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

CITY COUNCIL
MEETING AGENDA

June 7, 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 4:00 p.m. on June 7, 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 City Clerk Mike Sheffield 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:

    A. (SECOND READING AND PUBLIC HEARING) A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR AN AMENDMENT TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO INCLUDE 24 MULTI-FAMILY UNITS AS THE PRINCIPAL USE

OF THE PROPERTY, AND TO ADD ONE DEVIATION; LOCATED AT 04-48-25-B1-00002.000A, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet No. 23-06-121)

B. A ZONING RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR A SPECIAL EXCEPTION REQUEST TO ALLOW A CAR WASH FACILITY ON PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898; LOCATED AT 11230 BONITA BEACH ROAD SOUTHEAST, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet No. 23-06-123)

9. Proclamations and Presentations:

   A. Appearances by State Senator Jonathan Martin and State Representative Adam Botana and a legislative update from the City's lobbyists, Greenberg Traurig. (Green Sheet No. 23-06-119)

10. Consent Agenda:

    A. Approval of the May 17th Draft City Council Meeting Minutes

    B. Approval of the May 17th Draft City Council Special Meeting Minutes

    C. Confirm and ratify Resolutions Extending Local State of Emergency (Green Sheet No. 23-06-116)

    D. Notice of updated hearing dates for the backyard hen ordinance. (Green Sheet No. 23-06-124)

    - Opportunity for City Council Comments on Consent Agenda

11. Mayor and Council Member Items:

    A. Discussion regarding potentially partnering with Bonita Springs High School students for future organized clean-up events. (Green Sheet No. 23-06-118)

    B. Consider adopting a resolution appointing Alyona Ushe to the Art in Public Places Board. (Green Sheet No. 23-06-120)

12. Public Hearing:

    A. An Ordinance of the City of Bonita Springs approving the Petition of Bonita Springs Utilities, Inc., to Approve Special Service Charges for Sun Village Estates and the Lakes of San Souci; and providing for an effective date. (Green Sheet No. 23-06-126)

13. City Attorney's Items:

    A. (First Reading) AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, REPEALING AND REPLACING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 7 ARTICLE II – SEA TURTLES; PROVIDING FOR 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. 23-06-122)

    B. Consider adopting a Resolution designating portions of Old 41 Road in downtown Bonita as a no-thru truck zone and authorizing the placement of appropriate signage. (Green Sheet No. 23-06-125)

14. City Manager's Items:

    A. Consistent with the direction in the letter from Commissioner Brian Hamman, Chair of the Tourist Development Council (TDC), nominate an elected City of Bonita Springs official to occupy a voting seat on the TDC for a two-year term. (Green Sheet No. 23-06-117)

    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. 23-06-121
June 7, 2023

REQUESTED MOTION: (SECOND READING AND PUBLIC HEARING) A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR AN AMENDMENT TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO INCLUDE 24 MULTI-FAMILY UNITS AS THE PRINCIPAL USE OF THE PROPERTY, AND TO ADD ONE DEVIATION; LOCATED AT 04-48-25-B1-00002.000A, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE.

REQUESTOR: Mike Fiigon II, Senior Planner, Community Development

AGENDA: Zoning and Land Use Items

STRATEGIC PRIORITY:

BACKGROUND: The request is to amend Zoning Ordinance 19-03 to allow 24 multi-family units as the principal use of the property, and to add one (1) deviation. The original intended use of the property per Ordinance 19-03 is a 92-bed assisted living facility (ALF). The ALF was never constructed, and this amendment proposes to remove the ALF use and replace it with 24 multi-family units, spread out over three buildings. Additionally, there is a request to add one (1) deviation related to the placement of a wall and landscaping. The deviation has to do with the proposed location of the wall.

The Zoning Board heard the case on April 18, 2023, and recommended approval of the amendment and the deviation request.

City Council voted unanimously on May 17, 2023 to move the case to second reading.

The full packet is available for review on the City's website.

STAFF RECOMMENDATION: Approve the amendment, as conditioned by Staff.

ATTACHMENTS:

1. Zoning Board Meeting Minutes, April 18, 2023
2. Draft Zoning Ordinance
3. Staff Report with Exhibit A (Boundary Survey) and Exhibit B (Master Concept Plan)
4. Staff Report Attachment A—Background Informational Analysis

---

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Michael Sheffield
Department Director:	John Dulmer

City of Bonita Springs
Board for Land Use Hearings & Adjustments and Zoning Board of Appeals

Meeting Minutes
Tuesday, April 18, 2023
9 a.m.

DRAFT

I. CALL TO ORDER

Chairman Anthony Rascio called the meeting to order at 9:00 A.M.

II. INVOCATION

Invocation provided by Board Member Russ Winn.

III. PLEDGE OF ALLEGIANCE

Board Member Gary Gambrell led in the Pledge of Allegiance.

IV. ROLL CALL

The City Clerk called the roll:

Present 6 - Chairman Rascio, Board Members Galloway, Winn, Gambrell, Benson and Board Member Hershenson (Hershenson left the meeting at 9:58 a.m.)

Excused 1 – Board Member Waterhouse

V. APPROVAL OF MINUTES: February 21, 2023

Board Member Benson motioned to approve the minutes, Second by Board Member Hershenson; the motion carried with six in favor and one absent.

VI. PUBLIC COMMENT

Chairman Rascio called for public comments; however, no one came forth.

VII. PUBLIC HEARINGS

EACH CASE WILL INCLUDE A PUBLIC COMMENT PERIOD AT THE CONCLUSION OF THE APPLICANT AND STAFF PRESENTATION

City Attorney Rooney swore in all those who intended to speak and/or give testimony.

Chairman Rascio asked board members if there was an objection to changing the order of agenda items, to hear Item C, BONITA SPRINGS MOTOR CONDOS SPECIAL EXCEPTION ahead of Item B, TOMMY'S EXPRESS CAR WASH SPECIAL EXCEPTION. There were no objections.

A. CASE NAME: THE GROVE RESIDENTIAL PLANNED DEVELOPMENT (PD22-94289-BOS)

AN AMENDMENT TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO INCLUDE 24 MULTI-FAMILY UNITS AS THE PRINCIPAL USE OF THE PROPERTY, AND TO ADD ONE DEVIATION.

Wayne Arnold of Q Grady Minor, spoke on behalf of the applicant, presenting a summary of the deviation request and an overview of the proposed project, which included a summary of the proposed master concept plan and draft renderings (presentation on file in the Clerk's Office).

Michael Fiigon led the staff presentation, which included background information, staff analysis, findings, conclusions, and proposed conditions of approval. Staff recommended approval of the request with conditions. (Presentation and conditions on file in the Clerk's Office).

Chairman Rascio called for public comments; seeing none, closed the hearing. Board Member Hershenson made a motion to approve the applicant's request for an amendment to a Residential Planned Development to include 24 multi-family units as the principal use of the property, and to add one deviation, Seconded by Board Member Winn; the motion carried with six in favor, one absent.

B. CASE NAME: TOMMY'S EXPRESS CAR WASH (BONITA BEACH ROAD) SPECIAL EXCEPTION (SPE22-92499-BOS)

A SPECIAL EXCEPTION REQUEST TO ALLOW A CAR WASH FACILITY ON PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898.

City Attorney Rooney swore in all those who intended to speak or who have not yet been sworn in.

Wayne Arnold of Q Grady Minor led the presentation for the applicant. Mr. Arnold, along with additional staff from Q Grady Minor, Michael Herrera and Jim Banks, presented an overview of the proposed project, which included the conceptual site plan, renderings, traffic impact statement, and a summary of the special exception request (presentation on file in the Clerk's Office). Also, Mr. Arnold responded to questions from board members.

Michael Fiigon led the staff presentation, which included a project synopsis, staff analysis and conclusions, special exception approval criteria, and proposed conditions of approval. Staff recommended approval of the special exception request with conditions. (Presentation and conditions on file in the Clerk's Office). Also, Mr. Fiigon responded to questions asked by board members.

Board member Gambrell asked about water runoff, asking if he is correct in his understanding that no soapy water/wastewater would reach the river? Mr. Fiigon and Mr. Arnold replied that he is correct in that understanding.

DRAFT

Chairman Rascio asked if Bonita Springs Utilities has any issues with the additional wastewater entering their system? Mr. Fiigon stated BSU requires certain additives be removed before discharge into the system and a permit from BSU is required.

10:45 a.m. - Chairman Rascio recessed the meeting for a 15-minute break.
1I:00 a.m. - Chairman Rascio reconvened the meeting.

Chairman Rascio called for public comments and reminded those intending to speak that they have been sworn in.

- Rick Steinmeyer – Asked the following questions: Will the wall on the west side be insulated from noise? Is there necessary to have a wall? Will rainwater drainage go under the wall toward the preserve or toward Bonita Beach Rd? Chairman Rascio stated the questions will be held until the end of the public comment portion of the meeting.

- Cathy Green - Spoke in opposition to approval of the special exception request. Expressed concern about drainage, flooding, and traffic safety issues.

- David Fox - Spoke in opposition to approval of the special exception request. Stated that he has a petition signed by 97 residents requesting that the special exception be denied (Copy of said petition not provided to the Clerk).

- Joe Franklin - Spoke in opposition to approval of the special exception request, expressing concerns about traffic increase issues and the impact of the additional stormwater to the residents.

- Frank Macias - Spoke in opposition to approval of the special exception request. Expressed concerns about traffic safety issues in the neighborhood.

