



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

CITY COUNCIL MEETING AGENDA

April 5, 2023
9:00 a.m.

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

To submit your public comment in writing, please email your name, address, and comments to CITYMEETINGS@CITYOFBONITASPRINGS.ORG. **Any written public comment must be received by 4:00 p.m. on April 4, 2023.**

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

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

1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Agenda
6. Mayor’s Welcome
7. Public Comment on Agenda Items
8. Zoning and Land Use Items:
9. Proclamations and Presentations:
 - A. Proclamation designating the month of April 2023 as Fair Housing Month in the City (Green Sheet No. 23-04-070)

B. Presentation of Ten Years of Service Award to City Employee Clara Fette

10. Consent Agenda:

- A. Approval of the March 1, 2023 City Council Meeting Minutes
- B. Approval of the March 1, 2023 City Council Transportation Workshop Minutes
- C. Approve the change order from CFS Roofing Services, Inc for the Liles Hotel Roof Replacement Project and the resolution for budget transfer in the amount of \$69,640. (Green Sheet No. 23-04-059)
- D. Approve the proposal from EnviroStruct, LLC from the Construction Manager at Risk Continuing Services agreement and the resolution for budget transfer in the amount of \$56,650 for Bonita Springs Skate Park Perimeter Wall Repair and renovation. (Green Sheet No. 23-04-060)
- E. Approve a six (6) month extension to the artist cottage tenants with a valid agreement during the 6-month vacancy caused by Hurricane Ian and authorize staff to advertise for Artists and other similar vendors for use of Artist Cottages at Riverside Park (Green Sheet No. 23-04-061)
- F. Approve grant agreement with Florida Department of Environmental Protection for Beach Renourishment to replace sand removed by Hurricane Ian in the amount of \$2,180,620.92 (Green Sheet No. 23-04-062)
- G. Confirm and ratify Resolutions extending the Local State of Emergency due to Hurricane Ian. (Green Sheet No. 23-04-063)
- H. Approve annual update to employee salary ranges. (Green Sheet No. 23-04-064)
- I. Approve two purchase agreements to acquire parcels located in the Quinn/Downs/Dean Neighborhood for the Voluntary Home Buyout Program (Green Sheet No. 23-04-065)
- J. Approve the special event permit for the Celebrate Bonita Festival 2023 and the closure of Old US 41 Road from Wilson street to Ragsdale Street on Saturday, April 29th, 2023. (Green Sheet No. 23-04-066)
- K. Approve tenant relocation assistance for structures acquired through the CDBG-DR Voluntary Home Buyout Program. (Green Sheet No. 23-04-068)
- Opportunity for City Council Comments on Consent Agenda

11. Mayor and Council Member Items:

12. Public Hearing:

- A. Second Reading and Public Hearing of the following Ordinance: AN ORDINANCE OF THE CITY OF BONITA SPRINGS AUTHORIZING THE LEASE OF A PORTION OF REAL PROPERTY WITHIN LEITNER NEIGHBORHOOD PARK TO CAFÉ OF LIFE; AND PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet No. 23-04-067)

13. City Attorney's Items:

- A. First reading of AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE BONITA SPRINGS CITY CODE, CHAPTER 40 – TRAFFIC AND MOTOR VEHICLES, AND CREATING A NEW ARTICLE IV – LIMITATIONS ON THRU TRUCK TRAFFIC; PROVIDING CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND AN EFFECTIVE DATE. (Green Sheet No. 23-04-069)

14. City Manager's Items:

- A. Authorize staff to submit a Pre-Disaster Mitigation Grant Application for congressionally designated funds and provide the required match funding for the application. (Green Sheet No. 23-04-071)
- B. Update regarding Hurricane Ian recovery

15. Mayor and Council Member Reports

16. Public Comment

17. Adjournment

**CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY**

Green Sheet No. 23-04-070
April 5, 2023

REQUESTED MOTION: Proclamation designating the month of April 2023 as Fair Housing Month in the City of Bonita Springs.

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA: Proclamation and Presentations

STRATEGIC PRIORITY: #6 Strengthen and Enhance Council Relations, #7 Government Transparency

BACKGROUND: The City receives annual CDBG (Community Development Block Grant) Entitlement funds, along with CDBG-DR (Disaster Recovery) and CDBG-MIT (Mitigation) funds from the U.S. Housing and Urban Development Department (HUD) through Lee County and the State of Florida Department of Economic Opportunity (DEO).

HUD funding requires each sub-recipient to provide timely information regarding citizen's rights to Fair Housing. Fair Housing laws provide the opportunity for all citizens to reside in decent and safe housing, free from discrimination because of race, color, national origin, religion, sex, familial status or disability.

April of each year is nationally designated as Fair Housing Month, and this proclamation designates this month of April 2023 as Fair Housing Month in the City of Bonita Springs.

STAFF RECOMMENDATION: Accept proclamation.

ATTACHMENTS:

1. Fair Housing Proclamation

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
Interim City Clerk: Brenda Reetz
Department Director: Matt Feeney

Council Action: Approved __ Denied __ Deferred __ Other _____



PROCLAMATION

WHEREAS, April has been designated as National Fair Housing Month commemorating the 55th anniversary of the passage of the Fair Housing Act; and

WHEREAS, Fair Housing laws provide the opportunity for all citizens to reside in decent and safe housing, free from discrimination because of race, color, national origin, religion, sex, familial status or disability; and

WHEREAS, the City of Bonita Springs is committed to a community open to all its citizens, and seeks to ensure that all residents are aware of and educated about fair housing laws.

NOW, THEREFORE, I, Rick Steinmeyer, Mayor of the City of Bonita Springs, on behalf of the City Council and citizens of Bonita Springs do hereby proclaim the month of April 2023, as Fair Housing Month. The City of Bonita Springs calls upon all citizens to recognize that compliance with the U.S. Fair Housing Laws is the equitable way to guarantee fair housing practices for all citizens.

Mayor Rick Steinmeyer, City of Bonita Springs



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

CITY COUNCIL MEETING MINUTES

March 1, 2023
5:30 p.m.

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

To submit your public comment in writing, please email your name, address, and comments to CITYMEETINGS@CITYOFBONITASPRINGS.ORG. **Any written public comment must be received by 2:00 p.m. on March 1, 2023.**

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

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

1. Call to Order.

Mayor called the meeting to order at 5:30 P.M.

2. Invocation.

Reverend Bill Gilmore with the St. Mary’s Episcopal Church

3. Pledge of Allegiance

Mayor Steinmeyer led in the Pledge of Allegiance.

4. Roll Call

Mayor Steinmeyer and all Council Members were in attendance.

5. Approval of Agenda

6. Mayor’s Welcome

7. Public Comment on Agenda Items

Kyle Moran addressed downtown development and thru-truck traffic.

Former Council Member Amy Quaremba thanked the Clerk for her service.

Trish Leonard addressed through truck traffic and thanked the Clerk for her service.

Ron George congratulated the City Clerk and addressed downtown thru-truck traffic.

Gary Price, former City Manager, congratulated the Clerk on her retirement.

Don Colapietro thanked the Clerk for her years of service and congratulated her on her retirement.

8. Zoning and Land Use Items:

9. Proclamations and Presentations:

- A. Presentation and recognition to City Clerk Debra Filipek for over 23 years of service to the City of Bonita Springs

Mayor Steinmeyer and City Manager Hunter gave presentation.

- B. Proclamation of March 6th-10th as Flood Awareness Week

Mayor Steinmeyer read the proclamation into the record.

- C. Presentation by McMahon Associates on the truck traffic study along Old 41.
(Green Sheet No. 23-03-036)

John DePalma with McMahon gave a powerpoint presentation on the truck count on Old 41.

Council Member Carr made a motion for Derek Rooney to draft a “bare bones” ordinance for truck restrictions that is not specific to a certain area for a first reading in April; Seconded by Council Member Corrie; Motion passed unanimously.

10. Consent Agenda:

Council Member Carr motioned for approval of the Consent Agenda; Council Member Forbes seconded; and the motion carried unanimously.

- A. Approval of the February 15, 2023 Draft City Council Meeting Minutes

- B. Approval of the February 15, 2023 Draft City Council Workshop Minutes
- C. Adopt a resolution authorizing the submittal of the West Coast Inland Navigation District (WCIND) grant application for funds to promote safe navigation and water-based activities. (Green Sheet No. 23-03-031)
- D. Confirm and ratify Resolutions extending the Local State of Emergency due to Hurricane Ian. (Green Sheet No. 23-03-033)
- E. Ratify the Administrative Action Approval, as conditioned, for the redevelopment of property located at 10441/481 Packinghouse Lane in the SD-DID transect of the Downtown District. (Green Sheet No. 23-03-034)
- F. Adopt Resolution approving the Selection Committee's recommendation to engage two qualified firms to provide Procurement Services for the City. (Green Sheet No. 23-03-035)
- G. Approve Purchase Agreement Amendment #1 for the Voluntary Home Buyout Program extending the agreement expiration date from March 21, 2023 to May 31, 2023. (Green Sheet No. 23-03-039)
- H. Approve Amendment #1 for the Community Development Block Grant (CDBG-CV) Food Insecurity Program. (Green Sheet No. 23-03-040)
- Opportunity for City Council Comments on Consent Agenda

11. Mayor and Council Member Items:

12. Public Hearing:

- A. Conduct the first public hearing of the City's draft Evaluation and Appraisal Report (E.A.R.) as required by F.S. §163.3191. (Green Sheet No. 23-03-037)

Dr. Banyan of FGCU was available by Zoom to address the draft EAR report and questions.

Council Member Corrie motioned to move to second reading; seconded by Mayor Steinmeyer; and the motion carried unanimously.

13. City Attorney's Items:

- A. Consider presentation by Hole Montes and select an appropriate route for Bonita Grande Drive extension to the City's future park facilities. (Green Sheet No. 23-03-041)

Rick Brylanski with Hole Montes presented four alternate routes for the Bonita Grande Drive extension with a recommendation of alternate 4.

Council Member Purdon motioned to approve Alternate 4; Seconded by Council Member Carr; and the motion carried unanimously.

14. City Manager's Items:

- A. Discussion regarding selection of a signage family for the City's Wayfinding Signage and Gateway Feature Master Plan and direction to staff. (Green Sheet No. 23-03-032)

Kevin Mangan with Stantec gave presentation of three signage design families for City Council's consideration.

Mayor Steinmeyer made a motion for Design #3; seconded by Council Member Forbes; and the motion failed.

Council Member Purdon made a motion for Design #1; Council Member Bogacz seconded; and the motion failed.

Council Member Forbes made a motion for Design #2; Council Member Corrie seconded; and the motion failed.

Council Member Carr made a motion for Design #3; Council Mayor Steinmeyer seconded; and the motion failed.

Council Member Fullick made a motion to narrow down the choices to Design #1 and #2; Seconded by Council Member Corrie; and the motion passed.

Motion by Council Member Corrie to table the issue, and the motion did not pass.

Council Member Purdon made a motion for Design #1; Seconded by Council Member Bogacz; and the motion failed.

Council Member Forbes made a motion to continue to the next meeting to get additional information regarding materials; Council Member Carr seconded; and the motion passed.

Council continued discussion

Council Member Fullick made a motion to re-open the item; Council Member Purdon seconded; and the motion passed.

Council Member Purdon made a motion to only have options #1 and #2; Seconded by Council Member Fullick; and the motion passed.

Council Member Bogacz made a motion for Design #1; Seconded by Council Member Purdon; and the motion passed.

- B. Approve Design/Build Proposal from Wright Construction to construct additional parking on the Banyan Tree Parcel and approve budget transfer to provide necessary funding in the amount of \$982,195.04. (Green Sheet No. 23-03-038)

Assistant City Manager Matt Feeney provided an overview of this item.

Council Member Carr made a motion to approve; Seconded by Council Member Purdon; Motion passed unanimously.

- C. Update regarding Hurricane Ian recovery

City Manager Arleen Hunter provided an update regarding the anticipated notice of funding from FEMA's expedited process for debris removal.

Additional Updates:

Assitant City Manager Matt Feeney stated there will be a public meeting held March 7th from 5:30 to 6:30 at the Bonita Grande Fire Station #4 to notify the neighborhood regarding the drainage portion of the golf course project as well as the expected time line.

15. Mayor and Council Member Reports

Mayor Steinmeyer has received letters regarding gambling. Provided a number for those who may have a gambling problem.

Council Member Corrie gave an update on the Lee County Recovery Task Force meeting; the Technology Advisory Board's desire to meeting monthly instead of quarterly; and the Council's stance regarding Rails to Trails for MPO.

Council Member Corrie made a motion for the Technology Committee to meet monthly; Council Member Fullick seconded; Motion passed unanimously.

Council Member Fullick reported on an Imperial Harbor Association meeting; and an event he attended with Florida's Lt. Governor.

16. Public Comment

Joe Gallagher discussed using the old library as a senior center and the lack of affordable housing.

Ron George suggested installing rapid EV charging stations downtown.

17. Adjournment

There being no further items to discuss, the meeting adjourned at 8:11 P.M.

Respectfully submitted,

Brenda Reetz, Interim City Clerk

APPROVED BY CITY COUNCIL

Date: _____

AUTHENTICATED:

Mayor Rick Steinmeyer



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

CITY COUNCIL WORKSHOP MINUTES

March 1, 2023 4:00 P.M.

1. Call to Order

Mayor Rick Steinmeyer called the meeting to order at 4:00 P.M.

2. Roll Call

Mayor Steinmeyer and all Council Members were in attendance.

3. Staff Presentation on Transportation Capital Improvement Projects

Assistant City Manager Matt Feeney provided a PowerPoint Presentation (Copy in Clerk's file) to address: drainage, separations, and landscape/hardscape components of path and sidewalk projects currently underway. He also addressed network expansion projects for Downtown Old 41, Paradise Road, and US 41/Bonita Beach Road, as well as upcoming FDOT PD&E studies.

4. City Council Discussion

5. Public Comment: None

6. Adjournment

There being no further items to discuss, the meeting adjourned at 4:49 p.m.

Respectfully submitted,

Brenda Reetz, Interim City Clerk

APPROVED BY CITY COUNCIL: _____

AUTHENTICATED: _____
Mayor Rick Steinmeyer

REQUESTED MOTION: Approve the change order from CFS Roofing Services, Inc for the Liles Hotel Roof Replacement Project and the resolution for budget transfer in the amount of \$69,640.

REQUESTOR: Nicole Perino, Parks and Recreation Director and Lisa Griggs Roberson, Administrative and Financial Services Director

AGENDA: Consent

STRATEGIC PRIORITY: No

BACKGROUND:

On October 21, 2021, City Staff advertised for bids for the Liles Hotel Roof Replacement Project RFB 21-19.

On December 1, 2021, the City received one (1) sealed bid for the Liles Hotel Roof Replacement Project from CFS Roofing Services, Inc in the amount of \$109,230.00. Due to material shortages, the roof replacement project wasn't scheduled to begin until September 28, 2022. Due to Hurricane Ian, the project had to be delayed until January 2023.

Once the existing roof was removed, the structural trusses and joists were found to be damaged. A structural engineer was hired to map out the damaged areas for replacement, and a temporary roof was installed by CFS Roofing while the engineer completed his assessment.

The cost for the temporary roofing amounts to \$16,446.99 (previously approved by staff to preserve the building), and the structural truss and joist replacement is quoted at \$53,187, for a total amount of \$69,640. The attached budget transfer resolution provides funding of \$69,640.

STAFF RECOMMENDATION: Approve the CFS Roofing Services, Inc. change order and the resolution for budget transfer in the amount of \$69,640.

ATTACHMENTS:

1. Change Order
2. CFS Roofing proposals
3. Resolution for Budget Transfer

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
Interim City Clerk: Brenda Reetz
Department Director: Nicole Perino

Council Action: Approved ___ Denied ___ Deferred ___ Other _____

CITY OF BONITA SPRINGS CONSTRUCTION CONTRACT
CHANGE ORDER - TYPE II

Change Order Requires Approval by the City Manager for Expenditures Up To \$50,000

CONTRACT/PROJECT NAME: Liles Hotel Roof Replacement Project

CONTRACTOR: CFS Roofing Services, LLC

CONTRACT NO: BSC-22-01-003 BID NO.: RFB 21-19

CHANGE REQUESTED BY: Nicole Perino DATE OF REQUEST: March 28, 2023

Upon the completion and execution of this Change Order by both parties to the Contract, and upon the CITY issuing the CONTRACTOR a written Notice to Proceed, the CONTRACTOR will be authorized to and shall proceed to make the following changes in the Contract Documents:

Description: Temporary Roofing and Replacement and repair of damaged trusses and joist

Purpose of Change Order: A temporary roof was installed over the discovered damages to the structural trusses and joist. Replacement and repair of the damaged trusses and joist. Based on these unforeseen damages that were out of our control we are also extending the completion date to May 15, 2023.

Attachments (List documents supporting change):

CHANGE IN CONTRACT PRICE:		CHANGE IN CONTRACT TIME:	
Original Contract Price		Original Contract Time	
\$	<u>109,230.00</u>		<u>120</u>
Previous Change Orders No. <u>1</u> to No. <u>1</u>		Calendar Days	
\$	<u>N/A</u>	Net change from previous Change Orders	
			<u>214</u>
Contract Price prior to this Change Order		Calendar Days	
\$	<u>109,230.00</u>	Contract Time prior to this Change Order	
			<u>120</u>
Net Increase (Decrease) of this Change Order		Calendar Days	
\$	<u>69,633.99</u>	Net Increase (Decrease) of this Change Order	
			<u>135</u>
Contract Price with all approved Change Orders		Calendar Days	
\$	<u>178,863.99</u>	Contract Time with all approved Change Orders	
			<u>475</u>
		Calendar Days	

It is understood and agreed that the acceptance of this modification by the CONTRACTOR constitutes an accord and satisfaction, and represents an agreement for payment in full (both time and money) for all costs arising out of, or incidental to, the above mentioned change.

RECOMMENDED:

ACCEPTED:

APPROVAL:

By: _____
Consultant (if applicable) Date

By: _____
Contractor Signature

By: _____
City Manager
(Under \$50,000)

By: _____
Parks and Recreation Dept. Date

Print Name

Date Approved: _____

City Clerk

16100 Lee Road
Address

By: _____
City Attorney's Office

Fort Myers, FL 33912
Address

Corporate Seal

Date Accepted: _____

Date Approved: _____



Nicole Perino
City of Bonita Springs
Bonita Springs, FL. 34135

March 22, 2023

Re: Liles Hotel– Repair rotten trusses and joist

	Roof Repair		
1	Labor & Material	\$ 46,250.00	\$ 46,250.00
1	Remove temporary roof covering		
2	Remove plywood sheathing		
3	Remove existing 2x8 ledger at perimeter of cmu wall		
4	Remove rotted ceiling joists to the approx. roof limit as indicated		
5	Remove existing connectors		
6	Install new 2x8 pt ledger at cmu wall per plans		
7	Install new 2x roof joists per plans		
8	Install plywood sheathing		
9	Ceiling joists to remain		
10	Nails are included		
11	Lumber and connectors are included		
12	CFS to stock materials on roof		
13	Price includes labor & materials		
	Permit by CFS		
30%	30% Deposit Required at Signing	\$ 13,875.00	
	Balance Due at Completion		
	Owner Signature:		
		SUBTOTAL	\$ 46,250.00 \$ - \$ -
		TOTAL	\$ 46,250.00
THANK YOU FOR YOUR BUSINESS		PLEASE PAY	\$ 46,250.00

Overhead..... \$6,937.00

Total amount requested.....\$53,187.00

Acceptance of Proposal – The above prices as per proposal dated March 22, 2023, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.

Signature _____

Date: _____

Printed Name _____

Signature _____
David Crowther- President CFS Roofing Services, LLC

Date: _____

John Caron
Commercial Project Manager
(239) 565-7806 Mobil
j.caron@cfsroofing.com



Nicole Perino
City of Bonita Springs
Bonita Springs, FL. 34135

November 29, 2022

Re: Liles Hotel– Temporary roofing due to rotten trusses and joist

Material

(10) Rolls of Polyglass SA Cap @ \$105.00 Ea.....\$1,050.00
(2) 5 gallon roof cement @ \$52.00 Ea..... \$104.00
(6) ¾" plywood @ \$48.37 Ea.....\$290.22
(8) 2" x 6" x 10" @ \$11.38 Ea.....\$91.04
(1) Fasteners @ \$150.00 Ea.....\$150.00

Labor

(75) Manhours @ \$95.00 per manhour.....\$7,125.00
(2) Manhours for supervision @ \$125.00 per man hour.....\$250.00
(2) Remobilization @ \$1,500.00 per.....\$3,000.00

Overhead..... \$4,386.73

Total amount requested.....\$16,446.99

Acceptance of Proposal – The above prices as per proposal dated November 23, 2022, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.

