Part 35 pertaining to all HUD assisted housing, which require that notice be provided that all properties constructed prior to 1978 may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment, and precautions that should be taken, and the advisability and availability of blood lead level screening for children under seven.
6. Historic Preservation under the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800.

F. PROGRAM INCOME

The **PROVIDER (SUBRECIPIENT)** shall report and remit to the grantee (Lee County) all program income as defined at 24 CFR 570.500 generated by activities carried out with CDBG funds at the end of the program year. Lee County will determine and utilize the program income in compliance with the requirements set forth at 24 CFR 570.504. Preference for use of the funds will be given to projects in the urban county's jurisdiction that remitted the program income, however due to the County's need to meet timeliness requirements, funds will be spent on eligible activities as determined necessary by the County.

G. RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT

The **PROVIDER (SUBRECIPIENT)** agrees to comply with the following:
1. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR and 24 CFR 570.606;
2. Residential Anti-Displacement and Relocation Assistance Plan requirements of 24 CFR 570.606 under Section 104 of the Housing and Community Development Act; and
3. Optional relocation policies requirements of 570.606.

H. CIVIL RIGHTS

The **PROVIDER (SUBRECIPIENT)** agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1964 as amended, Section 1104 and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1965, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

The **PROVIDER (SUBRECIPIENT)** will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability, or other handicap, age, marital/familial status, or status with regard to public assistance, unless in areas allowable by the Civil Rights Act of 1964, as amended. The **PROVIDER (SUBRECIPIENT)** will take affirmative action to insure that all employment practices are free of such discrimination. The **PROVIDER (SUBRECIPIENT)** agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

LAND COVENANTS - This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.602 and 603. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the **PROVIDER (SUBRECIPIENT)** shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the **COUNTY (RECIPIENT)** and the United States are beneficiaries of and entitled to enforce such covenants. The **PROVIDER (SUBRECIPIENT)** in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

SECTION 504 - The **PROVIDER (SUBRECIPIENT)** agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

AFFIRMATIVE ACTION - The **PROVIDER (SUBRECIPIENT)** agrees that it shall be committed to carry out an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. The **PROVIDER (SUBRECIPIENT)** will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this agreement. The term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. The **PROVIDER (SUBRECIPIENT)** may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation. The **PROVIDER (SUBRECIPIENT)** will, in all solicitations or advertisements for employees placed by or on behalf of the **PROVIDER (SUBRECIPIENT),** state that it is an Equal Opportunity or Affirmative Action employer. The **PROVIDER (SUBRECIPIENT)** will include the provisions of Paragraph X A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own **PROVIDER (SUBRECIPIENT)s** or subcontractors.

DAVIS BACON ACT - The **PROVIDER (SUBRECIPIENT)** agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 276c), and all other applicable Federal, state, and local laws and regulations pertaining to labor standards applicable to this agreement. The **PROVIDER (SUBRECIPIENT)** shall maintain documentation that demonstrates compliance with hour and wage requirements of this part.

The **PROVIDER (SUBRECIPIENT)** shall cause or require to be inserted in full provisions meeting the requirements of 29 CFR 5.5. All contractors or subcontractors on contracts in excess of $2,000 which involve the employment of mechanics or laborers shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR. Part 5). Contractors and subcontractors shall be required to submit weekly payroll certifications concerning compliance with the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act.

SECTION 3 CLAUSE - Compliance with the provisions of Section 3 and the regulations set forth in 24 CFR 135 shall be a condition of the Federal financial assistance provided under this agreement and binding upon the **COUNTY (RECIPIENT)**, the **PROVIDER (SUBRECIPIENT)**, and any of the **PROVIDER (SUBRECIPIENT)**s and subcontractors. The **PROVIDER (SUBRECIPIENT)** certifies and agrees that no contractual or other impediment exists which would prevent compliance with these requirements. The **PROVIDER (SUBRECIPIENT)** further

agrees to comply with these Section 3 requirements and to include the following language in subcontracts executed under this agreement:

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S. C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low and very low-income persons residing in the metropolitan area in which the project is located."

I. CLOSEOUTS

The **PROVIDER (SUBRECIPIENT)'S** obligation to the **COUNTY (RECIPIENT)** shall not end until all closeout requirements are completed. Activities during this closeout period shall include but are not limited to making final payments, disposing of program assets, reporting of beneficiaries, or any other activities related to CDBG compliance.

REVERSION OF ASSETS Upon expiration of the contract, the **PROVIDER (SUBRECIPIENT)** shall transfer to the recipient any CDBG funds on hand at the time of the expiration and any accounts receivable attributable to the use of CDBG funds. It shall also include provisions designed to ensure that any real property under the **PROVIDER (SUBRECIPIENT)'s** control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the sub recipient in the form of a loan) in excess of $25,000 is either:

a) Used to meet one of the national objectives until five years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the recipient; or

b) Not used to meet one of the national objectives, in which event the **PROVIDER (SUBRECIPIENT)** shall pay to the recipient an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

J. PAYMENTS AND REPORTS

1. Payment requests will be subject to the **COUNTY (RECIPIENT)'s** execution of its Master Agreement with HUD and the activity being assigned a number in IDIS (Integrated Disbursement and Information System).

2. Construction Contract Payments – Requests for payment must be based upon actual uncompensated construction costs provided during the contract period and shall be accompanied by invoices for services rendered. Payment Requests shall be submitted within 20 days after the end of the reporting period, even if no activity has occurred. If the **PROVIDER (SUBRECIPIENT)** fails to submit a Payment Request by the stated deadline, payment will be delayed until the following month. The **PROVIDER (SUBRECIPIENT)** will not receive payment without submission of all applicable reports. Failure to submit a Payment Request within 60 days after the end of the reporting period will result in the PROVIDER (SUBRECIPIENT) forfeiting all right to payment.

All payment requests (Exhibit 1) must be signed by the **PROVIDER** (**SUBRECIPIENT)'s** Executive Director or other duly authorized person, and accompanied by the contractor's signed request for payment (invoice). Final payment will not be made until the final inspection is made and approved by the Lee County or City Building Department, as applicable.

3. **PROVIDER (SUBRECIPIENT)** shall submit reports as required to assist the **COUNTY (RECIPIENT)** in the preparation of HUD Labor Relations, WBE/MBE, Equal Opportunity Employment, and HUD Section 3 reports, pursuant to 24 CFR 570.502, 507, and 92.

ATTACHMENT A

THIS NOTICE IS PENDING PUBLICATION IN THE FEDERAL REGISTER.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6218-N-01]

Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice describes the program rules, statutory and regulatory waivers, and alternative requirements applicable to supplemental Community Development Block Grant (CDBG) funds made available to prevent, prepare for, and respond to coronavirus (CDBG-CV funds) and to annual formula CDBG grants awarded in fiscal years 2019 and 2020. Except as otherwise described in this notice and the CARES Act, the statutory and regulatory provisions governing the CDBG program apply to CDBG-CV and CDBG grants. This notice also describes conforming waivers and alternative requirements for other formula programs included in the consolidated planning regulations in 24 CFR part 91.

EFFECTIVE DATE: This notice is effective when signed.

FOR FURTHER INFORMATION CONTACT: Jessie Handforth Kome, Director, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to Ms. Kome at 202-708-0033. Except for the "800" number, these telephone numbers are not toll-free. Questions regarding the CDBG-CV program may be submitted to

CPDQuestionsAnswered@hud.gov. Interested parties may also visit HUD's website at https://www.hud.gov/program_offices/comm_planning for updated information and resources.

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I. Overview and Background

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) confirmed the first case in the United States of a coronavirus known by several names, including novel coronavirus, and SARS-CoV-2, and which causes the disease commonly referred to as COVID-19. On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136) (CARES Act). The CARES Act makes available $5 billion in CDBG coronavirus response (CDBG-CV) funds to prevent, prepare for, and respond to coronavirus. In the CARES Act and this notice, the term "coronavirus" means SARS-CoV-2 or another coronavirus with pandemic potential.

The nation faces significant public health and economic challenges related to this respiratory disease. To address these challenges, CDBG-CV and CDBG grants are a flexible source of funding that can be used to pay costs that are not covered by other sources of assistance, particularly to benefit persons of low and moderate income.

This notice is broken into sections. Section II provides a general overview of the CDBG-CV and CDBG program flexibilities provided by the CARES Act. Section III describes the allocations, grant procedures, program flexibilities, waivers, and alternative requirements applicable to CDBG-CV grants. Section IV describes the program flexibilities, waivers, and alternative requirements that apply to fiscal years 2019 and 2020 CDBG grants used to prevent, prepare for, and respond to coronavirus or that affect other aspects of program administration. Other sections contain administrative information related to this notice.

II. Summary of Special Authorities Under the CARES Act

The CARES Act modifies some CDBG program rules and authorizes the Secretary of HUD to grant waivers and alternative requirements. Accordingly, this notice describes how

requirements of the CDBG program are modified for CDBG-CV grants, fiscal year 2020 CDBG grants under the Department of Housing and Urban Development Appropriations Act, 2020 (Public Law 116-94), and fiscal year 2019 CDBG grants under the Department of Housing and Urban Development Appropriations Act, 2019 (Public Law 116-6). For ease of reference, citations in this notice include parentheticals indicating whether a CDBG program statute or regulation applies to entitlement grants, state grants, insular area grants, or grants to nonentitlement counties in Hawaii. Where citations do not include Hawaii counties or insular areas, the additional citation is not necessary because the cited entitlement CDBG regulation applies to insular areas and Hawaii counties in addition to entitlement grantees.

II.A. Program Modifications in the CARES Act

The Community Development Fund heading in title XII of Division B of the CARES Act modifies some CDBG program requirements to provide immediate support for coronavirus efforts. The modifications are described in more detail in Section III, and are the following:

- Permits a public comment period of no less than 5 days when citizen participation is required.
- Permits grantees to develop expedited citizen participation procedures and to hold virtual public hearings when necessary for public health reasons.
- Eliminates the public services cap for coronavirus-related activities.
- Allows states and local governments to reimburse allowable costs of eligible activities regardless of the date the costs were incurred.

II.B. Authority to Grant Waivers and Alternative Requirements

The CARES Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the use

of CDBG-CV grants, fiscal year 2020 CDBG grants, and fiscal year 2019 CDBG grants to prevent, prepare for, and respond to coronavirus or that affect other aspects of program administration for the fiscal year 2019 and 2020 CDBG grants, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding by the Secretary that any such waivers or alternative requirements are necessary to expedite or facilitate the use of such amounts to prevent, prepare for, and respond to coronavirus. Additional waiver authority is provided in 24 CFR 5.110 and 91.600. In accordance with these provisions, HUD may waive regulatory provisions (subject to statutory limitations) for good cause.

As required by the CARES Act, the Secretary has considered the waivers and alternative requirements in this notice and finds that there is good cause for each and that each is necessary to expedite or facilitate the use of grant funds to prevent, prepare for, and respond to coronavirus.

III. CDBG-CV Grants

This section describes the CDBG-CV allocations to states and units of general local government (including insular areas), the process to access grant funds, and the rules, waivers, and alternative requirements that apply to CDBG-CV grants.

III.A. Allocations of CDBG-CV Funds

Of the $5 billion made available by the CARES Act, HUD will use $10,000,000 to make technical assistance awards to provide an immediate increase in capacity building and technical assistance to support the use of CDBG-CV grants and CDBG grants to prevent, prepare for, and respond to coronavirus.

The remaining funds will be allocated as described in sections III.A.1. and III.A.2.

III.A.1. First Allocation

The CARES Act requires HUD to allocate up to $2 billion in CDBG-CV funds using the same formula that it used to allocate fiscal year 2020 CDBG grants pursuant to section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306). HUD made this first CDBG-CV allocation on April 2, 2020, 24 days before the 30-day allocation deadline in the CARES Act, in the amount of $2 billion. The allocations are available on HUD's website at https://www.hud.gov/program_offices/comm_planning/budget/fy20/.

III.A.2. Additional Allocations

The CARES Act requires HUD to make a second round of CDBG-CV allocations within 45 days of enactment of the CARES Act. HUD is required to make this allocation in the amount of $1 billion directly to states and insular areas to prevent, prepare for, and respond to coronavirus within the state or insular area. HUD made this second round of CDBG-CV allocations on May 11, 2020, in the amount of $1 billion. The allocations and methodology are available on HUD's website at: https://www.hud.gov/program_offices/comm_planning/budget/fy20/. The second CDBG-CV allocations were based on factors identified in the CARES Act: public health needs, risk of transmission of coronavirus, number of coronavirus cases compared to the national average, economic and housing market disruptions, and other factors, as determined by the Secretary, using best available data.

The CARES Act authorized HUD to allocate the remaining $2 billion in CDBG-CV funds, minus the $10 million set aside for technical assistance, on a rolling basis. The CARES Act provides that the remaining $2 billion shall be distributed directly to states or units of general local government, at the discretion of the Secretary, according to a formula based on factors to be

determined by the Secretary, prioritizing risk of transmission of coronavirus, number of coronavirus cases compared to the national average, and economic and housing market disruptions resulting from coronavirus. The District of Columbia is defined as a metropolitan city under the Housing and Community Development Act of 1974 and not as a state or insular area. As such, it was not eligible for funding under the Round 2 $1 billion allocation. To ensure national geographic coverage in Round 2, HUD made an allocation from the third round of funding to the District of Columbia simultaneously with the second round because the District met the geographic criteria for the third round of allocations and was the only geographic area in the nation that was not covered by the second round of allocations.

HUD will publish additional third round allocations and a description of the allocation formulas on HUD's website at https://www.hud.gov/program_offices/comm_planning/budget/fy20/ and will provide a link to this site in any press release announcing an allocation.

III.A.3. Reallocation.

Under Section 106 of the Housing and Community Development Act of 1974 (HCD Act) (42 U.S.C. 5306), HUD reallocates annual formula CDBG funds that cannot be distributed to grantees when it allocates the next fiscal year's appropriation of annual formula CDBG funding. Given the immediate need for coronavirus assistance, the Department is specifying the following alternative requirement to sections 106(c) and (d)(3)(C) (42 U.S.C. 5306(c) and 5306(d)(3)(C)), and the reallocation provisions of 24 CFR 570.4(a), 570.420(e), 570.429(d)(2), and 570.442(b), to expedite the use of any funds that may become available for reallocation.

If a jurisdiction receiving an allocation of CDBG-CV funds fails to apply for funding in accordance with the requirements of this notice by August 16, 2021 (the deadline established by

the CARES Act) or HUD is unable to distribute funds to a grantee for another reason, HUD may notify the jurisdiction of the cancellation of all or part of its allocation amount. Funds that are not awarded to jurisdictions under the formulas described in paragraphs III.A.1. and III.A.2. may be reallocated based on factors identified in the CARES Act, as determined by the Secretary. If made, reallocations will be published on HUD's website.

III.B. CDBG-CV Grant Rules, Waivers, and Alternative Requirements

This section describes program flexibilities in the CARES Act and provides waivers and alternative requirements to expedite or facilitate the use of CDBG-CV funds. The rules, waivers, and alternative requirements described in this section only apply to CDBG-CV grants (as specified in this section) and in some cases to fiscal year 2019 and fiscal year 2020 CDBG grants (as specified in section IV) and program income (as specified in sections III.B.5.(f)(iv) and III.B.6.(a)). The CARES Act statutory flexibilities, waivers, and alternative requirements do not apply to other sources of CDBG funds (even if used in conjunction with CDBG-CV funds, fiscal year 2019 CDBG funds, or fiscal year 2020 CDBG funds) except as otherwise described in section IV.B.3.(b).

III.B.1. General Grant Requirements

CDBG-CV grants are subject to the requirements of the CARES Act, the authorities and conditions imposed on fiscal year 2020 CDBG grants, and the mandatory provisions of this notice and waivers and alternative requirements. Except as otherwise described, grantees must comply with statutory and regulatory provisions governing the CDBG program. These include regulations at: 24 CFR part 570 subpart I (states); 24 CFR part 570 subparts A, C, D, E, F, J, K, and O for CDBG (entitlements, nonentitlement Hawaii counties and insular areas).