- Brian Bruland - Spoke in opposition to approval of the special exception request. Expressed concern about traffic increase issues and emergency service access to the neighborhood.

With no additional members of the public coming forward to speak, Chairman Rascio thanked those who spoke and closed the public comment portion of the meeting. He then asked staff and/or the applicant to address Mayor Steinmeyer's questions. Mr. Arnold stated that they would be fine with eliminating the segment of the wall referenced, which is next to the Kinetico business, because it does not have a bearing on the sound study. The wall will be designed for rainwater intake and ultimately water will be discharged through pipes to Bonita Beach Rd.

Chairman Rascio made a motion to approve the exception request with staff conditions; motion not seconded; motion failed.

Board Member Galloway made a motion to deny the exception request, based on not meeting special exception criteria for approval, criteria for approval G, H, and I; motion not seconded; motion failed.

Board Member Gambrell made a motion to deny; seconded by Board Member Galloway. The City Clerk called a roll call vote. The motion to deny was approved by a vote of 3-2, follows:

Winn	Gambrell	Benson	Galloway	Rascio	Hershenson	Waterhouse
yes	yes	no	yes	no	absent	absent

DRAFT

C. CASE NAME: BONITA SPRINGS MOTOR CONDOS SPECIAL EXCEPTION (SPE22-92936-BOS)

A SPECIAL EXCEPTION REQUEST TO ALLOW A CONDOMINIUM WAREHOUSE, PUBLIC USE FACILITY ON A PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898.

Bob Mulhere of Hole Montes presented on behalf of the applicant, Tom Taylor of Livingston Professional Center, who was also present in the council chambers. Mr. Mulhere provided an overview of the proposed project and summarized the special exception request (presentation on file in the Clerk's Office). In addition, Mr. Mulhere responded to questions asked by board members.

Chairman Rascio asked if it was anticipated that cars will be moved in and out daily. Mr. Mulhere replied to *no.* Chairman Rascio further asked if storage spaces will be purchased or leased. Mr. Mulhere stated they will all be *purchased*.

Board Member Benson asked if the facility is limited to automobiles storage, or if boats will be stored there as well. Mr. Mulhere stated that there may be boats, but they will also be stored inside. Mr. Mulhere further stated that there will be no fueling or repairs on the premises.

Mary Zizzo led the staff presentation, which included background information, staff analysis, findings, and conclusions. Staff recommended approval of the request with conditions. (Presentation and conditions on file in the Clerk's Office). In addition, Ms. Zizzo responded to questions asked by board members.

Chairman Rascio called for public comments; seeing none, Chairman Rascio made a motion to approve the applicant's request, with the conditions outlined by staff, Seconded by Board Member Hershenson; the motion carried with six in favor, one absent.

VIII. CASE UPDATE: Oakland CPD

IX. NEXT MEETING: May 16, 2023 at 9:00am (Tentative)

X. ADJOURNMENT
The Chairman adjourned the meeting at 11:54 a.m.

Respectfully submitted,

_____
Mike Sheffield, City Clerk

APPROVED:
BONITA SPRINGS ZONING BOARD:

Date:_____

AUTHENTICATED:

_____
Anthony Rascio, Chairman

DRAFT

Any person requiring special accommodation at any of the meetings because of a disability or physical impairment should contact Mike Sheffield, City Clerk by calling 239-949-6262, at least 48 hours prior to the meeting.

If a person decides to appeal a decision made by the Board in any matter considered at this meeting/hearing, such person may need to ensure that a verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based.

DRAFT

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 23 -

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR AN AMENDMENT TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO INCLUDE 24 MULTI-FAMILY UNITS AS THE PRINCIPAL USE OF THE PROPERTY, AND TO ADD ONE DEVIATION; LOCATED AT 04-48-25-B1-00002.000A, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, SRG Vanderbilt, LLC, has filed an application to request to amend an existing residential planned development (RPD) remove the previously approved 92-bed assisted living facility and add 24 multi-family units, and one (1) deviation;

WHEREAS, the subject property is located on the east side of Vanderbilt Driver south of Via Del Rey adjacent to the First Baptist Church of Bonita Springs, and is described more particularly as:

"See Exhibit A"

WHEREAS, a Public Hearing was advertised and heard on April 18, 2023, by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case PD22-94289-BOS, which considered the evidence available and recommended approval after giving full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City, and the testimony of all interested parties. The April 18, 2023 Staff Report prepared by Community Development and evidence submitted at the Zoning Board hearing, as part of the City Council hearing record, are on file with the City Clerk.

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

SECTION ONE: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the request to amend the existing RPD Ordinance 19-03 to allow a 24 multi-family units as principal use and removing the previous 92-bed assisted living facility, subject to the following uses, conditions and deviations with additions reflected in <u>underlined</u> language and deletions through use of ~~strikethroughs~~:

<u>Conditions</u>:

1. The project should be generally consistent with the Master Concept Plan <u>attached hereto as Exhibit "B"</u>~~dated April 2019 and titled "The Coastal Cottages RPD" prepared by Q. Grady Minor and Associates, P.A., and attached hereto (Exhibit "B")~~.

2. The Schedule of Uses are as follows:

   Accessory Uses and Structures
   Administrative Offices
   ~~Assisted Living Facilities, group housing for seniors, including independent, dependent, and memory care beds~~
   Carports/Garages
   Dwelling Units: Multi-Family
   ~~Community Gardens~~
   Entrance Gates
   Essential Service Facilities
   Excavation, Water Retention
   Fences and Walls
   ~~Food and Beverage Services, Limited~~
   Parking Lot Accessory
   Recreation Facilities, Personal
   Signs Per LDC
   ~~Staff Guest Quarters~~

3. The Development Regulations are as follows:

   Minimum Lot Area and Dimensions: N/A

Minimum Setbacks:	Principal Structure	Accessory
Vanderbilt Drive (west)	~~50~~ 75 feet	45 feet
Mango Road (east)	~~20~~ 40 feet	15 feet
North	~~20~~ 40 feet	15 feet
South	~~30~~ 50 feet	30 40 feet
Maximum Building Height:	~~30~~ 35 feet	30 feet

Minimum Building Separation:	~~10~~ 20 feet
Minimum Open Space:	40 percent

4. Additional Conditions – At the time of local development order, the Applicant shall meet the following criteria:

   a. Provide engineering plans showing how the site will store and treat its surface water runoff consistent with the City's Comprehensive Plan and the City's LDC, including compliance with Policy 9.3.3 of the Conservation/Coastal Management Element of the City's Comprehensive Plan, which states that an additional fifty (50) percent water quality is required over the already required South Florida Water Management District water quality.
   b. Provide a drainage analysis demonstrating that the site development plan has no adverse impact on adjacent properties and that there is sufficient on-site drainage capacity, storm-

water conveyance, and controlled discharge. The drainage analysis shall include, but not be limited to:

i. Provide an Interconnected Pond and Channel Routing (ICPR) Model. The 100-year 24 hour storm event is the primary storm used to evaluate the proposed design. The City reserves the right to request additional modeling of other storm events upon review of the data. All data submitted shall be formatted for inclusion into the city's Interconnected Pond Routing (ICPR) Model.

ii. A drainage map for all contributory areas within and into the development, showing flow paths/arrows, existing on-site and off-site drainage structures (sizes and inverts), and sub-basin areas; and (2) hydrologic and hydraulic calculations for the 5-, 25-, and 100-year design storm events in order to establish existing baseline conditions.

c. Drainage impediments identified during the modeling process must be addressed in the drainage plan.
d. Landscaping – Some of the buffers widths shown on the Master Concept Plan are greater than the LDC minimum. These are a condition of approval.
e. Coordinate with, and provide documentation from, Collier County regarding the connection to Vanderbilt Drive.
f. This is an archaeological sensitive area. A Certificate to Dig is required prior to the commencement of any on-site development.
g. A separate site permit is required for the portions of the sidewalk and roadway shown on the Master Concept Plan that are located on the CHURCH parcel.
h. Roof gutters are required as part of the drainage plan.
i. All handicap spaces must have direct pedestrian access to the building and comply with ADA Standards 206 Accessible Route.
j. This Plan is subject to conditions set forth herein and the rules, regulations laws and codes in place at the time of Development Order and Constructions Plan approval. Approval of this Planned Development is no a guarantee of future approvals.

Deviations:

1. Deviation from LDC Section 3-291. Requiring intersection separations to be a minimum 330 feet, to allow a 275' separation consistent with existing conditions along Vanderbilt Drive.

2. A deviation from LDC 3-418(d)(6) which indicates that if roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, a solid wall or combination berm and solid wall note less than eight feet in eight must be

constructed not less than 25 feet from the abutting property and landscaped (with a minimum of five trees and 18 shrubs per 100 lineal feet, to instead allow the required wall to be located 20 feet from the property line.

SECTION TWO: FINDINGS AND CONCLUSIONS

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

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

SECTION THREE: INCORPORATION OF RECORD

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

EXHIBITS:

A. Legal Description and Sketch of the Subject Property
B. The Grove Master Concept Plan

ATTACHMENTS:

A. Background and Informational Analysis
B. City of Bonita Springs Zoning Ordinance 19-03
C. Application Backup

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of June, 2023.