Signature _____

Date: _____

Printed Name _____

Signature _____

Date: _____

David Crowther- President CFS Roofing Services, LLC

John Caron

Commercial Project Manager
(239) 565-7806 Mobil
j.caron@cfsroofing.com

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 23-

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING THE BUDGET AMENDMENT FOR FISCAL YEAR 2022-2023; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 21, 2022, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2023, Fiscal Year 2022-2023; 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, as outlined in City Council agenda item 23-04-059 Liles Hotel Roof Replacement Project requires additional funding; and

WHEREAS, funding for the additional budgeted expenditures of \$69,640 is available in the Capital Improvement Project 30.270.519.4924 City Facilities Major Repairs;

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

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

2. The City Council authorizes a budget amendment to line item 30.615.572.6019 Liles Hotel Roof Replacement Project for \$69,640 additional budgeted expenditures funding from 30.270.519.4924 City Facilities Major Repairs.

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

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 5th day of April, 2023.

AUTHENTICATION:

Mayor City Clerk

APPROVED AS TO FORM:_____

City Attorney

Vote:

Bogacz
Purdon
Carr
Corrie

Fullick
Forbes
Steinmeyer

Date filed with City Clerk: _____

REQUESTED MOTION: Approve the proposal from EnviroStruct, LLC from the Construction Manager at Risk Continuing Services agreement and the resolution for budget transfer in the amount of \$56,650 for Bonita Springs Skate Park Perimeter Wall Repair and renovation.

REQUESTOR: Nicole Perino, Parks and Recreation Director; Lisa Griggs Roberson, Director of Financial & Administrative Services

AGENDA: Consent

STRATEGIC PRIORITY: #5 Community Aesthetics

BACKGROUND:

In April 2019, Stantec Consulting Services, Action Sports Division, was retained to design a Skatepark and Pump track in the former Skate Park location in Community Park. Preliminary designs were completed and presented at two public workshops for public input. In January 2020, final design was approved by City Council as well as authorization for staff to submit a grant application to the Florida Department of Environmental Protection for grant funds to construct the Skate Park and a transfer of park impact fee funds to provide the required match. In October 2021, FDEP awarded the project for Grant Funding in the amount of \$279,850.

On April 15, 2022, City Council awarded the Skate Park and Pump track project RFB 21-01 to New Line Skateparks FL, Inc. in the amount of \$1,120,862. New Line Skateparks began construction of the skate park and pump track in August 2022. During the later stages of construction, it was discovered that the existing perimeter wall has low points, which need to be addressed before the new skate park and pump track could be operational due to a potential hazard to the user.

Attached is the proposal from EnviroStruct, LLC in the amount of \$56,650 to complete the repairs and renovation to the existing perimeter wall. The work is outlined in the fee proposal attached.

STAFF RECOMMENDATION: Approve the proposal from EnviroStruct, LLC from the Construction Manager at Risk Continuing Services agreement and resolution for budget transfer in the amount of \$56,650 for Skate Park Perimeter Wall Repair and Renovation project.

ATTACHMENTS:

1. Proposal from EnviroStruct, LLC
2. Resolution for Budget Transfer

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
Interim City Clerk: Brenda Reetz
Department Director: Nicole Perino

Council Action: Approved ___ Denied ___ Deferred ___ Other _____

Bonita Springs Skatepark renovation

9101 Bonita Bch. Rd

Cost Estimate

March 24, 2023



Bldg Area: 0 sf

General Conditions (1 Months)

Cost Code	Description	Qty.	U/M	Rate	Total
Total				\$	7,435.00

Sub Contractor & Supplier Cost

Cost Code	Description	Qty.	U/M	Rate	Total
02-232 1	Demo loose stucco			\$	5,000.00
03-100 2	Dowel in rebar, form and pour concrete beam			\$	20,000.00
09-810 3	Protection of existing surfaces			\$	2,000.00
09-940 4	Powerwash, prime, paints entire wall both sides with elastomeric paint.			\$	15,000.00
Total				\$	42,000.00

Estimate Summary

Total General Conditions w/ Labor Burden	\$	7,435.00
Total Subcontractor Costs	\$	42,000.00
Design Fees - Architectural / Structural / Civil / MEP	\$	-
P&P Bond	\$	-
Permit & Impact Fees	\$	1,200.00
Builders Risk	\$	450.00
Liability Insurance	\$	408.68
Total Fee	\$	5,149.37
Total Base Bid	\$	56,643.05

Qualifications & Assumptions:

Concrete pricing estimated, pending engineered design letter

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 23-

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING THE BUDGET AMENDMENT FOR FISCAL YEAR 2022-2023; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 21, 2022, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2023, Fiscal Year 2022-2023; 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, as outlined in City Council agenda item 23-04-060 Skate Park Perimeter Wall Repair and renovation requires additional funding; and

WHEREAS, funding for the additional budgeted expenditures of \$56,650 is available in the General Fund, unassigned fund balance;

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

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

2. The City Council authorizes a budget amendment to line item 31.605.572.6008 Skate Park for \$56,650 additional budgeted expenditures funding from the General Fund, unassigned fund balance.

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

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 5th day of April, 2023.

AUTHENTICATION:

Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:

Bogacz
Purdon
Carr
Corrie

Fullick
Forbes
Steinmeyer

Date filed with City Clerk: _____

REQUESTED MOTION: Approve a six (6) month extension to the artist cottage tenants with a valid agreement during the 6-month vacancy caused by Hurricane Ian and authorize staff to advertise for Artists and other similar vendors for use of Artist Cottages at Riverside Park

REQUESTOR: Nicole Perino, Parks and Recreation Director

AGENDA: Consent

STRATEGIC PRIORITY: #8 Economic Development

BACKGROUND:

On September 28, 2022, Hurricane Ian caused flooding damages to the interior of each of the 6 Artist Cottages. It was requested of the tenants to remove all belongings from each cottage in order to complete remediation and renovations. The tenants remained vacated for six months until March 2023. Several of the tenants have requested an extension to their current agreements for the 6 months that they were vacated from the cottage.

On March 14, 2023, the Art in Public Places Board voted unanimously to recommend to City Council a six (6) month extension to the tenants with a valid agreement during that 6-month vacancy. The board voted unanimously on a second motion to recommend to City Council to move forward with an advertisement of an RFP for Letters of Interest from Artists and other similar type vendors for use of Artist Cottages as several of the current tenants will have exhausted all renewals, after the 6-month extension of their current agreement, which provided for an initial term of one year and two options for renewal. The current tenants will have the option to resubmit a new Letter of Interest.

Once advertised and Letters of Interest are submitted, the Art in Public Places Board will review the submissions and provide a ranking of the top three submissions and provide a recommendation to City Council.

STAFF RECOMMENDATION: Approve a six (6) month extension to cottage tenants with a valid agreement during the 6-month vacancy and authorize Staff to advertise for Artists and similar type vendors for use of Artist Cottages in Riverside Park.

ATTACHMENTS:

1. Draft RFP

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
Interim City Clerk:	Brenda Reetz
Department Director:	Nicole Perino

Council Action: Approved ___ Denied ___ Deferred ___ Other _____

**CITY OF BONITA SPRINGS
REQUEST FOR LETTERS OF INTEREST FOR
RIVERSIDE PARK COTTAGE USE AGREEMENT
RFP 23-**

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

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

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

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

- Letter of Interest shall be sealed, submitted and plainly marked on the outside of the envelope RFP 23- LETTER OF INTEREST: RIVERSIDE PARK COTTAGE USE AGREEMENT.
- Vendors should submit the proposal on or before _____ to City Clerk, City of Bonita Springs, Bonita Springs City Hall, 9101 Bonita Beach Rd., Bonita Springs, Florida 34135.
- Any Letters of Interest received after the specified time will not be considered
- Faxed documents will not be accepted. Letters of Interest should be on 8½" x 11" page paper, not to exceed ten (10) pages. Paper should be white, so that photographs and text are easily reproducible.
- Vendors are expected to fully inform themselves as to the requirements in the Standard Instructions in this Letter of Interest.
- All questions pertaining to this Request for Proposals must be submitted in writing by email at Nicole.perino@cityofbonitasprings.org or by mail to the attention of Nicole Perino, Parks and Recreation Director, City of Bonita Springs, Bonita Springs Recreation Center, 26740 Pine Ave, Bonita Springs, FL 34135.

Standard Instructions

1. LOI will be evaluated to determine which Vendors are most appropriate based on the City of Bonita Springs having an area for the public to be able to observe a "village" of artists and/or craftsmen in the park. If all of the requested information is not provided in the Proposal, the Proposal may be deemed non-responsive and may be eliminated from further consideration. Therefore, the information outlined below must be provided on 8½" x 11" page paper, not to exceed ten (10) pages (single sided) in length:
 - a. Description of type of vendor and/or concession;
 - b. Type of Business – Sole Proprietor, Partnership, Corporation, etc.;
 - c. Discussion of past vendor/work related experience;
 - d. A description of the type of art, craft, etc. that the vendor is proposing to demonstrate and potentially sell in the cottage.
 - e. If you will be using a kiln, please give a description of the kiln including its components and type.
 - f. A commitment and financial capability to pay the monthly fee of \$350 per month September – May and \$250 per month June - August to use the cottage with a possible increase based on market rate or inflation index each year.
 - g. A timetable of when the Vendor can commence operations at the Cottage.
 - h. Any chemicals or mechanical components which may be hazardous, flammable or otherwise dangerous to the public.
 - i. Qualifications and experience of outside Vendors or sub-Vendors regularly engaged by the Vendors under consideration;
 - j. Proof of payment of Lee County Business Tax Receipt (formerly occupational license tax) if available or statement of intent to obtain;
 - k. Proposal for duration of lease including but not limited to requested duration – full time, part time, weekend, seasonal, and commitment to work the special events
 - l. Any additional information provided by the Vendor which demonstrates nature of the proposal.
 - m. Current tenant of the artist cottage will be given additional consideration based on their prior performance as a tenant.
2. All questions pertaining to this Request for Proposals must be submitted in writing by email at Nicole.perino@cityofbonitasprings.org or by mail to the attention of Nicole Perino, Parks and Recreation Director, City of Bonita Springs, Bonita Springs Recreation Center, 26740 Pine Ave, Bonita Springs, FL 34135.
3. Vendors are expected to fully inform themselves as to the requirements of the Letter of Interest (LOI). Failure to do so will be at their own risk. A vendor shall not expect to secure relief on the plea of error or lateness. Any LOI not containing all material information requested herein may be rejected at the City's sole discretion. However, the City

reserves the right to request any omitted information from any Vendors or to clarify any information submitted. The Vendor agrees that the submission of the LOI represents the Vendor's acceptance of the terms and conditions as set forth in this request for LOI.

4. The City is not responsible for any expenses incurred in preparing and submitting a LOI or taking any action in the selection process or for the cost of any services performed by any firm prior to the execution of a contract with the City.
5. The City reserves the right to reject any and all Letters of Interest, in whole or in part, with or without cause, to waive any informalities and technicalities, and to award the contract on such terms it deems to be in the best interests of the City.
6. UNDER NO CIRCUMSTANCES SHOULD ANY PROSPECTIVE VENDORS, OR ANYONE ACTING FOR OR ON BEHALF OF A PROSPECTIVE VENDOR. SEEK TO INFLUENCE OR GAIN THE SUPPORT OF ANY MEMBER OF THE CITY COUNCIL OR THE CITY STAFF FAVORABLE TO THE INTEREST OF ANY PROSPECTIVE VENDORS. LIKEWISE, CONTACT WITH THE CITY COUNCIL OR CITY STAFF AGAINST THE INTERESTS OF OTHER PROSPECTIVE VENDORS IS PROHIBITED. ANY SUCH ACTIVITIES MAY RESULT IN EXCLUSION OF THE PROSPECTIVE VENDOR FROM CONSIDERATION BY THE CITY.
7. Use Agreements will be awarded to a Vendor(s) for the use of one (1) cottage. The vendor will be required to maintain appropriate insurance (including professional liability insurance). The City of Bonita Springs shall be named as additional insured and be provided thirty (30) day prior written notice of any material change or cancellation of policies. Evidence of such coverage must be provided to the City of Bonita Springs prior to award of the agreement. All contracts and agreements will contain a hold harmless clause for the protection of the City of Bonita Springs.
8. Responses should be prepared simply and economically, and should provide straightforward and concise responses, which satisfy the requirements of this Request for Letters of Interest. Emphasis should be placed on the completeness and clarity of the content. The City of Bonita Springs shall not be liable for any expenses incurred in the preparation or presentation of the responses.
9. Federal, state, county, and local laws, ordinances, rules and regulations that in any manner affect the items covered herein shall apply. Lack of knowledge by the Vendors is no cause for relief from responsibility. Vendors are to be in full compliance with the following laws, specifically including, but not limited to: 1) Conflict of Interest; 2) City of Bonita Springs; 3) Government-in-the-Sunshine Laws; 4) Florida Public Records Law; 5) State of Florida Rules and Regulations; and, 7) ADA Rules and Regulations.

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

11. The City of Bonita Springs shall not be responsible for delays caused by the United States Postal Service, overnight express mail services, or for delays caused by any other occurrence.
12. The issuance of this RFP constitutes only an invitation to present Letters of Interests. The City of Bonita Springs reserves the right to determine, in its sole discretion, whether any aspect of the response satisfactorily meets the criteria established in the RFP, the right to seek additional information and/or clarification from any firm submitting a response, the right to negotiate with any firms or individuals submitting a response, and the right to reject any or all responses with or without cause.
13. In the event that the RFP is withdrawn by the City of Bonita Springs for any reason including, but not limited to, the failure of any of those things or events set forth herein to occur, the City of Bonita Springs shall have no liability for any costs or expenses incurred in connection with this RFP or otherwise.

Vendors Evaluation

1. All submitted LOIs will be reviewed by the Bonita Springs Art in Public Places Board (APPB) based on the information received. Based on this review, the APPB will identify the names of the most qualified vendors, by ranking, for City Council concurrence and acceptance.
2. Prior to ranking, the APPB may request the vendors to give an oral presentation. The vendor will be notified of the time and place of oral presentations. ORAL PRESENTATIONS MAY BE WAIVED BY THE APPB. If no oral presentations are requested, the APPB selection shall be based on the LOI submitted. If oral presentations are conducted, the vendors may be questioned by the APPB and City staff during the oral presentations.
3. The City reserves the right to reject any and all Letters of Interest.
4. Only those Vendors submitting Letters of Interest including all pertinent information as requested and which meet the requirements herein will be considered for Use Agreements, with the City filling vacancies on a space available basis.

**CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY**

Green Sheet No. 23-04-062
April 5, 2023

REQUESTED MOTION: Approve grant agreement with Florida Department of Environmental Protection for Beach Renourishment to replace sand removed by Hurricane Ian in the amount of \$2,180,620.92

REQUESTOR: Matt Feeney, Assistant City Manager

AGENDA: Consent

STRATEGIC PRIORITY: #4 Environmental Protection

BACKGROUND: Hurricane Ian removed an estimated 70,000 cubic yards of sand on south Bonita Beach. This agreement provides \$2,180,620.92 in State funding with no City match requirement to replace sand taken away by Hurricane Ian.

Permits and easements will be required for implementation of the beach renourishment on privately owned property.

STAFF RECOMMENDATION: Approve grant agreement with Florida Department of Environmental Protection for Beach Renourishment

ATTACHMENTS:

1. Florida Department of Environmental Protection Grant Agreement

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
Interim City Clerk: Brenda Reetz
Department Director: Matt Feeney

Council Action: Approved __ Denied __ Deferred __ Other _____



HURRICANE IAN RECOVERY

SOUTH BONITA BEACH AND DUNE RESTORATION:

Funding Request: \$2,247,750

Background:

Similar to the locale of Fort Myers Beach (our abutting neighbor to the North), our barrier islands have approximately 5.5 miles of coastal shoreline along the Gulf of Mexico and experienced storm surge of 10-13 feet during Hurricane Ian.

In the aftermath of the storm, Little Hickory Island's main thoroughfare – Hickory Boulevard – was covered with sand dunes upwards of six feet. The erosion of our beaches was so severe that it rendered many homes and businesses uninhabitable due to safety concerns of possible collapse.

Pictured below: Hickory Boulevard taken 9/29/22



**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Standard Grant Agreement**

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

1. Project Title (Project): **City of Bonita Springs 2022 Hurricane Ian and Nicole Recovery Project** Agreement Number: **23LE6**

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

Grantee Name: **City of Bonita Springs** Entity Type: **Local Government**

Grantee Address: **9101 Bonita Beach Road, Bonita Springs, FL 34135** FEID: **59-3649914** (Grantee)

3. Agreement Begin Date: **9/28/2022** Date of Expiration: **12/31/2025**

4. Project Number: **(If different from Agreement Number)** Project Location(s): **Lee County**

Project Description: **The project consists of construction.**

5. Total Amount of Funding:	Funding Source?	Award #s or Line Item Appropriations:	Amount per Source(s):
\$ 2,180,620.92	☒ State ☐ Federal	Laws of Florida Chapter 2022-272 SB4-A	\$ 2,180,620.92
	☐ State ☐ Federal		
	☐ Grantee Match		
Total Amount of Funding + Grantee Match, if any:			\$ 2,180,620.92

6. Department's Grant Manager Name: Anthony Sogluizzo or successor Address: Beach Management Funding Assistance 2600 Blair Stone Road, MS #3601 Tallahassee, Florida 32399 Phone: 850-245-8626 Email: Anthony.Sogluizzo@FloridaDEP.gov	Grantee's Grant Manager Name: Elly Soto McKuen or successor Address: 9101 Bonita Beach Road Bonita Springs, FL 34135 Phone: 239-949-6262 Email: elly.mckuen@cityofbonitasprings.org
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7. The Parties agree to comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated by reference:

☒ Attachment 1: Standard Terms and Conditions Applicable to All Grants Agreements
☒ Attachment 2: Special Terms and Conditions
☒ Attachment 3: Grant Work Plan
☒ Attachment 4: Public Records Requirements
☒ Attachment 5: Special Audit Requirements
☐ Attachment 6: Program-Specific Requirements
☐ Attachment 7: Grant Award Terms (Federal) *Copy available at https://facts.fldfs.com , in accordance with §215.985, F.S.
☐ Attachment 8: Federal Regulations and Terms (Federal)
☐ Additional Attachments (if necessary):
☒ Exhibit A: Progress Report Form
☐ Exhibit B: Property Reporting Form
☒ Exhibit C: Payment Request Summary Form
☐ Exhibit D: Quality Assurance Requirements
☐ Exhibit E: Advance Payment Terms and Interest Earned Memo
☐ Exhibit F: Common Carrier or Contracted Carrier Attestation Form PUR1808

☐ Additional Exhibits (if necessary):

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

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

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

City of Bonita Springs

GRANTEE

Grantee Name

By

(Authorized Signature)

Date Signed

Print Name and Title of Person Signing

State of Florida Department of Environmental Protection

DEPARTMENT

By

Secretary or Designee

Date Signed

Print Name and Title of Person Signing

☒ Additional signatures attached on separate page.

ORCP Additional Signatures

DEP Grant Manager

DEP QC Reviewer

Local Sponsor may add additional signatures if needed below.

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

ATTACHMENT 1

1. Entire Agreement.

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

2. Grant Administration.

- a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
 - i. Standard Grant Agreement
 - ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
 - iii. Attachment 1, Standard Terms and Conditions
 - iv. The Exhibits in the order designated in the Standard Grant Agreement
- b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.
- c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.
- d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following:
 - (1) an increase or decrease in the Agreement funding amount;
 - (2) a change in Grantee's match requirements;
 - (3) a change in the expiration date of the Agreement; and/or
 - (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department.A change order to this Agreement may be used when:
 - (1) task timelines within the current authorized Agreement period change;
 - (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department;
 - (3) changing the current funding source as stated in the Standard Grant Agreement; and/or
 - (4) fund transfers between budget categories for the purposes of meeting match requirements.This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.
- e. All days in this Agreement are calendar days unless otherwise specified.