To facilitate the use of CDBG-CV funds in accordance with the grant requirements, HUD is imposing an alternative requirement that the definitions of CDBG funds in 24 CFR 570.3 (entitlements) and 24 CFR 570.481(a)(2) (states) include CDBG-CV funds. This alternative requirement applies the requirements in 24 CFR part 570 to the use of CDBG-CV funds, except as modified by rules, waivers, and alternative requirements applicable to CDBG-CV grants.

CDBG-CV grant agreements will impose requirements by incorporating program rules, waivers, and alternative requirements (including those published in memoranda, in this and any future notices).

Grantees should not assume that their normal CDBG funding distribution procedures are adequate to swiftly distribute and use CDBG-CV grants. For example, if a grantee's existing policies mandate lengthy processes to select activities or complete procurements, grantees should try to expedite actions with local waiver authorities or emergency procedures that may be available without state or local rulemaking. In addition, urban counties that normally distribute CDBG funds on a proportional basis among all participating jurisdictions should consider whether their normal procedures would result in funding awards that are too small to be used expeditiously and productively by the participating jurisdictions.

III.B.2. Responsible Use of CARES Act Funds

CDBG-CV funds are subject to additional measures designed to prevent fraud, waste, and abuse. HUD will conduct regular oversight and monitoring activities to determine that use of CDBG-CV funds is consistent with grant requirements and limited to the necessary and reasonable costs of activities to prevent, prepare for, and respond to coronavirus. Measures to increase transparency and accountability include:

- regular reporting on the use of CDBG-CV funds, including reporting that may be required by the CARES Act to conduct audits and reviews of programs, operations, and expenditures relating to funds under the CARES Act and the Coronavirus response (see section III.B.8. for information on reporting requirements); and
- a requirement that grantees prevent the duplication of benefits that is caused when a person, household, business, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance is more than the total need (see section III.B.9. for information on duplication of benefits).

III.B.3. Overview of Process to Receive CDBG-CV Grants

On April 2, 2020, HUD published the first round of CDBG-CV allocations on the hud.gov website and notified jurisdictions of their allocation amounts. On April 9, 2020, John Gibbs, Acting Assistant Secretary for Community Planning and Development, issued a memorandum with the subject, "*CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response and plan amendment waiver*" ("April 9 memorandum"), available at https://www.hud.gov/sites/dfiles/CPD/documents/CARES-Act-Flexibilities-CDBG-Funds-Used-Support-Coronavirus-Response.pdf. The memorandum advised grantees to amend or prepare consolidated plan submissions for CDBG-CV grants as soon as possible. Grantees may have partially or fully completed the application process before HUD publishes this notice.

The April 9 memorandum also granted waivers to expedite this process of applying for CDBG-CV funds by permitting application for a grantee's share of the first $2 billion through a substantial amendment to a grantee's most recent annual action plan (the most recent year may be the 2019 annual action plan). These waivers and alternative requirements describing the

content of a substantial amendment to add CDBG-CV allocations to the most recent annual action plan are in section III.B.4.(b)(i).

Submitting a substantial amendment may speed access to grant funds because consultation and public hearings are not required (although 24 CFR 570.441(e)(2) requires insular areas to hold a public hearing for amendments, section III.B.4.(a)(iii) waives this requirement for CDBG-CV substantial amendments). However, the April 9 memorandum does not preclude grantees from applying by submitting a FY 2020 Action Plan that includes the CDBG-CV funds. If the grantee chooses to include CDBG-CV grant funds in its annual action plan for FY 2020 funds, the grantee must comply with action plan submission procedures in 24 CFR part 91 (including consultation and a public hearing), as modified by the waiver and alternative requirements in paragraph III.B.4.(a)(iv), which apply the CARES Act citizen participation flexibilities to all consolidated plan formula grant programs.

The following procedures apply regardless of whether the grantee applies for CDBG-CV funds through an action plan or action plan substantial amendment:

- Rather than wait to apply until HUD allocates all available CDBG-CV funds, HUD recommends that grantees apply as soon as possible for CDBG-CV funds that HUD has allocated. Grantees receiving subsequent allocations can make substantial amendments to apply for subsequent allocation amounts after they are announced.
- All grantees may adopt and use expedited procedures to draft, propose, modify, or amend consolidated plans for CDBG-CV and fiscal year 2019 and 2020 CDBG grants as described in section III.B.4. These expedited procedures amend the grantee's citizen participation plan and require it be published for no less than 5 calendar days to solicit

public comment. Expedited procedures may include virtual hearings, as described in section III.B.4.(a)(ii).

- The grantee must publish its application for CDBG-CV funds (whether through a new action plan or action plan substantial amendment) for no less than 5 calendar days to solicit public comment. The comment period can run concurrently with the comment period on changes to add expedited procedures to the citizen participation plan. The grantee must respond to public comments.
- The grantee must submit its application for CDBG-CV funds to HUD for review in accordance with 24 CFR 91.500. To receive a CDBG-CV grant, a grantee must also submit a SF-424, SF-424D and the certifications at 24 CFR 91.225(a) and (b) or 24 CFR 91.325(a) and (b) and 24 CFR 91.425.
- HUD and the grantee will enter a grant agreement and HUD will establish the grantee's line of credit.
- The grantee may draw funds from the line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 and, as applicable, receives from HUD the Authority to Use Grant Funds (AUGF) form and certification.

III.B.4. Application for Grant Funds and Citizen Participation

This section III.B.4. describes the CDBG program flexibilities in the CARES Act and additional waivers and alternative requirements that HUD granted to facilitate or expedite the process to amend consolidated plans and apply for CDBG-CV grants.

III.B.4.(a) Expedited Citizen Participation and Virtual Hearings

The CARES Act permits grantees to adopt expedited citizen participation procedures and hold virtual hearings for consolidated plan submissions for CDBG-CV funds and for CDBG grants for fiscal years 2019 and 2020. Section III.B.4.(a)(iii) includes a corollary waiver and alternative requirement to permit states to extend these flexibilities to units of general local government and insular areas. Section III.B.4.(a)(iv) includes a corollary waiver and alternative requirement extending these flexibilities to other consolidated plan formula programs.

III.B.4.(a)(i) Citizen Participation, Public Notice and Comment Period. The CARES Act authorizes a CDBG-CV grantee to adopt and utilize expedited procedures to prepare, propose, modify, or amend its consolidated plan, notwithstanding sections 104(a)(2), (a)(3), and (c) of the HCD Act (42 U.S.C. 5304(a)(2), (a)(3), and (c)) and section 105 of the Cranston-Gonzalez National Affordable Housing Act (NAHA, at 42 U.S.C. 12705). The expedited procedures may permit virtual hearings, as described in section III.B.4.(a)(ii), whenever a public hearing is required by 24 CFR 91.105 (entitlements), 91.115 (states), 570.431 (Hawaii counties), 570.441 (insular areas), or by the grantee's citizen participation plan. Expedited procedures adopted by the grantee shall provide citizens with notice and a reasonable opportunity to comment of no less than 5 days.

Expedited procedures must be published for no less than 5 calendar days to solicit public comment, and once adopted, become part of the grantee's citizen participation plan. The public comment period for incorporating expedited procedures into the citizen participation plan may run concurrently with the public comment period on a proposed CDBG-CV substantial amendment or other proposed consolidated plan submissions for CDBG-CV funds and fiscal

year 2019 and 2020 CDBG grants. Consolidated plan submissions for other programs are addressed in section III.B.4.(a)(iv).

The CARES Act modifies the annual formula CDBG program requirement that a grantee must solicit comments from its citizens for a period of at least 30 days before it submits a substantial amendment or an annual action plan to HUD.

III.B.4.(a)(ii) Virtual Hearings. For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, the CARES Act authorizes the grantee to hold virtual hearings in lieu of in-person public hearings for CDBG-CV grants and for fiscal year 2019 and 2020 CDBG grants (virtual hearings for other consolidated plan formula programs are addressed in section III.B.4.(a)(iv)). All virtual hearings held under the authority provided by the CARES Act shall provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses.

Therefore, grantees may use online platforms to hold virtual hearings that facilitate public access to all questions and responses and provide timely responses from local officials. Additionally, grantees must take appropriate actions to encourage the participation of all residents, including the elderly, minorities, persons with limited English proficiency, as well as persons with disabilities, consistent with the jurisdiction's citizen participation plan.

The CARES Act does not modify nondiscrimination requirements. Consistent with 24 CFR 91.105 (entitlements) and 91.115 (states), and 24 CFR 570.431 (Hawaii counties) and 570.441 (insular areas), a jurisdiction is expected to take whatever actions are appropriate to encourage the participation of all its citizens in virtual and in-person hearings, including

minorities and persons with limited English proficiency, as well as persons with disabilities. Whether hearings are in-person or virtual, grantees must take appropriate steps to ensure effective communication with persons with disabilities consistent with the requirements of accessibility laws, such as Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. The grantee must provide appropriate auxiliary aides and services where necessary to afford individuals with hearing and vision impairments an equal opportunity to access and participate in such hearings. These may include effective methods that make aurally delivered information available to individuals who are deaf or hard or hearing, and visually delivered materials available to individuals who are blind or have low vision. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a grantee shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services should be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. For virtual hearings, such steps should include ensuring that information is provided on an accessible website, that e-mails and other digital notifications are accessible, and that the application or platform used to host the hearing is also accessible. Additional services such as audio description or captioning may also be needed to provide effective communication in a digital context. Helpful guidelines for ensuring the accessibility of web-based and digital materials are available through the World Wide Web Consortium's Web Accessibility Initiative at

https://www.w3.org/WAI/. Examples of auxiliary aids and services that may be necessary when conducting hearings online can be found at 28 CFR 35.104.

Grantees must also take reasonable steps to provide meaningful access to persons with limited English proficiency consistent with Title VI of the Civil Rights Act. To ascertain their obligations, grantees should conduct the four-factor analysis set forth in HUD's limited English proficiency guidance found at https://www.hud.gov/sites/documents/FINALLEP2007.PDF, which may be covered by grantees' Language Assistance Plan, recognizing that the use of the internet to conduct such a hearing may change the analysis. For virtual or online hearings, such services may also include translation of documents and captioning or interpretation in the appropriate language(s). More information on the four-factor analysis and other requirements can be found at https://www.hud.gov/sites/documents/FINALLEP2007.PDF.

III.B.4.(a)(iii) Modifications to citizen participation requirements for local governments that receive funds from States and for insular areas. HUD is clarifying that by authorizing states to adopt expedited citizen participation procedures, the CARES Act authorized expedited procedures and virtual public hearings for citizen participation by units of general local government that receive CDBG-CV funds from a state through a method of distribution. This is because 24 CFR 91.115(e) requires states to include citizen participation requirements for units of general local government in its own citizen participation plan. Expedited procedures must still describe how units of local governments receiving funds from the state will meet the citizen participation requirements in 24 CFR 570.486.

Additionally, HUD is waiving the requirement in 570.441(e)(2) that an insular area must hold a public hearing on a substantial amendment. Instead, HUD is imposing an alternative requirement to permit the insular area to adopt expedited requirements by modifying its citizen

participation plan to replace the hearing if it provides community residents with reasonable notice and an opportunity to comment on substantial amendments to the consolidated plan or annual action plan.

III.B.4.(a)(iv) Extension of CARES Act Flexibilities to All Consolidated Plan Formula Programs (CDBG, CDBG-CV, HOME, HOPWA, HTF, ESG) and Section 108 Loan Guarantees. The CARES Act altered consolidated plan citizen participation requirements for some CDBG-CV grants, fiscal year 2019 and 2020 annual formula CDBG grants, and Emergency Solutions Grant supplemental CARES Act (ESG-CV) grants. It did not modify citizen participation for other annual formula CDBG and ESG grants, Section 108 Loan Guarantees, or for HOME Investment Partnerships (HOME), Housing Trust Fund (HTF), and Housing Opportunities for Persons With AIDS (HOPWA) formula programs before fiscal year 2019.

On April 1, 2020, HUD issued two waivers to modify citizen participation requirements for consolidated plan substantial amendments for CDBG, ESG, HOME, HTF, and HOPWA. The first eliminated the 30-day minimum for the required public comment period for substantial amendments, provided that no less than 5 days are provided for public comments on each substantial amendment concerning the proposed uses of CDBG, HOME, HTF, HOPWA, or ESG funds. The second allowed grantees to determine what constitutes reasonable notice and opportunity to comment, given their circumstances, for the 2020 program year. The waivers were published in a memorandum signed by Acting Assistant Secretary John Gibbs on March 31, 2020. It is available at: https://www.hud.gov/sites/dfiles/CPD/documents/Availability-of-Waivers-of-CPD-Grant-Program-and-Consolidated-Plan-Requirements-to-Prevent-the-Spread-of-COVID-19-and-Mitigate-Economic-Impacts-Caused-by-COVID-19.pdf

HUD is now issuing waivers and alternative requirements to expedite procedures to modify citizen participation plans for *all* 2020 fiscal year consolidated plan and annual action plan submissions that pertain to ESG, HOME, HTF, and HOPWA formula programs. The waivers are necessary to effectively implement the CARES Act flexibilities offered to CDBG grantees because planning and annual action plan consolidated plan submissions for CDBG-CV and CDBG grants are inextricably linked with the consolidated plan submissions for ESG, HOME, HTF, and HOPWA.

In 1995, HUD published the consolidated plan regulation at 24 CFR part 91. The consolidated plan replaced the following separate application and planning submissions: the Comprehensive Housing Affordability Strategy (CHAS), enacted by NAHA at 42 U.S.C. 12701, the Community Development Plan requirements, added to the CDBG program by NAHA (42 U.S.C. 5304), the CDBG final statement, the HOME program description, and the ESG and HOPWA applications. In 2015, HUD published an interim rule that added HTF to the consolidated planning regulations. States and units of general local government (including insular areas) that apply for Section 108 loan guarantees pursuant to 24 CFR 570.704 may also be required to include the use of guaranteed loan funds in their consolidated plans.

Grantees that apply for CDBG-CV or CDBG funds as part of their 3-5 year consolidated plan or annual action plan submissions cannot reasonably take advantage of the expedited CARES Act citizen participation requirements unless the other programs included in these submissions are subject to the same expedited requirements. Creating a separate application process for CDBG-CV and CDBG funds would add time and complications that are likely to delay the availability of funds and undermine the purpose of the CARES Act provisions to expedite assistance. Further, separating CDBG planning and applications would thwart several

of the reasons cited for the consolidated planning rule, e.g., providing comprehensive information on the jurisdiction that is easy to understand and reducing paperwork and simplifying the process of requesting and obtaining federal funds available to the jurisdictions (60 FR 1878, published January 5, 1995).

Therefore, HUD is waiving provisions at 24 CFR 91.105(b)(4), (c)(2) and (k), 24 CFR 91.115(b)(4), (c)(2) and (i), 24 CFR 91.401, 24 CFR 570.431, 24 CFR 570.441, and 24 CFR 570.704 to the extent necessary to permit the following alternative requirement: CDBG, HOME, HTF, HOPWA, and ESG grantees may modify their citizen participation plans to adopt expedited procedures that apply when the grantees prepare, propose, modify, or amend any consolidated plan submissions that contain uses of CDBG-CV funds or uses of fiscal year 2019 or 2020 CDBG funds to prevent, prepare for, and respond to coronavirus. The expedited procedures must, at a minimum, provide citizens with notice and a reasonable opportunity to comment of no less than 5 days.

Additionally, HUD is waiving provisions at 24 CFR 91.105(b) and (e), 24 CFR 91.115(b) and (e), 24 CFR 91.401, and 24 CFR 570.431, 570.441, and 570.486(a) to the extent necessary to establish the following alternative requirement. For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, CDBG, ESG, HOME, HTF, and HOPWA grantees, and units of general local government receiving CDBG funds from state or insular area CDBG grantees, may hold virtual hearings in lieu of in-person public hearings to fulfill public hearing requirements imposed by 42 USC 12707(a)(3) and the regulations at 24 CFR part 91 and 24 CFR part 570, or by the grantee's citizen participation plan.

For each virtual hearing, a grantee shall provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses. Therefore, grantees may use online platforms to hold virtual hearings that provide public access to questions and responses and provide timely responses from local officials. This alternative requirement is only applicable to consolidated planning submissions describing the use of fiscal year 2019 or 2020 annual formula funds for CDBG, ESG, HOME, HTF, and HOPWA, or for CDBG-CV or ESG-CV funds provided under the CARES Act.