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM: _____

City Attorney

Vote:

Carr	Corrie
Purdon	Bogacz
Forbes	Steinmeyer
Fullick	

Date filed with City Clerk: _____

BONITA SPRINGS, FLORIDA

COMMUNITY DEVELOPMENT DEPARTMENT

ZONING DIVISION

STAFF REPORT

TYPE OF CASE: PLANNED DEVELOPMENT AMENDMENT

CASE NUMBER: PD22-94289-BOS

HEARING DATE: April 18, 2023

PLANNER: Mike Fiigon II, Senior Planner

APPLICATION SUMMARY:

A. Applicant: SRG Vanderbilt, LLC

B. Agent: Q. Grady Minor & Associates, P.A., Coleman, Yovanovich & Koester, P.A.

C. Request: To amend a Residential Planned Development (RPD) to include 24 multi-family units as the principal use of the property, and to add one (1) deviation.

D. Location: East side of Vanderbilt Drive, South of the First Baptist Church; STRAP: 04-48-25-B1-00002.000A, Bonita Springs, Florida 34134

E. Future Land Use Plan Designation: Medium Density Multi-Family Residential

F. Current Zoning: Residential Planned Development (RPD)

G. Current Land Use: Vacant

By this reference, the Applicant's application in its entirety, including amendments and correspondence, is made part of this record and is available at the City Clerk's and Community Development's Offices.

BACKGROUND:

The property was rezoned from the Agricultural zoning district (AG-2) to a Residential Planned Development (RPD) pursuant to Zoning Ordinance 19-03, approved on July 15, 2019 (Attachment B). At the time, the intent was to construct a 92-bed assisted living facility (ALF) which included a mix of independent, dependent, and memory care beds. In 2020, a development order application for the ALF project was submitted to the City. In early 2022, the City was informed that the property was in the process of being sold and that the ALF project would be discontinued. A pre-application meeting was set up with the Applicant's agent to discuss a future proposal for the property to include 24 multi-family units an amenity building with a pool and garages that would be sold with the multi-family units. The Applicant's agent was informed that such a request would require an amendment to Ordinance 19-03. The amendment request was filed and is the basis for this staff report.

Uses: As part of the amendment request, the Applicant proposes the following changes to the Schedule of Uses:

Accessory Uses and Structures
Administrative Offices
~~Assisted Living Facilities, group housing for seniors, including independent, dependent, and memory care beds~~
Carports/Garages
Dwelling Units: Multi-Family
~~Community Gardens~~
Entrance Gates
Essential Service Facilities
Excavation, Water Retention
Fences and Walls
~~Food and Beverage Services, Limited~~
Parking Lot Accessory
Recreation Facilities, Personal
Signs Per LDC
~~Staff Guest Quarters~~

Property Development Regulations: The Applicant also proposes the following amendments to the property development standards, with regulations not listed intending to remain as previously approved:

Minimum Setbacks:	Principal Structure	Accessory
Vanderbilt Drive (west)	~~50~~ 75 feet	45 feet
Mango Road (east)	~~20~~ 40 feet	15 feet
North	~~20~~ 40 feet	15 feet
South	~~30~~ 50 feet	~~30~~ 40 feet
Maximum Building Height:	~~30~~ 35 feet	30 feet

Minimum Building Separation: ~~10~~ 20 feet

Deviations: A deviation from LDC 3-291 (connection separation) was approved as part of Ordinance 19-03. As part of this request, the Applicant is requesting one additional deviation, outlined below:

Deviation Request #2: A deviation from LDC 3-418(d)(6) which indicates that if roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (with a minimum of five trees and 18 shrubs per 100 lineal feet, to instead allow the required wall to be located 20 feet from the property line.

Applicant Justification: *This deviation places the required wall 20' feet from the property line within the required 25' wide buffer, which will allow installation of the required landscaping on the between the wall and the abutting property, and to allow for the applicant to provide landscaping between the wall and the internal driveway. The property is separated from the property to the east by Mango Road and the proposed relocation of the wall to 20' from the ROW with the otherwise required landscaping on the exterior of the wall will have no impact on the nearby homes. The property to the south is separated from the proposed project by an existing 50'+/- wide preserve/buffer. The proposed relocation of the wall to 20' from the property line will have no impact on the adjacent property.*

Staff Analysis: Within the property, the Applicant is proposing a two-way drive aisle and detached garages to the south and a two-way drive aisle to the east. In addition, the property to the south (Bermuda Isle II Condominiums) is separated from the subject property by platted buffer and drainage easements. Staff does not object to the deviation request. Approving this deviation does not absolve the Applicant of having to meet landscape buffering standards, which will include plantings on both sides of the wall. Staff recommends **APPROVAL** of this deviation request.

CONCLUSIONS:

It is Staff's opinion that the Applicant has properly demonstrated that the proposed amendment is appropriate for the RPD. Additional analysis performed by Staff in order to reach this conclusion can be found by reviewing "Attachment A."

RECOMMENDATION:

Staff recommends **APPROVAL** of a Residential Planned Development (RPD) zoning amendment to Ordinance 19-03 to include 24 multi-family units as the principal use of the property. This recommendation of approval is subject to the following conditions:

Conditions:

1. The project shall be generally consistent with the Master Concept Plan provided and labeled as Exhibit "B."

2. Schedule of Uses:

   Accessory Uses and Structures
   Administrative Offices
   ~~Assisted Living Facilities, group housing for seniors, including independent, dependent, and memory care beds~~
   Carports/Garages
   Dwelling Units: Multi-Family
   ~~Community Gardens~~
   Entrance Gates
   Essential Service Facilities
   Excavation, Water Retention
   Fences and Walls
   ~~Food and Beverage Services, Limited~~
   Parking Lot Accessory
   Recreation Facilities, Personal
   Signs Per LDC
   ~~Staff Guest Quarters~~

3. Property Development Regulations: The Applicant proposes the following property development standards:

   Minimum Lot Area: N.A.

Minimum Setbacks:	Principal Structure	Accessory
Vanderbilt Drive (west)	~~50~~ 75 feet	45 feet
Mango Road (east)	~~20~~ 40 feet	15 feet
North	~~20~~ 40 feet	15 feet
South	~~30~~ 50 feet	~~30~~ 40 feet
Maximum Building Height:	~~30~~ 35 feet	30 feet

Minimum Building Separation:	~~10~~ 20 feet
Minimum Open Space:	40 percent

4. All remaining conditions of City of Bonita Springs Zoning Ordinance 19-03 remain in full force and effect, unless modified by this approval.

Deviations

1. **[Approved pursuant to Ordinance 19-03]** Deviation from LDC Section 3-291, requiring intersection separations to be a minimum of 330 feet, to allow a separation of 275 feet consistent with existing conditions along Vanderbilt Drive.

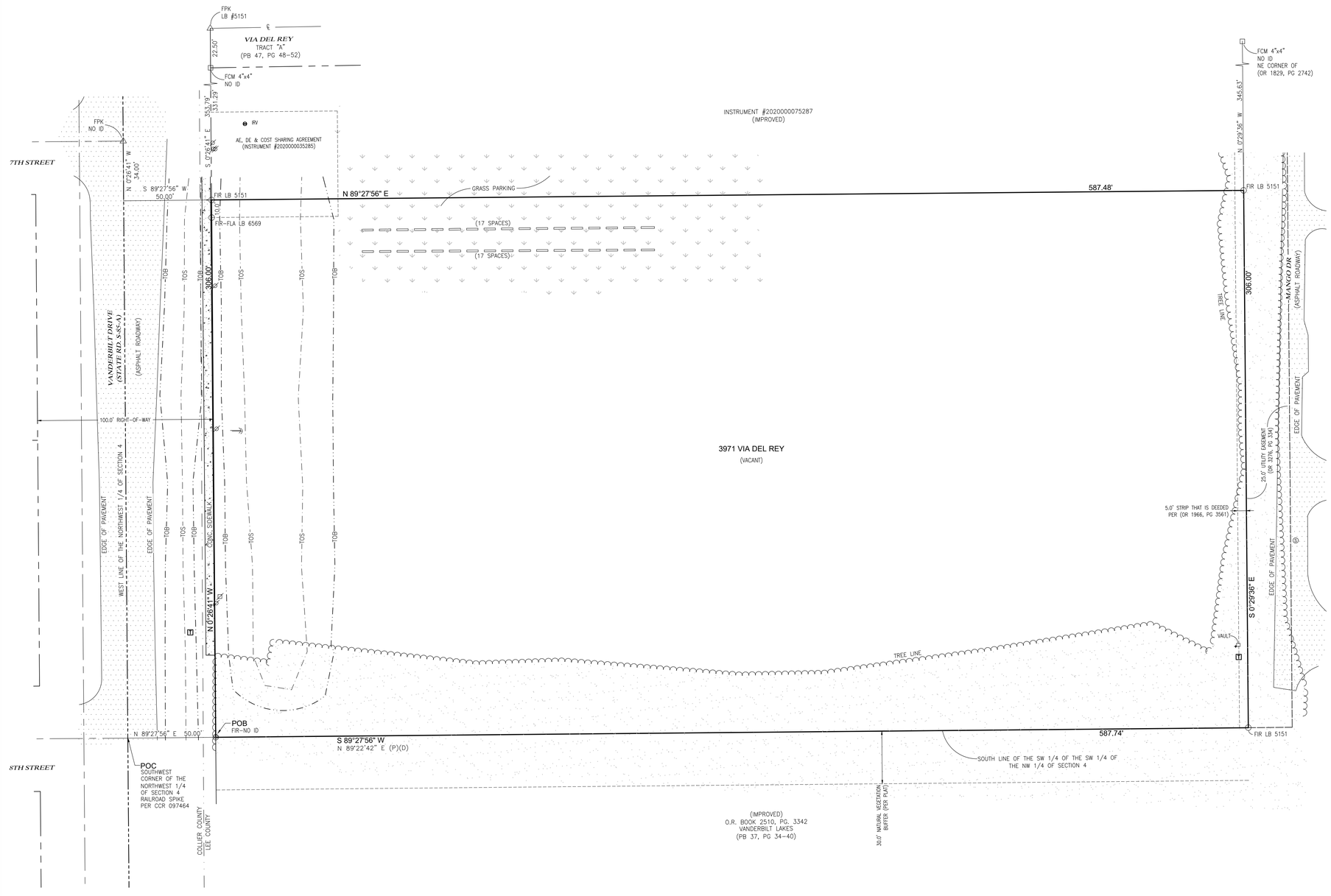
2. A deviation from LDC 3-418(d)(6) which indicates that if roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (with a minimum of five trees and 18 shrubs per 100 lineal feet, to instead allow the required wall to be located 20 feet from the property line. Staff recommends **APPROVAL** of this deviation.