3. Agreement Duration.

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

4. Deliverables.

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

5. Performance Measures.

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

6. Acceptance of Deliverables.

- a. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.
- b. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

7. Financial Consequences for Nonperformance.

- a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.
- b. Invoice reduction
If Grantee does not meet a deadline for any deliverable, the Department will reduce the invoice by 1% for each day the deadline is missed, unless an extension is approved in writing by the Department.
- c. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.
 - i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.
 - ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to

require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

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

8. Payment.

- a. Payment Process. Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with Section 215.422, Florida Statutes (F.S.).
- b. Taxes. The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.
- c. Maximum Amount of Agreement. The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.
- d. Reimbursement for Costs. The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. To be eligible for reimbursement, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address:
<https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.
- e. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.
- f. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.
- g. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.
- h. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.
- i. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to: www.myfloridacfo.com/Division/AA/Vendors/default.htm.
- j. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

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

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

- a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.
- b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.
- c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in Chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.
 - i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.
 - ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.
- d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with Section 112.061, F.S.
- e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing \$5,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form.
- f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.
- g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.
- h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal

Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

10. Status Reports.

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

11. Retainage.

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

- a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.
- b. If Grantee fails to perform the requested work, or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.
- c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.
- d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

12. Insurance.

- a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
- c. Proof of Insurance. Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage *prior to* performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
- d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.
- e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

13. Termination.

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

- b. Termination for Cause. The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.
- c. Grantee Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.
- d. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.
- e. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

14. Notice of Default.

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

15. Events of Default.

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

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

- iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

16. Suspension of Work.

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

17. Force Majeure.

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

18. Indemnification.

- a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
 - i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
 - ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.
- b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.
- c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.

- d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

19. Limitation of Liability.

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

20. Remedies.

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

21. Waiver.

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

22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

- a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.
- b. Pursuant to Sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
- i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
 - ii. Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
 - iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.
 - iv. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

23. Compliance with Federal, State and Local Laws.

- a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.
- b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

24. Build America, Buy America Act (BABA).

Recipients or Subrecipients of an award of Federal financial assistance from a program for infrastructure are required to comply with the Build America, Buy America Act (BABA), including the following provisions:

- a. All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. All manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- c. All construction materials are manufactured in the United States--this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

25. Scrutinized Companies.

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

26. Lobbying and Integrity.

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

27. Record Keeping.

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

28. Audits.

- a. Inspector General. The Grantee understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.
- b. Physical Access and Inspection. Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
 - i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;
 - ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
 - iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.
- c. Special Audit Requirements. The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.331 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: <https://apps.fldfs.com/fsaa>.
- d. Proof of Transactions. In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.
- e. No Commingling of Funds. The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.
 - i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of

money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.

- ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.
- iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

29. Conflict of Interest.

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

30. Independent Contractor.

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

31. Subcontracting.

- a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.
- b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
- c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.
- d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.
- e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.
- f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
- g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

32. Guarantee of Parent Company.

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

33. Survival.

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

34. Third Parties.

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

35. Severability.

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

36. Grantee's Employees, Subcontractors and Agents.

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

37. Assignment.

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

38. Compensation Report.

If this Agreement is a sole-source, public-private agreement or if the Grantee, through this agreement with the State, annually receive 50% or more of their budget from the State or from a combination of State and Federal funds, the Grantee shall provide an annual report, including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Grantee must also inform the Department of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Grantee.

39. Execution in Counterparts and Authority to Sign.

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

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Terms and Conditions
AGREEMENT NO. 23LE6**

ATTACHMENT 2

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

1. Scope of Work.

The Project funded under this Agreement is City of Bonita Springs 2022 Hurricane Ian and Nicole Recovery Project. The Project is defined in more detail in Attachment 3, Grant Work Plan.

2. Duration.

- a. Reimbursement Period. The reimbursement period for this Agreement is the same as the term of the Agreement.
- b. Extensions. There are extensions available for this Project.
- c. Service Periods. Additional service periods are not authorized under this Agreement.

3. Payment Provisions.

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

4. Cost Eligible for Reimbursement or Matching Requirements.

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

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

5. Equipment Purchase.

No Equipment purchases shall be funded under this Agreement.

6. Land Acquisition.

There will be no Land Acquisitions funded under this Agreement.

7. Match Requirements

See Attachment 3, Grant Work Plan.

8. Insurance Requirements

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy

maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. All insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Grantee may provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

a. Commercial General Liability Insurance.

The Grantee shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. The Department, its employees, and officers shall be named as an additional insured on any general liability policies. The minimum limits shall be \$250,000 for each occurrence and \$500,000 policy aggregate.

b. Commercial Automobile Insurance.

If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The Department, its employees, and officers shall be named as an additional insured on any automobile insurance policy. The minimum limits shall be as follows:

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

c. Workers' Compensation and Employer's Liability Coverage.

The Grantee shall provide workers' compensation, in accordance with Chapter 440, F.S. and employer liability coverage with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Grant.

d. Other Insurance. None.

9. Quality Assurance Requirements.

There are no special Quality Assurance requirements under this Agreement.

10. Retainage.

Retainage is permitted under this Agreement. Retainage may be up to a maximum of 10% of the total amount of the Agreement.

11. Subcontracting.

The Grantee may subcontract work under this Agreement with the prior written consent of the Department's Grant Manager. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement.

12. State-owned Land.

The Board of Trustees of the Internal Improvement Trust Fund must be listed as additional insured to general liability insurance required by the Agreement and, if the Grantee is a non-governmental entity, indemnified by the Grantee.

13. Office of Policy and Budget Reporting.

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

14. Common Carrier.

- a. Applicable to contracts with a common carrier – firm/person/corporation that as a regular business transports people or commodities from place to place. If applicable, Contractor must also fill out and return PUR 1808 before contract execution] If Contractor is a common carrier pursuant to section 908.111(1)(a), Florida Statutes, the Department will terminate this contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808.
- b. Applicable to solicitations for a common carrier – Before contract execution, the winning Contractor(s) must fill out and return PUR 1808, and attest that it is not willfully providing any service in furtherance of transporting a person into this state knowing that the person unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The

Department will terminate a contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808

15. Additional Terms.

None.

ATTACHMENT 3 GRANT WORK PLAN

PROJECT TITLE: City of Bonita Springs 2022 Hurricane Ian and Nicole Recovery Project

PROJECT LOCATION: The Project is located along the Gulf of Mexico Shoreline in Lee County, Florida. The specific project location is South Bonita Beach (R-230 to R-239.25)

PROJECT BACKGROUND: The Project shoreline sustained beach and dune erosion from Hurricane Ian (category 4 storm in late September 2022) and Hurricane Nicole (category 1 storm in November 2022). Laws of Florida Chapter 2022-272 SB4-A authorized the Department of Environmental Protection to waive or reduce match requirements for certain local governments and provided non-recurring funds for damages related to Hurricane Ian and Hurricane Nicole for beach erosion projects as identified in Section 161.101(22), Florida Statute, F.S.

PROJECT DESCRIPTION: The Project consists of beach and dune restoration consistent with the recovery plan to address impacts of Hurricanes Ian and Nicole.

PROJECT ELIGIBILITY: The Department has determined that 100 percent of the non-federal Project cost is eligible for state cost sharing. Therefore, the Department's financial obligation shall not exceed the sum of \$2,180,620.92 for this Project or up to 100 percent of the non-federal Project cost, if applicable, for the specific eligible Project items listed, whichever is less. Any indicated federal cost sharing percentage is an estimate and shall not affect the cost sharing percentages of the non-federal share. The parties agree that eligibility for cost sharing purposes will be maintained pursuant to 62B-36, Florida Administrative Code (F.A.C.)

Duplication of federal funds are not permitted under this agreement.

The Local Sponsor will be responsible for auditing all travel reimbursement expenses based on the travel limits established in Section 112.061 (F.S.)

Pursuant to Sections 161.091 - 161.161, F.S., the Department provides financial assistance to eligible governmental entities for beach erosion control and inlet management activities under the Florida Beach Management Funding Assistance Program.

The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved scope of work for an eligible Project item. The monitoring standards may be found at:

<https://floridadep.gov/sites/default/files/PhysicalMonitoringStandards.pdf>

One (1) electronic copy of all written reports developed under this Agreement shall be forwarded to the Department, unless otherwise specified.

Acronyms:

DEP – Florida Department of Environmental Protection

F.A.C. – Florida Administrative Code
 F.S. – Florida Statutes
 FEMA – Federal Emergency Management Agency
 FWC – Florida Fish and Wildlife Conservation Commission
 IMP – Inlet Management Plan
 USACE – United States Army Corps of Engineers

TASKS and DELIVERABLES:

Task 1: Construction – South Bonita Beach

Task Description: This task includes work performed and costs incurred associated with the placement of fill material and/or the construction of erosion control structures within the Project area. Project costs associated with eligible beach and inlet construction activities include work approved through construction bids and/or construction-phase engineering and monitoring services contracts. Eligible costs may include mobilization, demobilization, construction observation or inspection services, physical and environmental surveys, beach fill, tilling and scarp removal, erosion control structures, mitigation reefs, dune stabilization measures and native beach-dune vegetation. Construction shall be conducted in accordance with any and all State or Federal permits. The Local Sponsor will submit work products to the appropriate State or Federal regulatory agencies as requested by the DEP Project Manager in order to be eligible for reimbursement under this task.

Deliverable: Certification of Completion by a Florida-registered Professional Engineer with documentation of submittal to the Department affirming the construction task was completed in accordance with construction contract documents. For interim payment requests, a Task Summary Report signed by Local Sponsor must be submitted detailing activities completed during the payment request period. The Task Summary Report must include the dates and descriptions of all activities, surveys and reports completed or in progress during the time period of the interim payment request.

Performance Standard: The DEP Project Manager will review the task deliverable and any associated work products as necessary to verify they meet the specifications in the Grant Work Plan and this task description.

Payment Request Schedule: Payment requests may be submitted after the deliverable is received and accepted and may be submitted no more frequently than quarterly.

Estimated Eligible Project Cost

Task #	Eligible Project Tasks	State Cost Share (%)	Federal Estimated Project Costs	DEP	Local	Total
1	Construction	100.00%	\$0.00	\$2,180,620.92	\$0.00	\$2,180,620.92
	TOTAL PROJECT COSTS		\$0.00	\$2,180,620.92	\$0.00	\$2,180,620.92

PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by, and all deliverables received by, the corresponding deliverable due date.

Task No.	Task Title	Budget Category	Budget Amount	Task Start Date	Deliverable Due Date
1	Construction	Contractual Services	\$2,180,620.92	9/28/2022	9/30/2025
Total:			\$2,180,620.92		

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Public Records Requirements**

Attachment 4

1. Public Records.

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

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

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

- a. Keep and maintain Public Records required by Department to perform the service.
- b. Upon request, provide Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the Public Records to Department.
- e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department's custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.

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

Telephone: (850) 245-2118

Email: public.services@floridadep.gov

Mailing Address: Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

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

Attachment 5

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

MONITORING

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

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$750,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <https://sam.gov/content/assistance-listings>.

PART II: STATE FUNDED

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

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

PART III: OTHER AUDIT REQUIREMENTS

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

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
 - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

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

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

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

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

By Mail:

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

Electronically:

FDEPSingleAudit@dep.state.fl.us

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

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

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

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

By Mail:

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

Electronically:

FDEPSingleAudit@dep.state.fl.us

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

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

PART V: RECORD RETENTION

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

EXHIBIT – 1

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

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

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

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

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

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

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

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

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program A	State Awarding Agency	State Fiscal Year ¹	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original	Florida Department of Environmental Protection	2022-2023	37.113	Laws of Florida Chapter 2022-272 SB4-A	\$2,180,620.92	087752
State Program B	State Awarding Agency	State Fiscal Year ²	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Total Award					\$2,180,620.92	

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

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<https://sam.gov/content/assistance-listings>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]). The

¹ Subject to change by Change Order.

² Subject to change by Change Order.

services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

EXHIBIT A

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
QUARTERLY PROJECT PROGRESS REPORT**

Name of Project: City of Bonita Springs 2022 Hurricane Ian and Nicole Recovery Project

Local Sponsor: City of Bonita Springs

DEP Agreement Number: 23LE6

Report Year: _____ **Report Period (select one):**

☐ Q1: Jan – Mar 31 ☐ Q2: Apr – Jun 30 ☐ Q3: Jul – Sep 30 ☐ Q4: Oct – Dec 31

For each task, include the following information: Describe the work performed during the reporting period (including percent of task completed to date), problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. (*Use additional pages, if needed*).

Task 1: _____

Task 2: _____

Task 3: _____

Task 4: _____

EXHIBIT C

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART 1 – PAYMENT SUMMARY**

Name of Project: City of Bonita Springs 2022 Hurricane Ian and Nicole Recovery Project

Local Sponsor: City of Bonita Springs

DEP Agreement Number: 23LE6

Remittance Mailing Address: _____

Billing Number: _____

Billing Type: ☐ Interim Billing ☐ Final Billing

Costs Incurred This Payment Request:

Federal Share*	State Share	Local Share	Total
\$ _____	\$ _____	\$ _____	\$ _____

*if applicable, check box below

☐ FEMA ☐ USACE

Cost Summary:

State Funds Obligated
\$ _____

Local Funds Obligated
\$ _____

Less Advance Pay
\$ _____

Less Advance Pay
\$ _____

Less Previous Payment
\$ _____

Less Previous Credits
\$ _____

Less Previous Retained
\$ _____

Less This Credit
\$ _____

Less This Payment
\$ _____

Local Funds Remaining
\$ _____

Less This Retainage
\$ _____

State Funds Remaining
\$ _____

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART 2 – REIMBURSEMENT DETAIL**

DEP Agreement Number: _____
Name of Project: _____
Billing Number: _____
Billing Period (1): _____

Individual Completing Form (2): _____
Phone Number (2): _____

REIMBURSEMENT DETAIL

Item #	Vendor Name	Invoice Number	Invoice Date	Check Number	Task Number (3)	SOW Number (3)	Invoice Amount (4)	Eligible Amount (5)	% Fed Share (6)	Federal Share of Eligible Amount (7)	Non-Federal Share (8)	% State Share (9)	State Share (10)
										-	-		\$0.00
								-		Totals	-		-

Total Due to Local Sponsor (15) _____

Form Instructions:

1. Billing Period: Period when services were conducted (beginning date: earliest date of services conducted; end date: latest date of services conducted).
2. Person responsible for completing this form: Name and phone number if contact is needed.
3. Task #/SOW #: Insert a Task #/SOW # for each invoice. If invoice covers multiple Task#/SOW#, then that invoice should be listed multiple times, a line item for each del
4. Invoice amount: Full amount of invoice.
5. Eligible Amount: Invoice amount paid by Local Sponsor less ineligible cost for line item deliverable only.
6. % Federal Share: If applicable, the federal cost share percentage listed in Agreement.
7. Federal Share of Eligible Amount: If applicable, Local Sponsor will multiply Eligible Amount (5) by % Federal Share (6).
8. Non-Federal Share: Eligible Amount (5) minus Federal Share of Eligible Amount (7).
9. % State Share: The state cost share percentage listed in Agreement.
10. State Share: Multiply Non-Federal Share (8) by % State Share (9).
11. Local Share: Subtract State Share (10) from Non-Federal Share (8).
12. Requested Retainage Payment: Requires separate line for each completed Task, Sub-Task and or Deliverable that retainage is being requested.
13. Withheld Retainage: Multiply State Share (10) by 10%.
14. State Payment: Subtract Withheld Retainage (13) from State Share (10).
15. Total Due to Local Sponsor: Add Retainage Payment Total (12) to State Payment Total (14).

Please redact all sensitive financial information from the invoices and other supporting documentation to be submitted with this Payment Request Form.

****For questions or concerns regarding this form please contact the BMFA Fiscal Administrator, Beaches_Funding@FloridaDEP.gov**

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART 3 – INVOICE REPORT**

Name of Project: City of Bonita Springs 2022 Hurricane Ian and Nicole Recovery Project

Local Sponsor: City of Bonita Springs

DEP Agreement Number: 23LE6

Billing Number: _____

Billing Period: _____

(Describe progress accomplished during the billing period, including statement(s) regarding percent of task completed to date.). **NOTE:** Use as many pages as necessary to cover all tasks in the Grant Work Plan.

The following format should be followed:

Task 1:

Progress for this invoice billing period:

Identify any delays or problems encountered:

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART 4 – CERITIFICATION OF DISBURSEMENT REQUEST**

Name of Project: City of Bonita Springs 2022 Hurricane Ian and Nicole Recovery Project

Local Sponsor: City of Bonita Springs

DEP Agreement Number: 23LE6

Billing Number: _____

Certification: I certify that this billing is correct and is based upon actual obligations of record by the Local Sponsor; that payment from the State Government has not been received; that the work and/or services are in accordance with the Department of Environmental Protection, Beach Management Funding Assistance Program's approved Project Agreement including any amendments thereto; and that progress of the work and/or services are satisfactory and are consistent with the amount billed. The disbursement amount requested on Page 1 of this form is for allowable costs for the project described in the Attachment 3, Grant Work Plan.

I certify that the purchases noted were used in accomplishing the project; and that invoices, check vouchers, copies of checks, and other purchasing documentation are maintained as required to support the cost reported above and are available for audit upon request.

Name of Project Administrator

Signature of Project Administrator

Date

Name of Project Financial Officer

Signature of Project Financial Officer

Date

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
FLORIDA BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART 5 – COMPLETION CERTIFICATION**

Name of Project: City of Bonita Springs 2022 Hurricane Ian and Nicole Recovery Project

Local Sponsor: City of Bonita Springs

DEP Agreement Number: 23LE6

Task Completion ☐ (List Tasks) _____

Agreement Completion ☐

*I hereby certify that the above mentioned project task(s) has been completed in accordance with the Project Agreement, including any amendments thereto, between the DEPARTMENT and LOCAL SPONSOR, and all funds expended for the project were expended pursuant to this Agreement. All unused funds and interest accrued on any unused portion of advanced funds which have not been remitted to the DEPARTMENT, have been returned to the DEPARTMENT, or will be returned to the DEPARTMENT within sixty (60) days of the completion of construction portion of this PROJECT. Unused funds advanced to the United States Army Corps of Engineers through LOCAL SPONSORS will be due sixty (60) days after the final federal accounting has been completed.

Name of Project Manager

Signature of Project Manager

Date

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
FLORIDA BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART 6 – ENGINEER’S CERTIFICATION OF PAYMENT REQUEST**

ONLY SUBMIT IF CONSTRUCTION IS PART OF THE REIMBURSEMENT REQUEST

I, _____, being the Professional Engineer retained by
(name of Professional Engineer)
_____, and responsible for overseeing construction of the Project
(name of Grantee)

described in the Agreement and do hereby certify that for DEP Agreement No. _____ and Payment Request No. ____:

1. All permits and approvals required for the construction, which is underway, have been obtained.
2. Payment is in accordance with construction contract provisions.
3. Construction up to the point of this payment request is in compliance with the approved plans and permits.
4. Equipment, materials, labor, and services represented by the construction invoices have been satisfactorily purchased or received and applied to the project in accordance with construction contract documents filed with and previously approved by the Department of Environmental Protection.

Professional Engineer (Physical Signature Required)

Firm or Affiliation

(Date)

(P.E. Number)

**CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY**

Green Sheet No. 23-04-063
April 5, 2023

REQUESTED MOTION: Confirm and ratify Resolutions extending the Local State of Emergency due to Hurricane Ian.

REQUESTOR: Arleen M. Hunter, City Manager; Derek Rooney, City Attorney

AGENDA: Consent

STRATEGIC PRIORITY:

BACKGROUND:

Governor Ron DeSantis signed Executive Orders 2022-218 and 2022-219, in response to the anticipated landfall of Hurricane Ian and declared a state of emergency, pursuant to Chapter 252, Florida Statutes. As Hurricane Ian posed a serious threat to our area, an ultimate landfall directly affected the City of Bonita Springs. Consistent with Florida statutes, the following Resolutions were prepared and signed by the Mayor and staff to extend the Local State of Emergency in seven day increments.