HUD cannot modify requirements for CDBG grantees to mirror the elimination of citizen participation for substantial amendments and new consolidated plan submissions for ESG-CV funds because HUD cannot waive the minimum requirements the CARES Act imposed on CDBG grantees. Therefore, this waiver and alternative requirement does not alter or expand the authority for ESG grantees to omit the citizen participation and consultation requirements for consolidated plan submissions that only pertain to ESG CARES Act (ESG-CV) funding.

III.B.4.(b) CDBG-CV Application Content and Submission

III.B.4.(b)(i). CDBG-CV Application Content, Submission, Consistency with Other Portions of Consolidated Plan. In the April 9 memorandum, HUD issued a waiver and alternative requirement that permits a grantee to apply for CDBG-CV funds by submitting a substantial amendment to its most recently approved annual action plan. Grantees may also apply for CDBG-CV funds in a future annual action plan submission.

As part of the application submission, HUD is temporarily waiving the requirements (found at 42 U.S.C. 12706 and 24 CFR 91.325(a)(5) and 91.225(a)(5)) that grantees certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are

consistent with the strategic plan portion of the consolidated plan. HUD is imposing a related alternative requirement that allows grantees to submit those certifications when the grantee submits its next full (3-5 year) consolidated plan due after the 2020 program year. Grantees may not have considered the needs associated with CDBG-CV funds when developing their current consolidated plan strategic plan and needs assessment.

In conjunction, HUD is temporarily waiving 42 U.S.C. 5304(e) to the extent that it requires HUD to annually review grantee performance under the consistency criteria. This waiver also only applies until the grantee submits its next full (3-5 year) consolidated plan due after the 2020 program year.

Applying through a substantial amendment to the most recent action plan. If the CDBG-CV application is submitted as a substantial amendment to the most recent annual action plan, the substantial amendment must include the CDBG-CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. To permit this expedited application process, in the April 9 memorandum HUD waived statutory provisions at 42 U.S.C. 12705(a)(2) to the extent they require updates to the housing and homeless needs assessment, (24 CFR 91.205 and 91.405), housing market analysis (24 CFR 91.210 and 91.410), and strategic plan (24 CFR 91.215 and 91.415. HUD also waived 24 CFR 91.220 (entitlements) and 91.320 (states), to the extent those regulations limit the action plan to a specific program year, to permit grantees to prepare substantial amendments to their most recent annual action plan (including their 2019 annual action plan).

In the April 9 memorandum, HUD also issued a waiver and alternative requirement to 24 CFR 91.505 to facilitate the use of the CDBG-CV funds to the extent necessary to require

submission of the substantial amendment to HUD for review in accordance with 24 CFR 91.500, and required that, to receive a CDBG-CV grant, a grantee must also submit a SF-424, SF-424D, and the certifications at 24 CFR 91.225(a) and (b) (entitlements) or 24 CFR 91.325(a) and (b) (states).

HUD is now adding to the waivers in the April 9 memorandum as follows. The abbreviated consolidated plan regulations for insular areas at 24 CFR 570.440(i) are waived to the extent necessary to impose the same alternative requirements in the April 9, 2020 waiver, so that if an insular area applies for CDBG-CV funds by submitting a substantial amendment to an abbreviated consolidated plan, the following requirements apply. The substantial amendment must include the CDBG-CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. The grantee must submit the substantial amendment to HUD for review in accordance with 24 CFR 91.500, and to receive a CDBG-CV grant, it must submit a SF-424, SF-424D and the certifications at 24 CFR 570.440(e).

If CDBG-CV funds are included in a substantial amendment to the most recently submitted annual action plan, existing cooperation agreements between a local government and an urban county governing other CDBG funds in the most recently submitted annual action plan (for purposes of either an urban county or a joint program) will automatically cover CDBG-CV funding as well. These cooperation agreements will continue to apply to the use of CDBG-CV funds for the duration of the CDBG-CV grant.

Applying through a new annual action plan submission. The action plan submission procedures in 24 CFR part 91 (including consultation and a public hearing) apply to grantees that choose to submit CDBG-CV applications by including CDBG-CV funds in a new annual action

plan submission. Content of action plans is described at 24 CFR 91.220 (entitlements), 91.320 (states), and 24 CFR 570.440 (insular areas).

Applying for additional CDBG-CV allocations. The waivers and alternative requirements in the April 9 memorandum apply to all allocations of CDBG-CV funds. HUD encourages grantees to apply for additional allocations of CDBG-CV funds as they are announced by submitting substantial amendments to their most recent annual action plan. Grantees are advised that an application for an additional allocation of CDBG-CV funds should be submitted as a substantial amendment to the annual action plan that describes the first CDBG-CV allocation.

An application submitted as a substantial amendment must include the CDBG-CV allocation as an available resource for the year and include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus.

HUD strongly encourages grantees to apply for allocations through substantial amendments as they are announced. However, grantees that have not submitted applications for CDBG-CV funds when additional allocations are announced may submit a single application for all allocations as a substantial amendment to the most recent annual action plan, or as part of a new annual action plan.

*III.B.4.(b)(ii). Content of CDBG-CV application for States Acting Directly***.** The waiver and alternative requirement in paragraph III.B.6.(b)(i) permit states to carry out activities directly. Therefore, HUD is granting the following waiver and alternative requirement to amend 24 CFR 91.320(d) and 24 CFR 91.320(k)(1)(i) to the extent necessary to require a state to submit a description of a method of distribution and include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus. A state that has already submitted its application for CDBG-CV funds may amend

its annual action plan that describes the use of CDBG-CV funds to modify its description of a method of distribution and include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus.

III.B.4.(b)(iii). Deadline to Apply for Assistance. Under the CARES Act, the deadline is August 16, 2021, for grantees to submit their CDBG-CV action plan and the annual Action Plan for fiscal year 2019 and 2020 CDBG funds. This deadline supersedes the August 16, 2020 deadline established by 24 CFR 91.15 in accordance with section 116(b) of the HCD Act.

III.B.5. Allowable Costs, Eligible Activities and National Objectives

This section describes modifications to the CDBG program requirements that address allowability of costs that can be charged to CDBG-CV grants.

III.B.5.(a) Use of Funds for CARES Act Purposes

The grantee is required to use all CDBG-CV funds for CDBG-eligible activities that are carried out to prevent, prepare for, and respond to coronavirus. CDBG-CV grants cannot be used for any other purpose. This requirement is discussed more fully in section III.B.5.(f), which discusses eligible activities.

Additionally, HUD weighed the purpose of the CARES Act to prevent, prepare for, and respond to coronavirus with the intent of Congress expressed in section 101I of the HCD Act (42 U.S.C. 5301(c) that CDBG funds not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance. Given the extreme and unexpected downturn in local and national economic conditions, local resources are strained. Jurisdictions must provide new and expanded support with fewer resources. Therefore, HUD has concluded that when CDBG

funding is used for purposes of the CARES Act, it is not considered to substantially replace the amount of local financial support previously provided to community development activities.

III.B.5.(b) Reimbursements

The CARES Act provides that CDBG-CV funds may be used to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality regardless of the date on which such costs were incurred. This authority is broader than the authority to reimburse costs with other CDBG funds.

The term "locality" is not defined by the CARES Act, the HCD Act, or the CDBG program regulations. For purposes of CDBG-CV grants, a "locality" shall mean units of general local government, as defined in section 102 of the HCD Act.

The CARES Act also requires that all costs reimbursed with CDBG-CV funds be allowable costs, meaning they comply with all grant requirements. Therefore, HUD is adopting the following waivers and alternative requirements to 24 CFR 570.200(h) and 570.489(b) to facilitate the use of CDBG-CV funds to reimburse allowable costs by modifying current regulations that are inconsistent with CARES Act reimbursement authority and imposing safeguards to help ensure the allowability of all costs charged to the CDBG-CV grant:

Grantees shall not reimburse costs incurred before January 21, 2020, without written approval from HUD's Office of Block Grant Assistance (OBGA), by emailing the contact person listed at the beginning of this notice. HUD is imposing a presumption that costs of activities undertaken before January 21, 2020, the date the CDC confirmed the first case of coronavirus in the United States in the State of Washington,[1] are highly unlikely to be eligible for reimbursement because they likely are not costs to prevent, prepare for, and respond to

[1]See CDC Press Release at: https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html

coronavirus. The need to pay for coronavirus-related costs incurred after this date far exceeds the amount of CDBG-CV funds available. HUD cautions that it will only consider granting written approval in extraordinary cases where the clear link to the purposes of the CARES Act is documented by substantial evidence provided to HUD by the grantee. Inquiries related to this requirement can be submitted to the contact identified above for this notice.

HUD is waiving the requirements of 570.200(h) and 570.489(b) to the extent necessary to authorize a grantee to permit reimbursement of pre-application costs of subrecipients, units of general local government, and itself, in addition to pre-agreement and pre-award costs. However, an environmental review must be performed and a release of funds must be obtained in accordance with 24 CFR part 58 prior to committing CDBG-CV funds to reimburse such costs. After the grantee signs a CDBG-CV agreement it may reimburse a unit of general local government or subrecipient for costs incurred before the unit of general local government or subrecipient applies to the grantee for assistance.

For grantees subject to the entitlement CDBG regulation at 24 CFR 570.200(h), the following waivers and alternative requirements apply: in lieu of the effective date described at 570.200(h), the grantee shall use the date in box 4 of form HUD-7082, Funding Approval/Agreement. HUD is waiving the requirement at 570.200(h)(1)(i) and (ii) that the activity for which costs are incurred must be included in a consolidated plan action plan or amended consolidated plan action plan before incurring the costs. Instead, the activity for which costs were incurred must be included in the grantee's CDBG-CV application before CDBG-CV funds are used to reimburse those costs. Or, if the use of CDBG-CV funds for reimbursements is not included in the CDBG-CV application, this use may be included in a subsequent amendment to the annual action plan that describes the use of the CDBG-CV funds (following the grantee's

citizen participation plan procedures for amendments). To facilitate the use of funds provided under a one-time grant rather than an annual appropriation, HUD is waiving the time limitation and the monetary limitation on reimbursements in 570.200(h)(1)(v) and (vi) and related provisions at 570.200(h)(2). HUD is not waiving the requirement at 570.200(h)(1)(iii) to comply with the environmental review procedures stated in 24 CFR Part 58.

All grantees may authorize subrecipients to incur pre-award costs in accordance with pre-agreement cost authority under 24 CFR 570.489(b) (states) and pre-award cost authority under 24 CFR 570.200(h) (entitlements), as modified above. Consistent with the waiver and alternative requirement in paragraph III.B.6.(b)(i) that authorizes states to act directly, the provisions of 24 CFR 570.489(b) are waived to the extent necessary to authorize a state to charge to the grant pre-agreement costs of its subrecipients in addition to the pre-agreement costs of units of general local government, in accordance with procedures established by the state and subject to the requirements that apply to pre-agreement costs of units of general local government in 24 CFR 570.489(b), and the requirements that apply to the use of CDBG-CV funds.

While provisions of 24 CFR 570.489(b) requiring compliance with 24 CFR Part 58 do not apply prior to an application for CDBG-CV funds, a unit of general local government or state must document compliance with the environmental review requirements at 24 CFR Part 58 following the application to the state or unit of general local government for funding and prior to reimbursement of pre-application costs, per 24 CFR 570.200(h)(1)(iii) and 24 CFR 570.489(b). If a grantee cannot meet all requirements at 24 CFR Part 58 and cannot demonstrate there was no environmental harm committed, the pre-application costs cannot be reimbursed with CDBG-CV or other HUD funds.

III.B.5.(c) Terms and Conditions Made Applicable by the CARES Act

The CARES Act subjects CDBG-CV funds to the authorities and conditions applicable to annual CDBG grants for fiscal year 2020. Therefore, the following requirements apply to CDBG-CV grants:

III.B.5.(c)(i). Limitations on Use of Funds for Eminent Domain. The grantee shall ensure that no CDBG-CV funds are used to support any Federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118) shall be considered a public use for purposes of eminent domain.

III.B.5.(c)(ii). Prohibition on Certain Funds Transfers. The Grantee or unit of general local government that directly or indirectly receives CDBG-CV funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the HCD Act or permitted by waiver and alternative requirements that apply to the use of CDBG-CV funds.

III.B.5.(c)(iii). E.O. 12372-Special Contract Condition. Notwithstanding any other provision governing CDBG-CV funds, no funds may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

III.B.5.(c)(iv). Mandatory Evaluation of Special Economic Development Activities. CDBG-CV funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements." Given the likelihood that CDBG-CV funds will be used to assist businesses needing working capital financing for everyday operations, such as payroll costs, HUD intends to provide advice or technical assistance on the application of the guidelines and objectives set forth in Appendix A to such assistance. HUD will consider providing advice or technical assistance in recognition of the differences in underwriting assistance for the wide range of economic development projects permitted under section 105(a)(17) (as implemented at 24 CFR 570.203(b)).

III.B.5.(d) National Objectives

*III.B.5.(d)(i) Use of Urgent Need National Objective***.** HUD has received questions regarding the records necessary to document that a grantee's activities to prevent, prepare for, and respond to coronavirus satisfy the urgent need national objective. To meet the urgent need national objective criteria at 24 CFR 570.208(c) (entitlements) and 570.483(d) (states), a grantee (or in the case of the State CDBG program, a unit of general local government or a state, if the state is carrying out activities directly as authorized by section III.B.6.(b)(i)) must certify that: (1) the activity is designed to alleviate existing conditions; (2) those existing conditions pose a serious and immediate threat to the health or welfare of the community and are of recent origin or recently became urgent; and (3) that the grantee, state, or unit of general local government is unable to finance the activity on its own, and that other sources of funds are not available. The State CDBG regulation at 24 CFR 570.483(d) requires the state's determination of these elements in addition to the unit of general local government's certification.

Entitlement grantees must maintain records required by 24 CFR 570.506(b)(12) to document: (1) the nature and degree of seriousness of the condition requiring assistance and the timing of its development; (2) evidence that the recipient certified that the CDBG activity was designed to address the urgent need; and (3) evidence confirming that other financial resources to alleviate the need were not available. The State CDBG recordkeeping requirements at 24 CFR 570.490 require states and state recipients to maintain records to demonstrate compliance with the urgent need criteria.

The following information provides guidance on how a grantee may satisfy existing recordkeeping requirements for the urgent need national objective criteria in addition to a

grantee's or unit of general local government's certification and a state's determination (or state's certification, if the state is acting directly):

Criteria 1: Is the activity designed to alleviate existing conditions? For CDBG-CV grants, the records the grantee maintains to demonstrate that the activity was designed to alleviate existing conditions can be the same records used to show that grant funds were used to prevent, prepare for, and respond to coronavirus, as required by the CARES Act.

Criteria 2: Does the condition pose a serious and immediate threat to the health or welfare of the community that is of recent origin or that recently became urgent? In light of the severity of coronavirus and the urgency of the nation in addressing its impacts, pursuant to 24 CFR 570.208(c) (entitlements) or 24 CFR 570.483(d) (states), a grantee may certify that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community within 18 months following a date determined by one of the following three methods:

- Referral to a U.S. Department of Health and Human Services issued press release declaring a public health emergency for the entire United States found at https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html. The declaration was retroactive to January 27, 2020;
- Referral to the President's declaration of the ongoing Coronavirus Disease 2019 (COVID-19) pandemic as an emergency of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.

5121-5207 (the "Stafford Act"). (The President subsequently approved additional major disaster declarations for states); or

- Referral to the effective date of a grantee's own local or state emergency declaration.

Criteria 3: Is the grantee or unit of general local government unable to finance the activity on its own, and are other sources of funds are not available to carry out the activity? The extreme needs of local governments resulting from coronavirus in the United States outweigh available resources, despite the extraordinary level of assistance provided to states and units of general local government under the CARES Act. Therefore, documentation that the activity will prevent, prepare for, and respond to the coronavirus may be used to demonstrate that a grantee or unit of general local government is unable to finance the activity on its own.

All CDBG-CV grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits for assisted activities (as discussed in section III.B.9. of this notice). To demonstrate that no financial assistance has been received or is available to pay costs charged to a CDBG-CV grant, a grantee may demonstrate that no other funds are available for an activity by maintaining records of compliance with mandatory duplication of benefits requirements described in section III.B.9.