EXHIBITS:

A. Legal Description and Sketch of the Subject Property
B. The Grove RPD Master Concept Plan (MCP)

ATTACHMENTS:

A. Background and Informational Analysis
B. City of Bonita Springs Zoning Ordinance 19-03
C. Application Backup (Final Documents)



PROPERTY DESCRIPTION:

(PER PROVIDED TITLE COMMITMENT)

A PARCEL OF LAND BEING A PORTION OF SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 4; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 4 NORTH 89°27'56" EAST, A DISTANCE OF 50.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF VANDERBILT DRIVE (S.R. S-85-A) AND ALSO BEING THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE ALONG SAID EAST RIGHT-OF-WAY NORTH 00°26'41" WEST, A DISTANCE OF 306.00 FEET; THENCE NORTH 89°27'56" EAST, A DISTANCE OF 587.48 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF MANGO DRIVE; THENCE ALONG SAID WEST RIGHT-OF-WAY SOUTH 00°29'36" EAST, A DISTANCE OF 306.00 FEET TO THE SOUTHEAST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1966, PAGE 3561, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE ALONG THE SOUTH LINE OF SAID LANDS AND THE SOUTH LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1829, PAGE 2742, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA SOUTH 89°27'56" WEST, A DISTANCE OF 587.74 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.13 ACRES, MORE OR LESS.

TOGETHER WITH A NON-EXCLUSIVE RIGHT OF USE AS TO ACCESS EASEMENT AND DRAINAGE EASEMENT DATED FEBRUARY 10, 2020 AND RECORDED IN INSTRUMENT NO. 2020000035285, PUBLIC RECORDS OF LEE COUNTY, FLORIDA

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983, NATIONAL GEODETIC SURVEY ADJUSTMENT OF 2011 OBTAINED USING RTK GPS OBSERVATIONS ON THE FDOT NETWORK AND ARE REFERENCED TO THE EAST RIGHT-OF-WAY LINE OF VANDERBILT DRIVE, BEING N 0°26'41" W.
2. THIS SURVEY WAS PREPARED WITH THE BENEFIT OF A TITLE COMMITMENT PROVIDED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, FILE NUMBER OF 21127520, HAVING AN EFFECTIVE DATE OF DECEMBER 3, 2021 REVISION # 2 AT 8:00 AM., AND MAY BE SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD. ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.
3. THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE X HAVING NO BASE FLOOD ELEVATION, PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP # 12071C 0654 F, DATED 8/28/08.
4. CERTAIN FEATURES REPRESENTED BY SYMBOLS MAY NOT BE SHOWN AT THEIR TRUE LOCATION AND/OR SCALE IN ORDER TO BE ABLE TO DEPICT THEM ON THIS MAP.
5. DIMENSIONS SHOWN HEREON ARE IN U.S. SURVEY FEET AND DECIMALS THEREOF.
6. THIS SURVEY DOES NOT ADDRESS ANY ENVIRONMENTAL CONCERNS, ENDANGERED WILDLIFE OR JURISDICTIONAL WETLANDS, IF ANY, EXCEPT AS SHOWN ON THIS SURVEY.
7. THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.
8. THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. NO ADDITIONS OR DELETIONS TO THIS SURVEY MAP ARE PERMITTED WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE SIGNING PARTY.
9. UNLESS OTHERWISE NOTED, BELOW GROUND UTILITIES AND FOUNDATIONS WERE NOT LOCATED FOR THE PURPOSES OF THIS SURVEY.
10. BY SIGNING BELOW I CERTIFY THAT THIS SURVEY WAS MADE UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17.051, F.A.C, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.
11. DATE OF LAST FIELD WORK: 2/22/2022.

0 15' 30' 60'
SCALE: 1" = 30'

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

-N-

LEGEND

POC	POINT OF COMMENCEMENT	PB	PLAT BOOK	ELEV	ELEVATION		CATCH BASIN		LIGHT POLE		
POB	POINT OF BEGINNING	OR	OFFICIAL RECORDS BOOK	INV	INVERT ELEVATION		DRAINAGE MANHOLE		TELEPHONE MANHOLE		
FIP	FOUND IRON PIPE	PG	PAGE(S)	RIM	RIM ELEVATION		MITERED END		TELEPHONE RISER/BOX		
FIR	FOUND 5/8" IRON ROD	PSM	PROFESSIONAL SURVEYOR AND MAPPER	A/C	AIR CONDITIONING UNIT/PAD		YARD DRAIN		CABLE TELEVISION RISER/BOX		
SIR	SET 5/8" IRON ROD w/CAP, LB #5151	LB	LICENSED BUSINESS	CONC	CONCRETE	WV	WATER VALVE		ELECTRIC MANHOLE		
FDM	FOUND CONCRETE MONUMENT	SPC	STATE PLANE COORDINATES	CMP	CORRUGATED METAL PIPE		WATER METER		ELECTRIC RISER/BOX/METER		
SCM	SET CONC. MONUMENT w/ALUMINUM DISK, LB #5151	ROW	RIGHT-OF-WAY	CPP	CORRUGATED PLASTIC PIPE	BFPDA	BACK FLOW PREVENTOR		ELECTRIC TRANSFORMER		
		PUE	PUBLIC UTILITY EASEMENT	RCP	REINFORCED CONCRETE PIPE		FIRE HYDRANT		TRAFFIC LIGHT		
FPK	FOUND PARKER KALON NAIL	CUE	COUNTY UTILITY EASEMENT	CHW	CONCRETE HEADWALL		FIRE DEPARTMENT CONNECTION		UNDERGROUND UTILITY MARKER		
SPK	SET PARKER KALON NAIL w/ALUMINUM DISK, LB #5151	UE	UTILITY EASEMENT	TOB	TOP OF BANK		BACTERIA SAMPLE POINT		SIGN ON POLE		
		AE	ACCESS EASEMENT	TOS	TOE OF SLOPE		AIR RELEASE VALVE		MAILBOX		
FDH	FOUND DRILL HOLE	DE	DRAINAGE EASEMENT	EOW	EDGE OF WATER	IRV	IRRIGATION VALVE/ CONTROL VALVE	CLF	CHAIN LINK FENCE		DENOTES POSSIBLE GRASS PARKING SPACES
SDH	SET DRILL HOLE	LME	LAKE MAINTENANCE EASEMENT	℄	CENTER LINE	GV	GAS VALVE	CCR	CERTIFIED CORNER RECORD		
FMN	FOUND MAG NAIL	LBE	LANDSCAPE BUFFER EASEMENT	EOP	EDGE OF PAVEMENT		GAS LINE MARKER		DENOTES HANDICAPPED PARKING SPACE	(X)	DENOTES NUMBER OF STANDARD PARKING SPACES
SMN	SET MAG NAIL	IRRE	IRRIGATION EASEMENT	BOL	BOLLARD		GAS MARKER				
(P)	PLAT	FPL	FLORIDA POWER AND LIGHT	●	GREASE TRAP		UTILITY POLE - WOOD				
(M)	MEASURED	BSUE	BONITA SPRINGS UTILITY EASEMENT	Ⓢ	SANITARY MANHOLE		UTILITY POLE - CONCRETE				
(C)	CALCULATED	NAVD	NORTH AMERICAN VERTICAL DATUM OF 1988	CO	CLEAN OUT		GUY ANCHOR				
(D)	DEED/TITLE COMMITMENT	NGVD	NATIONAL GEODETIC VERTICAL DATUM OF 1929	SV	SEWER VALVE		OVERHEAD WIRES				
						Ⓦ	WELL				

= ASPHALT = CONCRETE = BRICK PAVER

GradyMinor
Civil Engineers • Land Surveyors • Planners • Landscape Architects
Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151
Bonita Springs: 239.947.1144
www.GradyMinor.com
Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134
Business LC 26000266
Fort Myers: 239.690.4380