At this time, it is appropriate for City Council to ratify the continued Local State of Emergency.

STAFF RECOMMENDATION: Approve

ATTACHMENTS:

1. Resolution No. 23-14 issued on February 27, 2023
 2. Resolution No. 23-18 issued on March 6, 2023
 3. Resolution No. 23-19 issued on March 13, 2023
 4. Resolution No. 23-23 issued on March 20, 2023
 5. Resolution No. 23-24 issued on March 27, 2023
-

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
Interim City Clerk:	Brenda Reetz

Council Action: Approved ___ Denied ___ Deferred ___ Other _____

CITY OF BONITA SPRINGS
RESOLUTION NO. 23-14

**AN EMERGENCY RESOLUTION OF THE CITY OF BONITA
SPRINGS DECLARING A STATE OF LOCAL EMERGENCY
RESULTING FROM HURRICANE IAN; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, Governor Ron DeSantis signed Executive Orders 2022-218 and 2022-219, in response to the anticipated landfall of Hurricane Ian and has declared a state of emergency, pursuant to Chapter 252, Florida Statutes; and,

WHEREAS, on September 26, 2022 the City declared a local State of Emergency ahead of the landfall of Hurricane Ian; and

WHEREAS, Hurricane Ian had a significant impact on this area, the effects of which are still being fully ascertained and include extensive flooding, wind and water damage, not only to public infrastructure but to homes and businesses throughout the City; and

WHEREAS, the effects of Hurricane Ian continue to pose a serious threat to the lives and property of residents of the City of Bonita Springs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor on behalf of the City Council of the City of Bonita Springs, Lee County, Florida;

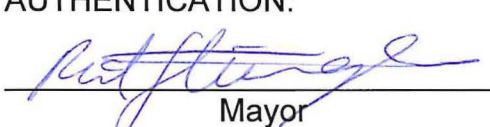
Section 1. The recitals above are hereby incorporated herein.

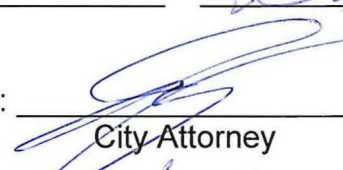
Section 2. The current State of Emergency is extended.

Section 3. This resolution shall take effect immediately upon adoption. Consistent with Florida Statutes §252.38(3), the duration of this state of emergency declared locally is limited to 7 days and may be extended, as necessary by resolution, in 7-day increments.

DULY PASSED AND ENACTED by the Mayor of the City of Bonita Springs, Lee County, Florida, this 27th day of February, 2023.

AUTHENTICATION:

 _____ Mayor
 _____ City Clerk

APPROVED AS TO FORM:  _____
City Attorney

Date filed with City Clerk: 2/27/2023

CITY OF BONITA SPRINGS
RESOLUTION NO. 23-18

**AN EMERGENCY RESOLUTION OF THE CITY OF BONITA
SPRINGS DECLARING A STATE OF LOCAL EMERGENCY
RESULTING FROM HURRICANE IAN; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, Governor Ron DeSantis signed Executive Orders 2022-218 and 2022-219, in response to the anticipated landfall of Hurricane Ian and has declared a state of emergency, pursuant to Chapter 252, Florida Statutes; and,

WHEREAS, on September 26, 2022 the City declared a local State of Emergency ahead of the landfall of Hurricane Ian; and

WHEREAS, Hurricane Ian had a significant impact on this area, the effects of which are still being fully ascertained and include extensive flooding, wind and water damage, not only to public infrastructure but to homes and businesses throughout the City; and

WHEREAS, the effects of Hurricane Ian continue to pose a serious threat to the lives and property of residents of the City of Bonita Springs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor on behalf of the City Council of the City of Bonita Springs, Lee County, Florida;

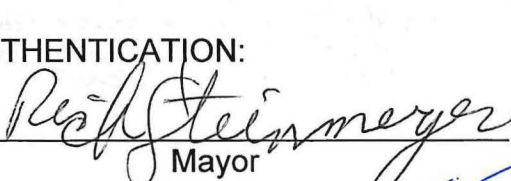
Section 1. The recitals above are hereby incorporated herein.

Section 2. The current State of Emergency is extended.

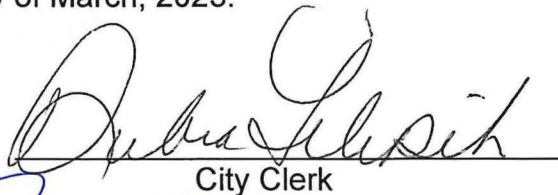
Section 3. This resolution shall take effect immediately upon adoption. Consistent with Florida Statutes §252.38(3), the duration of this state of emergency declared locally is limited to 7 days and may be extended, as necessary by resolution, in 7-day increments.

DULY PASSED AND ENACTED by the Mayor of the City of Bonita Springs, Lee County, Florida, this 6th day of March, 2023.

AUTHENTICATION:



Mayor



City Clerk

APPROVED AS TO FORM:



City Attorney

Date filed with City Clerk: 3/6/2023

CITY OF BONITA SPRINGS
RESOLUTION NO. 23-19

**AN EMERGENCY RESOLUTION OF THE CITY OF BONITA
SPRINGS DECLARING A STATE OF LOCAL EMERGENCY
RESULTING FROM HURRICANE IAN; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, Governor Ron DeSantis signed Executive Orders 2022-218 and 2022-219, in response to the anticipated landfall of Hurricane Ian and has declared a state of emergency, pursuant to Chapter 252, Florida Statutes; and,

WHEREAS, on September 26, 2022 the City declared a local State of Emergency ahead of the landfall of Hurricane Ian; and

WHEREAS, Hurricane Ian had a significant impact on this area, the effects of which are still being fully ascertained and include extensive flooding, wind and water damage, not only to public infrastructure but to homes and businesses throughout the City; and

WHEREAS, the effects of Hurricane Ian continue to pose a serious threat to the lives and property of residents of the City of Bonita Springs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor on behalf of the City Council of the City of Bonita Springs, Lee County, Florida;

Section 1. The recitals above are hereby incorporated herein.

Section 2. The current State of Emergency is extended.

Section 3. This resolution shall take effect immediately upon adoption. Consistent with Florida Statutes §252.38(3), the duration of this state of emergency declared locally is limited to 7 days and may be extended, as necessary by resolution, in 7-day increments.

DULY PASSED AND ENACTED by the Mayor of the City of Bonita Springs, Lee County, Florida, this 13th day of March, 2023.

AUTHENTICATION:


Mayor


City Clerk

APPROVED AS TO FORM:


City Attorney

Date filed with City Clerk: 3/13/2023

CITY OF BONITA SPRINGS
RESOLUTION NO. 23-23

AN EMERGENCY RESOLUTION OF THE CITY OF BONITA SPRINGS DECLARING A STATE OF LOCAL EMERGENCY RESULTING FROM HURRICANE IAN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Governor Ron DeSantis signed Executive Orders 2022-218 and 2022-219, in response to the anticipated landfall of Hurricane Ian and has declared a state of emergency, pursuant to Chapter 252, Florida Statutes; and,

WHEREAS, on September 26, 2022 the City declared a local State of Emergency ahead of the landfall of Hurricane Ian; and

WHEREAS, Hurricane Ian had a significant impact on this area, the effects of which are still being fully ascertained and include extensive flooding, wind and water damage, not only to public infrastructure but to homes and businesses throughout the City; and

WHEREAS, the effects of Hurricane Ian continue to pose a serious threat to the lives and property of residents of the City of Bonita Springs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor on behalf of the City Council of the City of Bonita Springs, Lee County, Florida;

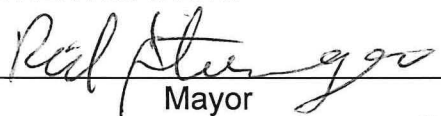
Section 1. The recitals above are hereby incorporated herein.

Section 2. The current State of Emergency is extended.

Section 3. This resolution shall take effect immediately upon adoption. Consistent with Florida Statutes §252.38(3), the duration of this state of emergency declared locally is limited to 7 days and may be extended, as necessary by resolution, in 7-day increments.

DULY PASSED AND ENACTED by the Mayor of the City of Bonita Springs, Lee County, Florida, this 20th day of March, 2023.

AUTHENTICATION:



Mayor



City Clerk-Interim

APPROVED AS TO FORM:



City Attorney

Date filed with City Clerk: 3/30/23

CITY OF BONITA SPRINGS
RESOLUTION NO. 23-24

**AN EMERGENCY RESOLUTION OF THE CITY OF BONITA
SPRINGS DECLARING A STATE OF LOCAL EMERGENCY
RESULTING FROM HURRICANE IAN; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, Governor Ron DeSantis signed Executive Orders 2022-218 and 2022-219, in response to the anticipated landfall of Hurricane Ian and has declared a state of emergency, pursuant to Chapter 252, Florida Statutes; and,

WHEREAS, on September 26, 2022 the City declared a local State of Emergency ahead of the landfall of Hurricane Ian; and

WHEREAS, Hurricane Ian had a significant impact on this area, the effects of which are still being fully ascertained and include extensive flooding, wind and water damage, not only to public infrastructure but to homes and businesses throughout the City; and

WHEREAS, the effects of Hurricane Ian continue to pose a serious threat to the lives and property of residents of the City of Bonita Springs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor on behalf of the City Council of the City of Bonita Springs, Lee County, Florida;

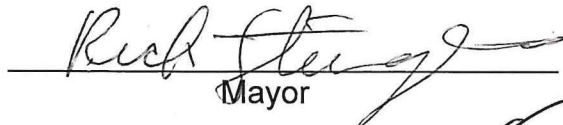
Section 1. The recitals above are hereby incorporated herein.

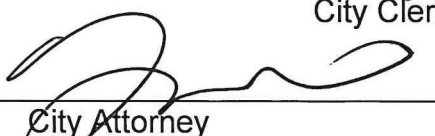
Section 2. The current State of Emergency is extended.

Section 3. This resolution shall take effect immediately upon adoption. Consistent with Florida Statutes §252.38(3), the duration of this state of emergency declared locally is limited to 7 days and may be extended, as necessary by resolution, in 7-day increments.

DULY PASSED AND ENACTED by the Mayor of the City of Bonita Springs, Lee County, Florida, this 27th day of March, 2023.

AUTHENTICATION:

 Mayor
 City Clerk - *Interim*

APPROVED AS TO FORM:  City Attorney

Date filed with City Clerk: 3/20/23

REQUESTED MOTION: Approve annual update to employee salary ranges

REQUESTOR: Arleen M. Hunter, City Manager; Lisa Griggs Roberson, CPA, Director of Financial and Administrative Services

AGENDA: Consent

STRATEGIC PRIORITY: #7 Government Transparency

BACKGROUND:

As directed by City Council on April 6, 2022, staff is proposing an annual cost-of-living adjustment to the employee salary ranges based on the Consumer Price Index (CPI) as outlined in Section 19 of the City Charter.

The City strives to be competitive with labor market averages while maintaining a range sufficient to provide potential for growth in the position. Competitive ranges are essential to recruiting and retaining staff.

In order to provide competitive compensation, staff is recommending an adjustment to the pay ranges to better recruit and retain employees. Additionally, this prevents a long-standing employee from outgrowing their salary range, which would adversely affect their opportunity for future pay increases as well as retirement contributions.

The 2023 proposed ranges include an annual cost-of-living adjustment of 6.4% based on the Consumer Price Index (CPI) as outlined in Section 19 of the City Charter.

Grade 11 which originated in the 2012 compensation study is recommended for updating and expanding to include non-contract positions with several areas of operational responsibility. Grade 11 was not included in the prior year's update.

STAFF RECOMMENDATION: Approve annual update to employee salary ranges.

ATTACHMENTS:

1. Proposed Salary Ranges
-

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
Interim City Clerk:	Brenda Reetz
Department Director:	Lisa Roberson

Council Action: Approved ___ Denied ___ Deferred ___ Other _____



Proposed Salary Ranges 2023

		Proposed	Proposed	Proposed
Grade		Minimum	Midpoint	Maximum
1		\$33,200	\$41,500	\$50,000
2		\$35,500	\$44,400	\$53,200
3		\$37,700	\$47,100	\$56,500
4		\$41,400	\$51,900	\$62,200
5		\$47,500	\$59,400	\$71,200
6		\$52,600	\$65,700	\$78,900
7		\$56,900	\$75,800	\$91,000
8		\$75,800	\$94,700	\$113,700
9		\$92,000	\$115,000	\$137,900
10		\$126,300	\$157,900	\$189,500
11	*	\$135,400	\$169,200	\$203,100

* Grade 11 which originated in the 2012 compensation study is recommended for updating and expanding to include non-contract positions with several areas of operational responsibility. Grade 11 was not included in the prior years update.

REQUESTED MOTION: Approve two purchase agreements to acquire parcels located in the Quinn/Downs/Dean Neighborhood for the Voluntary Home Buyout Program

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA: Consent

STRATEGIC PRIORITY: #1 Stormwater Management and #4 Environmental Protection

BACKGROUND: The focus of the buyout program is to acquire properties in a Special Flood Hazard Area (SFHA) and in high-risk flood areas to help reduce the impact of future disasters. The program also assists property owners to relocate outside the threat of flooding. The City is using federal U.S. Housing and Urban Development, Community Development Block Grant-Disaster Recovery (HUD CDBG-DR) funds to acquire parcels in the Quinn/Downs/Dean Neighborhood through the Voluntary Home Buyout Program (VHBP). Participants in this program must adhere to specific family income limits in order to qualify for the buyout.

The purchase agreements reflect the current market value for the properties. Once the City closes on the properties, the structures will be demolished and will remain vacant under the City's ownership in perpetuity. The lands may be used for stormwater improvements or passive open space.

With the demolition of these structures and recently sent flyers to property owners in the neighborhood, staff expects more homeowners to come forward to participate in the program.

Staff has redacted the homeowner's names and addresses as outlined in Senate Bill (SB) 966 adopted during the 2020 legislative session. SB 966 provides an exemption from public records requirements for personal identifying information for the purpose of disaster recovery assistance from a presidentially declared disaster. These properties were affected as a result of Hurricane Irma in 2017. Once the property has been transferred to the City's ownership the information will be made public.

STAFF RECOMMENDATION: Approve 2 purchase agreements for the Voluntary Home Buyout Program

ATTACHMENTS:

1. Purchase Agreement 2023-001
2. Purchase Agreement 2023-002
3. Senate Bill 966

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
Interim City Clerk: Brenda Reetz
Department Director: Matt Feeney

Council Action: Approved ___ Denied ___ Deferred ___ Other _____



CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

AGREEMENT FOR PURCHASE

THIS AGREEMENT is made this _____ day of _____, 2023, by and between the **City of Bonita Springs, FL**, a municipality incorporated in the State of Florida (hereinafter referred to as "BUYER" or "City") and [REDACTED], a **married man** (hereinafter referred to as "SELLERS"):

1. PROGRAM DESCRIPTION. The BUYER is acting under a Community Development Block Grant-Disaster Recovery (CDBG-DR) grant from the U.S. Department of Housing and Urban Development made to the State of Florida Department of Economic Opportunity, administered by the BUYER and hereinafter referred to as the "Voluntary Home Buyout Program", to purchase certain property in the City of Bonita Springs, Florida in which the SELLERS owns an improved property located at [REDACTED], Bonita Springs, FL 34135 hereinafter referred to as the "premises", and further described in Exhibit A which is attached hereto and made a part hereof.

The SELLERS acknowledges that the above-referenced property was impacted by Hurricane Irma, that the SELLERS qualifies for the assistance being granted, and that the SELLERS understands that any potential utilization of eminent domain by the City will not be implemented under this program. In the event the SELLERS is not interested in selling their property, or if the SELLERS and the BUYER cannot reach an amicable agreement for the purchase of the property, the BUYER will not pursue its acquisition under eminent domain.

SELLERS understands this is a voluntary transaction and that SELLERS is not entitled to relocation benefits provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and will not claim any such benefits.

2. OFFER AND DESCRIPTION. BUYER agrees to buy, and SELLERS agrees to sell all of a certain piece, parcel or lot of land, and other interests buildings, structures and improvements thereon, which lands shall include all tenements, hereditaments, together with all water and other rights, easements, appurtenances, and any and all of the SELLERS' rights in or arising by reason of ownership thereunto belonging, owned by them, situate and lying in the City of Bonita Springs, State of Florida, to-wit more particularly described as follows:

[REDACTED]
[REDACTED] of the Public Records of Lee County, Florida (See Exhibit A for full metes and bounds description)
More commonly identified as:
[REDACTED]
Bonita Springs, FL 34135

The SELLERS agree that they have full right, power, and authority to convey, and that they will convey to the CITY the fee simple title together with legal and practical access thereto clear, free, and unencumbered, except subject to the following easements or reservations:





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

Existing easements for canals, ditches, flumes, pipelines, railroads, public highways and roads, telephone, telegraph, power transmission lines and public utilities.

3. CONSIDERATION. The SELLERS acknowledges that the price to be paid for the property is the current Fair Market Value that was determined by a certified Florida Appraiser. The purchase price for the real estate property and improvements above described is Three Hundred Seventy Thousand Dollars and Zero Cents (\$370,000.00) to be paid at closing, minus any outstanding liens and transaction costs due from SELLERS which are due and payable at the date of settlement.

- a. The SELLERS agrees, so long as this offer remains in effect, not to sell, mortgage, encumber, or otherwise dispose of the property or any part thereof, or interest therein, except to the City.
- b. Loss or damage to the property by any cause shall be at the risk of the SELLERS until title has been conveyed to the City.
- c. The SELLERS agree to deliver a good and sufficient general warranty deed conveying marketable title.
- d. It is understood by all parties that the proceeds from the sale shall first be applied to all liens on the property which are due and payable at the date of settlement. It is further understood that the CDBG-DR program funds being used for the purchase of the property, cannot and will not duplicate benefits that have been received for the same from any other funds. Duplication of Benefits (DOB) applies if the SELLERS is currently receiving funds for temporary housing from local, state, or federal sources as the BUYER will provide relocation funding as described in the following paragraph (refer to Program Incentive). DOB includes any Small Business Administration (SBA) loan secured by the SELLERS for relocation purposes. Additionally, SELLERS shall resolve any and all outstanding claims and sign a Subrogation Agreement (Attachment A) which will require the return of any and all monies or payments to either the funding agency or the City, related to this property which may be claimed by SELLERS after settlement, stemming from Hurricane Irma, September 10, 2017 landfall in the City of Bonita Springs, Florida, and any disaster events afterwards.

4. PROGRAM INCENTIVE. The SELLER willingly executed a Housing Replacement Assistance Waiver on December 8, 2022. By signing the waiver, the SELLERS has waived all rights to a housing replacement incentive. The waiver is Exhibit B.

5. CONTINGENCIES.

- a. SELLERS shall vacate the property within Thirty (30) days from the date of this contract or by the settlement date, whichever is soonest. If SELLERS does not vacate the property, the BUYER shall have the right to void this contract, unless an extension has been agreed upon between SELLERS and the BUYER. The property shall be delivered at settlement free of any tenant or occupancy whatsoever.
- b. BUYER shall have the right to perform any and all inspections on the property up until the day of closing (settlement date). If BUYER's inspections are not satisfactory to the BUYER, the BUYER shall have the right to void this contract. BUYER shall also have





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

the right to void this contract if the City's intended use of the property is a violation of any restrictive covenants on the property that cannot be modified.