All grantees are reminded to consider how the use of the urgent need national objective will affect their compliance with the CDBG "overall benefit" requirements discussed in paragraph III.B.5.(d)(iv).

*III.B.5.(d)(ii) Modification of Location-Based Presumption of LMI Benefit for Job Creation and Retention National Objective Criteria***.** To facilitate the use of funds for economic development, HUD is removing the higher poverty rate required in some cases for central business districts, which is not required by statute. HUD is instituting an alternative

requirement to modify the regulations at 24 CFR 570.208(a)(4)(v) (entitlement) and 24 CFR 570.483(b)(4)(v) (state) by deleting the criteria at 24 CFR 570.208(a)(4)(v)(B) (entitlement) and 24 CFR 570.483(b)(4)(v)(B) (state). Under this alternative requirement, for purposes of the LMI job creation/retention national objective at 24 CFR 570.208(a)(4) and 24 CFR 570.483(b)(4), a census tract qualifies for the presumptions under the criteria established in regulations at 24 CFR 570.208(a)(4)(v) and 24 CFR 570.483(b)(4)(v) if the poverty rate is at least 20 percent and if it evidences pervasive poverty and general distress using the criteria described in 24 CFR 570.208(a)(4)(v)(C) (entitlement) and 24 CFR 570.483(b)(4)(v)(C) (states).

This alternative requirement eliminates a requirement that census tracts that contain at least a portion of a central business district must have a poverty rate of at least 30 percent before residents and businesses in the tract are entitled to a presumption of low- and moderate-income (LMI) benefit. HUD has determined that eliminating the 30 percent requirement for tracts that contain central business districts will standardize the required poverty rate to meet the presumption regardless of where the persons or the business is located, which facilitates the use of grant funds to assist desperate businesses. Central business districts are hubs that contain many coronavirus-affected businesses and facilitating assistance to businesses that seek to retain jobs is consistent with the purposes of the CARES Act. Standardizing the poverty rate for the LMI benefit presumption may help to avoid wholesale collapse of central business districts at a when many businesses have closed or at risk of closing due to insufficient revenues.

III.B.5.(d)(iii) LMI Job Creation and Retention Records. HUD is establishing the following waiver and alternative requirement to facilitate and expedite assistance to coronavirus-affected businesses by streamlining national objective criteria and recordkeeping requirements for activities that benefit LMI persons by retaining or creating jobs. The normal job creation and

retention recordkeeping requirements consider family income when determining whether a beneficiary is a person of low or moderate income, but these requirements are likely to be burdensome during a time when unemployment has surged and family income is more difficult to document. Collection of income information directly from assisted businesses can streamline assistance. Therefore, notwithstanding that the definitions of low-income person and moderate-income person in 24 CFR 570.3 are based on family income, for purposes of meeting the national objective criteria for job creation or retention at 24 CFR 570.208(a)(4) and 24 CFR 570.483(b)(4), HUD is imposing the following waiver and alternative requirement: grantees and employers may consider individuals that apply for or hold jobs to be members of one-person families for activities that prevent, prepare for, and respond to coronavirus. HUD is also modifying related recordkeeping requirements at 24 CFR 570.506(b)(7) (entitlement) and the jointly agreed upon requirements referenced in 24 CFR 570.490 (state) by adding the following additional presumption: the recipient may substitute records showing the type of job and the annual wages or salary of the job in lieu of maintaining records showing the person's family size and income to demonstrate that the person who filled or held/retained the job was a low- or moderate-income person, when required by paragraph 24 CFR 570.506(b)(5)(i)(B), (b)(5)(ii)(C), (b)(6)(iii) or (b)(6)(v) (entitlement) or the requirements referenced in 24 CFR 570.490 (state). HUD will consider the person income-qualified if the annual wages or salary of the job is equal to or less than the Section 8 low-income limit established by HUD for a one-person family. Under this alternative requirement, a grantee will have substantially reduced documentation requirements because they will be working with assisted businesses rather than each person, and potentially their households, who received a job.

III.B.5.(d)(iv) Overall Benefit to LMI Persons. HUD is establishing an alternative requirement to modify the calculation of overall LMI benefit, so that compliance with the requirement is separated from the annual formula CDBG program calculation of overall benefit. Overall LMI benefit for CDBG-CV grants will be calculated based on the percentage of the CDBG-CV grant that benefits LMI persons. This alternative requirement is consistent with the idea that one-time, supplemental funding should not skew the calculation of overall benefit for use of annual formula CDBG grants and guaranteed loan funds. This modification expedites and facilitates the use of funds in part by enabling grantees to best plan which activities will benefit LMI persons.

Section 101I of the HCD Act (42 U.S.C. 5301(c)) establishes the primary objective of the HCD Act: the "development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." CDBG-CV grants are subject to the requirement that 70 percent of funds are for activities that benefit LMI persons. The requirements at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.200(a)(3) (entitlements and nonentitlement counties in Hawaii), 24 CFR 570.420(d)(2)-(3) (insular areas), and 24 CFR 570.484 (states) shall remain in place to the extent that they require the grantee to ensure that 70 percent of its CDBG-CV grant be expended for activities that benefit LMI persons. As an alternative requirement, however, HUD is requiring that grantees must demonstrate compliance with the overall benefit requirement separately for a grantee's total CDBG-CV grant allocation and not in combination with annual formula CDBG funding or commitments under the Section 108 Loan Guarantee program.

Under this alternative requirement, there is no option for grantees to select the timeframe for compliance. HUD previously instructed grantees to submit certifications required by 24 CFR 91.225 (entitlements) or 24 CFR 91.325 (states). The regulations at 24 CFR 91.225(b)(4)(ii) and 24 CFR 91.325(b)(4)(ii) require grantees to certify that the aggregate use of CDBG funds will comply with the overall benefit requirement during a period specified by the jurisdiction, consisting of one, two, or three specific consecutive program years. Under this alternative requirement, grantees are not required to carry out the grant consistent with the mandatory overall benefit certification because HUD has changed the requirement related to overall benefit.

III.B.5.(e) Public Benefit

III.B.5.(e)(i) Elimination of Aggregate Public Benefit Test. HUD is waiving the standard for aggregate public benefit that applies to economic development activities described in 24 CFR 570.209(b)(1)-(2) (entitlement) and in 24 CFR 570.482(f)(2)-(3) (state). The public benefit standards were designed to require that economic development activities, in the aggregate, provide an appropriate amount of public benefit based on the amount of CDBG funds used. Given the clear benefit derived from addressing economic disruptions due to coronavirus, CDBG-CV grantees can adequately demonstrate public benefit based on the individual public benefit standards, as modified by waivers and alternative requirements in section III.B.5.(e)(ii).

Therefore, to facilitate and expedite the use of CDBG-CV funds for coronavirus-related economic development activities, HUD is waiving the aggregate public benefit standards at 24 CFR 570.209(b)(1)-(2) (entitlement) and 24 CFR 570.482(f)(2)-(3) (state). In granting this waiver, HUD notes that based on the growing number of urgent requests for economic development assistance, particularly from small business, grantees are likely to have difficulty

determining the appropriate amount of CDBG assistance, in the aggregate, for their current and next program years.

III.B.5.(e)(ii) Modification of Individual Public Benefit Standards. To facilitate the use of grant funds by providing greater leeway to grantees to identify the most advantageous means of providing economic development assistance, HUD is modifying the individual public benefit standards. HUD is imposing a waiver and alternative requirement to establish an alternative means by which grantees can demonstrate public benefit from the use of CDBG-CV funds for individual special economic development activities.

Certain economic development activities described in 24 CFR 570.209 (entitlement) and in 24 CFR 570.482(f)(1) (state) are subject to individual public benefit standards at 24 CFR 570.209(b)(3) (entitlement) and 24 CFR 570.482(f)(4) (state). Grantees must satisfy these public benefit standards to show that the amount of CDBG funds used for individual economic development activities is appropriate relative to the benefit to the public from those activities.

HUD is waiving the individual standards at 24 CFR 570.209(b)(3) and 24 CFR 570.482(f)(4) and imposing the following alternative requirement. For activities subject to the public benefit standards, grantees must document that: a) the activity will create or retain at least one full-time equivalent, permanent job per $85,000 of CDBG funds used; b) the activity will provide goods or services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one LMI person per $1,700 of CDBG funds used; or c) the assistance was provided due to business disruption related to coronavirus (in which case, no monetary standard applies because HUD has determined that there is sufficient public benefit derived from the provision of assistance to stabilize or sustain businesses in the grantee's jurisdiction that suffer disruption due to coronavirus, and that

facilitation of business assistance for this purpose may help to avoid complete economic collapse within the grantee's jurisdiction). This alternative requirement does not modify the requirements related to eligible activities and national objectives criteria.

III.B.5.(f) Eligible Activities

Grantees may use CDBG-CV funds only for those activities carried out to prevent, prepare for, and respond to coronavirus. By law, use of funds for any other purpose is unallowable. To satisfy these purposes, grantees may assist activities that respond to direct effects, such as the need to rehabilitate a building to add isolation rooms for recovering coronavirus patients. A grantee may also undertake activities to address indirect effects of the virus, such as the economic and housing market disruptions caused by social distancing measures and stay at home orders implemented to prevent the spread of coronavirus.

Some activities clearly tie back to the purposes of the CARES Act, such as public services, economic development and microenterprise assistance, public facilities, and the rehabilitation of private buildings to provide housing. However, HUD is not prohibiting grantees from carrying out any particular CDBG eligible activity described in the HCD Act and the part 570 regulations, because other CDBG eligible activities, such as acquisition, can justifiably be used to fulfill the CARES Act purposes depending upon the circumstances.

To remain consistent with the structure of a block grant program and the flexibility of CDBG to provide multiple avenues to achieve the purposes of the CARES Act, HUD is implementing the limitation that funds be used for the coronavirus-related purposes of the CARES Act by requiring grantees to document the use of funds to prevent, prepare for, and respond to coronavirus, rather than by expressly prohibiting grantees from undertaking any of the eligible activities described in the HCD Act. HUD cautions grantees that the recordkeeping

requirements of this notice require clear documentation that all uses of funds satisfy the statutory purposes of the CARES Act.

The current needs to prevent, prepare for, and respond to coronavirus may require use of CDBG-CV funds for uncommon activities. HUD is preparing a series of technical assistance products that describe opportunities to quickly deploy CDBG-CV funds to address immediate needs. As this technical assistance is developed, it will be posted on the CDBG-CV page on the https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19.

When identifying eligible activities to be carried out with CDBG-CV funds, grantees can reduce the potential for duplication of benefits by designing activities that address needs not covered by other sources of financial assistance. More information on requirements to prevent the duplication of benefits is described in section III.B.9.

III.B.5.(f)(i) Extension of Emergency Payments. HUD is providing an alternative requirement to extend the period that grantees can make emergency grant payments on behalf of individuals and families. Normally, CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the HCD Act for states, and which are expressly prohibited by 24 CFR 570.207(b)(4) in the Entitlement CDBG regulations. The phrase *income payments* means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes *emergency payments* made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

Coronavirus has had a massive impact on families' ability to work for pay, make rent or mortgage payments, access or pay for food, clothing, and basic utilities, and access many other essential items and services. To help individuals and families address these challenges, HUD is

waiving section 105(a)(8) of the HCD Act and 24 CFR 570.207(b)(4) only to the extent necessary to establish the following alternative requirement: CDBG-CV funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months.

Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. CDBG-CV grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. Grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

III.B.5.(f)(ii) Opportunity Zones and Related Flexibilities for Economic Development. To facilitate and expedite the use of grant funds for economic development during this time of extraordinary need, HUD is clarifying the existing requirements and adopting an alternative requirement that expands economic development activities that can be carried out with CDBG-CV funds. HUD is adopting this alternative requirement because the entitlement regulations at 24 CFR 570.203(b) describe some financing mechanisms for economic development, but do not provide an exhaustive list of the forms of support grantees can provide to private, for-profit businesses and to nonprofits for special economic development activities. Many economic development activities are carried out in conjunction with other forms of assistance and Federal tax-based programs that help provide additional sources of financing for economic development, particularly in LMI areas. HUD wants to facilitate the ability for grantees to use CDBG-CV funds to fill financing gaps that cannot be met by other sources and

quickly launch critical economic development projects, particularly in Opportunity Zones and other target areas, without taking the time to seek additional clarification from HUD on activity eligibility for individual projects.

First, this notice clarifies an existing requirement of economic development activities that grantees may carry out pursuant to 24 CFR 570.203(b) (entitlement) or section 105(a)(17) of the HCD Act (state). Grantees may provide assistance to an economic development project through a for-profit entity that passes the funds through a financing mechanism (e.g., Qualified Opportunity Funds and New Markets Tax Credit (NMTC) investment vehicles). The regulations at 24 CFR 570.203(b) already list forms of support by which grantees can provide assistance to private, for-profit businesses where the assistance is appropriate to carry out an economic development project. HUD has previously interpreted this provision to allow for CDBG assistance to NMTC investment vehicles. This clarification makes clear that such assistance through any financing mechanism (which is not limited to NMTC investment vehicles) is eligible under 24 CFR 570.203(b). The regulation also does not apply to states, but states may consider 24 CFR 570.203(b), as clarified by the following alternative requirement, as guidance in the same way that they may consider other Entitlement CDBG regulations.

HUD is not waiving 24 CFR 570.203(b) (entitlement) or section 105(a)(17) (state), and other statutory and regulatory requirements remain in place.

Second, this notice establishes an alternative requirement that expands the authority in section 105(a)(15) of the HCD Act and 24 CFR 570.204 to permit grantees subject to entitlement CDBG regulations to assist nonprofit organizations serving the development needs of their jurisdiction by carrying out community economic development projects through a financing mechanism. The nonprofit may pass assistance through a financing mechanism to another entity

based on the language in section 105(a)(15) of the HCD Act. Grantees subject to entitlement regulations must document that the assisted nonprofit is serving the development needs of the jurisdiction and that the assistance is used for a community economic development project that is necessary to prevent, prepare for, and respond to coronavirus.

III.B.5.(f)(iii) Public Services Cap. The CARES Act provides that notwithstanding section 105(a)(8) of the HCD Act (42 U.S.C. 5305(a)(8)), there shall be no per centum limitation for the use of funds for public services activities to prevent, prepare for, and respond to coronavirus. The CARES Act provides this flexibility for all CDBG-CV funds and CDBG funds appropriated in fiscal years 2019 and 2020 to the extent that grantees use these funds to carry out public service activities to prevent, prepare for, and respond to coronavirus.

Following enactment of the CARES Act, the public services cap described in section 105(a)(8) of the HCD Act and 24 CFR 570.201(e) has no effect on CDBG-CV grants. Program income generated by the use of CDBG-CV funds is given special treatment, as discussed in III.B.6.(a). Therefore, notwithstanding the provisions of section 105(a)(8) of the HCD Act, program income is not a consideration for purposes of determining the amount of CDBG-CV funds that can be expended on public services. The calculation of the public services cap for fiscal year 2020 and 2019 annual formula CDBG grants is discussed in section IV.B.4.(a).

III.B.5.(f)(iv) Other Public Services Considerations. HUD reminds grantees to comply with other requirements in section 105(a)(8) of the HCD Act, and for grantees subject to entitlement CDBG regulations, 24 CFR 570.201(e). Namely, CDBG-CV funds may only be used for those public service activities that are new or that represent a quantifiable increase above the level of an existing service that has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the state

in which it is located) in the 12 calendar months before the submission of the action plan, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government.

Additionally, grantees are reminded that the purchase of personal property and equipment is generally ineligible. However, the entitlement CDBG regulation at 24 CFR 570.207(b)(1) (which may be used as guidance by state grantees), allows grantees to purchase or to pay depreciation in accordance with 2 CFR part 200, subpart E, for personal property, fixtures, and equipment when necessary when such items constitute all or part of a public service. Examples of use of equipment that constitute all or part of a public service include equipment and supplies owned by the grantee or subrecipient that provides the public service, e.g., ventilators or other medical equipment and supplies that will be used in providing health care at a field clinic, or a vehicle outfitted with medical equipment to provide mobile health care.