DRAWN BY:	AH
CHECKED BY:	DLS
JOB CODE:	3971VDR
SCALE:	1" = 30'
DATE:	23 FEBRUARY 2022
FILE:	21-233-BS.DWG
SHEET:	1 of 1

BOUNDARY SURVEY w/ IMPROVEMENTS

3971 VIA DEL REY
BONITA SPRINGS, FL 34134

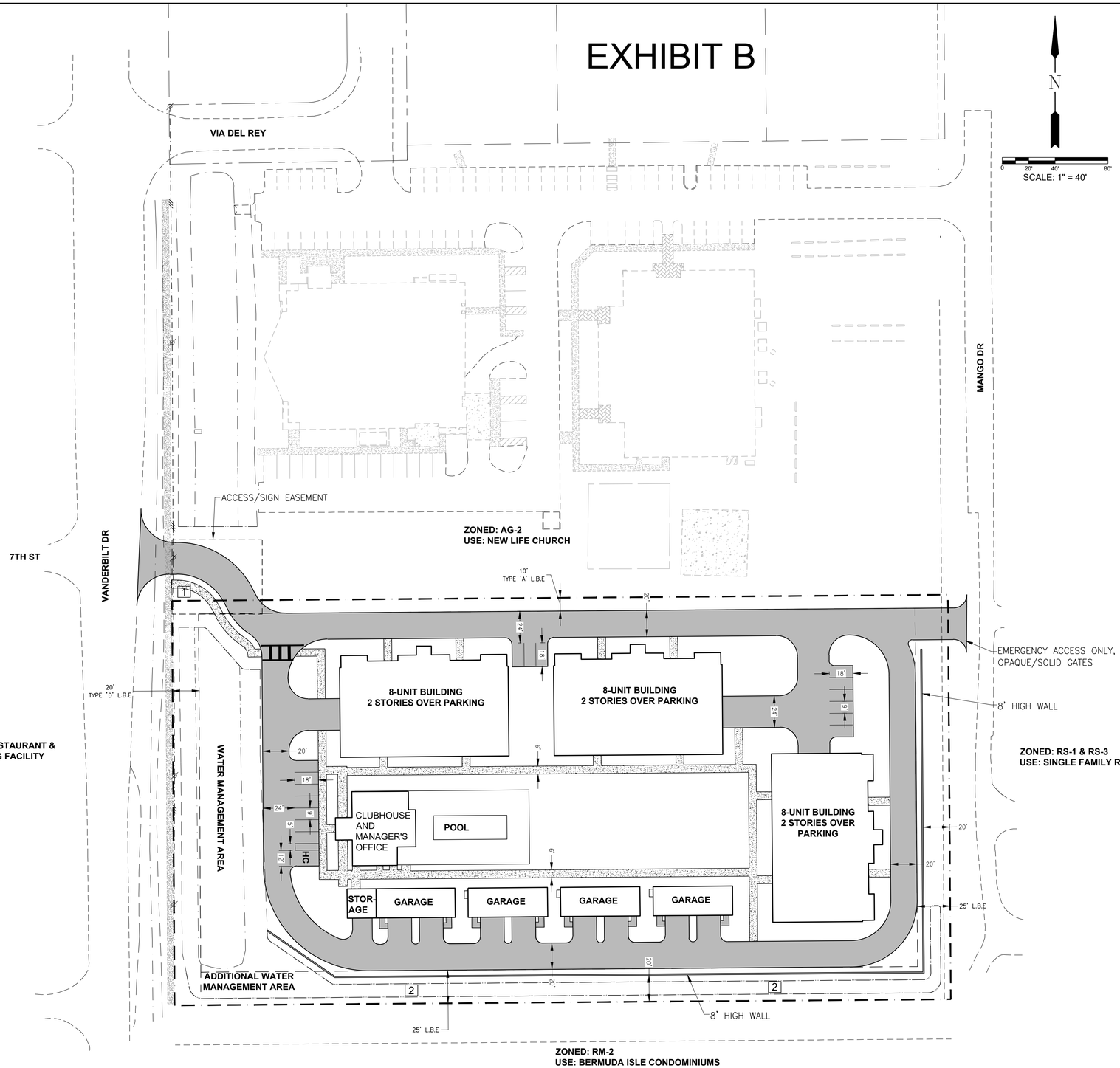
LYING IN
SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

DATE SIGNED

DONALD L. SAINTENOY III, P.S.M.
FL LICENSE #6761
FOR THE FIRM

G:\SURVEY\PROJECT SURVEY 2021\233 - 3971 VIA DEL REY ALTA\SURVEY\21-233-BS.DWG

EXHIBIT B



SITE SUMMARY

PLAN DESIGNATION:	MEDIUM DENSITY RESIDENTIAL
EXISTING ZONING DESIGNATION:	COASTAL COTTAGES RPD
EXISTING LAND USE:	UNDEVELOPED
PROPOSED ZONING DESIGNATION:	THE GROVE RPD
GROSS AREA:	4.13± ACRES
MAXIMUM DWELLING UNITS:	24 MULTI-FAMILY
STRAP NUMBERS:	04-48-25-B1-00002.0000
STREET ADDRESS:	VANDERBILT DRIVE

INDIGENOUS PRESERVE:

REQUIRED: 0
PROVIDED: 0

OPEN SPACE:

REQUIRED: 1.65± ACRE (4.13± ACRE X 0.40)
PROVIDED: 1.65± ACRE

DEVELOPMENT REGULATIONS:

MINIMUM SETBACKS:

PRINCIPAL:

VANDERBILT DRIVE	75 FEET
MANGO ROAD	40 FEET
NORTH	40 FEET
SOUTH	50 FEET

ACCESSORY:

VANDERBILT DRIVE	45 FEET
MANGO ROAD	15 FEET
NORTH	15 FEET
SOUTH	40 FEET

MINIMUM BUILDING SEPARATION: 20 FEET

MAXIMUM BUILDING HEIGHT:
PRINCIPAL: 35 FEET - EAVE HEIGHT (2 STORIES OVER PARKING)
ACCESSORY: 30 FEET

PARKING:

REQUIRED: 46 SPACES (24 UNITS @ 1.75 SPACE/UNIT + 10%)

PROVIDED: 71 (FINAL SPACE COUNT TO BE SHOWN AT TIME OF DEVELOPMENT ORDER)

DEVIATIONS:

1. RELIEF FROM LDC SECTION 3-291 - CONNECTION SEPARATION
2. RELIEF FROM LDC SECTION 3-418(d)(6) - LANDSCAPE STANDARDS

NOTES

1. THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO MODIFICATION AT THE TIME OF AGENCY PERMITTING, D.O. OR PLAT APPROVAL. HOWEVER, ANY SUCH MODIFICATION SHALL BE IN COMPLIANCE WITH THE APPLICABLE LAND DEVELOPMENT CODE (LDC) DESIGN STANDARDS AND GUIDELINES.

LEGEND

[#] **DEVIATION**

Revision	Date	Description	By

DESIGNED BY: QGMA
DRAWN BY: C.K.
APPROVED: D.W.A.
JOB CODE: CCPDA-22
SCALE: 1" = 40'

GradyMinor
Civil Engineers • Land Surveyors • Planners • Landscape Architects
Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266
Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380
Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

THE GROVE RPD

EXHIBIT IV.E
MASTER CONCEPT PLAN
REVISED 2/2/2023

MUNICIPALITY: BONITA SPRINGS
SEC/TWNSHP/RNG: 4/48S/25E
DATE: JULY 2022
SUBMITTAL TYPE: MCP
SHEET 1 OF 1

C:\PLANNING\PROJ - PLANNING\CCPDA-22 COASTAL COTTAGES PD (PD22-9429B-BOS)\DRAWINGS\CCPDA-22_MCP-EA.DWG 2/2/2023 2:40 PM

ATTACHMENT "A"

BACKGROUND AND INFORMATIONAL ANALYSIS:

Surrounding Land Use:

Existing Zoning & Land Use	Future Land Use Map
Subject Parcel: RPD, Vacant	Med. Den. MF Res. 6 du/ac
North: AG-2, Church	Med. Den. MF Res. 6 du/ac
East: RS-1 and RS-3, SF Residential	Mod. Den. Residential 5.8 du/ac
South: RM-2, MF Res. Bermuda Isles II Condo	Med. Den. MF Res. 6 du/ac
West: C-3, Commercial: Kiva Assisted Living, Multi-Use Plaza (Collier County)	Urban Residential Sub district (Collier County)

Planned Development Analysis

Review criteria	Yes – Mostly - Partly - No
Demonstrate compliance with the Bonita Plan, this Land Development Code, and any other applicable code or regulation	Yes – The application is in compliance with the Comprehensive Plan and applicable Land Development Code Regulations
The request meets or exceeds performance and location standards set forth for the proposed uses	Yes – The MCP as submitted meets the requirements of the Zoning Code.
Including the use of TDR or affordable housing bonuses are the densities or intensities (general uses) consistent with the Comprehensive Plan	Yes – the maximum allowable density is 24 units, which is what is being requested.
The request is compatible with existing or planned uses in the surrounding area	Yes – The surrounding uses are residential, retail, and an assisted living facility. The request is for a residential use.

Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development	Yes-- The proposed multi-family project will account for less than 2% of the adjacent roadway network's level of service capacity. Projects that generate less than 2% are considered to be non-significant for traffic impacts.
Will the request adversely affect environmentally critical areas and natural resources	No – While no environmentally critical areas or natural resources were observed, the owner must obtain a Certificate to Dig, prior to any on-site development activities.
Public facilities are, or will be, available and adequate to serve the proposed land use	Yes - Public facilities are available to the site.
Deviations needed to enhance or to achieve the objectives of the planned development	Yes –the proposed added deviation will allow for the proper location of a two-way drive aisle and a landscape area abutting the proposed project wall on the south side.
Deviations needed to preserve, promote and or protect the public health, safety and welfare	Yes – the proposed added deviation will allow for the proper location of a two-way drive aisle to better serve the development, while still providing adequate screening and buffering of any potential headlight glare onto adjacent properties.