- c. BUYER and SELLERS acknowledge that the purchase of the property is with U.S. Department of Housing and Urban Development (HUD) funds that are being allocated through the state of Florida's Department of Economic Opportunity (DEO). The SELLERS acknowledges that this Contract does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of an environmental review, DEO approval of the purchase, the City of Bonita Springs City Council's approval of the purchase, and receipt and release of funds from DEO.
6. TRANSACTION COSTS. BUYER's Transaction Costs include appraisal fee, BUYER's attorney fees, deed preparation, title search, and title insurance and all recording fees, if applicable. SELLERS's Transaction Costs include payoff fees. BUYER shall be responsible for BUYER's transaction costs and SELLER's transaction costs. SELLERS shall be responsible for any costs necessary to deliver a marketable title (including recording of loan satisfaction). If SELLERS is represented by a realtor or attorney, the SELLERS is responsible for all realtor and attorney fees.
7. REAL ESTATE TAXES. SELLERS shall provide a paid tax receipt for the most recent tax bill 5 days prior to closing. BUYER shall be responsible for the pro-rata share of prepaid real property taxes allocable to the period subsequent to the vesting of title in the CITY, or the effective date of possession of such real property by the same, whichever is earlier. It shall be the obligation of the SELLERS to pay all taxes and assessments outstanding as liens at the date title vests of record in the CITY, whether or not such taxes and assessments are then due and payable.
8. ADJUSTMENTS. NONE.
9. CONVEYANCE DATE OF CLOSING/POSSESSION. Conveyance will be made subject to all easements and covenants of record (provided they do not make the title unmarketable or prohibits the City of Bonita Springs from its desired use of the property) and to all governmental statutes, ordinances, rules, and regulations. The SELLERS expressly agree herein to furnish to the CITY any documents in SELLER's possession establishing evidence of title including, but not limited to, abstracts, title commitments, title policies and opinions of title, if needed. SELLERS agrees to convey by marketable title with a general warranty deed, free of encumbrances. The deed will be prepared in the name of the City of Bonita Springs, FL, or as otherwise stipulated by BUYER, and delivered to stipulated place of closing. The Closing Attorney shall be authorized to disburse the sales proceeds at the time of settlement. This transaction will be closed on or before 30 days of the signing of this contract.
10. ACKNOWLEDGEMENTS. The SELLERS acknowledges that it has had an opportunity to review this Agreement and that it has had an opportunity, if needed, to contact an attorney of its choice to review this Agreement, and the SELLERS enters into this Agreement fully understanding the nature thereof and saves and holds harmless the City and its agents as a result of this Agreement or anything incident to the sale of the referenced real property





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

11. FIXTURES AND PERSONAL PROPERTY. At the time of closing (settlement date), this sale includes all property, fixtures, equipment, and improvements of any kind left on the premises. Personal property, such as fixtures, can be removed from the property prior to Vacancy Inspection so long as this removal does not cause health or safety concerns on the premises. After the Vacancy Inspection date, SELLERS shall not be allowed to remove any personal property, fixtures or other items otherwise agreed upon between City and the SELLERS.
12. VACANCY INSPECTION. The SELLERS acknowledges and agrees that on the Vacancy Inspection date, the City will require the premises, including all external doors and windows to be secure. If the property is not secure, the Vacancy Inspection and closing may be required to be rescheduled for a later date. The Vacancy Inspection will need to be completed within twenty-four (24) hours prior to closing, unless otherwise agreed upon between the City and the SELLERS.
13. SELLER CLOSING ACTION ITEMS. The SELLERS agrees that all utilities are turned off on or before the Vacancy Inspection date. SELLERS shall be responsible for the payment of all utilities up to the date of closing. Attachment B has a number of tips to ensure the necessary steps for the closing process have been completed.
14. EXPIRATION OF OFFER. This offer from BUYER will be withdrawn at **11:59 o'clock PM.** (Eastern Standard Time) on **Friday, April 28, 2023** unless accepted or countered by SELLERS in written form prior to such time. If SELLERS requires an extension to the time and date stated above to accept or counteroffer the offer presented by the BUYER, a written request with reasoning needs to be submitted to and approved by the BUYER prior to the expiration date.
15. ENTIRE AGREEMENT. This agreement supersedes any and all understandings and agreements between the parties and constitutes the sole and entire agreement between the parties. No oral agreement or representations prior hereto shall be included herein unless set forth in writing. Any change to this Contract shall be in writing.
16. The SELLERS shall close any open building permits or code enforcement proceedings prior to closing.
17. EFFECTIVE DATE. The effective date of this Agreement shall be the date when the last one of the SELLERS and the CITY has signed this Agreement.

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





**CITY OF BONITA SPRINGS, FLORIDA
VOLUNTARY HOME BUYOUT PROGRAM**

IN WITNESS WHEREOF, the SELLERS have hereunto signed their names and affixed their respective seals, as applicable, and therefore the SELLERS for and in consideration of the Ten Dollars (\$10.00) hereinabove acknowledge as received, have, and do hereby grant unto the CITY or its authorized representative, or any other office or agent of the CITY authorized to purchase said lands, the option and right to enter into this Agreement and to purchase said lands as herein provided.

Seller/ [REDACTED], a married man

[REDACTED SIGNATURE]

Signature

Date

BUYER/ CITY:

CITY OF BONITA SPRINGS, FLORIDA

ATTEST: Debra Filipek, Clerk

By: _____
Clerk

Rick Steinmeyer, Mayor

(Seal)

Date: _____

APPROVED AS TO FORM: _____
City Attorney's Office





**CITY OF BONITA SPRINGS, FLORIDA
VOLUNTARY HOME BUYOUT PROGRAM**

**EXHIBIT A
Legal Description**

All that tract or parcel of land lying and being in the Southwest ¼ of the Southeast ¼ of Section
[REDACTED], Lee County, Florida, and being more particularly
described as follows:

[REDACTED]





**CITY OF BONITA SPRINGS, FLORIDA
VOLUNTARY HOME BUYOUT PROGRAM**

**EXHIBIT B
Housing Replacement Assistance Waiver**

Property Owners Name: [REDACTED]

Address: [REDACTED]

City: Bonita springs

The *City of Bonita Springs Voluntary Home Buyout Program* offers a housing replacement assistance incentive of up to \$25,000 available to all income qualified buyout participants. Those that are not income qualified may still be eligible for up to \$10,000 in housing replacement assistance.

The housing replacement assistance is in addition to the fair-market value of the buyout home and may only be used in the purchase of a replacement home. Pre-event owners of vacant lots and rental properties are not eligible to receive housing replacement, as they did not occupy the structure at the time of the disaster.

In order to determine your eligibility for the housing replacement assistance, an income calculation must be completed. By refusing to provide the requested documents necessary to determine your income qualification status, you hereby voluntarily waive any consideration for the housing replacement assistance described above. You also understand that this decision is final, and that the requested documentation will not be accepted in the future to determine income qualification status for the housing replacement assistance.

This decision DOES NOT disqualify you from participating in the Voluntary Home Buyout Program.

PRINTED NAME: [REDACTED] DATE: 12/08/22

SIGNATURE: [REDACTED]





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

Attachment A

PROGRAM SUBROGATION AGREEMENT

Federal law prohibits any person, business, or other entity from receiving Federal funds for any part of such loss as to which they have received financial assistance under any other program, or from insurance or any other source. A duplication of benefits (“DOB”) occurs when a beneficiary receives assistance, the assistance is from multiple sources, and the assistance amount exceeds the need for a particular recovery purpose. The DOB prohibition applies to federally funded programs providing financial assistance as a result of a major disaster or emergency.

To comply with federal law, the undersigned SELLERS of benefits under the Rebuild Florida Voluntary Home Buyout Program (the “Program”) being administered by the City of Bonita Springs (the “City”) as a subrecipient of the Florida Department of Economic Opportunity (“DEO”) Community Development Block Grant-Disaster Recovery (CDBG-DR) grant, the SELLERS hereby assigns to the City all of their future rights to reimbursement and all payments that may be received, or have been previously received and not disclosed, under any Federal Emergency Management Agency (“FEMA”) program, Small Business Administration (“SBA”) program relating to temporary housing provided through the Program relating to the disaster or emergency for which these CDBG-DR funds are awarded.

The City’s rights under this Agreement regarding Proceeds or DOB shall be subject to the following:

- A. If Proceeds are received by the SELLERS between the date of the signed Duplication of Benefits Certification and the date of completion of Program participation (closing), that have not been previously disclosed to the Program, then the SELLERS must repay the City the difference between (i) the total amount of Program disbursements as of the date the Proceeds were received, and (ii) the total amount that would have been made if such Proceeds had been included in the original DOB calculation.
- B. If Proceeds are received by the Recipient after the date of completion of Program participation, then the SELLERS must turn over to DEO the total amount of the Proceeds up to, but not exceeding, the amount received under Program benefits.

The SELLERS agree to assist and cooperate with the City should the City elect to pursue any of the claims the Recipient has or may have for benefits or reimbursement under any Federal, State, or private sources. The SELLERS’s assistance and cooperation shall include allowing suit to be brought in the name(s) of the SELLERS, giving depositions, providing documents, producing records and other evidence, testifying at trial, and any other form of assistance and cooperation reasonably requested by the City or DEO.





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

If requested by the City, the SELLERS agree to execute such further and additional documents and instruments as may be requested to further and better assign to the City the Proceeds and/or any rights thereunder as contemplated by this Agreement, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the City to consummate and make effective the purposes of this Agreement.

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

The SELLERS agrees that any lawyer or claims adjuster representing the Recipients in connection with Program benefits or services are authorized and instructed to communicate with the City regarding the nature and status of claims and to share information with the City relating to the claims. The lawyer and claims shall protect the interest of the State in any proceeds resulting from the claim upon receipt of notice of this subrogation.

If the SELLERS hereafter receives any Proceeds for the same purpose as the Program, the SELLERS agree to promptly pay such Proceeds, or an equivalent amount of funds, to the City in accordance with the terms of this Agreement.

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CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

In any proceeding to enforce this Agreement, the City shall be entitled to recover all costs of enforcement, including actual attorneys' fees.

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

OWNER



Signature



Print Name

PROGRAM STAFF

Signature

Print Name





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

Attachment B

STEPS TO A SUCCESSFUL CLOSING

A City of Bonita Springs representative will assist you through the closing process. Please review the following tips to ensure the necessary steps for the closing process are completed.

The Vacancy Inspection is an important step in the process and is required before the City can take possession of your property.

Please complete the following items before the Vacancy Inspection:

- 1. You or your authorized representative need to be present at the vacancy inspection the day before the scheduled closing.**
- 2. All utilities need to be turned off.** This includes, but is not limited to, electrical, gas, plumbing, cable, and any other recurring services at the property. Please advise the utility company that the property will be demolished.
- 3. All personal property, fixtures, and/or any other items on the premises need to be removed from the property.** This includes, but is not limited to vehicles and vessels, personal items, and items in the household the current owner wishes to keep. After the Vacancy Inspection is complete, all items remaining on the property will become the City's property.
- 4. The property needs to be completely vacated.** At the time of the Vacancy Inspection, no individuals can be living on the property.
- 5. The property needs to be secured and inaccessible to the public.** This includes, but is not limited to, confirming that all doors and windows lock. If windows or doors are not secured, the necessary steps need to be taken to secure the building (such as placing boards over the windows).
- 6. Please ensure that all hazardous items have been removed from the household and properly disposed of.** This includes, but is not limited to, household cleaners, paints, oils, and batteries.
- 7. Provide all property keys to the City:** Please bring your property keys to the closing. If the closing will be accomplished remotely, please ensure the property keys are surrendered to the City as prearranged by closing.





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

AGREEMENT FOR PURCHASE

03/14/2023 04:57 PM

THIS AGREEMENT is made this _____ day of _____, 2023, by and between the **City of Bonita Springs, FL**, a municipality incorporated in the State of Florida (hereinafter referred to as "BUYER" or "City") and [REDACTED] (hereinafter referred to as "SELLERS"):

1. PROGRAM DESCRIPTION. The BUYER is acting under a Community Development Block Grant-Disaster Recovery (CDBG-DR) grant from the U.S. Department of Housing and Urban Development made to the State of Florida Department of Economic Opportunity, administered by the BUYER and hereinafter referred to as the "Voluntary Home Buyout Program", to purchase certain property in the City of Bonita Springs, Florida in which the SELLERS owns an improved property located at [REDACTED] Bonita Springs, FL 34135 hereinafter referred to as the "premises", and further described in Exhibit A which is attached hereto and made a part hereof.

The SELLERS acknowledges that the above-referenced property was impacted by Hurricane Irma, that the SELLERS qualifies for the assistance being granted, and that the SELLERS understands that any potential utilization of eminent domain by the City will not be implemented under this program. In the event the SELLERS is not interested in selling their property, or if the SELLERS and the BUYER cannot reach an amicable agreement for the purchase of the property, the BUYER will not pursue its acquisition under eminent domain.

SELLERS understands this is a voluntary transaction and that SELLERS is not entitled to relocation benefits provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and will not claim any such benefits.

2. OFFER AND DESCRIPTION. BUYER agrees to buy, and SELLERS agrees to sell all of a certain piece, parcel or lot of land, and other interests buildings, structures and improvements thereon, which lands shall include all tenements, hereditaments, together with all water and other rights, easements, appurtenances, and any and all of the SELLERS' rights in or arising by reason of ownership thereunto belonging, owned by them, situate and lying in the City of Bonita Springs, State of Florida, to-wit more particularly described as follows:

Tract [REDACTED]
[REDACTED] of the Public Records of Lee County, Florida (See Exhibit A for full metes and bounds description)
More commonly identified as:
[REDACTED]
Bonita Springs, FL 34135

The SELLERS agree that they have full right, power, and authority to convey, and that they will convey to the CITY the fee simple title together with legal and practical access thereto clear, free, and unencumbered, except subject to the following easements or reservations:





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

Existing easements for canals, ditches, flumes, pipelines, railroads, public highways and roads, telephone, telegraph, power transmission lines and public utilities.

3. CONSIDERATION. The SELLERS acknowledges that the price to be paid for the property is the current Fair Market Value that was determined by a certified Florida Appraiser. The purchase price for the real estate property and improvements above described is Four Hundred Twenty Thousand Dollars and Zero Cents (\$420,000.00) to be paid at closing, minus any outstanding liens and transaction costs due from SELLERS which are due and payable at the date of settlement.

- a. The SELLERS agrees, so long as this offer remains in effect, not to sell, mortgage, encumber, or otherwise dispose of the property or any part thereof, or interest therein, except to the City.
- b. Loss or damage to the property by any cause shall be at the risk of the SELLERS until title has been conveyed to the City.
- c. The SELLERS agree to deliver a good and sufficient general warranty deed conveying marketable title.
- d. It is understood by all parties that the proceeds from the sale shall first be applied to all liens on the property which are due and payable at the date of settlement. It is further understood that the CDBG-DR program funds being used for the purchase of the property, cannot and will not duplicate benefits that have been received for the same from any other funds. Duplication of Benefits (DOB) applies if the SELLERS is currently receiving funds for temporary housing from local, state, or federal sources as the BUYER will provide relocation funding as described in the following paragraph (refer to Program Incentive). DOB includes any Small Business Administration (SBA) loan secured by the SELLERS for relocation purposes. Additionally, SELLERS shall resolve any and all outstanding claims and sign a Subrogation Agreement (Attachment A) which will require the return of any and all monies or payments to either the funding agency or the City, related to this property which may be claimed by SELLERS after settlement, stemming from Hurricane Irma, September 10, 2017 landfall in the City of Bonita Springs, Florida, and any disaster events afterwards.

4. PROGRAM INCENTIVE. The SELLER willingly executed a Housing Replacement Assistance Waiver on December 8, 2022. By signing the waiver, the SELLERS has waived all rights to a housing replacement incentive. The waiver is Exhibit B.

5. CONTINGENCIES.

- a. SELLERS shall vacate the property within one hundred eight (108) days from the date of this contract or by the settlement date, whichever is soonest. If SELLERS does not vacate the property, the BUYER shall have the right to void this contract, unless an extension has been agreed upon between SELLERS and the BUYER. The property shall be delivered at settlement free of any tenant or occupancy whatsoever.
- b. BUYER shall have the right to perform any and all inspections on the property up until the day of closing (settlement date). If BUYER's inspections are not satisfactory to the BUYER, the BUYER shall have the right to void this contract. BUYER shall also have





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

the right to void this contract if the City's intended use of the property is a violation of any restrictive covenants on the property that cannot be modified.

- c. BUYER and SELLERS acknowledge that the purchase of the property is with U.S. Department of Housing and Urban Development (HUD) funds that are being allocated through the state of Florida's Department of Economic Opportunity (DEO). The SELLERS acknowledges that this Contract does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of an environmental review, DEO approval of the purchase, the City of Bonita Springs City Council's approval of the purchase, and receipt and release of funds from DEO.
6. TRANSACTION COSTS. BUYER's Transaction Costs include appraisal fee, BUYER's attorney fees, deed preparation, title search, and title insurance and all recording fees, if applicable. SELLERS's Transaction Costs include payoff fees. BUYER shall be responsible for BUYER's transaction costs and SELLER's transaction costs. SELLERS shall be responsible for any costs necessary to deliver a marketable title (including recording of loan satisfaction). If SELLERS is represented by a realtor or attorney, the SELLERS is responsible for all realtor and attorney fees.
7. REAL ESTATE TAXES. SELLERS shall provide a paid tax receipt for the most recent tax bill 5 days prior to closing. BUYER shall be responsible for the pro-rata share of prepaid real property taxes allocable to the period subsequent to the vesting of title in the CITY, or the effective date of possession of such real property by the same, whichever is earlier. It shall be the obligation of the SELLERS to pay all taxes and assessments outstanding as liens at the date title vests of record in the CITY, whether or not such taxes and assessments are then due and payable.
8. ADJUSTMENTS. NONE.
9. CONVEYANCE DATE OF CLOSING/POSSESSION. Conveyance will be made subject to all easements and covenants of record (provided they do not make the title unmarketable or prohibits the City of Bonita Springs from its desired use of the property) and to all governmental statutes, ordinances, rules, and regulations. The SELLERS expressly agree herein to furnish to the CITY any documents in SELLER's possession establishing evidence of title including, but not limited to, abstracts, title commitments, title policies and opinions of title, if needed. SELLERS agrees to convey by marketable title with a general warranty deed, free of encumbrances. The deed will be prepared in the name of the City of Bonita Springs, FL, or as otherwise stipulated by BUYER, and delivered to stipulated place of closing. The Closing Attorney shall be authorized to disburse the sales proceeds at the time of settlement. This transaction will be closed on or before 108 days from the signing of the contract or by the settlement date (June 28, 2023).
10. ACKNOWLEDGEMENTS. The SELLERS acknowledges that it has had an opportunity to review this Agreement and that it has had an opportunity, if needed, to contact an attorney of its choice to review this Agreement, and the SELLERS enters into this Agreement fully





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

understanding the nature thereof and saves and holds harmless the City and its agents as a result of this Agreement or anything incident to the sale of the referenced real property

11. FIXTURES AND PERSONAL PROPERTY. At the time of closing (settlement date), this sale includes all property, fixtures, equipment, and improvements of any kind left on the premises. Personal property, such as fixtures, can be removed from the property prior to Vacancy Inspection so long as this removal does not cause health or safety concerns on the premises. After the Vacancy Inspection date, SELLERS shall not be allowed to remove any personal property, fixtures or other items otherwise agreed upon between City and the SELLERS.
12. VACANCY INSPECTION. The SELLERS acknowledges and agrees that on the Vacancy Inspection date, the City will require the premises, including all external doors and windows to be secure. If the property is not secure, the Vacancy Inspection and closing may be required to be rescheduled for a later date. The Vacancy Inspection will need to be completed within twenty-four (24) hours prior to closing, unless otherwise agreed upon between the City and the SELLERS.
13. SELLER CLOSING ACTION ITEMS. The SELLERS agrees that all utilities are turned off on or before the Vacancy Inspection date. SELLERS shall be responsible for the payment of all utilities up to the date of closing. Attachment B has a number of tips to ensure the necessary steps for the closing process have been completed.
14. EXPIRATION OF OFFER. This offer from BUYER will be withdrawn at **11:59 o'clock PM.** (Eastern Standard Time) on **Wednesday, June 28, 2023** unless accepted or countered by SELLERS in written form prior to such time. If SELLERS requires an extension to the time and date stated above to accept or counteroffer the offer presented by the BUYER, a written request with reasoning needs to be submitted to and approved by the BUYER prior to the expiration date.
15. ENTIRE AGREEMENT. This agreement supersedes any and all understandings and agreements between the parties and constitutes the sole and entire agreement between the parties. No oral agreement or representations prior hereto shall be included herein unless set forth in writing. Any change to this Contract shall be in writing.
16. The SELLERS shall close any open building permits or code enforcement proceedings prior to closing.
17. EFFECTIVE DATE. The effective date of this Agreement shall be the date when the last one of the SELLERS and the CITY has signed this Agreement.