III.B.5.(f)(v). Clarification on Application of Requirements in 2 CFR part 200. In response to the coronavirus pandemic, the Office of Management and Budget (OMB) released two memoranda that allow Federal agencies to grant exceptions to some requirements under 2 CFR part 200, the *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards*. HUD reminds grantees that the flexibilities in these memoranda do not automatically apply to grantees. HUD has not approved class exceptions to 2 CFR part 200 for CDBG-CV grants or CDBG grants, so the requirements in 2 CFR part 200 continue to apply.

The OMB memoranda were for limited purposes and were not intended to cover all grantees and activities. The March 9, 2020 memorandum, M-20-11, *Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel*

Coronavirus (COVID-19) (available at https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-11.pdf), allows Federal agencies to grant class exceptions in instances where the agency has determined that the purpose of the Federal awards is to support the continued research and services necessary to carry out the emergency response related to COVID-19. The March 19, 2020 memorandum, M-20-17, *Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations* (available at https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf) allows HUD to make class exceptions for an expanded scope of recipients affected by the loss of operational capacity and increased costs due to the COVID-19 crisis. OMB indicated that it would reassess the authority granted by these memoranda within 90 days.

III.B.6. Other Program Requirements

III.B.6.(a) Program Income

To expedite use of grant funds, HUD is clarifying the requirements for CDBG-CV grants on the treatment of program income at 24 CFR 570.504 (entitlement) and 24 CFR 570.489(e)-(f) (state) that is generated by the use of CDBG-CV funds. The receipt and expenditure of program income that is generated by the use of CDBG-CV funds shall be treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program. This clarification will facilitate expenditures of CDBG-CV grant funds for their intended purpose, while continuing to maintain appropriate controls on the use of program income.

III.B.6(a)(i) Use of program income before annual formula CDBG grant funds. Any program income generated from the use of CDBG-CV funds will be receipted in HUD's

Integrated Disbursement and Information System (IDIS) as program income to the annual formula CDBG grant program.

III.B.6(a)(ii) Inapplicability of float-funded activities. Based on the treatment of income generated from the use of CDBG-CV funds as annual formula CDBG program income, HUD is waiving 24 CFR 570.301(b) and section 104(h) of the HCD Act for CDBG-CV grants. HUD is imposing the following alternative requirement: grantees shall not use CDBG-CV funds for float-funded activities or guarantees.

III.B.6(a)(iii) Retention of program income by subrecipients. A grantee may permit subrecipients (including units of general local government receiving funds from a state) to retain program income from the use of CDBG-CV funds under this paragraph if the amount held does not exceed the subrecipient's projected cash needs for CDBG activities including activities to prevent, prepare for, and respond to coronavirus.

III.B.6.(b) Rules Applicable to State CDBG-CV Grants

The paragraphs in this section apply only to State CDBG-CV grantees.

III.B.6.(b)(i) Direct Action by States. The waivers and alternative requirements in this section and in sections III.B.6.(b)(ii)-(iv) permit a state grantee to use a portion of its funds to act directly to carry out activities through employees, contractors, and subrecipients in all geographic areas within its jurisdiction, including entitlement areas and tribal populations. HUD is issuing the waivers and alternative requirements in this section based in part on information in requests from states and in part to implement provisions of the CARES Act that permit grant funds allocated to states to be used in entitlement areas.

HUD has determined that this waiver and alternative requirement will facilitate and expedite the use of CDBG-CV funds by supporting states in their roles as significant

coordinators of statewide and regional activities to prevent, prepare for, and respond to coronavirus. Additionally, these waivers and alternative requirements are designed to reduce administrative costs and streamline the delivery of assistance by maintaining a single set of grant requirements for all CDBG-CV allocations.

These waivers and alternative requirements are only available to a state if it complies with the following alternative requirements in this paragraph and in III.B.6.(b)(ii)-(iv):

Nonentitlement set aside: A state must set aside a portion of its grant for use by nonentitlement units of general local government. The nonentitlement set aside must be no less than an amount equal to the state's first CDBG-CV allocation and may be from any portion of the state's additional CDBG-CV allocation. This limitation is imposed for consistency with the CDBG-CV formulas, which include a direct allocation to entitlement areas and to states on behalf of nonentitlement areas to prevent, prepare for, and respond to coronavirus. The nonentitlement set aside fulfills the intent reflected by the formula to address needs in urban and rural areas, while giving states the flexibility to determine how to expend each allocation as it is made based on needs within its jurisdiction.

Inclusion in CDBG-CV Application: A state's proposal to act directly and to distribute or use CDBG-CV funds in entitlement areas must be published for public comment in its application for CDBG-CV funds or in a subsequent substantial amendment to the annual action plan that includes the CDBG-CV funds.

Activities carried out in tribal areas: A state grantee may carry out activities in tribal areas. States carrying out projects in tribal areas through employees, contractors, or subrecipients must obtain the consent of the Indian tribe with jurisdiction over the tribal area.

Other conforming changes: Requirements at section 106(d) of the HCD Act (42 U.S.C. 5306(d)) and 24 CFR 570.480(g) are waived to the extent necessary to allow a state to use its CDBG-CV funds for eligible activities that the state carries out directly. The standard at 24 CFR 570.480(c) and the provisions at section 104I(2) of the HCD Act (42 U.S.C. 5304(e)(2)) are modified to also include activities that the state carries out directly. Section 106(d) of the HCD Act is not otherwise waived, except as provided in this notice.

A state may carry out eligible activities directly, consistent with the entitlement program requirement of 24 CFR 570.200(f), through its employees, through procurement contracts, or through assistance provided under agreements with subrecipients. Pursuant to section 102(c) of the HCD Act, one or more public agencies may be designated by the chief executive officer of a state to undertake activities assisted under this chapter. A state is responsible for ensuring that CDBG-CV funds are used in accordance with all program requirements. The use of interagency agreements, subrecipient agreements (including agreements with Indian tribes and designated public agencies, as described in section III.B.6.(b)(ii)) or contracts does not relieve the state of this responsibility. States are responsible for determining the adequacy of performance under subrecipient agreements and procured contracts, and for taking appropriate action when performance problems arise. State grantees continue to be responsible for civil rights, labor standards, and environmental protection requirements, for compliance with all applicable requirements, including conflict of interest provisions in 24 CFR 570.489(g) and (h).

The national objective criteria in 24 CFR 570.483 are modified by the following alternative requirement when states carry out activities directly: the state must fulfill all requirements that 570.483 imposes on units of general local government to demonstrate compliance with national objective criteria.

The recordkeeping requirements at 24 CFR 570.490(b) are waived when states carry out activities directly, and the following alternative requirement shall apply: the state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of CDBG-CV funds, under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the state shall be sufficient to: (1) enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance determinations for activities carried out directly; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the CDBG-CV application. For fair housing and equal opportunity (FHEO) purposes, as applicable, such records shall include data on the race, ethnicity, and sex of persons who are applicants for, participants in, or beneficiaries of the activity.

The change of use of real property rule at 24 CFR 570.489(j) is modified to include instances when a state carries out activities directly. All references to "unit of general local government" shall be read as "state, unit of general local government (UGLG) or state subrecipient."

To include instances when a state carries out activities directly, 24 CFR 570.492 is waived and the following alternative requirement applies: the state shall make reviews and audits, including on-site reviews of any subrecipients and local governments, as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the HCD Act, as amended. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or

consequences, and prevent a recurrence. The state shall establish remedies for noncompliance by any subrecipients or local governments.

To include instances when a state carries out activities directly in accordance with the waiver in this paragraph, 24 CFR 570.489(g) is modified to revise the requirement that "[t]he state shall establish requirements for procurement policies and procedures for units of general local government" so that it applies to "units of general local government and subrecipients." To facilitate grant administration by adopting state-wide procurement policies, a state agency designated to oversee the use of all its CDBG-CV funds pursuant to section 102(c) of the HCD Act may impose its procurement requirements on all uses of CDBG-CV funds by the state, including by other state agencies that administer a portion of the CDBG-CV grants, so long as those requirements comply with 24 CFR 570.489(g).

III.B.6.(b)(ii) Use of Subrecipients by States (Including Nonprofits and Tribes). HUD is adopting the following alternative requirement that shall apply when states carry out activities directly: states carrying out activities through subrecipients must comply with 24 CFR 570.489(m) relating to monitoring and management of subrecipients. The definition of subrecipient at 24 CFR 570.500(c) applies when states carry out activities through subrecipients, and the requirements of 24 CFR 570.489(g) (as modified by section III.B.6.(b)(i)) shall apply.

For purposes of this alternative requirement, the definition of subrecipients at 24 CFR 570.500(c) is modified to expressly include Indian tribes. Indian tribes that receive CDBG-CV funding from a state grantee must comply with the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301 et seq.). This conforming requirement is necessary because the state CDBG regulations do not anticipate states distributing funds through means other than a method of distribution to units of general local government.

III.B.6.(b)(iii) Activities Carried Out by States in Entitlement Areas. The provisions of 24 CFR 570.486(c) are waived to the extent that they allow States, either directly or through units of general local government, to use CDBG-CV funding for activities located in entitlement areas without contribution from the entitlement jurisdiction, consistent with the waiver and alternative requirements in sections III.B.6.(b)(i) and (ii). HUD is granting this waiver to facilitate and expedite the use of grant funds for consistency and ease of administration by granting the same geographic flexibilities to all allocations of CDBG-CV funds, since they will be administered under a single grant.

III.B.6.(b)(iv) Use of the "upper quartile" or "exception criteria" for LMI area benefit activities. Section 105(c)(2)(A) of the HCD Act authorizes HUD to permit an exception to the LMI area benefit national objective criteria that are normally satisfied when at least 51 percent of the population of an area are persons of low and moderate income. HUD is clarifying how this "exception criteria" applies when State CDBG-CV grantees carry out activities in entitlement jurisdictions as authorized by section III.B.6.(b)(iii). If the area in which the activity is carried out would benefit from the "exception criteria" that permit a grantee to use a percentage less than 51 percent to qualify activities under the LMI area benefit criteria, those exception criteria apply to the use of CDBG-CV funds by a state the same way that they apply to the use of CDBG funds by the entitlement grantee in the same area. CDBG-CV grantees are required to use the most recent data available in implementing the exception criteria. For more information on the data set, please visit https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-exception-grantees/.

III.B.6.(b)(v) Elimination of State Administrative Match. To expedite the use of CDBG-CV funds, HUD is waiving the requirement for matching state administrative funds,

subject to the requirements of section III.B.6.(b)(vi) below. Requiring states to match administrative funds may considerably slow down the expenditure of CDBG-CV funds in states struggling to accurately project and adjust their budgets given the challenges caused by coronavirus. The requirements at 42 U.S.C. 5306(d)(3)(A) and 24 CFR 570.489(a) are waived to the extent necessary to eliminate the state match requirement for general administrative costs.

III.B.6.(b)(vi) Cap on State Administrative Costs and Technical Assistance.

Pursuant to 24 CFR 570.489(a)(3)(iii), a state and its funded units of general local government and subrecipients are, in aggregate, permitted to expend no more than 20 percent of the CDBG-CV grant for planning, management, and administrative costs. Under 42 U.S.C. 5306(d)(5) and (6) and 24 CFR 570.489(a)(1) a state may not directly use more than $100,000 plus 3 percent of its annual grant for administrative and technical assistance costs combined. HUD is waiving 42 U.S.C. 5306(d)(5) and (6) and 24 CFR 570.489(a)(1) and establishing an alternative requirement that a state may use up to 7 percent of its CDBG-CV grant combined for general administration and technical assistance costs; of that 7 percent, a state may use up to 5 percent of CDBG-CV funds for general administration costs and up to 2 percent of the grant for technical assistance activities. The remainder of the amount may be used by units of general local government for administrative and technical assistance costs, provided that a state and its funded units of general local government and subrecipients expend no more than 20 percent of the CDBG-CV grant for planning, management, and administrative costs. A grantee must meet this alternative requirement over the life of its grant, as amended to incorporate additional allocations of CDBG-CV funds.

CDBG-CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG-CV

funds may be used to pay costs that benefit both the CDBG-CV grant and another CDBG award and can be distributed between the grants in proportions that may be reasonably approximated.

III.B.6.(b)(vii) Procurement. Except as described in section III.B.6. to accommodate states acting directly, this notice does not modify procurement requirements at 24 CFR 570.489(g) for state grantees. As discussed above, the local procurement policies and procedures that apply to the use of annual formula CDBG grant funds may not be nimble enough to accommodate this urgent need to quickly procure goods and services necessary to carry out eligible activities. HUD recommends that CDBG-CV grantees review their existing procurement policies to explore the potential use of state or local waiver authority and emergency procedures that may expedite procurement processes.

Additionally, if the grantee plans to use CDBG-CV grants to carry out eligible activities that satisfy non-Federal cost share requirements under section 105(a)(9) of the HCD Act, the grantee should consider modifying procurement policies to authorize grantees to use procurement policies and procedures of the agencies paying the Federal cost share of the activity, to the extent that those policies and procedures are consistent with the procurement requirements on the use of CDBG-CV funds. Modifying procurement policies to allow the use of procurement requirements imposed by other Federal grants is easier for state grantees, but entitlement grantees that anticipate use of a substantial amount of CDBG-CV funds to satisfy non-Federal cost share may also be able to adopt a similar provision where the other Federal granting agency imposes the procurement requirements in 2 CFR part 200.

III.B.6.(c) Rules for Entitlements, Insular Areas, and Nonentitlement Hawaii Counties

III.B.6.(c)(i). Administrative and Planning Cost Caps. To expedite the use of grant funds, HUD is waiving requirements of 24 CFR 570.200(g) that are inconsistent with the

treatment of program income in section III.B.6.(a) and the treatment of CDBG-CV funds as a standalone grant. The following alternative requirement applies to grants subject to subpart D (entitlement grants and grants to the nonentitlement counties of the State of Hawaii): no more than 20 percent of the total CDBG-CV grant shall be expended for planning and program administrative costs, as defined in 24 CFR 570.205 and 24 CFR 570.206, respectively. There is no program year obligation test for planning and administrative costs of CDBG-CV grants. Additionally, CDBG-CV funds shall not be included in the compliance determination of the program year obligation test applicable to annual formula CDBG funds. Additionally, program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the administrative and planning cost cap applicable to annual formula CDBG grants and program income, separately from CDBG-CV funds.

CDBG-CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG-CV funds may be used to pay costs that benefit both the CDBG-CV grant and another CDBG award and can be distributed between the grants in proportions that may be reasonably approximated.

III.B.6.(d) Compliance with Environmental Review Requirements

III.B.6.(d)(i). Overview of Environmental Review Requirements. Environmental regulations at 24 CFR 58.22 prohibit CDBG grantees, a recipient, and any other participant in the development process from committing HUD or non-HUD funds to a project until the environmental compliance review process has been successfully completed or until receipt of the Authority to Use Grant Funds, if applicable. In addition, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable

alternatives. Therefore, it is very important for grantees to begin and complete any required environmental compliance review as soon as possible. Grantees are urged to contact their Field Environmental Officer for more information about environmental review requirements.

*III.B.6.(d)(ii) Clarifying note on the process for environmental release of funds when a State carries out activities directly***.** Usually, a state distributes CDBG funds to local governments and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. Under the waiver and alternative requirement in paragraph III.B.6.(b), HUD will allow a State CDBG-CV grantee to carry out activities directly in addition to distributing funds to subrecipients. Thus, per 24 CFR 58.4, when a state carries out activities directly, the state must submit the Certification and Request for Release of Funds to HUD for approval.

III.B.6.(d)(iii) Clarifying note on emergency environmental review procedures. HUD's environmental review regulations in 24 CFR part 58 include two provisions that may be relevant to environmental review procedures for activities to prevent, prepare for, and respond to coronavirus. The first is 24 CFR 58.34(a)(10), which provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of part 58 or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.

The second is a streamlined public notice and comment period in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially-declared or locally-declared public health emergency is discussed in the Notice, *Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19* (CPD-20-07) posted at https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf.

III.B.6.(e) Compliance with Labor Laws

CDBG-CV grants are subject to the Davis-Bacon prevailing wage requirements imposed by section 110(a) of the HCD Act. HUD cannot waive this or other labor laws. Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where Federal assistance is not approved prior to contract award (or the beginning of construction if there is no contract award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications. However, if there is no evidence that the owner intended to apply for the CDBG-CV assistance prior to the contract award or the start of the construction, HUD may request that DOL allow prospective, rather than retroactive, application of the Davis-Bacon wage rates. DOL may allow prospective application of Davis-Bacon requirements where it finds that it is necessary and proper in the public interest to prevent injustice or undue hardship and it finds no intent to apply for the federal assistance before contract award or the start of construction. The CDBG-CV Grantee should contact a HUD Labor Relations Specialist if such a situation arises.