Environmental

There are no environmentally critical areas on-site, nor are there any heritage trees present. With regards to landscaping, the Applicant has not requested any deviations to landscaping or buffering standards for required plantings or numbers of plantings. A deviation is being requested regarding the location of a wall on the south side, eight (8) feet in height. Pursuant to LDC 3-418, a wall or a berm/wall combination is required for any roads, drives, or parking areas that are located less than 125 feet from existing residential areas. The wall is required to be at least 25 feet from the abutting property. The deviation is to allow the wall 20 feet from the abutting property. Staff's analysis of the deviation is provided in the Staff Report.

Stormwater

At this time, the primary discharge point for the church property and the subject property is west, to the right of way of Vanderbilt Drive, then north to Bonita Beach Road. One aspect the developer will need to explore at time of local development order would be to possibly increase the berm height in order to prevent water from flowing south and to

continue with the permitted northern movement towards Bonita Beach Road. The developer will need to provide detailed stormwater calculations as part of the local development order submittal. The development order cannot be approved without an adequate stormwater plan that clearly shows no increased runoff on adjacent properties.

Traffic

The Applicant provided a Traffic Impact Statement (TIS), which was reviewed by the City's transportation engineer as well as Collier County. The primary point of access for the project is Vanderbilt Drive, which is under the jurisdiction of Collier County and classified as a minor collector road, with a maximum service capacity of 1,000 vehicles per hour (vph). Based on projected build-out conditions, The affected segment of Vanderbilt Drive will have a traffic demand of 883 vph. The project is proposed to account for a 1.73% impact to the roadway network. Projects that have an impact less than 2% are considered to be nonsignificant.

Other areas of impact would be Bonita Beach Road west of Vanderbilt, Bonita Beach Road west of US 41, and Bonita Beach Road west of Arroyal road. The associated project impact at its peak would be 0.12%, 0.79%, and 0.30% respectively. Similar to the impacts on Vanderbilt, these impacts are considered nonsignificant.

The project will also have access off Mango Drive, but it is designated as emergency access only and cannot be used as a general access point. The project will need to include the required sidewalk infrastructure, as shown on the MCP. Coordination for the exact location of the sidewalk within the Vanderbilt right of way will need to be with Collier County and will be the developer's responsibility.

Comprehensive Plan

The property is located in the Medium Density Multi-Family Residential future land use category. This category is described as follows:

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

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

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

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

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

The proposed project is a multi-family development of 24 units and is consistent with Policy 1.1.8.1 of the future land use element.

With regards to the Traffic Element, the project fronts fully constructed roadways and will be providing the required multimodal infrastructure. A Traffic Impact Statement (TIS) was provided and was reviewed by the City's traffic engineer as well as Collier County. Another TIS will be required as part of the local development order submittal. It is the Staff opinion that the project is consistent with the traffic element of the Bonita Plan.

With regards to the Housing Element, this residential project is proposed in a largely residential area and will be multi-family in nature, similar to the Bermuda Isles II Condominium to the south. While the Applicant has not elected to build affordable housing by definition, the option will remain available and could yield additional density if affordable units are provided, or, if a contribution to the City's affordable housing fund is made. The Staff opinion is that the project is consistent with the housing element of the Bonita Plan.

The remaining comprehensive plan elements (Coastal/Conservation Management, Intergovernmental Coordination, Capital Improvements, and Recreation/Open Space are not applicable to this amendment request.

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 19 - 03

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST BY OSPREY CAPITAL MANAGEMENT I, LLC TO REZONE APPROXIMATELY 4 +/- ACRES FROM THE AG-2 AGRICULTURAL ZONING DISTRICT TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD) FOR A 92-BED ASSISTED LIVING FACILITY; LOCATED AT 3971 VIA DEL REY, BONITA SPRINGS, FL 34134; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Osprey Capital Management I, LLC, has filed an application to request to rezone approximately 4+/- acres from the AG-2 zoning district to a residential planned development (RPD) to allow a 92-bed assisted living facility; and

WHEREAS, the subject property is located on the east side of Vanderbilt Driver south of Via Del Rey adjacent to the First Baptist Church of Bonita Springs, and is described more particularly as:

"See Exhibit A"

WHEREAS, a Public Hearing was advertised and heard on June 25, 2019, by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case PD18-50293-BOS, which considered the evidence available and recommended denial (4-3 vote) after giving full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City, and the testimony of all interested parties. The June 25, 2019 Staff Report prepared by Community Development and evidence submitted at the Zoning Board hearing, as part of the City Council hearing record, are on file with the City Clerk.

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

SECTION ONE: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the request to rezone approximately 4+/- acres from the AG-2 zoning district to a residential planned development (RPD) to allow a 92-bed assisted living facility, subject to the following uses, conditions and deviations:

Conditions:

1. The project should be generally consistent with the Master Concept Plan dated April 2019 and titled "The Coastal Cottages RPD" prepared by Q. Grady Minor and Associates, P.A., and attached hereto (Exhibit "B").

2. The Schedule of Uses are as follows:
   Accessory Uses and Structures

Administrative Offices
Assisted Living Facilities, group housing for seniors, including independent, dependent, and memory care beds
Carports/Garages
Community Gardens
Entrance Gates
Essential Service Facilities
Excavation, Water Retention
Fences and Walls
Food and Beverage Services, Limited
Parking Lot Accessory
Recreation Facilities, Personal
Signs Per LDC
Staff Guest Quarters

3. The Development Regulations are as follows:

Minimum Lot Area and Dimensions: N/A

Minimum Setbacks:	Principal Structure	Accessory
Vanderbilt Drive (west)	50 feet	45 feet
Mango Road (east)	20 feet	15 feet
North	20 feet	15 feet
South	30 feet	30 feet
Maximum Building Height:	30 feet	30 feet

Minimum Building Separation:	10 feet
Minimum Open Space:	40 percent

4. Additional Conditions – At the time of local development order, the Applicant shall meet the following criteria:

    a. Provide engineering plans showing how the site will store and treat its surface water runoff consistent with the City's Comprehensive Plan and the City's LDC, including compliance with Policy 9.3.3 of the Conservation/Coastal Management Element of the City's Comprehensive Plan, which states that an additional fifty (50) percent water quality is required over the already required South Florida Water Management District water quality.
    b. Provide a drainage analysis demonstrating that the site development plan has no adverse impact on adjacent properties and that there is sufficient on-site drainage capacity, storm-water conveyance, and controlled discharge. The drainage analysis shall include, but not be limited to:
        i. Provide an Interconnected Pond and Channel Routing (ICPR) Model. The 100-year 24 hour storm event is the

primary storm used to evaluate the proposed design. The City reserves the right to request additional modeling of other storm events upon review of the data. All data submitted shall be formatted for inclusion into the city's Interconnected Pond Routing (ICPR) Model.

ii. A drainage map for all contributory areas within and into the development, showing flow paths/arrows, existing on-site and off-site drainage structures (sizes and inverts), and sub-basin areas; and (2) hydrologic and hydraulic calculations for the 5-, 25-, and 100-year design storm events in order to establish existing baseline conditions.

c. Drainage impediments identified during the modeling process must be addressed in the drainage plan.
d. Landscaping – Some of the buffers widths shown on the Master Concept Plan are greater than the LDC minimum. These are a condition of approval.
e. Coordinate with, and provide documentation from, Collier County regarding the connection to Vanderbilt Drive.
f. This is an archaeological sensitive area. A Certificate to Dig is required prior to the commencement of any on-site development.
g. A separate site permit is required for the portions of the sidewalk and roadway shown on the Master Concept Plan that are located on the CHURCH parcel.
h. Roof gutters are required as part of the drainage plan.
i. All handicap spaces must have direct pedestrian access to the building and comply with ADA Standards 206 Accessible Route.
j. This Plan is subject to conditions set forth herein and the rules, regulations laws and codes in place at the time of Development Order and Constructions Plan approval. Approval of this Planned Development is no a guarantee of future approvals.

Deviations:

Deviation from LDC Section 3-291. Requiring intersection separations to be a minimum of 330 feet, to allow a 275' separation consistent with existing conditions along Vanderbilt Drive.

SECTION TWO: FINDINGS AND CONCLUSIONS

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

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

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

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

4. The requested planned development:

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

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

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

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

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

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

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

SECTION THREE: INCORPORATION OF RECORD

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

EXHIBITS:

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

ATTACHMENTS:

A. Transcript of Neighborhood Meeting
B. Background and Informational Analysis
C. Application for Planned Development
D. Traffic Report
E. Drainage Report / Calcs
F. Citizen Responses

SECTION FOUR: EFFECTIVE DATE

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

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 15th day of July, 2019.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:

Carr	Aye	O'Flinn	Aye
DeWitt	Aye	Quaremba	Aye
Forbes	Aye	Simmons	Aye
Gibson	Aye		

Date filed with City Clerk: 9/18/19

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-06-123
June 7, 2023

REQUESTED MOTION: A ZONING RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR A SPECIAL EXCEPTION REQUEST TO ALLOW A CAR WASH FACILITY ON PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898; LOCATED AT 11230 BONITA BEACH ROAD SOUTHEAST, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE.

REQUESTOR: Mike Fiigon II, Senior Planner, Community Development

AGENDA: Zoning & Land Use Items

STRATEGIC PRIORITY:

BACKGROUND: The request is for a special exception to allow a car wash building approximately 4,600sf on a commercial property within the Bonita Beach Road Corridor Overlay. The Applicant is also proposing up to 17 vacuum stalls, as shown on the site plan.