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





**CITY OF BONITA SPRINGS, FLORIDA
VOLUNTARY HOME BUYOUT PROGRAM**

IN WITNESS WHEREOF, the SELLERS have hereunto signed their names and affixed their respective seals, as applicable, and therefore the SELLERS for and in consideration of the Ten Dollars (\$10.00) hereinabove acknowledge as received, have, and do hereby grant unto the CITY or its authorized representative, or any other office or agent of the CITY authorized to purchase said lands, the option and right to enter into this Agreement and to purchase said lands as herein provided.

Seller/ [REDACTED]

[REDACTED]

Signature

03/14/2023 04:58 PM

Date

BUYER/ CITY:

CITY OF BONITA SPRINGS, FLORIDA

ATTEST: Debra Filipek, Clerk

By: _____
Clerk

Rick Steinmeyer, Mayor

(Seal)

Date: _____

APPROVED AS TO FORM: _____
City Attorney's Office





**CITY OF BONITA SPRINGS, FLORIDA
VOLUNTARY HOME BUYOUT PROGRAM**

**EXHIBIT B
Housing Replacement Assistance Waiver**

Property Owners Name: _____

Address: _____

City: BONITA SPRINGS FL 34135

The *City of Bonita Springs Voluntary Home Buyout Program* offers a housing replacement assistance incentive of up to \$25,000 available to all income qualified buyout participants. Those that are not income qualified may still be eligible for up to \$10,000 in housing replacement assistance.

The housing replacement assistance is in addition to the fair-market value of the buyout home and may only be used in the purchase of a replacement home. Pre-event owners of vacant lots and rental properties are not eligible to receive housing replacement, as they did not occupy the structure at the time of the disaster.

In order to determine your eligibility for the housing replacement assistance, an income calculation must be completed. By refusing to provide the requested documents necessary to determine your income qualification status, you hereby voluntarily waive any consideration for the housing replacement assistance described above. You also understand that this decision is final, and that the requested documentation will not be accepted in the future to determine income qualification status for the housing replacement assistance.

This decision DOES NOT disqualify you from participating in the Voluntary Home Buyout Program.

PRINTED NAME: _____ DATE: 1/2/23

SIGNATURE: _____





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

Attachment A

PROGRAM SUBROGATION AGREEMENT

Federal law prohibits any person, business, or other entity from receiving Federal funds for any part of such loss as to which they have received financial assistance under any other program, or from insurance or any other source. A duplication of benefits ("DOB") occurs when a beneficiary receives assistance, the assistance is from multiple sources, and the assistance amount exceeds the need for a particular recovery purpose. The DOB prohibition applies to federally funded programs providing financial assistance as a result of a major disaster or emergency.

To comply with federal law, the undersigned SELLERS of benefits under the Rebuild Florida Voluntary Home Buyout Program (the "Program") being administered by the City of Bonita Springs (the "City") as a subrecipient of the Florida Department of Economic Opportunity ("DEO") Community Development Block Grant-Disaster Recovery (CDBG-DR) grant, the SELLERS hereby assigns to the City all of their future rights to reimbursement and all payments that may be received, or have been previously received and not disclosed, under any Federal Emergency Management Agency ("FEMA") program, Small Business Administration ("SBA") program relating to temporary housing provided through the Program relating to the disaster or emergency for which these CDBG-DR funds are awarded.

The City's rights under this Agreement regarding Proceeds or DOB shall be subject to the following:

- A. If Proceeds are received by the SELLERS between the date of the signed Duplication of Benefits Certification and the date of completion of Program participation (closing), that have not been previously disclosed to the Program, then the SELLERS must repay the City the difference between (i) the total amount of Program disbursements as of the date the Proceeds were received, and (ii) the total amount that would have been made if such Proceeds had been included in the original DOB calculation.
- B. If Proceeds are received by the Recipient after the date of completion of Program participation, then the SELLERS must turn over to DEO the total amount of the Proceeds up to, but not exceeding, the amount received under Program benefits.

The SELLERS agree to assist and cooperate with the City should the City elect to pursue any of the claims the Recipient has or may have for benefits or reimbursement under any Federal, State, or private sources. The SELLERS's assistance and cooperation shall include allowing suit to be brought in the name(s) of the SELLERS, giving depositions, providing documents, producing records and other evidence, testifying at trial, and any other form of assistance and cooperation reasonably requested by the City or DEO.





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

If requested by the City, the SELLERS agree to execute such further and additional documents and instruments as may be requested to further and better assign to the City the Proceeds and/or any rights thereunder as contemplated by this Agreement, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the City to consummate and make effective the purposes of this Agreement.

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

The SELLERS agrees that any lawyer or claims adjuster representing the Recipients in connection with Program benefits or services are authorized and instructed to communicate with the City regarding the nature and status of claims and to share information with the City relating to the claims. The lawyer and claims shall protect the interest of the State in any proceeds resulting from the claim upon receipt of notice of this subrogation.

If the SELLERS hereafter receives any Proceeds for the same purpose as the Program, the SELLERS agree to promptly pay such Proceeds, or an equivalent amount of funds, to the City in accordance with the terms of this Agreement.

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**CITY OF BONITA SPRINGS, FLORIDA
VOLUNTARY HOME BUYOUT PROGRAM**

In any proceeding to enforce this Agreement, the City shall be entitled to recover all costs of enforcement, including actual attorneys' fees.

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

OWNER/ M. Long

Signature

Print Name

PROGRAM STAFF

Signature

Elly Soto McKuen

Print Name





CITY OF BONITA SPRINGS, FLORIDA VOLUNTARY HOME BUYOUT PROGRAM

Attachment B

STEPS TO A SUCCESSFUL CLOSING

A City of Bonita Springs representative will assist you through the closing process. Please review the following tips to ensure the necessary steps for the closing process are completed.

The Vacancy Inspection is an important step in the process and is required before the City can take possession of your property.

Please complete the following items before the Vacancy Inspection:

1. **You or your authorized representative need to be present at the vacancy inspection the day before the scheduled closing.**
2. **All utilities need to be turned off.** This includes, but is not limited to, electrical, gas, plumbing, cable, and any other recurring services at the property. Please advise the utility company that the property will be demolished.
3. **All personal property, fixtures, and/or any other items on the premises need to be removed from the property.** This includes, but is not limited to vehicles and vessels, personal items, and items in the household the current owner wishes to keep. After the Vacancy Inspection is complete, all items remaining on the property will become the City's property.
4. **The property needs to be completely vacated.** At the time of the Vacancy Inspection, no individuals can be living on the property.
5. **The property needs to be secured and inaccessible to the public.** This includes, but is not limited to, confirming that all doors and windows lock. If windows or doors are not secured, the necessary steps need to be taken to secure the building (such as placing boards over the windows).
6. **Please ensure that all hazardous items have been removed from the household and properly disposed of.** This includes, but is not limited to, household cleaners, paints, oils, and batteries.
7. **Provide all property keys to the City:** Please bring your property keys to the closing. If the closing will be accomplished remotely, please ensure the property keys are surrendered to the City as prearranged by closing.



2020966er

1
2 An act relating to public records; amending s.
3 119.071, F.S.; providing an exemption from public
4 records requirements for property photographs and
5 personal identifying information provided to specified
6 entities by certain persons for the purpose of
7 disaster recovery assistance; authorizing access to
8 such records and information for certain purposes;
9 providing for future legislative review and repeal of
10 the exemption; providing a statement of public
11 necessity; providing an effective date.
12

13 Be It Enacted by the Legislature of the State of Florida:
14

15 Section 1. Paragraph (f) of subsection (5) of section
16 119.071, Florida Statutes, is amended to read:

17 119.071 General exemptions from inspection or copying of
18 public records.—

19 (5) OTHER PERSONAL INFORMATION.—

20 (f) 1. The following information held by the Department of
21 Economic Opportunity, the Florida Housing Finance Corporation, a
22 county, a municipality, or a local housing finance agency is
23 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
24 of the State Constitution:

25 a. Medical history records and information related to
26 health or property insurance provided to the Department of
27 Economic Opportunity, the Florida Housing Finance Corporation, a
28 county, a municipality, or a local housing finance agency by an
29 applicant for or a participant in a federal, state, or local

2020966er

housing assistance program ~~are confidential and exempt from s.~~
~~119.07(1) and s. 24(a), Art. I of the State Constitution.~~

b. Property photographs and personal identifying
information of an applicant for or a participant in a federal,
state, or local housing assistance program for the purpose of
disaster recovery assistance for a presidentially declared
disaster.

2. Governmental entities or their agents shall have access
to such confidential and exempt records and information for the
purpose of auditing federal, state, or local housing programs or
housing assistance programs.

3. Such confidential and exempt records and information may
be used in any administrative or judicial proceeding, provided
such records are kept confidential and exempt unless otherwise
ordered by a court.

4. Sub-subparagraph 1.b. is subject to the Open Government
Sunset Review Act in accordance with s. 119.15 and shall stand
repealed on October 2, 2025, unless reviewed and saved from
repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public
necessity that property photographs and personal identifying
information of an applicant for or participant in a federal,
state, or local housing assistance program for the purpose of
disaster recovery assistance for a presidentially declared
disaster, held by the Department of Economic Opportunity, the
Florida Housing Finance Corporation, a county, a municipality,
or a local housing finance agency, be made confidential and
exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
Article I of the State Constitution. In response to a disaster,

2020966er

an agency, in an effort to determine damage and ascertain the estimated cost of rehabilitation, may conduct a property inspection to observe and record damage to the property. This information may be used to locate the damaged property and to identify and contact the property owner or tenant. Following a disaster, the people affected are vulnerable and frequently displaced due to the severely damaged and often uninhabitable condition of their residences. If released, property photographs and personal identifying information could be used by fraudulent contractors, predatory lenders, thieves, or individuals seeking to impose on the vulnerability of the distressed property owner or tenant following a disaster. Therefore, it is necessary that property photographs and personal identifying information be protected to ensure that those affected by a disaster are not harassed, intimidated, or potentially defrauded.

Section 3. This act shall take effect July 1, 2020.

REQUESTED MOTION: Approve the special event permit for the Celebrate Bonita Festival 2023 and the closure of Old US 41 Road from Wilson Street to Ragsdale Street on Saturday, April 29th, 2023.

REQUESTOR: Lora Taylor, Communications Director

AGENDA: Consent

STRATEGIC PRIORITY: N/A

BACKGROUND:

The Celebrate Bonita Festival is an event that celebrates the City's incorporation. This year, Celebrate Bonita will be held on April 29th, 2023. The event will be held from 6 pm to 9 pm. The committee has selected Caylee Hammock as an opener and LANCO as the headlining performer at this year's event.

The event will be co-sponsored by the Bonita Springs Assistance Office and will partner with the City for the sale of beer and wine. The Assistance office will coordinate the food and beverage vendors and the proceeds will benefit the Bonita Springs Assistance Office.

Staff is coordinating the events with the Bonita Springs Fire Control and Rescue District and with the Lee County Sheriff's Office. Lee County Sheriff's Office will provide traffic control and security for the event.

Old 41 from Wilson to Ragsdale will be closed from 5:00 pm - 10:00 pm to assist in pedestrian traffic and safety during a portion of the evening event in preparation.

City Council has approved funds for the Celebrate Bonita event and is available in line item 00.430.574.4803

STAFF RECOMMENDATION: Approve the special event permit for the Celebrate Bonita Festival 2023 and the closure of Old US 41 Road from Wilson Street to Ragsdale Street on Saturday, April 29th, 2023.

ATTACHMENTS:

1. Special Event Permit Application
2. MOT Map
3. Layout map
4. Fencing map
5. Flyer

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
Interim City Clerk: Brenda Reetz
Department Director: Lora Taylor

Council Action: Approved ☐ Denied ☐ Deferred ☐ Other ☐

You do not have to partner with the charities on this list. You may choose any charity. This list is intended as informational only.

**SPECIAL EVENT
PERMIT APPLICATION**

PERMIT. SEP- _____



City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

Date Received: 02/07/2023

Effective Date/Time: _____

Application Fee: ☐ \$50.00

Phone: 239/949-6262

Fax: 949-6239

☐ \$25.00 (501C3 organizations)

Fee is non-refundable

Use this form for: Parades, Festival/Carnival, Any Activity Requiring Off-Site Parking, Street Closure, Sound Amplification or City Personnel, Run/Race/Walk, Art Shows, Concerts, Special Musical Presentation, Street Dances, Photography Shoots, and Fireworks. For information call 949-6262.

Completed Special Event Permits take 45 days to process with all necessary attachments and without errors. Your permit will go to the next City Council Meeting after the 45 days. Please take this into consideration when planning your event.

Organization: City of Bonita Springs

Nature of Event: Celebrate Bonita 2023

Location (Attach Site Plan): Riverside Park - 10450 Reynolds Street

Date

Set-Up Time

Actual Event Times

Take Down Time

04/29/2023

8am

to 6pm

6pm

to 9pm

9pm

to 11pm

For multiple dates, please attach letter.

Has this event been held in the past? yes

If so, when was the last event? 2019

Individual Contact for Activity/Event: Karissa Minoli

Phone: 239-949-6262

Address: 9101 Bonita Beach Rd SE

Website: _____

E-Mail Address: Karissa.Minoli@CityofBonitaSprings.org

Major Sponsor(s): City of Bonita Springs / Bonita Springs Assistance Office

Promoter(s): _____

Phone or Contact #: 239 949-6262

1. Crowd: Is anticipated crowd size 1,000 or more?

Yes

No



Actual Anticipated number: 8,000

2. Parking: Will off-site parking be provided? _____



Will "shuttle" service to parking be provided? By whom? _____



4. Noise: Will there be amplified music or entertainment? If yes, please attach type(s) of Entertainment and time(s) of performances(s). Indicated stage location(s) on siteplan.



- | | Yes | No |
|---|-------------------------------------|-------------------------------------|
| 5. City Co-Sponsorship:
Is City co-sponsorship being requested? If yes, please explain with letter of attachment, listing benefitting organizations. | ☐ | ☒ |
| 6. Fireworks: Is this a public _____ or private _____ display? Applicant must comply with State Law F.S. 791; and NFPA 1123 and obtain any applicable Lee County permit. | ☐ | ☒ |
| 7. Banners, Signs, Etc.: Will exterior banners, balloons, signs or other types of advertising techniques be used? Temporary signs may only be placed in accordance with the Sign Ordinance. | ☒ | ☐ |
| 8. Alcohol Beverages: Will alcoholic beverages be sold _____ or consumed _____ on the premises? Please check one or both. A copy of the Florida Beverages Commission permit is required to finalize before event. Permit Holder: _____
Division of Alcoholic Beverages and Tobacco: (239) 278-7195. | ☒ | ☐ |
| 9. Security: Will private security be provided to protect exhibits, equipment or facilities brought on-site for the event? Name of Company: <u>TBD</u>
Contact Number: _____ | ☒ | ☐ |
| 10. Private Property: Does the applicant own the property where the event is to be held? If not, please attach a letter of permission from the property owner. | ☐ | ☒ |
| 11. Public Safety: Will Police and Fire District Personnel be requested? (Based on responses to questions 1-6 certain Public Safety personnel may be required, i.e., Lee County Sheriff's Office, emergency services, fire, etc. Once staffing needs are determined, applicant will be required to provide copies of its contracts detailing obligated public safety staff necessary for event. | ☒ | ☐ |
| 12. Tents/Canopies: Will tents or canopies be used? <u>If yes, indicate on site plan the tent size, location, and type of surface on which the tent(s) will be installed and intended use of each tent.</u> | ☐ | ☒ |
| 13. Air Conditioning Units/Power Generators: Will exterior air conditioning units or power generating equipment be operated from vehicles or trailers? <u>If yes, indicate location of equipment on-site plan.</u> | ☒ | ☐ |
| 14. Food/Cooking: Will food be cooked _____ catered _____ on-site during this event? <u>Indicate on site plan the location of vendors and cooking equipment to be used.</u>
(Appropriately rated fire extinguishers required.) Lee County Health Department approval is required to finalize permit before event. Environmental Health Section: (239) 332-9559. | ☒ | ☐ |

Yes No

15. Sanitary Facilities:

Will temporary sanitary facilities be provided? If yes, indicate location on site plan.

☒ ☐

Will disposable cardboard trash receptacles be provided? If yes, indicate on site plan.

☐ ☒

Will additional refuse containers/dumpsters be provided?

☒ ☐

If yes, by whom: Eagle Haulers

16. Insurance Requirement: Permittee is required to obtain and present evidence of surety indemnity bond or comprehensive liability insurance naming the city as an additional insured. The insurance requirement is a minimum of \$1,000,000.00 general liability (personal injury) and \$100,000.00 property damage against all claims arising from permits issued pursuant to this ordinance, naming the city of Bonita Springs **as additional insured**. If the event poses higher risks than covered by such insurance, permittee shall be responsible for assessing the risks of the event and obtaining additional insurance coverage.
17. Non-Profits are required to provide either a form 990 or a financial report to the city showing revenue from the event where at least 10% of the proceeds will remain within the Bonita Springs area, supporting the community or charities, within 60 days after the event. If the event is of a non-monetary nature, the non-profit must show they provide an impact to 5% of the area.

DURING REVIEW BY VARIOUS CITY DEPARTMENTS, ADDITIONAL CONDITIONS MAY BE IMPOSED. THIS PERMIT IS VALID ONLY FOR THE TIME INDICATED ON THIS PERMIT. IN THE EVENT THAT THE APPLICANT FAILS TO FULFILL THE REQUIREMENT(S) AS SET FORTH IN THIS PERMIT, OR FAILS TO OBTAIN PROPER AUTHORIZATION TO PROCEED IF CONDITIONS HAVE CHANGED ON THE EXPECTED OUTCOMES, IMPACTS, OR SPECIFICATIONS, INCLUDING BUT NOT LIMITED TO TIME AND ACTIVITIES, THE PERMIT MAY BE CANCELLED BY THE CITY MANAGER AND THE ACTIVITY SHALL CEASE IMMEDIATELY.

I, the undersigned, will indemnify, defend, and hold harmless, the City of Bonita Springs, its agents, employees, officers and any and all other associates, from and against any and all actions, in law or in equity, from liability or claims for damages, demands or judgments to any person or property which may result now or in the future from the conduct of this event.

The undersigned has read and voluntarily signed the release and waiver of liability and Indemnity Agreement, and further agrees that no oral representations, statements, or inducements apart from the foregoing written agreement have been made.

[Signature]
Signature of Applicant

02/07/2023
Date

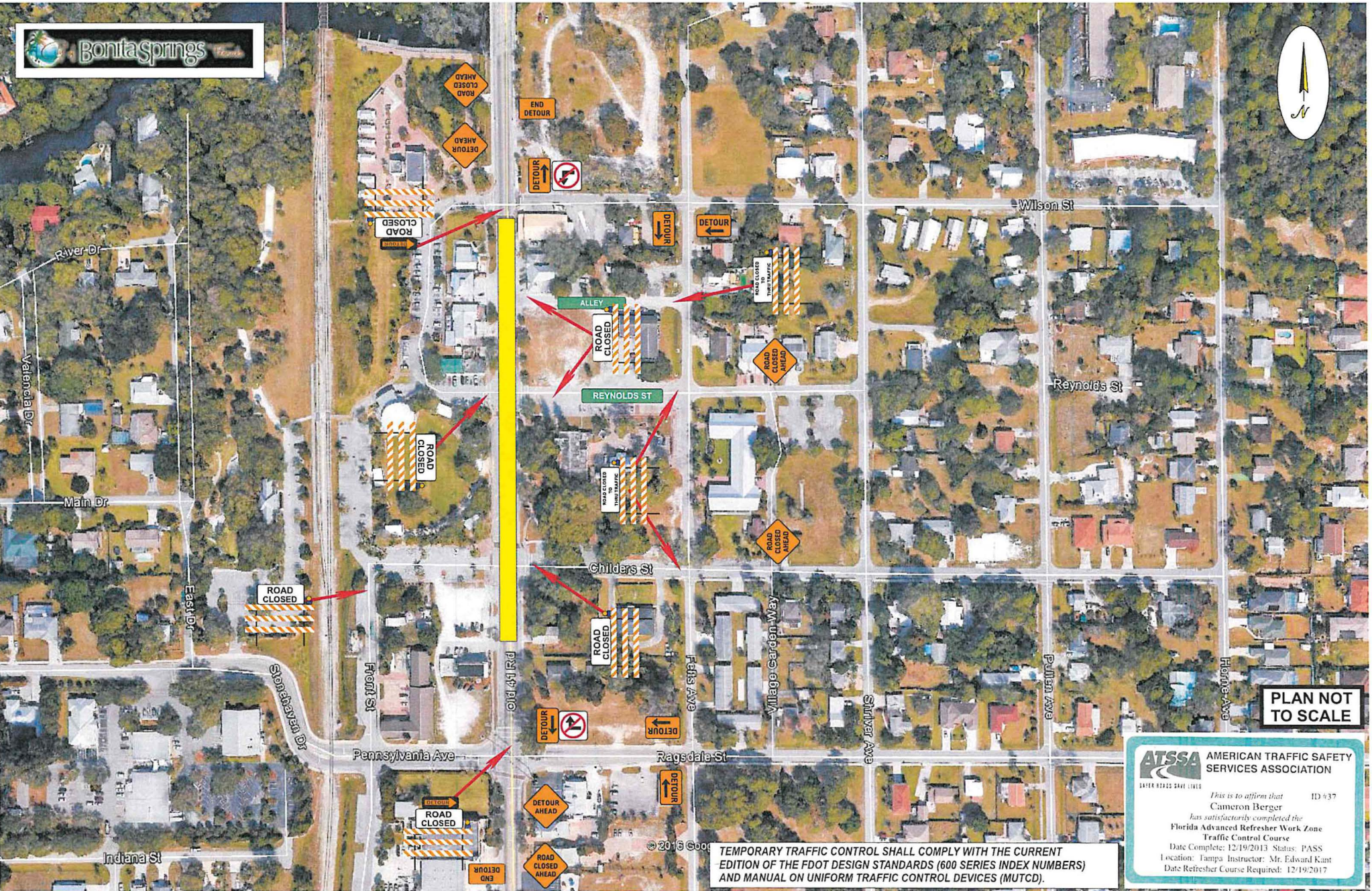
Comments: _____

City Manager

Date

Comments: _____

Application Fee is non-refundable.