III.B.6.(f) Relationship to Section 108 Loan Guarantees

Under the Section 108 Loan Guarantee Program, CDBG grantees can borrow up to five times their most recent CDBG grant by issuing federally guaranteed notes. To ensure that CDBG-CV funds are used for the purposes authorized by the CARES Act, HUD is issuing the following alternative requirement to sections 108(b) and (c) of the HCD Act (42 U.S.C. 5308(c)): CDBG-CV funds shall not be factored into a grantee's Section 108 borrowing authority.

A grantee may use CDBG-CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent, prepare for, and respond to coronavirus. The necessity of such use shall be documented by the grantee or the subrecipient that provided the assistance (e.g., if Section 108 funds were used by the grantee to provide assistance to a for-profit business in the form of a loan and the business is unable to make a payment due to the reduction in revenue caused by coronavirus, any restructuring of that loan must be supported by modification to loan documents that document the relationship to coronavirus). When CDBG-CV funds are used to subsidize or replace principal, interest, or fees due under a loan previously made with guaranteed loan funds as part of an activity to assist a for-profit or a subrecipient, and the CDBG-CV assistance is necessary to respond to the impact of coronavirus (e.g., a third-party business borrower whose loan is the intended source for repayment of a Section 108 loan is not collecting sufficient revenue due to local public health conditions), the documentation that the original assisted activity satisfies national objective criteria shall be sufficient to demonstrate that the use of the guaranteed loan funds and the additional CDBG-CV assistance meet a CDBG national objective.

This alternative requirement does not limit the Secretary's authority under section 108I of the HCD Act.

III.B.7. Period of Performance, Timeliness, and Closeout

III.B.7.(a) Period of Performance

CDBG-CV grantees must expend all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) within the 6-year period of performance established by the CDBG-CV grant agreement. HUD is imposing this period of performance to ensure the use of CDBG-CV funds to prevent, prepare for, and respond to coronavirus. The CDBG regulations at 24 CFR 570.200(k) and 24 CFR 570.480(h) permit HUD to establish a period for expenditure and performance in a grant agreement that is shorter than the normal 8-year period. HUD is exercising its authority to establish a 6-year period of performance and expenditure deadline in the CDBG-CV grant agreement. Grant funds are not available for expenditure after the period of performance. In addition, to further ensure the expedited use of the funds, HUD is imposing an alternative requirement that each grantee must expend at least 80 percent of all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) no later than the end of the third year of the period of performance established by the CDBG-CV grant agreement. If this three-year requirement is not met, and evidence meeting the criteria for extension described in section III.B.7.(c) below is not provided, an amount equivalent to the difference between the total amount expended at the end of the third year and 80 percent of all CDBG-CV funds will be recaptured from the CDBG-CV grant.

III.B.7.(b) Timeliness

CDBG-CV grants are available for limited purposes under the CARES Act. They are subject to a shortened period of performance. Under section III.B.6.(a), program income generated by the use of CDBG-CV funds is treated as program income to a grantee's annual formula CDBG program. For these reasons, HUD is waiving to the extent necessary to allow HUD to determine that every grantee has circumstances beyond its reasonable control the timely performance enforcement actions found at 24 CFR 570.902 (entitlement timely expenditure), and 24 CFR 570.494 (state timely distribution). CDBG-CV funds will not be included in determining compliance with the requirements of 24 CFR 570.902 and 570.494. However, as program income to the grantees' annual formula CDBG programs, income generated from CDBG-CV activities will be included in timely expenditure compliance determinations for each entitlement grantee's annual formula CDBG program. Grantees should consider the potential effects of additional program income to compliance with timeliness requirements applicable to their annual formula CDBG grant program when they select and design CDBG-CV assisted activities.

III.B.7.(c) Closeout

To facilitate the use of grant funds in a timely manner, HUD is waiving the CDBG closeout regulations at 24 CFR 570.509 for grantees subject to entitlement regulations and imposing an alternative requirement that HUD will close out grants in accordance with grant closeout requirements of 2 CFR 200.343. This approach is consistent with the state regulation at 24 CFR 570.489(o). This will help all grantees to expend grant funds within a short timeframe designed to maximize the ability of CDBG-CV funds to prevent, prepare for, and respond to

coronavirus. Grantees subject to this alternative requirement must submit all financial, performance, and other reports as required by 24 CFR 91.520.

In general, HUD expects all grantees to comply with all grant requirements and fully close out a grant at the end of the period of performance. However, HUD recognizes that there are many things that could disrupt a grantee's intended timeline for activity completion: litigation, disasters, limited construction seasons due to weather, or other extenuating circumstances. Therefore, HUD may authorize an extension of the three-year expenditure requirement or the overall period of performance if the grantee provides evidence of such extenuating circumstances that would warrant the extension and that they could demonstrate they would meet all program requirements within the extended expenditure period or period of performance.

HUD may consider, in closing out CDBG-CV grants, any requirements that remain applicable after closeout. These may include authority for HUD to monitor the recipient's compliance and performance after the closeout of the award with respect to requirements that are applicable after closeout, and HUD may take findings of noncompliance into account, with the closeout process, as unsatisfactory performance of the recipient, in the consideration of any future grant made under title I of the HCD Act. Examples of requirements that may survive closeout include: (i) closeout costs (e.g., audit costs) and costs resulting from contingent liabilities described in the closeout agreement; (ii) use of real property assisted with CDBG funds in accordance with program regulations; (iii) taking measures that are adequate to enforce and implement mandatory flood insurance coverage requirements; and (iv) other provisions included in the grant closeout agreement.

III.B.8. Reporting

The reporting requirements that apply to the use of annual formula CDBG grants also apply to CDBG-CV grants. Section 104(e) of the HCD Act requires that the Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether the grantee has carried out its activities in a timely manner, whether the grantee's activities and certifications are carried out in accordance with the requirements and the primary objectives of the HCD Act and other applicable laws, and whether the grantee has the continuing capacity to carry out those activities in a timely manner.

III.B.8.(a) General Reporting Requirements

Reporting requirements for CDBG-CV grantees can be found at 42 U.S.C. 12708(a), 24 CFR 91.520, 24 CFR 570.507 (entitlement), 24 CFR 570.440(j) (insular areas), and 24 CFR 570.491 (state).

III.B.8.(b) Additional CARES Act Reporting

Section 15011 of the CARES Act requires that recipients of $150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing: information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient. As outlined in OMB memorandum M-20-21, *Implementation Guidance for Supplement Funding in Response to the Coronavirus Disease (COVID-19)* (available at https://www.whitehouse.gov/wp-content/uploads/2020/04/Implementation-Guidance-for-Supplemental-Funding-Provided-in-Response.pdf), existing reporting requirements are anticipated to meet the requirements of Section 15011, but the content and

format for this reporting is still under development and will need to be reviewed against current program practices. The Department will work in coordination with OMB to ensure that this requirement can be fulfilled by recipients of CARES Act funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden. If additional reporting is necessary, further advice or technical assistance will be provided by the Department.

III.B.9. Duplication of Benefits

The CARES Act requires HUD to ensure that there are adequate procedures in place to prevent any duplication of benefits as required by section 312 of the Stafford Act, as amended by section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115-254; 42 U.S.C. 5121 et seq.).

Duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs.

A grantee is required to develop and maintain adequate procedures to prevent a duplication of benefits that address (individually or collectively) each activity or program. A grantee's policies and procedures are not adequate unless they include, at a minimum: (1) a requirement that any person or entity receiving CDBG-CV assistance (including subrecipients and direct beneficiaries) must agree to repay assistance that is determined to be duplicative; and (2) a method of assessing whether the use of CDBG-CV funds will duplicate financial assistance

that is already received or is likely to be received by acting reasonably to evaluate need and the resources available to meet that need.

Most CARES Act assistance programs have more limited durations for availability of assistance or a more limited scope of eligible activities or entities than does CDBG-CV. HUD strongly encourages each CDBG-CV grantee to become familiar with the range of available assistance and uses and apply its more flexible CDBG-CV assistance to unmet needs or to gaps, with special attention to the coronavirus response, prevention, or preparation needs of LMI persons.

HUD will provide advice and technical assistance to grantees to facilitate compliance with this requirement.

III.B.10 Citizenship Requirements

Please note that the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services provides that the Immigration Reform and Control Act, 8 U.S.C. 1324a et seq. prohibits employers from hiring and employing an individual for employment in the U.S. knowing that the individual is not authorized with respect to such employment. This generally applicable law also applies to CDBG grantees and their subrecipients and/or contractors/subcontractors (including relating to employees recruited under Section 3). For more information, please see https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/10-why-employers-must-verify-employment-authorization-and-identity-of-new-employees and https://www.uscis.gov/i-9-central/legal-requirements-and-enforcement.

IV. Fiscal Year 2019 and Fiscal Year 2020 CDBG Grants

IV.A. General Requirements

Except as described in this notice or other applicable waivers and alternative requirements, the statutory and regulatory provisions governing the CDBG program apply to fiscal year 2019 and 2020 CDBG grants, including regulations at 24 CFR part 570 subpart I (states), 24 CFR part 570 subparts A, C, D, E, J, K, and O (entitlements), and 24 CFR subpart F (insular areas and Hawaii counties).

IV.B. Flexibilities, Waivers, and Alternative Requirements

The following rules, waivers, and alternative requirements apply to fiscal year 2019 and 2020 CDBG grants. These include statutory authorities included in the CARES Act and other waivers and alternative requirements or clarifications that HUD is making for fiscal year 2019 and 2020 grants.

IV.B.1. Timeliness

Because of the coronavirus many local governments are operating under extenuating circumstances and may need additional time for certain administrative requirements, HUD is suspending for fiscal year 2020 all corrective actions, sanctions, and informal consultations for timeliness effective January 21, 2020. Grantees are advised that this suspension does not eliminate the timely expenditure requirements set forth in 24 CFR 570.902 (entitlements). HUD will continue to run expenditure reports and will continue to notify grantees of deficiencies.

Based on government restrictions, closures, shelter-in-place orders, and social distancing guidance related to coronavirus, HUD has determined that all entitlement grantees have factors beyond their reasonable control that, to HUD's satisfaction, impact the carrying out of CDBG-assisted activities in a timely manner. As a result, HUD has determined that corrective actions related to timeliness are not appropriate at this time. HUD will monitor changing conditions. Before the end of the fiscal year, HUD will determine whether to extend this suspension for all

or a portion of fiscal year 2021. HUD may consider regional and local conditions when determining when to begin scheduling informal consultations.

IV.B.2. Consolidated Plan, Citizen Participation, and CAPER

IV.B.2.(a) Expedited Citizen Participation and Virtual Hearings.

Section III.B.4.(a) of section III apply to all fiscal year 2019 and 2020 annual formula CDBG grants, regardless of the use of funds. This section describes the program flexibilities provided by the CARES Act related to Expedited Citizen Participation and Virtual Hearings. Where this section refers to CDBG-CV funds, it shall apply equally to fiscal years 2019 and 2020 CDBG grants.

IV.B.2.(b). Deadline to Submit Consolidated Plans and FY 2020 Annual Action Plans.

The deadline for grantees to submit action plans and other updates to their consolidated plans submissions for fiscal years 2019 and 2020 to include CDBG-CV funds is August 16, 2021.

IV.B.2.(c) CAPER Extension.

On May 7, 2020, Acting Assistant Secretary John Gibbs issued a memorandum to all Community Planning and Development Field Office Directors, Deputy Directors and Program Managers with the subject "Availability of a Waiver and Alternate Requirement for the Consolidated Annual Performance and Evaluation Report (Performance Report) for Community Planning and Development (CPD) Grant Programs in Response to the Spread of Coronavirus." This memorandum authorized a waiver of the regulatory requirement at 24 CFR 91.520(a) that grantees submit a performance report known as the Consolidated Annual Performance and Evaluation Report (CAPER) within 90 days of the end of a jurisdiction's program year. The waiver was granted under HUD's regulatory waiver authority at 24 CFR 5.110 and 24 CFR

91.600. Under this memorandum, for program year 2019 CAPERs, the requirement that grantees submit a performance report within 90 days after the close of a jurisdiction's program year is waived, subject to the condition that within 180 days after the close of a jurisdiction's program year the jurisdiction shall submit its performance report.

IV.B.2.(d) Other Consolidated Planning Waivers

HUD is temporarily waiving the requirement for consistency with the consolidated plan (requirements at 42 U.S.C. 12706 and 24 CFR 91.325(a)(5) and 91.225(a)(5)) when fiscal year 2019 and 2020 CDBG funds are used to prevent, prepare for, and respond to coronavirus, because grantees may not have considered the needs associated with this special purpose funding when developing their current consolidated plan strategic plan and needs assessment. In conjunction, HUD is temporarily waiving 42 U.S.C. 5304(e) to the extent that it would require HUD to annually review grantee performance under the consistency criteria. These waivers apply only until the grantee submits its next full (3-5 year) consolidated plan due after the 2020 program year.

HUD is imposing a related alternative requirement. The regulations at 24 CFR 91.225(b)(5) (entitlements) and 24 CFR 91.325(b)(5) (states) require grantees to certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. Under this alternative requirement, grantees are not required to carry out the portions of their fiscal year 2019 and 2020 annual formula CDBG grants that are used to prevent, prepare for, and respond to coronavirus in a manner consistent with the certifications in 24 CFR 91.225(b)(5) and 24 CFR 91.325(b)(5), because HUD has changed the requirement related to consistency.

IV.B.3. Flexibilities that Apply to Coronavirus-Related Activities.

The following flexibilities apply to all fiscal year 2019 and 2020 CDBG grants when those grants are used for activities to prevent, prepare for, and respond to coronavirus.

IV.B.3.(a) Calculation of the Public Services Cap. As described in paragraph III.B.5.(f)(iii), following enactment of the CARES Act, the public services cap described in section 105(a)(8) of the HCD Act and 24 CFR 570.201(e) has no effect on assistance available to the grantee for fiscal years 2019 and 2020, including the program income that would normally be included in the grantee's calculation of the program income cap for fiscal years 2019 or 2020, when the grantee uses CDBG grant funds to prevent, prepare for, and respond to coronavirus. For fiscal years 2019 and 2020, the cap shall still be calculated and shall apply to public service activities carried out for activities that do not prevent, prepare for, and respond to coronavirus. Additionally, CDBG-CV grant funds shall not be included in the public service cap compliance determination which is applicable to annual formula CDBG funds used for activities not related to coronavirus.

Program income generated by the use of CDBG-CV grants is considered program income to the grantee's annual formula CDBG program, as discussed in section III.B.6.(a).

The public services cap imposed by section 105(a)(8) of the HCD Act applies to "the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide) under this title *including program income*" (emphasis added). The CARES Act provision that removes the public services cap applies to all "activities to prevent, prepare for, and respond to coronavirus" for the CDBG-CV grants and fiscal year 2019 and 2020 annual formula CDBG grants. The activities for grants are described in each grantee's annual action plan required by 24 CFR 91.220 (entitlements), 24 CFR 91.320

(states), or 24 CFR 570.440 and 24 CFR 91.235 (insular areas). In these regulations, the activities for grants include activities carried out with grant funds and program income expected to be made available. Therefore, removing the cap in section 105(a)(8) of the HCD Act for activities to prevent, prepare for, and respond to coronavirus also removes the public services cap on the use of the program income, and removes the corresponding regulatory cap in 24 CFR 570.201(e) (entitlements) for CDBG-CV funds and fiscal year 2019 and 2020 funds used to prevent, prepare for, and respond to coronavirus.

Program income generated by the use of CDBG-CV grants is considered program income to the grantee's annual formula CDBG program, as discussed in section III.B.6.(a). Additionally, program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the public service cap applicable to the annual formula CDBG grants and program income, separately from CDBG-CV funds. For purposes of calculating the public services cap, the treatment of program income generated by the CDBG-CV grant and received (i.e., documented in IDIS) by the annual formula CDBG program shall be considered as any other program income received by the annual formula CDBG program.