The property abuts residential property on the north side, but has oriented the site so that the majority of the impact is along Bonita Beach Road. In addition to conducting a noise study to demonstrate compliance, the Applicant is proposing a barrier wall and has agreed to a Staff-initiated condition to provide soundproofing as a means to further capture potential noise associated with the car wash operation. The barrier wall will be approximately 60 feet away from the closest residential property line and the car wash tunnel and vacuum stations will be approximately 150 feet away. The remaining property between the barrier wall and the abutting homes will be used for landscaping, open space, and stormwater retention.

No deviations or variances are being requested and it is Staff's opinion that the Applicant has demonstrated compliance with the special exception criteria.

The Zoning Board heard the request on April 18, 2023 and voted to deny the request by a motion of 3-2.

The full application and backup can be viewed on the City's website.

STAFF RECOMMENDATION: Approve as conditioned.

ATTACHMENTS:

1. Draft Resolution
2. Zoning Board Meeting Minutes, April 18, 2023
3. Staff Report with Boundary Survey and Site Plan

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Michael Sheffield
Department Director:	John Dulmer

CITY OF BONITA SPRINGS
ZONING RESOLUTION NO. 23 – XX

A ZONING RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR A SPECIAL EXCEPTION REQUEST TO ALLOW A CAR WASH FACILITY ON PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898; LOCATED AT 11230 BONITA BEACH ROAD SOUTHEAST, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Applicant, 11230 Bonita Beach RE, LLC is the owner of record for the subject parcels; and

WHEREAS, the Applicant is seeking a special exception to allow a car wash facility on a property located within the commercial zone of the Bonita Beach Road Corridor Overlay pursuant to Section 4-898 of the City's land development code ("LDC"); and

WHEREAS, a Public Hearing was advertised and heard on April 18, 2023 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case SPE22-92499-BOS who recommended denial (3-2) after giving full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City and the testimony of all parties; and

WHEREAS, City Council at their June 7, 2023 meeting considered Case SPE22-92499-BOS, as well as a minutes of the Zoning Board hearing submitted as part of the City Council hearing record, and gave full consideration of the Staff Recommendation, the evidence and testimony, including the expert opinion of the Applicant.

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

SECTION ONE: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the request for a special exception with the following conditions:

Subject Property:

This Special Exception applies to property located at 11230 and 11290 Bonita Beach Road, Bonita Springs, Florida 34135 (STRAP #38-47-25-B4-

01600.0270 and 36-47-25-B4-00200.0210) and the further described in Exhibit A A and in accordance with the Site Plan (Attachment A), both of record and included in the hearing staff report.

Conditions:

1. The special exception will be valid for this Applicant only and should be generally consistent with the attached site plan (Attachment A).
2. Soundproofing will be required on the interior side of the proposed solid wall. The exact material and a determination of specific locations shall be determined during the local development order process.
3. The City of Bonita Springs Noise Control Ordinance remains in effect in its entirety.
4. The hours of operation shall be from 7:00am to 9:00pm, seven days a week.
5. Additional information or changes to the plan not covered by this approval may require additional approvals. Such approvals will follow the processes outlined in the Land Development Code.
6. Approval of this special exception request does not guarantee approval of a local development order or building permit.
7. Unless modified by this approval, the property shall be consistent with the regulations of the Land Development Code.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of special exception and as conditioned, the Bonita Springs City Council makes the following findings and conclusions:

1. The Applicant has proven entitlement for the requested special exception by demonstrating compliance with the Bonita Springs Comprehensive Plan and Land Development Code.

SECTION TWO: RECORD

This Resolution incorporates all exhibits, staff reports, attachments, evidence and testimony presented before the Zoning Board and City Council.

SECTION THREE: EFFECTIVE DATE

This Resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of June, 2023.

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM: _____

City Attorney

Vote:

Carr	Corrie
Purdon	Bogacz
Forbes	Steinmeyer
Fullick	

Date filed with City Clerk: _____

City of Bonita Springs
Board for Land Use Hearings & Adjustments and Zoning Board of Appeals

Meeting Minutes
Tuesday, April 18, 2023
9 a.m.

DRAFT

I. CALL TO ORDER

Chairman Anthony Rascio called the meeting to order at 9:00 A.M.

II. INVOCATION

Invocation provided by Board Member Russ Winn.

III. PLEDGE OF ALLEGIANCE

Board Member Gary Gambrell led in the Pledge of Allegiance.

IV. ROLL CALL

The City Clerk called the roll:

Present 6 - Chairman Rascio, Board Members Galloway, Winn, Gambrell, Benson and Board Member Hershenson (Hershenson left the meeting at 9:58 a.m.)

Excused 1 – Board Member Waterhouse

V. APPROVAL OF MINUTES: February 21, 2023

Board Member Benson motioned to approve the minutes, Second by Board Member Hershenson; the motion carried with six in favor and one absent.

VI. PUBLIC COMMENT

Chairman Rascio called for public comments; however, no one came forth.

VII. PUBLIC HEARINGS

EACH CASE WILL INCLUDE A PUBLIC COMMENT PERIOD AT THE CONCLUSION OF THE APPLICANT AND STAFF PRESENTATION

City Attorney Rooney swore in all those who intended to speak and/or give testimony.

Chairman Rascio asked board members if there was an objection to changing the order of agenda items, to hear Item C, BONITA SPRINGS MOTOR CONDOS SPECIAL EXCEPTION ahead of Item B, TOMMY'S EXPRESS CAR WASH SPECIAL EXCEPTION. There were no objections.

A. CASE NAME: THE GROVE RESIDENTIAL PLANNED DEVELOPMENT (PD22-94289-BOS)

AN AMENDMENT TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO INCLUDE 24 MULTI-FAMILY UNITS AS THE PRINCIPAL USE OF THE PROPERTY, AND TO ADD ONE DEVIATION.

Wayne Arnold of Q Grady Minor, spoke on behalf of the applicant, presenting a summary of the deviation request and an overview of the proposed project, which included a summary of the proposed master concept plan and draft renderings (presentation on file in the Clerk's Office).

Michael Fiigon led the staff presentation, which included background information, staff analysis, findings, conclusions, and proposed conditions of approval. Staff recommended approval of the request with conditions. (Presentation and conditions on file in the Clerk's Office).

Chairman Rascio called for public comments; seeing none, closed the hearing. Board Member Hershenson made a motion to approve the applicant's request for an amendment to a Residential Planned Development to include 24 multi-family units as the principal use of the property, and to add one deviation, Seconded by Board Member Winn; the motion carried with six in favor, one absent.

B. CASE NAME: TOMMY'S EXPRESS CAR WASH (BONITA BEACH ROAD) SPECIAL EXCEPTION (SPE22-92499-BOS)

A SPECIAL EXCEPTION REQUEST TO ALLOW A CAR WASH FACILITY ON PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898.

City Attorney Rooney swore in all those who intended to speak or who have not yet been sworn in.

Wayne Arnold of Q Grady Minor led the presentation for the applicant. Mr. Arnold, along with additional staff from Q Grady Minor, Michael Herrera and Jim Banks, presented an overview of the proposed project, which included the conceptual site plan, renderings, traffic impact statement, and a summary of the special exception request (presentation on file in the Clerk's Office). Also, Mr. Arnold responded to questions from board members.

Michael Fiigon led the staff presentation, which included a project synopsis, staff analysis and conclusions, special exception approval criteria, and proposed conditions of approval. Staff recommended approval of the special exception request with conditions. (Presentation and conditions on file in the Clerk's Office). Also, Mr. Fiigon responded to questions asked by board members.

Board member Gambrell asked about water runoff, asking if he is correct in his understanding that no soapy water/wastewater would reach the river? Mr. Fiigon and Mr. Arnold replied that he is correct in that understanding.

DRAFT

Chairman Rascio asked if Bonita Springs Utilities has any issues with the additional wastewater entering their system? Mr. Fiigon stated BSU requires certain additives be removed before discharge into the system and a permit from BSU is required.

10:45 a.m. - Chairman Rascio recessed the meeting for a 15-minute break.
1I:00 a.m. - Chairman Rascio reconvened the meeting.

Chairman Rascio called for public comments and reminded those intending to speak that they have been sworn in.

- Rick Steinmeyer – Asked the following questions: Will the wall on the west side be insulated from noise? Is there necessary to have a wall? Will rainwater drainage go under the wall toward the preserve or toward Bonita Beach Rd? Chairman Rascio stated the questions will be held until the end of the public comment portion of the meeting.

- Cathy Green - Spoke in opposition to approval of the special exception request. Expressed concern about drainage, flooding, and traffic safety issues.

- David Fox - Spoke in opposition to approval of the special exception request. Stated that he has a petition signed by 97 residents requesting that the special exception be denied (Copy of said petition not provided to the Clerk).

- Joe Franklin - Spoke in opposition to approval of the special exception request, expressing concerns about traffic increase issues and the impact of the additional stormwater to the residents.

- Frank Macias - Spoke in opposition to approval of the special exception request. Expressed concerns about traffic safety issues in the neighborhood.

- Brian Bruland - Spoke in opposition to approval of the special exception request. Expressed concern about traffic increase issues and emergency service access to the neighborhood.

With no additional members of the public coming forward to speak, Chairman Rascio thanked those who spoke and closed the public comment portion of the meeting. He then asked staff and/or the applicant to address Mayor Steinmeyer's questions. Mr. Arnold stated that they would be fine with eliminating the segment of the wall referenced, which is next to the Kinetico business, because it does not have a bearing on the sound study. The wall will be designed for rainwater intake and ultimately water will be discharged through pipes to Bonita Beach Rd.