PLAN NOT TO SCALE

**AMERICAN TRAFFIC SAFETY SERVICES ASSOCIATION**
SAFER ROADS SAVE LIVES

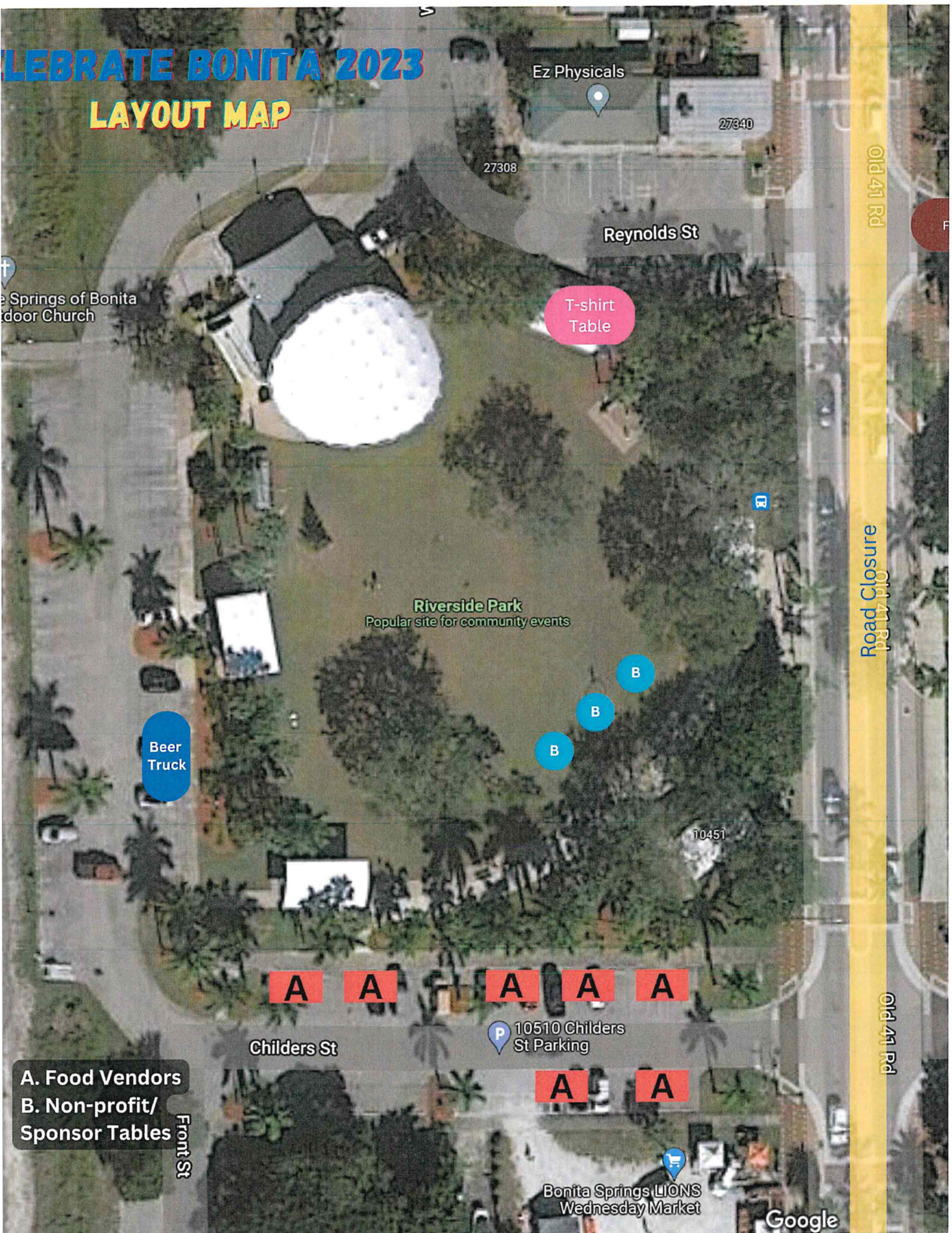
This is to affirm that
Cameron Berger
has satisfactorily completed the
Florida Advanced Refresher Work Zone Traffic Control Course
Date Complete: 12/19/2013 Status: PASS
Location: Tampa Instructor: Mr. Edward Kant
Date Refresher Course Required: 12/19/2017

ID #37

© 2016 Google
TEMPORARY TRAFFIC CONTROL SHALL COMPLY WITH THE CURRENT EDITION OF THE FDOT DESIGN STANDARDS (600 SERIES INDEX NUMBERS) AND MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).

CELEBRATE BONITA 2023

LAYOUT MAP



The Springs of Bonita
Outdoor Church

Ez Physicals

27340

27308

Reynolds St

T-shirt
Table

Old 41 Rd

Riverside Park
Popular site for community events

B

B

B

B

Beer
Truck

10451

A

A

A

A

A

Childers St

P 10510 Childers
St Parking

A

A

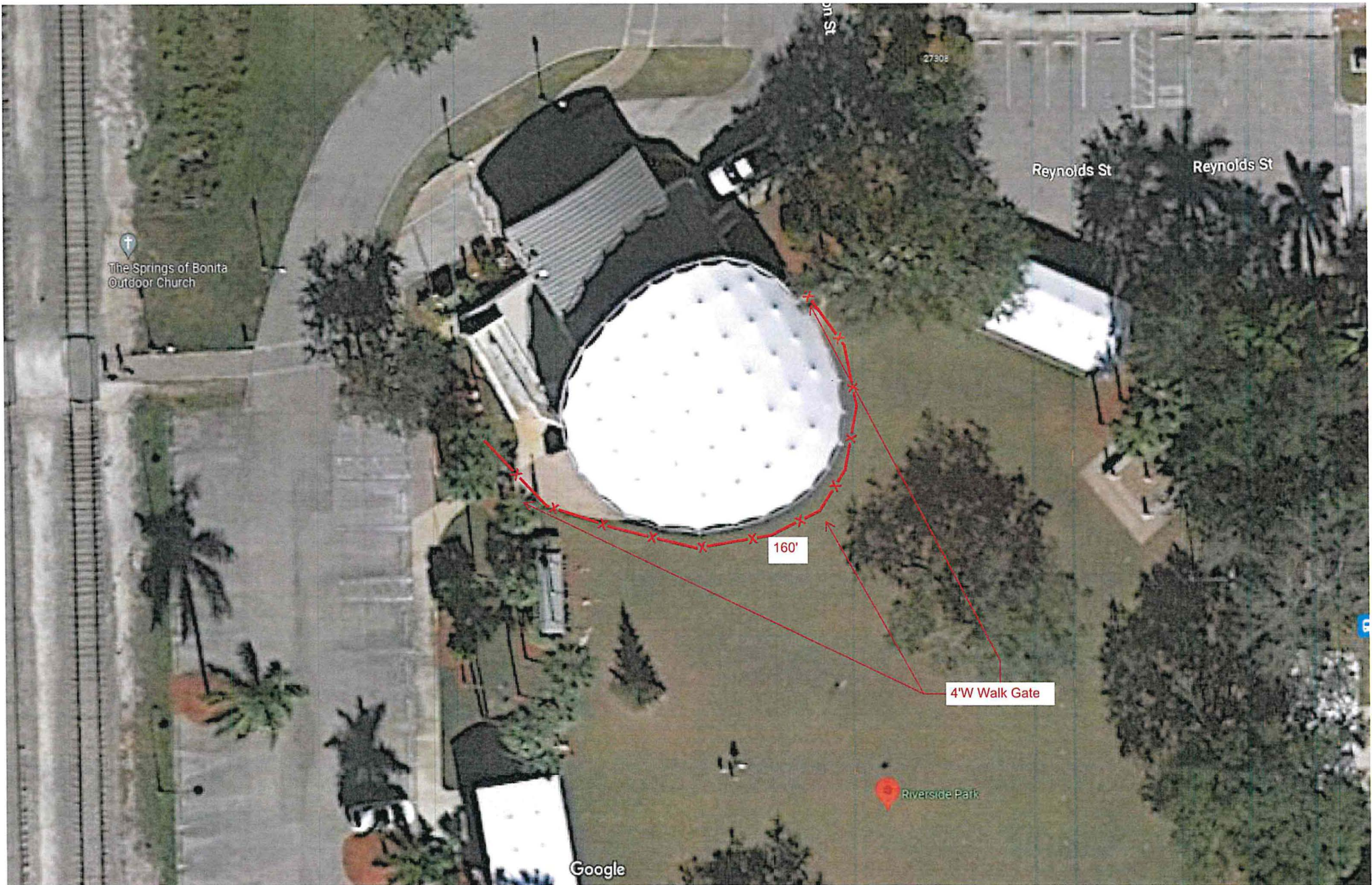
Old 41 Rd

A. Food Vendors
B. Non-profit/
Sponsor Tables

Front St

Bonita Springs LIONS
Wednesday Market

Google



The Springs of Bonita
Outdoor Church

Reynolds St

Reynolds St

160'

4'W Walk Gate

Riverside Park

Google



CITY OF BONITA SPRINGS PRESENTS
CELEBRATE BONITA 2023



HEADLINING: LANCO

Opening: Caylee Hammack
April 29th, 2023 6 pm to 9 pm
Riverside Park: 10450 Reynolds
St, Bonita Springs, FL 34135

Proceeds will benefit the Bonita
Springs Assistance Office



**FOR QUESTIONS,
PLEASE CALL
239-949-6262**



CITYOFBONITASPRINGS.ORG

**CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY**

Green Sheet No. 23-04-068
April 5, 2023

REQUESTED MOTION: Approve tenant relocation assistance for structures acquired through the CDBG-DR Voluntary Home Buyout Program.

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA: Consent

STRATEGIC PRIORITY: 1) Stormwater Management, 4) Environmental Protection

BACKGROUND: The focus of the voluntary home buyout program is to acquire properties in a Special Flood Hazard Area (SFHA) and in high-risk flood areas to help reduce the impact of future disasters. The program also assists property owners and tenants to relocate outside the threat of flooding. The City is using federal U.S. Housing and Urban Development, Community Development Block Grant-Disaster Recovery (HUD CDBG-DR) funds to acquire parcels in the Quinn/Downs/Dean Neighborhood through the Voluntary Home Buyout Program (VHBP). Participants in this program must adhere to specific family income limits in order to qualify for the buyout or be granted a housing incentive waiver.

Some structures being acquired are rental units. In situations where staff encounters tenants with valid leases with the current landlord, the City is required by federal regulations to pay to relocate tenants to similar replacement units. Staff submitted a purchase agreement at the February 1, 2023 Council meeting (GS 23-02-012) and one of the properties identified in the greensheet is a duplex with two (2) active leases. Federal relocation regulations require the City to pay up to 42 months of relocation costs to those tenants in the duplex. With the recent increases in rental costs in Southwest Florida, staff anticipates the relocation of the two (2) tenants could be approximately \$45,000 for each unit. All relocation expenses incurred by the buyout program are 100% reimbursable through the grant program.

STAFF RECOMMENDATION: Approve tenant relocation assistance for the CDBG-DR Voluntary Home Buyout Program

ATTACHMENTS: None

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
Interim City Clerk: Brenda Reetz
Department Director: Matt Feeney

Council Action: Approved ___ Denied ___ Deferred ___ Other_____

**CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY**

Green Sheet No. 23-04-067
April 5, 2023

REQUESTED MOTION: Second Reading and Public Hearing of the following Ordinance: AN ORDINANCE OF THE CITY OF BONITA SPRINGS AUTHORIZING THE LEASE OF A PORTION OF REAL PROPERTY WITHIN LEITNER NEIGHBORHOOD PARK TO CAFÉ OF LIFE; AND PROVIDING FOR AN EFFECTIVE DATE.

REQUESTOR: Derek Rooney, City Attorney

AGENDA: Public Hearing

STRATEGIC PRIORITY: n/a

BACKGROUND:

On February 20, 2013, the City Council adopted Ordinance 13-03 authorizing a lease agreement for the use of Leitner Park to be used by the Café of Life for operation of a meal center during defined hours. The original agreement provides for an initial term of ten years, with the option to renew for additional five-year terms provided that the Café provides of intent to renew at least six months prior to the expiration of the agreement. The current agreement is set to expire on March 22, 2023.

On March 15, 2022, staff received correspondence from the Café of Life requesting for the lease agreement to be renewed for another ten-year term, as opposed to a five-year term. The Café advised that they are not requesting any other modifications to the lease.

The City Charter requires that any conveyance or lease of real property be authorized by ordinance. This is the second reading and public hearing of an ordinance authorizing the new ten-year term.

STAFF RECOMMENDATION: Approve

ATTACHMENTS:

1. Draft Ordinance
-

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
Interim City Clerk: Brenda Reetz
Department Director:

Council Action: Approved __ Denied __ Deferred __ Other _____

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 23-

**AN ORDINANCE OF THE CITY OF BONITA SPRINGS
AUTHORIZING THE LEASE OF A PORTION OF REAL
PROPERTY WITHIN LEITNER NEIGHBORHOOD PARK TO
CAFÉ OF LIFE; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Section 27(e) of the City of Bonita Springs City Charter requires an ordinance for the conveyance or lease of any City real or personal property; and

WHEREAS, on March 22, 2013, the City of Bonita Springs ("City") entered into a lease agreement with the Cafe of Life, Inc. ("Lessee") for a public / private partnership to create a turnkey city park built by Cafe of Life, Inc., for a portion of that facility to be used by Cafe of Life, Inc., for operation of its meal center during defined hours with the remainder of the time the facility operated as a city park (the "Agreement"); and

WHEREAS, the Agreement provided for a term of ten (10) years with the option to renew for an additional five (5) years; and

WHEREAS, on March 15, 2022, the City received written correspondence requesting renewal of the Agreement for an additional term of ten (10) years.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. The City Council hereby authorizes the renewal of the lease agreement, attached hereto as Exhibit "A", for an additional term of ten (10) years.

Section 3. This Ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Florida this ____ day of April, 2023.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM:

City Attorney's Office

Vote:

Steinmeyer

Bogacz

Purdon

Carr

Corrie

Fullick

Forbes

Public Private Partnership Lease Agreement

THIS AGREEMENT is made and entered into this ____ day of January, 2023, between the City of Bonita Springs, a Florida municipal corporation, whose address is 9101 Bonita Beach Road, Bonita Springs, FL 34135, ("City") and the Café of Life, a Florida non-profit corporation, whose mailing address is P.O BOX 367794 Bonita Springs FL 34136, ("Lessee" or "Café").

RECITALS

WHEREAS, on October 17, 2012, City Council provided direction for city staff to request from Lee County the property acquired on Nomad Drive in the Leitner Creek Area as part of the Imperial Parkway construction; and

WHEREAS, on March 22, 2013, the City of Bonita Springs ("City") entered into a lease agreement with the Cafe of Life, Inc. ("Lessee") for a public / private partnership to create a turnkey city park built by Cafe of Life, Inc., for a portion of that facility to be used by Cafe of Life, Inc., for operation of its meal center during defined hours with the remainder of the time the facility operated as a city park (the "Agreement"); and

WHEREAS, the Agreement provided for a term of ten (10) years with the option to renew for an additional five (5) years; and

WHEREAS, on March 14, 2022, the City received written correspondence requesting renewal of the Agreement for an additional term of ten (10) years.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

1. **Grant and Description of Lease.** City grants to Lessee, and Lessee accepts from City, the non-exclusive privilege of operating a public facility referred to as Leitner Neighborhood Park in accordance with and subject to the terms of this Agreement. The legal description of the parcel is as follows:

A tract or parcel of land located in Section 25, Township 47 South, Range 25 East, Lee County, Florida and more particularly described as follows:

Lots 42 – 49, Block 1, Leitner Creek Manor Unit 2, according to the plat thereof recorded in Plat Book 30, Pages 79 and 80, filed in the Public Records of the Clerk of Courts of Lee County, Florida, less and except the Three Oaks Parkway / Imperial Parkway "maintained road right-of-way". A copy of the survey is attached as Exhibit A.

2. **Duration of Lease; Renewal.** This Lease Agreement shall remain in full force and effect for ten (10) years from its effective date, and will be renewed for additional five year terms as set forth herein, provided that at least six (6) months prior to the expiration of the current term. Café shall notify City of its intent to renew for an additional five year term. Within sixty (60) days of such notice, City will schedule at a regular public meeting, the decision as to whether or not to renew. In the event the City decides not to renew, this Lease Agreement shall terminate after the expiration of the last five year period approved by Council. This provision is not intended to in any way limit the ability of the City and Café of Life to otherwise extend this Lease Agreement by mutual written agreement between them, or shorten the term in the event Café of Life ceases operations.
3. **Improvements.** The Master Concept Plan (MCP) depicting the improvements constructed by Lessee is attached to this Agreement as Exhibit B. Lessee shall install and maintain all improvements at their own costs in substantial compliance with Exhibit B, subject to the following:
 - a. The City will reserve to itself naming rights of Leitner Neighborhood Park, with Café having the right to name portions of the facilities that it constructed for its fundraising endeavors, subject to Council approval.
 - b. Lessee will be responsible for all site improvements, including but not limited to, obtaining all local, state and federal permitting.
 - c. Lessee will solely be responsible of maintaining Leitner Neighborhood Park at their expense.
 - d. Lessee will only plant native plantings and shall only fertilize the area in accordance with the City of Bonita Springs Fertilizer Ordinance.
 - e. Lessee shall maintain signage on the exterior indicating that this is a public park open to the public for their use, subject to the City of Bonita Springs Parks and Recreation rules.
4. **Right of Entry.** City reserves the right to enter the Premises at any reasonable time to insure compliance with the covenants of this agreement. City also reserves the right of ingress and egress to investigate and survey the Premises as deemed necessary, and reserves the right to perform any work of any nature necessary for preservation, maintenance and operation of this facility as open for public use as a park.

Lessee shall be liable for all expenses incurred by City for all work done by City in order to preserve, maintain and operate the public park when the work is the result of Lessee's negligence or noncompliance with the covenants of this agreement.

5. **Use of Premises.** Lessee may use the property, subject to the public's right of use as a park facility with limitation only during the hours of operation for the meal center, subject to the terms below:
 - a. Café may operate its meal center from 9 a.m. to 12 p.m., Monday through Friday and on Christmas Eve / Day (when they fall on a week-

end day). Café shall instruct and enforce the earliest arrivals and latest departures of its participants. The public may not use the facility during this specified time.