IV.B.3.(b) Provisions in Section III that apply to Coronavirus-Related Activities. The following provisions in Section III apply to the use of fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus; these provisions shall also apply to the use of Section 108 guaranteed loan funds when they are used together with fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus. Where these paragraphs refer to CDBG-CV funds, they shall apply equally to fiscal years 2019 and 2020 CDBG grants.

- III.B.5.(d)(i) Use of Urgent Need National Objective.
- III.B.5.(d)(ii) Modification of Location-Based Presumption of LMI Benefit for Job Creation and Retention National Objective Criteria.
- III.B.5.(d)(iii) LMI Job Creation and Retention Records.
- III.B.5.(e)(i) Elimination of Aggregate Public Benefit Test.
- III.B.5.(e)(ii) Modification of Individual Public Benefit Standards.
- III.B.5.(f)(i) Extension of Emergency Payments.
- III.B.5.(f)(ii) Opportunity Zones and Related Flexibilities for Economic Development.
- III.B.5.(f)(iii) Public Services Cap.
- III.B.5.(f)(iv) Other Public Services Considerations.
- III.B.5.(f)(v) Clarification on Application of Cost Principles.
- III.B.6.(d)(iii) Clarifying note on emergency environmental review procedures.
- III.B.9. Duplication of Benefits (applies for programs and activities with annual formula CDBG funds when the grantee uses these funds to carry out programs to respond to losses caused by disasters and emergencies).
- III.B.10. Citizenship Requirements.

IV.B.4. Provisions That Do Not Apply to FY 19 and FY 20 Grants.

Waivers and alternative requirements and other provisions in the following paragraphs of Section III do **not** apply to fiscal year 2019 CDBG Grants and fiscal year 2020 CDBG grants:

- III.A. Allocations of CDBG-CV Funds
- III.B.1. General Grant Requirements
- III.B.2. Responsible Use of CARES Act Funds
- III.B.3. Overview of Process to Receive CDBG-CV Grants

- III.B.4.(b) CDBG-CV Application Content and Submission
- III.B.5.(a) Use of Funds for CARES Act Purposes
- III.B.5.(b) Reimbursements
- III.B.5.(c) Terms and Conditions Made Applicable by the CARES Act
- III.B.5.(d)(iv) Overall Benefit to LMI Persons.
- III.B.6.(a) Program Income
- III.B.6.(b) Rules Applicable to State CDBG-CV Grants
- III.B.6.(c) Rules for Entitlements, Insular Areas, and Nonentitlement Hawaii Counties
- III.B.6.(d)(ii) Clarifying note on the process for environmental release of funds when a state carries out activities directly.
- III.B.6.(e) Compliance with Labor Laws
- III.B.6.(f) Relationship to Section 108 Loan Guarantees
- III.B.7. Period of Performance, Timeliness, and Closeout
- III.B.8. Reporting

PAPERWORK REDUCTION ACT:

The information collection requirements in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2506-0085. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE:

The Catalog of Federal Domestic Assistance numbers for the CDBG-CV grants under the CARES Act are: 14.218 (Community Development Block Grants/Entitlement Grants); 14.225

(Community Development Block Grants/Special Purpose Grants/Insular Areas); and 14.228 (Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii) (formerly CDBG Grant/Small Cities Program).

ENVIRONMENTAL IMPACT:

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for inspection at HUD's Funding Opportunities web page at: https://www.hud.gov/grants/. The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

Dated: August 7, 2020

/s/
John Gibbs,
Acting Assistant Secretary for Community Planning and Development

Billing Code 4210-67

City Council
City of Bonita Springs
Official Agenda
wednesday, september 2, 2020
5:30 P.M.
BONITA SPRINGS FIRE CONTROL & RESCUE DISTRICT
27701 BONITA GRANDE DRive
BONITA SPRINGS, FL 34135
MINUTES

I. Call to order

Mayor Peter Simmons called the meeting to order at 5:30 P.M.

II. Invocation:

Rabbi Mandy Greenberg with the Chabad of Bonita Springs furnished the invocation.

III. Pledge of Allegiance

At the request of Mayor Simmons, Rick Steinmeyer led in the Pledge of Allegiance.

IV. Roll Call

Mayor Simmons and all Council Members in attendance, with Council Member Corrie arriving at 5:34 P.M., and Council Member Mike Gibson arriving at 5:42 P.M.

V. Public Comment on Agenda Items

5:35 p.m.

Rick Steinmeyer need to keep the faith.

Dwight Esmon, a resident of Paradise Road, addressed the LCSO agreement and voiced his support for the ordinance being proposed by Council Member Fred Forbes.

Louise Root addressed the opening of the Bonita Springs Recreation Center and pool. She's a line dance instructor and coming upon their busy season in September and October. She feels the City will be losing a lot of revenue if they do not open.

Marge Stu also addressed the community pool for water aerobics in January. They work out in the water, and do not use the facilities.

VI. Zoning and land use items:

A. **ADDENDUM with revised Zoning Ordinance:** Second reading and public hearing of the following Zoning Ordinance: Bonita Grande Drive Mixed-Use Planned Development (MPD) : A Zoning Ordinance of the City of Bonita Springs to rezone 67.5 +/- acres from Commercial Planned Development (CPD) to a Mixed-Use Planned Development (MPD) to allow for a maximum of 482 multi-family dwelling units (inclusive of an Assisted Living Facility) and a 165-room hotel at a maximum building height of 65 feet/6 habitable floors; and up to 315,000 square feet of commercial/retail at a maximum building height of 55 feet/5 habitable floors at the northwest intersection of Bonita Beach Road and Bonita Grande Drive, Bonita Springs, FL 34135; providing for an effective date. (Greensheet No. 20-09-262)

City Attorney Rooney stated only change entailed Condition 14., which is putting all on notice that access will be addressed at development order stage. He next read the title block of the Zoning Ordinance into the record.

Council Member Laura Carr motioned to adopt the Zoning Ordinance; Council Member Jesse Purdon seconded.

City Attorney Rooney next placed all witnesses under oath.

Rich Yavonovich, representing the Applicant, provided a PowerPoint presentation to present their case. The site entails the old Walmart site. He addressed their request which includes a hotel and commercial uses, consistent with the Comprehensive Plan. Ryan Zuckerman, with the Zuckerman Group was in attendance to address their request. Bob Mulhere addressed zoning, the master concept plan, consistent with the Bonita Beach Overlay, access points, neighborhood meetings held, and issues raised which they addressed. He also addressed their 10 requested design related deviations all of which staff has recommended approval. He also addressed consistency with the LDC. Amelia Robau next addressed stormwater and floodplain management.

Council Member Amy Quaremba stated she was pleased to hear there will be no development in DRGR, and likes the ideas regarding extra lakes, and compliance with the Bonita Beach Overlay. She is very pleased with the presentation and it's aesthetically pleasing.

Council Member Purdon agrees with comments on not developing in the DRGR, and he is also happy it is consistent with the Bonita Beach Road Overlay. He questioned the fiscal impacts, to which Mr. Robau addressed.

Council Member Carr stated she has heard only positive things.

Council Member Corrie noted that the Zoning Board approved it with a 6-0 vote. He agrees that there is a need for development in that area of the City. He looks forward to seeing the project completed.

Jackie Genson, Community Development, presented a PowerPoint presentation (in Clerk's file) to address the Applicant's request. Staff is in agreement with the Applicant's presentation, with the exception of one item. She addressed concerns relating to traffic and height. Most height is internal to the project or on the perimeter where it would not be a concern to the established neighboring communities. There is also a pedestrian connectivity condition. Also, recently a call with Lee County regarding access management on Bonita Beach Road. The Zoning Board removed the condition for the NW section of the site, noting that Lee County was hoping for a full ingress/egress condition, which she addressed.

PUBLIC COMMENT:

Rick Steinmeyer addressed the timeline on development, impact fees, and bike paths.

Nigel Fullick expressed his excitement about the project. They would like to see some space designated or some art in their community, which they support.

Mie Fanelli, past president of Worthington Country Club, addressed the Zuckerman Group, and their professionalism. He supports development.

Candice Sebring expressed her excitement for the project. She has worked with the Zuckerman Group as an interior designer and they are a great company.

Judy, a resident for three years, she is concerned about building all of this and nothing going in there resulting in empty store fronts.

DRAFT

Council Member Laura Carr amended her motion to remove the second sidewalk; Council Member Corrie seconded; and the motion carried unanimously.

Council Member Purdon motioned to approve the remainder of the project; Council Member Purdon seconded; and the motion carried unanimously. **ADOPTED ZONING ORDINANCE NO. 20-05**

RESULT: UNANIMOUS
MOTION BY: Council Member Carr
SECONDED BY: Council Member Purdon
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, Gibson and Forbes

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.)

Council Member Corrie pulled item D.

Mayor Simmons motioned to approve the remainder of the Consent Agenda; Council Member Mike Gibson seconded; and the motion carried unanimously.

A. Approve Budget Resolution to transfer budget between a General Fund account to a Capital Project Fund account to fund the installation of water and electric to River Park. (Greensheet No. 20-09-254) **ADOPTED RESOLUTION NO. 20-85**

B. Approve Budget Resolution to transfer budget between General Fund accounts to fund benches and tables at Riverside Park Bandshell and steel chairs at Depot Park playground. (Greensheet No. 20-09-256) **ADOPTED RESOLUTION NO. 20-86**

C. Review of July 2020 Monthly Capital Improvement Projects Report. (Greensheet No. 20-09-248)

D. Approve the Eleventh Addendum to Second Agreement to the Interlocal Agreement with Lee County Sheriff's Office for Enhanced Law Enforcement Services. (Greensheet No. 20-09-260)

Council Member Corrie pulled item D. to address previous agreements, response time, reports made. Discussion followed, with Council Member Purdon stated that the Sheriff's Office will be attending the upcoming budget meeting.

Mayor Simmons motioned approval of item D.; Council Member Amy Quaremba seconded; and the motion carried unanimously.

RESULT: UNANIMOUS
MOTION BY: Mayor Simmons
SECONDED BY: Council Member Quaremba
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, Gibson and Forbes

E. Approve Amendment No. 1 for the U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Entitlement Program reallocating previously allocated administrative funds from Lee County to the City. (Greensheet No. 20-09-251)

F. Accept Selection Committee's recommendations and authorize staff to begin negotiations with the top ranked consultant, Singhofen & Associates, Inc. for the Logan Boulevard Regional Floodway Drainage Project Phase 1, RFQ 20-04 Design/Construction Improvements. (Greensheet No. 20-09-255)

- OPPORTUNITY FOR CITY COUNCIL COMMENTS ON CONSENT AGENDA ITEMS

DRAFT

VIII. Proclamations and Presentations:

A. Proclamation proclaiming the month of September as "Play Ball Month" in the City of Bonita Springs.

Mayor Simmons read aloud a proclamation proclaiming the month of September as "Play Ball Month" in the City of Bonita Springs.

B. Presentation of 20-Years of Service Award to City employee Debra Filipek.

IX. Mayor and Council Member Items:

A. Discussion regarding adult programming at the Recreation Center and Community Pool. (Mayor Simmons; Greensheet No. 20-09-252)

City Manager Arleen Hunter provided an overview, and public comments regarding concerns for additional activities at the recreation center and pool for adults and citizens. Staff has checked with Lee County and our neighboring jurisdictions, and at this time, none of the neighboring jurisdictions or Lee County are opening for adult programming in consideration of the Governor's Executive Orders. We are aware the Governor has lifted restrictions for children activities which we are moving forward with. She further explained, noting that Staff is continuing with the operations of Phase 1 of the reopening plan. City Attorney Rooney addressed, explaining that there was never any specific limitation placed on adult recreation facilities; it was more of the blanket limitations that were put out early in the days of COVID-19. Since that time the Governor's Office has issued consecutive Executive Orders, which either superseded or amended but then carried forth those earlier restrictions. He further addressed and Council discussion was held.

Council Member Carr motioned to approve; Council Member Gibson seconded.

Council Member Quaremba addressed, explaining that she will be voting against this, because she feels we should be following the CDC guidelines.

City Manager Hunter stated that Staff's recommendation to require the instructors or program organizer to create a plan and submit for review, and includes if they want to include temperature checks or canvassing of such, but also hold harmless for the City indemnification of those participating, and should look at a restrictive number to that. Discussion followed, with Parks and Recreation Director Nicole Perino also addressing. They can do a variety of different things, as they are doing the 50% as allowed by the Governor with the gyms at six feet apart. They do need to restrict the size. Youth sports do have to provide a safety plan.

Council Member Carr motioned approval. City Attorney Rooney stated that he believes what they are saying if to go forward and open the program, with no objection to any of Staff's recommendation. Council Member Carr agreed, noting that the responsibility is theirs to get the plan to staff for the soccer league, and that the line dancers will get that to staff.

The motion passed 6-1 (Council Member Quaremba opposed)

RESULT: 6-1
MOTION BY: Council Member Carr
SECONDED BY: Council Member Gibson
AYES: Mayor Simmons and Council Members Purdon, Carr, Corrie, Gibson and Forbes
NAY: Council Member Quaremba

B. Approve Audit Committee recommendation for appointment of external auditor and authorization to execute the contract in substantially the same form as attached. (Corrie; Greensheet No. 20-09-249)

DRAFT

Council Member Corrie addressed and informed Council of the audit process in relation to the Audit Committee. He feels there is a need to revisit the scoring aspect going forward. He informed Council that the current auditor scored the highest. The recommendation to retain our current auditor.

Council Member Corrie motioned to retain the firm of Ashley, Brown & Company; Council Member Carr seconded; and the motion carried unanimously.

RESULT: UNANIMOUS
MOTION BY: Council Member Corrie
SECONDED BY: Council Member Carr
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, Gibson and Forbes

C. Discussion regarding preservation of Mangroves. (Corrie; Greensheet No. 20-09-264)

Council Member Corrie addressed this item which he stated was not for action; just for discussion, which relates to an article in the Naples Daily News on August 23, 2020 regarding ways to save mangroves. He further addressed. He addressed a situation in Bonita Bay involving mangroves. He brought forth this issue to see if there's a feeling that Council should ask Staff to take a look and see if we should pursue a similar status with the State of Florida where we can control our own mangroves where we know what's going on with respect to requests being made otherwise to Florida DEP. We can also benefit by being a delegated site for the planting of mangroves when developers end up taking them out as part of their development process.

Council Member Purdon suggested getting the water steward involved in this and see what they think about it. Council Member Quaremba would like to know if there is a problem in Bonita Springs, as we are government lite, and if we take this on someone will have to deal with it, and she doesn't know if we have the capabilities. She would like to get Staff to answer some of these questions. Council Member Corrie agreed, noting that maybe the answer is push Lee County DEP to be a delegated authority. Council Member Forbes suggested maybe having Jennifer Hecker and her staff to put together a presentation on the pluses and minuses of mangroves. Council Member Purdon suggested talking to staff first to see if there's a problem. Council Member Quaremba stated we need an assessment of our mangroves.

City Manager Hunter suggested starting talking with Community Development Staff – Sean Gibbons and Laura Gibson, and provide a preliminary presentation on the current regulations and how they've seen that correlate with development, and see what concerns they have on the enforcement of removal or trimming. Then if there's additional outreach to regional groups, they can do that as a second step. City Attorney Rooney stated this entails two elements – trimming of which there is a statutory process, and the removal pursuant to wetland permitting, which he addressed.

John Dulmer, Community Development, suggested putting together a list of items for Council to evaluate.

ADDENDUM: Discussion regarding regulations requiring Schematic Design Drawings for all zoning proposals. (Forbes; Greensheet No. 20-09-266)

Council Member Forbes provided the history. At the May 2018 joint City Council/Zoning Board workshop they all agreed on Council and the Zoning Board that they had to move to something where one would have to provide sufficient drawings, site plans, elevations as concept, much like we saw this evening that we approved.

Council Member Quaremba asked if this is what Estero did. She thought Council would discuss at the retreat and review the suggestions of the Zoning Board. She would like to have this introduced and have another presentation to Council on all the particulars Council felt were important which fell by the wayside, and they would have time to review both conceptually and specifically. Mr. Dulmer explained this was not parallel to what Estero was performing, simply because this pre-dates the Estero effort. He explained that what had happened was as this went forward and there was a list of items the Zoning Board had prepared they wanted to include for required submittal for public hearings, those were going to be included in

whatever came out of a draft of Estero's Land Development Code, that we were planning to borrow at some point in the future.

Because the Ordinance has not been adopted staff has not taken anything from there or proceeded. Council Member Forbes agreed to the need to meet with the Zoning Board, noting this is just an interim step. Council Member Purdon stated he agrees with Council Member Quaremba, as he would like another meeting and get deeper into the details. Council Member Carr doesn't think it's needed.

Mayor Simmons motioned to table; Council Member Purdon seconded.

Council Member Quaremba asked that Staff contact the Zoning Board for them to give some kind of conceptual review of what we did in 2018.

The motion carried unanimously.

RESULT: UNANIMOUS
MOTION BY: Mayor Simmons
SECONDED BY: Council Member Purdon
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, Gibson and Forbes

X. City Attorney's Items:

A. Approve Agreement for occupation of right-of-way for property located at 27121 Pine Avenue. (Greensheet No. 20-09-261)

City Attorney Rooney furnished a brief overview.

Council Member Carr motioned to approve; Council Member Gibson seconded; and the motion carried unanimously.

RESULT: UNANIMOUS
MOTION BY: Council Member Carr
SECONDED BY: Council Member Gibson
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, Gibson and Forbes

B. **ADDENDUM with Revised Agreement:** Approve grant funding agreement with Florida Gulf Coast University for Riverkeeper position at FGCU's Vester Field Station. (Greensheet No. 20-09-263)

City Attorney Rooney furnished a brief overview.

Mayor Simmons motioned to approve; Council Member Carr seconded; and the motion carried unanimously.

RESULT: UNANIMOUS
MOTION BY: Mayor Simmons
SECONDED BY: Council Member Carr
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, Gibson and Forbes

XI. City Manager's Items:

A. Provide direction to staff regarding the location standards for mechanical pads in residential properties with setbacks of less than 7.5 feet within planned developments (PD) and planned unit developments (PUD). (Greensheet No. 20-09-265)

DRAFT

City Manager Hunter asked that Mr. Dulmer provided an update, noting that this would exclude Hickory Island.

PUBLIC COMMENT:

An unidentified member of the public addressed Council with a request Bonita Lakes submitted in 2018 and suggested recommendations relating to the application process and approval timeframes, application fees, and the location of mechanical pads. Mr. Dulmer addressed, noting that this would apply to all planned developments that are already approved. Staff is open to any of the experience that they have that staff doesn't have in terms of development standards, applicability, and how this would be applied to a particular development. If approved it will be applied and would be those standards for every planned development, with a side setback of less than 7.5 feet.

Council Member Purdon motioned to move forward with an Ordinance; Mayor Simmons seconded; and the motion carried unanimously.

RESULT: UNANIMOUS
MOTION BY: Council Member Purdon
SECONDED BY: Mayor Simmons
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, Gibson and Forbes

B. FY 2020-2021 Discussion and Updates:

1. Review change to the City Manager's Draft Budget to include a budget in FY 2021 for the payment of the 2020 Loan to acquire land. (Greensheet No. 20-08-250)

City Manager Hunter addressed this informational item, addressing the loan closing, which, she stated, this is to indicate that in the next coming fiscal year the payment for that loan will be accounted for, and as such, Finance Director Anne Wright, has documented previous Council changes and additional changes in blue.

2. Update on park maintenance and park CIP projects. (Greensheet No. 20-09-253)

Parks and Recreation Director Nicole Perino provided an overview/update of current CIP projects and addressed where we are with this fiscal year's closure out of those CIPs. She addressed maintenance of facilities. In response to Mayor Simmons, Ms. Perino stated that Mr. Romero submitted a safety plan for start of play, which they will review upon receipt and prepare an agreement. They did the youth agreements which include COVID-19 provisions as well as safety plans that were provided and approved, which were incorporated. City Manager Hunter stated that if Council chooses, Staff can draft an agreement to bring back for approval, with City Attorney Rooney clarifying that this is to expand the adult programs addressed today – the community pool and other facilities. Council consensus to bring back an agreement.

Ms. Perino addressed CIP projects, including the portable restroom trailer that was ordered for Marni fields, which is being delivered on September 29, 2020. They are working with the same company to do the same type of trailer for the dog park and is already in the CIP. She also addressed Riverpark crushed shell project, and crushed shell platform for the new fishing platform for next year. Lastly, she informed Council of exotic removal along the sidewalk at Kentucky Street, and now they don't have the safety and security issues and now is open and visible.

She next addressed the CIP projects, including the Bandshell re-sod/re-grading project. The baseball renovations project which is scheduled to be complete by the end of January. The Liles Hotel plaza is just a re-sod; not a complete re-do.

Council Member Purdon referred to Phase II and would like to put a placeholder for $500,000 in the five plus year portion of the budget, which he addressed.

DRAFT

City Manager Hunter stated it would be year 6. Staff can bring that back as a draft which can be looked at during Council's final vote.

3. Approve Resolution and Supplemental Task Authorization (STA) to accept Guaranteed Maximum Price (GMP) of $800,000 for Felts Avenue Bioreactor Phase 2 Improvements from Wright Construction, and budget transfer. (Greensheet No. 20-09-258)

8:30 PM

Assistant City Manager Matt Feeney provided an overview. For Phase II approximately $400,000 has been received in funding from the Department of Environmental Protection. The first round of testing was done last year around this time and the bioreactor that had been built demonstrated the capability to remove 98% of nitrate and nitrite out of the water. Staff then looked at a Phase II from those testing results because the conclusion was to harness the most efficiency out of the system, they needed to supply it with water continuously, which is what Phase II is all about – to constantly feed and treat water from the Imperial River. Once the funding became available, they worked hard to figure out the best way to deliver this project because it is on the cutting edge for stormwater treatment, and they would like to incorporate the best technologies in the most efficient manner, and so, they think the best way to do that is through the continuing services agreement for Construction Manager at Risk, which will provide the flexibility with the design to be creative, and have assembled a team that dove headfirst into this project and they've provided the guaranteed maximum price of $800,000, and within that is a $50,000 contingency number. He further addressed, noting that this would allow them to go to design and construction all at once. The project delivery mechanism has been pre-approved by the Department of Environmental Protection.

Mayor Simmons and Council Members commended Assistant City Manager Feeney on the project.

Council Member Carr motioned to approve; Council Member Purdon seconded.

Council Member Corrie stated that a problem that we have is the oxygen depletion in the water that comes out of the bioreactor. It's a technical problem that's probably going to be able to be resolved within a year or two. This is important because the City does not have a lot of available land under its control to build further bioreactors. There's a lot of the Imperial River that's west of where the current bioreactor is located. The communities that have available land are the gated communities. The size of the bioreactor would not necessarily be appropriate in the gated communities, and so there could be a need for multiple sites in the gated community because of the number of lakes and the fact that the water percolates in the ground between the lakes. He feels we need to keep our eye on the possibility of working with the gated communities on a public/private partnership and ask them to take this technology and put it into our clean water systems that are already in existence. This is probably a Fiscal 22-23 type issue. He further addressed.

The motion carried unanimously.

RESULT: UNANIMOUS
MOTION BY: Council Member Carr
SECONDED BY: Council Member Purdon
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, Gibson and Forbes

C. City's COVID-19 update.

City Manager Hunter Arleen next provided an update. She also addressed the scheduling of a City Council and a location. She will work on a date and come back with ideas.

XII. Mayor and Council Member Reports:

Council Member Forbes reported that he was saddened by Bob Gillette's resignation from the Veteran's Committee.

DRAFT

Council Member Gibson reported that he would not be attending next Wednesday's meeting.

Council Member Corrie addressed noise problems on U.S. 41, from Bernwood to the north gate to Bonita Bay, and on Cedar Creek, north past the elementary school. He also reported tracking of phosphorus flows out of BSU.

Council Member Quaremba informed Council of the Veteran Committee's plans for a moving event for September 11th. She also provided an update on the mask project. Mayor Simmons addressed the issue relating to changing the mailing address for Lover's Key to Fort Myers Beach and requested revisiting that. Council Member Quaremba stated that it is her understanding that whoever does state parks for Florida, is the one that has to put in the request. A brief discussion was held.

Mayor Simmons stated his thoughts and prayers go out Bob Gillette in Michigan. He also gave a shout out to Tom Hecker who departed the Wonder Gardens. He also requested a report/update from the Wonder Gardens as soon as possible. He also congratulated FGCU on the water steward position! He also addressed the Florida League of Mayors new president Terril Hill. He would like to visit the issue of diversity for the outreach committee. Lastly, he addressed the bioreactor project.

XIII. Approval of Minutes: 08/05/20 & 08/19/20

XIV. Public comment: No comments

XV. Adjournment.

There being no further items to discuss, the meeting adjourned at 9:15 P.M.

Respectfully submitted,

_____
Debra Filipek, City Clerk

APPROVED:
CITY COUNCIL

Date: _____
AUTHENTICATED:

_____
Mayor Peter Simmons

DRAFT

CITY COUNCIL
CITY OF BONITA SPRINGS
TENTATIVE MILLAGE AND BUDGET HEARING
SEPTEMBER 9, 2020
5:05 P.M.

BONITA SPRINGS FIRE CONTROL AND RESCUE DISTRICT
27701 BONITA GRANDE DRIVE
BONITA SPRINGS, FL 34135
MINUTES

DRAFT

I. Call to Order.

Mayor Peter Simmons called the meeting to order at 5:05 p.m.

II. Pledge of Allegiance.

Council Member Jesse Purdon led in the Pledge of Allegiance.

III. Roll Call.

Mayor Simmons and all Council Members were in attendance, except for Council Member Mike Gibson.

IV. Public Comment.

Rick Steinmeyer supports the millage remaining at the same rate this year.

Dwight Esmon addressed funding for extra police protection, and questioned how our funding compares to Estero in relation to response time. He also also asked for a clarification on "Community Policing" and what the additional monies would allow.

V. Overview of the Tentative millage and budget public hearing. (Greensheet No. 20-09-244)

Anne Wright, Finance Director, read into the record the background reflected on the Greensheet.

Council Member Laura Carr motioned to approve; Council Member Fred Forbes seconded.

No public comments were made

Motion carried unanimously.

VI. Council discussion of the tentative millage and tentative budget.

Anne Wright next furnished a PowerPoint presentation (copy in Clerk's file) to provide an overview of the General Fund Budget, the requested revenue budget of $19,758,988; the General Fund FY 2020-2021 requested expenditure budget of $14,457,111; and the current outstanding debt.

The final budget hearing has been scheduled for September 16, 2020 at 5:05 pm. October 7 first reading of Capital Improvement Plan Ordinance, and October 21, 2020 the second reading of the Capital Improvement Plan Ordinance.

A. Presentation by the Lee County Sheriff's Office regarding current levels of service for the City of Bonita Springs Community Policing Unit. (Purdon; Greensheet No. 20-09-267)

Captain Blake Lee began by introducing Sergeant Sarah Rodriguez. He next provided the history, addressing what Community Policing is about, etc. Pilot program in 2002 in Bonita Springs to focus on enhanced policing, which he addressed. There were 2 deputies at that time, and the success was such that in 2006 that went up to 14 and 2007 they added two detectives in the City of Bonita Springs. Since 2007 they have not increased the manpower of the policing unit. The Community Policing program does not impact the CORE level of service the Sheriff's Office now provides. He addressed other services provided, i.e., bomb unit, responses, etc.

Council Member Jesse Purdon addressed, stating that they haven't looked at the contract in 14 years, and that additional officers have not been provided, but the population has increased 30%. He asked Captain Blake that, if given an allocation of $65,000 to utilize for the detective position discussed, and asked if they can get done in what is left in the FY 2020 year. He also asked if he would assist Council in the budget season with sending the numbers as positions for, as they discussed, an additional allocation for FY 2021 and an additional officer in FY 2022. Captain Blake responded yes. The detective position will definitely benefit the current program.

Council Member Purdon clarified that FY 2020 they will provide help immediately, then moving into the budget, LCSO will provide specific numbers and positions for FY 2021, and FY 2022, which is an estimate of $110,000.

Council Member Purdon motioned for the $65,000 from the unassigned fund balance to immediately create the detective position for the City of Bonita Springs; Mayor Simmons seconded.

Mayor Simmons requested that we continue to have a presence in the downtown area and keep the video cameras in the parks going, etc. Council Member Quaremba would like a review sometime mid-year on how it's working, the areas where they think help is needed and how they would take care of it – additional personnel, or redirection of personnel.

The motion carried unanimously.

RESULT: UNANIMOUS
MOTION BY: Council Member Purdon
SECONDED BY: Mayor Simmons
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, and Forbes

DRAFT

B. Discussion regarding a placeholder of $500,000 in FY25-26 through FY29-30 for the Baseball Complex Masterplan. (Purdon; Greensheet 20-09-269)

Nicole Perino, Parks and Recreation Director, per the request of Council Member Purdon, provided an overview. She met with Council Member Purdon regarding the different phases

Mayor Simmons asked whether there are matching grants available. Ms. Perino stated that they are looking at grants, some of which have strict restrictions on what they can and cannot do, so it could pay for a portion. They are always looking at grants to fund these projects.

Council Member Purdon motioned a $500,000 placeholder in the CIP for the Baseball Complex Masterplan for the years of FY25-26 through FY29-30 to allow for future planning of subsequent phases of the project; Mayor Simmons seconded; and the motion carried unanimously.

RESULT: UNANIMOUS
MOTION BY: MAYOR SIMMONS
SECONDED BY: COUNCIL MEMBER QUAREMBA
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, and Forbes

C. Discussion regarding compensation of City Manager. (Mayor Simmons; Greensheet No. 20-09-268)

Mayor Simmons introduced this agenda item.

Council Member Carr motioned to approve; Council Member Purdon seconded.

Council Member Quaremba read into the record the background reflected on the Greensheet. Mayor Simmons and Council commended the City Manager on the great job she does!

The motion carried unanimously.

RESULT: UNANIMOUS
MOTION BY: Mayor Simmons
SECONDED BY: Council Member Quaremba
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, and Forbes

VII. Announcement of the percentage, if any, that the recalculated proposed millage exceeds the rolled-back rate.

Finance Director Wright read the following into the record: the proposed millage is .8173 mills per thousand of taxable value, compared to the rolled-back rate of .8015 mills per thousand of taxable value. The proposed millage is a 1.97% increase from the rolled-back rate.

Council Member Corrie motioned to approve; Council Member Forbes seconded; and the motion carried unanimously.

DRAFT

RESULT: UNANIMOUS
MOTION BY: Council Member Corrie
SECONDED BY: Council Member Forbes
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, and Forbes

VIII. A Resolution of the City of Bonita Springs, Lee County, Florida, adopting the tentative levying of ad valorem taxes for the City of Bonita Springs, Lee County, Florida, for Fiscal Year 2020-2021; establishing the date, time and place for a final hearing to adopt the final ad valorem taxes for Fiscal Year 2020-2021; and providing an effective date. (Greensheet No. 20-09-245)

Mayor Simmons read the title block into the record

Council Member Forbes motioned adoption of the Resolution; Council Member Purdon seconded; and the motion carried unanimously. **ADOPTED RESOLUTION 20-92**

RESULT: UNANIMOUS
MOTION BY: Council Member Forbes
SECONDED BY: Council Member Purdon
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, and Forbes

IX. A Resolution of the City of Bonita Springs, Lee County, Florida, adopting the tentative budget for Fiscal Year 2020-2021 and providing an effective date. (Greensheet No. 20-09-246)

Mayor read title of request.

Anne Wright read the revised Resolution into the record, which was revised to address public safety and the City Manager.

Council Member Forbes motioned adoption of the Resolution; Council Member Carr seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 20-91**

RESULT: UNANIMOUS
MOTION BY: Council Member Forbes
SECONDED BY: Council Member Carr
AYES: Mayor Simmons and Council Members Quaremba, Purdon, Carr, Corrie, and Forbes

X. Public Comment.

Rick Steinmeyer addressed law enforcement in the City over the years.

XI. Adjournment.

There being no further items to discuss, the meeting adjourned at 6:00 P.M.

Respectfully submitted,

_____
Debra Filipek, City Clerk

DRAFT

APPROVED:
CITY COUNCIL

Date: _____
AUTHENTICATED:

_____
Peter Simmons, Mayor

DRAFT