- b. Café will be responsible for scheduling activities at the Park, ensuring that activities do not interfere with other scheduled activities.
- c. City will be able to program activities on site in coordination with Café.
- d. Café will be responsible for maintaining all areas of property under this Lease, including the lands and structure.
- e. Café will use its best efforts to control the ingress and egress of its participants through the adjacent neighborhoods. Café staff shall not leave the premises until all participants have left the neighborhood, and Café staff will be responsible for making sure the streets located throughout the adjacent neighborhoods do not have participants loitering as defined under Florida Statutes §856.021 before, during or after the operation of the meal center. Café may restrict client access for failure to comply with this rule.
- f. So as to enforce the terms of responsibilities in this Lease, City grants Café authorization to file trespass charges on any participant consistent with Florida Statutes §810.09. In doing so, Café will follow City rules for its Parks and Recreation facilities, pursuant to Bonita Springs Ordinance No. 09-08, as it may be amended.
- g. Any use of the property after hours by Café will require a City special events permit in accordance with the City's rules in effect at the time of permitting.

6. Meal Center Food Preparation. The Parties acknowledge that Café of Life will be serving food on premises in the Pavillion to its participants. Café of Life is excluded from public food service establishment pursuant to Florida Statutes §509.013(5)(a) because certain uses are excluded, including those found in §509.013(5)(b)2 “any eating place maintained and operated by a church or a religious, non-profit fraternal, or non-profit civic organization ... for the use of members and associates...”. In the event Café of Life changes its practices or there is a change in law or a change in interpretation by the Florida Department of Business and Professional Regulation, the parties agree that Café of Life will need to conform to state law requirements. The City of Bonita Springs is not responsible for any inspections and / or enforcement of food criteria as regulated by the State of Florida.

7. Exterior Premise Maintenance. Lessee will adequately maintain (at a minimum, to the standards of normal maintenance for City Parks maintained by the City of Bonita Springs) all landscaping, hardscaping and furnishings installed by Lessee, including the security system, parking lot, and outdoor lighting. Lessee will maintain the playground up to normal wear and tear. Any playground constructed must meet the applicable standards found in the Americans with Disabilities Act, the American

Society for Testing and Materials standards, and CPSC Public Playground Safety Handbook (publication #325).

8. **Insurance.** Lessee shall provide the City with an inventory of all improvements, which will be insured by Lessee, naming the City of Bonita Springs as an additional insured, in the minimum of one million for general liability and property damage. The inventory will be updated by the Lessee annually and at any time there is a change in improvements. This insurance policy will not be cancelled or reduced without 30 days prior written notice to the City.
9. **Maintenance, Repairs and Replacements.** Lessee shall be responsible for repair and replacement of all structural and mechanical components and equipment permanently attached to the premises, including walls, foundations, plumbing (irrigation) and electrical systems. Lessee shall be responsible for the repair and maintenance of the walking area. Lessee will maintain all exterior landscaping, including mowing, within the surrounding premises. City may, but is not required to, replace the playground as it would for any other park.
10. **Construction.** Lessee shall not enter into any construction or repair projects of any kind on or in the Premises without written permission from City.
11. **Utilities.** Lessee shall be responsible for all utilities within the Leased area and will promptly pay all charges for utility services, including hook-ups and monthly charges. Lessee is responsible for providing adequate water, gas (if available in the future) and electricity during the terms of this Lease. Except for emergencies physically related to the facilities, Lessee may not turn off water, sewer or electricity when the facility is not in use without permission of the City.
12. **Sanitation and Garbage:** Lessee shall keep the Premises and the equipment and furnishings located there in a sanitary condition at all times, in conformity with applicable federal, state, county and city laws. The City may inspect the premises periodically and Lessee agrees to comply with the City's recommendations. Lessee shall provide all janitorial supplies and gardening services required to properly clean and operate the Premises and the equipment and furnishings. Café must keep the restrooms locked when the Pavilion is not being used by Café or for any of the scheduled programs. City staff will install a garbage can and pick-up garbage and litter that are contained in the garbage can on the same schedule of other City park facilities. Café is responsible for removal of all garbage that is on the premises resulting from its meal center operation and is not located in the garbage can (e.g., where people or animals have disturbed the garbage).

- 13. Indemnification.** Lessee covenants and agrees that it will fully indemnify, hold harmless, protect and defend at its own cost and expense, the City, its City Council and each member of the Council, its officers, employees and agents and each of them harmless from any risks, suits, damages, expenses or claims (including court costs and reasonable attorney's fees) which the City, its City Council and each member of the Council,, may incur or become liable for as a result of the injury or death of any person(s), or the loss or damage of any property in connection with the operation of this Lease by Lessee or any of its employees, agents, invitees or any other person acting on behalf of the Lessee.
- 14. Bills.** No contractors liens or mortgages or other equitable interests may be recorded on the property. Lessee agrees to pay promptly all bills arising from the operation of the Premises in accordance with this Lease.
- 15. Nondiscrimination.** Lessee agrees to comply fully with the federal Equal Employment Opportunities Act and with all applicable state and federal laws, and Lessee agrees that no person shall be denied or refused access or other full or equal use of the Leased facilities, as a result of race, creed, color, religion, sex, national origin or ancestry, age, physical or mental handicap.
- 16. Employees and/or Volunteers.** Lessee agrees to operate the Premises personally or to employ sufficient and qualified personnel to operate the Premises in a business-like manner. The Premises shall be operated by an employee authorized to act and represent Lessee in all matters pertaining to the operation of this Agreement. Lessee agrees that it and its employees shall be clean and neat in appearance and shall be courteous at all times to users of property.
- 17. Signs.** Lessee will submit for approval to the City Manager or designee samples of any signs advertising the Premises, prior to their erection. All signs erected by Lessee shall be the responsibility of Lessee and will be kept in good condition by Lessee.
- 18. Non-Assignability.** This Lease shall not be assigned in whole or in part, nor shall the Leased premises, or any part of the premises be sublet or leased, nor shall any right or privilege granted here to Lessee be sold, transferred or assigned to anyone other than Café of Life.
- 19. Changes or Amendments to Lease.** This Lease sets forth all agreements between the parties. No modification or amendment shall be valid unless set forth in writing and signed by City and Lessee.
- 20. Cancellation.** Café may be considered in default of this agreement if it fails to comply with the terms of this Agreement. In that event, the City may:

- a. Declare Cafe in default, notify Cafe in writing, and give Cafe fifteen (15) calendar days from receipt of notice to make substantial efforts towards curing the default. If Cafe fails to make substantial efforts towards curing such default within fifteen (15) calendar days, such Agreement shall be terminated accordingly; or
- b. The parties may exercise dispute mediation regarding the alleged breach without waiving or being estopped from subsequently pursuing the breach as a matter of law.
- c. Any final decision on a cancellation will be held during a regular City Council meeting. While formal rules of evidence do not apply, City may only cancel, notwithstanding an expiration of a term under paragraph 2, if the evidence of the breach is clearly shown.
- d. Following cancellation, Café's remedies are specified under paragraph 23, Remedies, below.

21. Destruction, Loss or Damage by Fire or Other Causes. In the event the Premises are damaged by fire or other casualty to an extent that in City's sole opinion the continued operation of the premises by Lessee is not desirable, City may immediately terminate this Lease. City may, but is not obligated to, repair or rebuild the Premises and, in that event, if after the repairs or rebuilding are completed to City's satisfaction, any portion of the original Lease period remains, upon notice from City, Lessee immediately shall resume operation of the premise in accordance with this agreement.

22. Notices. All notices required under the terms of this Lease shall be sent to the City Manager on behalf of the City, and to Bruce Wheatley, Vice Chair on behalf of the Café of Life at the addresses written above, or to such other person or address as any Party may designate from time to time in writing.

23. Remedies. Any material breach of this Agreement may be enforced by either Party as against the other by appropriate action in law or equity filed in a court of competent jurisdiction; provided, however, no such action may be brought until the defaulting Party has been given notice and ninety (90) days in which to cure the default. If the default cannot reasonably be cured within the ninety (90) day period, such period shall be extended if the cure is commenced within such ninety (90) days and the defaulting Party is proceeding with due diligence for such period of time reasonably required to complete such cure.

24. Attorney Fees and Costs. In the event of any litigation between the parties arising out of this Lease, the prevailing parties shall be entitled to recover all costs incurred, including, without limitation, reasonable attorney and/or paralegal fees and costs, whether such fees and costs are incurred before, after, or at trial, on appeal or any bankruptcy arbitration or administrative proceedings.

25. Entire Agreement. This Lease constitutes the entire understanding between the parties with respect to the transaction contemplated hereby and all prior Leases, understandings, representations and statements, oral or written, are merged into this Lease. No provision hereof may be waived, modified, amended, discharged, or terminated except by a written instrument signed by the parties hereto.

26. Severability. If any provision of this Lease is deemed invalid or unenforceable by a Court of competent jurisdiction, such provision shall be invalid to the extent of such invalidity or unenforceability only without invalidating the remainder of such provision or other remaining provisions of this Lease.

27. Governing Law: This Lease shall be governed by an interpreted in accordance with the laws of the State of Florida. Any Court at the venue for any court action will be Lee County, Florida.

IN WITNESS WHEREOF, the parties have executed this document with the understanding that the effective date of this Lease Agreement is coterminous with the Ordinance.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney

CAFÉ OF LIFE

First Witness Signature

Printed Name First Witness

Second Witness Signature

Printed Name Second Witness

By: _____
Signature

Name: _____

Title: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2023 by _____, Chair of Café of Life, a Florida nonprofit corporation. She is personally known to me or has produced _____ as identification.

Notary Public

(Print Name)

My Commission Expires:

Exhibit A Legal Description

Exhibit "A"

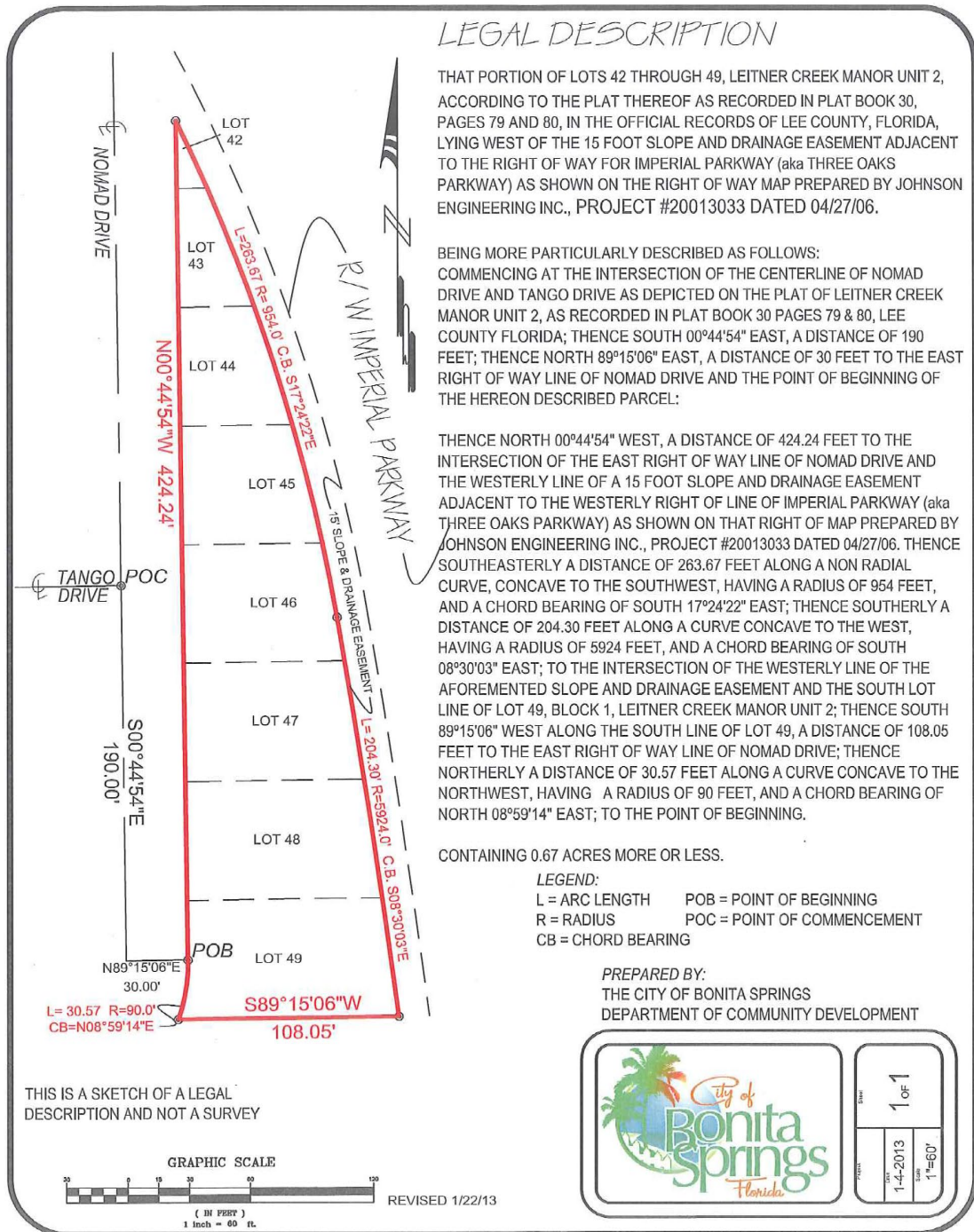


Exhibit B
Master Concept Plan

EXHIBIT "B"



Bonita Springs Leitner Creek Neighborhood Park
Bonita Springs Florida
 Preliminary Site Plan 1" = 40' @ 11"x17"



GradyMinor
 Civil, Electrical, Land Surveying, Planning, Landscape Architecture

**CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY**

Green Sheet No. 23-04-069
April 5, 2023

REQUESTED MOTION: First reading of AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE BONITA SPRINGS CITY CODE, CHAPTER 40 – TRAFFIC AND MOTOR VEHICLES, AND CREATING A NEW ARTICLE IV – LIMITATIONS ON THRU TRUCK TRAFFIC; PROVIDING CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND AN EFFECTIVE DATE.

REQUESTOR: Derek Rooney, City Attorney

AGENDA: City Attorney’s Items

STRATEGIC PRIORITY:

BACKGROUND:

Pursuant to Council’s direction, the attached draft ordinance provides the Council with authority to designate no-thru-trucks zones by resolution.

STAFF RECOMMENDATION: Move to second reading.

ATTACHMENTS:

1. Draft Ordinance

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
Interim City Clerk: Brenda Reetz
Department Director:

Council Action: Approved ___ Denied ___ Deferred ___ Other _____

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 23 – __

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE BONITA SPRINGS CITY CODE, CHAPTER 40 – TRAFFIC AND MOTOR VEHICLES, AND CREATING A NEW ARTICLE IV – LIMITATIONS ON THRU TRUCK TRAFFIC; PROVIDING CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs, Florida is the governing body of Bonita Springs; and

WHEREAS, pursuant to Chapter 316, Florida Statutes, otherwise known as the "Florida Uniform Traffic Control Law," and specifically Section 316.006, municipalities have original jurisdiction to exercise traffic control over streets and highways within their boundaries; and

WHEREAS, additionally, the Florida Uniform Traffic Control Law authorizes municipalities to erect traffic control devices not inconsistent with it or as authorized the Federal Highway Safety Administration's Manual on Uniform Traffic Control Devices adopted by the Florida Department of Transportation; 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 as legislative findings of the City Council 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 the pertinent provisions of Chapter 40, with deletions depicted with ~~strikethroughs~~ and underlined language as

additions, as provided and further depicted in Exhibit A, attached hereto and incorporated herein by reference.

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 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 as if adopted with such part had not been included herein.

Section 4. **Conflicts of Law**

This Ordinance shall supersede any ordinances in conflict herewith to the extent that such conflict exists. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of the requirements of state or federal law, 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 ADOPTED BY THE CITY COUNCIL of the City of Bonita Springs, Florida this _____ day of _____, 2023.

Attest:

CITY OF BONITA SPRINGS, FLORIDA

By: _____
City Clerk

By: _____
Mayor

Reviewed for legal sufficiency:

By: _____
City Attorney

Vote:

Carr
Purdon
Forbes
Corrie

Bogacz
Fullick
Steinmeyer

Date filed with City Clerk: _____

EXHIBIT "A"

ARTICLE IV. LIMITATIONS ON THRU TRUCK TRAFFIC

Sec. 40-60. Restrictions on truck use of streets.

(a) *Authority and purpose.* This section is ordained pursuant to authority granted under the Florida Uniform Traffic Control Law. The purpose of this section is to promote the public health, safety and welfare by prohibiting thru-truck traffic on streets and roads which are unsuitable for such traffic by reason of their construction or by reason of the character and nature of abutting property, where reasonably adequate alternative truck routes exist.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

No-Thru-Truck Zone. A street or road, or segment thereof, on which trucks are prohibited, except trucks traveling to or from a place abutting the zone, which place would otherwise be inaccessible by truck.

Truck. A truck as defined in the Florida Uniform Traffic Control Law.

(c) *Establishment of zones.* No-thru-truck zones shall be established by the City Council, through the adoption of a resolution designating the specific right-of-way on which thru-truck traffic shall be prohibited, and where signs shall be posted as provided for in subsection (e) of this section.

(d) *Considerations and guidelines.* The City Council may establish a no-thru-truck zone if one or more of the following conditions exists; however, a no-thru-truck zone shall not be established unless truck traffic that would otherwise travel through the zone has an alternate route available:

- (1) Traffic lanes are less than 12 feet wide.
- (2) The street or road cannot adequately carry truck traffic because of damage to the surface or to abutting structures.
- (3) Land use on both sides of the street or road is predominantly residential.
- (4) The character of greater right-of-way is pedestrian in nature.

(e) *Signing.* No-thru truck zones shall be signed at the beginning and end thereof, and at other places as the City may determine to be necessary, in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways published by the U.S. Department of Transportation, Federal Highway Administration.

(f) *Prohibition.* It is unlawful for any person to drive a truck in a no-thru-truck zone, unless the driving of such truck is within the exception specified in the definition of “no-thru-truck” zone in subsection (b) of this section or pursuant to Sec. 40-61.

Sec. 40-61. Exceptions.

The restrictions set forth in this Article shall not apply to the following:

- (1) Any truck making a delivery or providing services to or from a location in or abutting the no-thru-truck zone, which location would otherwise be inaccessible by such vehicle.
- (2) The operation of a truck where necessary to reach the truck driver's personal residence. This exception shall not authorize the parking of a truck in front of a personal residence or at any location otherwise prohibited under this Article.
- (3) Public service or other government-owned vehicles.
- (4) Emergency vehicles.

Sec. 40-62. Temporary truck routes.

The city manager may, in the event of an emergency, or as needed for maintenance, temporarily restrict truck traffic or establish specific temporary truck routes.

Sec. 44-63. Penalties.

A violation of this section shall be subject to the fines in Section 1-15 of the Bonita Springs Code. Further, violation of corresponding signage may be further enforced as a violation of § 316.074, Florida Statutes.

REQUESTED MOTION: Authorize staff to submit a Pre-Disaster Mitigation Grant Application for Congressionally Designated Funds and provide the required match funding for the application.

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA: City Manager's Items

STRATEGIC PRIORITY: #3 Strengthen City Finances

BACKGROUND: The City received notification that federal appropriations have been set aside for the City for an Acquisition/Demolition project. The funding amount is \$5,000,000 and has been titled City of Bonita Springs Water Acquisition Project. Funding is being distributed through a Pre-Disaster Mitigation (PDM) Program through the Department of Homeland Security Federal Emergency Management Assistance (FEMA).

The PDM application is a matching grant program. FEMA contributes 75% of the project cost while the City must match the remaining 25% of the project costs.

Staff is currently developing the required application to submit through the Florida Division of Emergency Management, and the application requires that the City provide a commitment letter for the City's match. The City's match (\$1,012,668.75) would be required in the upcoming FY2023-2024 budget year with the caveat that the matching funds will be available if the grant is awarded.

STAFF RECOMMENDATION: Authorize staff to submit PDM grant application and provide required match funding for the application.

ATTACHMENTS: None

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
Interim City Clerk: Brenda Reetz
Department Director: Matt Feeney

Council Action: Approved ___ Denied ___ Deferred ___ Other _____