Chairman Rascio made a motion to approve the exception request with staff conditions; motion not seconded; motion failed.

Board Member Galloway made a motion to deny the exception request, based on not meeting special exception criteria for approval, criteria for approval G, H, and I; motion not seconded; motion failed.

Board Member Gambrell made a motion to deny; seconded by Board Member Galloway. The City Clerk called a roll call vote. The motion to deny was approved by a vote of 3-2, follows:

Winn	Gambrell	Benson	Galloway	Rascio	Hershenson	Waterhouse
yes	yes	no	yes	no	absent	absent

DRAFT

C. CASE NAME: BONITA SPRINGS MOTOR CONDOS SPECIAL EXCEPTION (SPE22-92936-BOS)

A SPECIAL EXCEPTION REQUEST TO ALLOW A CONDOMINIUM WAREHOUSE, PUBLIC USE FACILITY ON A PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898.

Bob Mulhere of Hole Montes presented on behalf of the applicant, Tom Taylor of Livingston Professional Center, who was also present in the council chambers. Mr. Mulhere provided an overview of the proposed project and summarized the special exception request (presentation on file in the Clerk's Office). In addition, Mr. Mulhere responded to questions asked by board members.

Chairman Rascio asked if it was anticipated that cars will be moved in and out daily. Mr. Mulhere replied to *no.* Chairman Rascio further asked if storage spaces will be purchased or leased. Mr. Mulhere stated they will all be *purchased*.

Board Member Benson asked if the facility is limited to automobiles storage, or if boats will be stored there as well. Mr. Mulhere stated that there may be boats, but they will also be stored inside. Mr. Mulhere further stated that there will be no fueling or repairs on the premises.

Mary Zizzo led the staff presentation, which included background information, staff analysis, findings, and conclusions. Staff recommended approval of the request with conditions. (Presentation and conditions on file in the Clerk's Office). In addition, Ms. Zizzo responded to questions asked by board members.

Chairman Rascio called for public comments; seeing none, Chairman Rascio made a motion to approve the applicant's request, with the conditions outlined by staff, Seconded by Board Member Hershenson; the motion carried with six in favor, one absent.

VIII. CASE UPDATE: Oakland CPD

IX. NEXT MEETING: May 16, 2023 at 9:00am (Tentative)

X. ADJOURNMENT
The Chairman adjourned the meeting at 11:54 a.m.

Respectfully submitted,

_____
Mike Sheffield, City Clerk

APPROVED:
BONITA SPRINGS ZONING BOARD:

Date:_____

AUTHENTICATED:

_____
Anthony Rascio, Chairman

DRAFT

Any person requiring special accommodation at any of the meetings because of a disability or physical impairment should contact Mike Sheffield, City Clerk by calling 239-949-6262, at least 48 hours prior to the meeting.

If a person decides to appeal a decision made by the Board in any matter considered at this meeting/hearing, such person may need to ensure that a verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based.

DRAFT

BONITA SPRINGS, FLORIDA
COMMUNITY DEVELOPMENT DEPARTMENT
ZONING DIVISION
STAFF REPORT

PROJECT NAME: **TOMMY EXPRESS CAR WASH**

TYPE OF CASE: **SPECIAL EXCEPTION**

CASE NUMBER: **SPE22-92499-BOS**

HEARING DATE: **APRIL 18, 2023**

PLANNER: **MIKE FIIGON II**

REQUEST AND STAFF RECOMMENDATION

A special exception request to allow a car wash facility on property located within the Commercial Zone of the Bonita Beach Road Corridor Overlay, pursuant to LDC 4-898.

Deviations Requested: None

Staff recommends **APPROVAL** of the request in conjunction with the conditions outlined later in this Staff Report.

I. APPLICATION SUMMARY:

A. Applicant: 11230 Bonita Beach RE, LLC

B. Agent: Q. Grady Minor & Associates, P.A.

C. Request: A special exception request to allow a car wash facility on property located within the Commercial Zone of the Bonita Beach Road Corridor Overlay, pursuant to LDC 4-898.

D. Location: 11230 & 11290 Bonita Beach Road, Bonita Springs, Florida, 34135

E. Future Land Use Designation, Current Zoning and Use of Property:

Future Land Use: General Commercial

Current Zoning: Commercial Zone

Current Use: Vacant

F. Surrounding Land Use:

Existing Zoning & Land Use	Future Land Use Map
North: Residential (TFC-2); Single-family homes and duplexes	Medium Density Residential
East: Commercial Planned Development (CPD), Residential (TFC-2), Commercial Zone; Retail/Office, Single-family homes and duplex homes	General Commercial; Medium Density Residential
South: Bonita Beach Road Right-of-Way, Lee County Drainage—Remnant Parcels (Commercial Zone)	Moderate Density Residential
West: Commercial Zone; Retail/Office	General Commercial

II. BACKGROUND AND INFORMATIONAL ANALYSIS

Introduction/Synopsis

The request is for a special exception to establish a car wash building approximately 4,600+/- square feet in size on commercial property within the Bonita Beach Road Corridor Overlay. Seventeen (17) vacuum stalls are also proposed, as shown on the site plan (Attachment A).

The properties are located on the corner of Lime Street (the city-maintained portion) and Bonita Beach Road (Lee County maintained) and are currently within the Commercial Zone of the Bonita Beach Road Corridor Overlay. Car washes are listed as a use that requires special exception approval when located within the Overlay for all zones except the Beach Zone, where they are not permitted.

The properties have frontage on Bonita Beach Road and Lime Street. There is existing residential development to the north, commercial development to the west, commercial and residential development to the east, and the Bonita Beach Road right of way to the south.

Since the northern property boundary abuts existing residential development, and in order to preserve the existing residential character of the abutting property, the Applicant has made an effort to locate the car wash tunnel and vacuum area as far south as possible, while still meeting the setbacks and buffering requirements for car washes within the Commercial Zone of the Bonita Beach Road Corridor Overlay. The Applicant is also proposing a solid wall that is eight (8) feet in height along the developable area, which will be used for screening the car wash operation from the adjacent residential uses to the north. In addition to the project being subject to and regulated by the City of Bonita Springs Noise Control Ordinance, Staff is proposing a condition that will require soundproofing on the wall in order to further capture noise that may be produced as a result of the car wash operation and vacuum stations. This request is in addition to the noise study provided by the Applicant, which largely demonstrates decibel compliance with the City of Bonita Springs Noise Control Ordinance. The proposed barrier wall will be located approximately 60 feet from the residential property boundary at its closest point, and approximately 116 feet at its furthest point. The car wash tunnel itself and the vacuum stations are located approximately 150 feet from the northern boundary. The remaining portion of the property between the wall and the abutting homes will be used for landscaping, open space, and stormwater retention. Included in that area are heritage trees such as oak trees and a banyan tree that will be preserved in their existing locations (as shown on the site plan).

In accordance with applicable land development code provisions, the Applicant will construct a sidewalk no less than six (6) feet in width along the property's Lime Street frontage and will increase the existing sidewalk width along Bonita Beach Road to seven (7) feet for the length of their frontage. The Applicant is aware that the abutting portion of Lime Street is a City roadway, and that Bonita Beach Road is a County roadway, requiring coordination with each respective jurisdiction for any work proposed within the corresponding road rights of way.

There are no land development code deviations that are being requested, and as such, the project will be subject to the development standards of LDC Chapter 3—Development Standards, LDC Chapter 4—Zoning, LDC Chapter 6—signage, and other applicable codes and regulations.

Special Exception Review Criteria

Pursuant to LDC Section 4-131(c)(2), the following criteria are to be used to evaluate special exception requests:

Special Exception Review Criteria – LDC Sec. 4-131(c)(2)
(2) Considerations. In reaching their decision, the zoning board must consider the following, whenever applicable:

a. *Whether there exist changed or changing conditions that make approval of the request appropriate.*
b. *The testimony of any applicant.*
c. *The recommendation of staff.*
d. *The testimony of the public.*
e. *Whether the request is consistent with the goals, objectives, policies and intent of the Bonita Plan.*
f. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*
g. *Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.*
h. *Whether the request will be compatible with existing or planned uses.*
i. *Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.*
j. *Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.*

In reviewing the request, Staff is able to make the following findings based on the aforementioned criteria:

Criterion a: Whether there exists changed or changing conditions that make the approval of the request appropriate.

Staff Analysis: In 2019, the Bonita Beach Road Corridor Overlay was established and constituted significant revisions to the previous standards of the Bonita Beach Road Corridor. Part of the revisions included the creation of "zones" that would replace the conventional zoning designations of property included in the Overlay. The properties in question were effectively rezoned from C-1A and CS-1 (both commercial zonings) to the Commercial Zone of the Overlay. This action was done by the City and approved by City Council when the Overlay revisions were adopted. The revisions included a list of uses, which allow car washes within the Commercial Zone, provided the project is approved via a special exception. The Applicant has satisfied the special exception application requirements and has addressed Staff's concerns related to the project.

Criterion b: The testimony of the Applicant

Staff Analysis: The Applicant has provided a narrative supporting the project. They will also provide an in-person presentation for consideration. The application submittal package can be reviewed as part of the backup to this staff report.

Criterion c: The recommendation of Staff

Staff Analysis: The staff recommendation is to approve the special exception request, subject to the conditions proposed later in this report.

Criterion d: The testimony of the public

Staff Analysis: The public has been notified of the request pursuant to LDC requirements. The Applicant held the required two neighborhood information meetings (pre-submittal and post sufficiency) and the contents of those meetings are contained as part of the application backup. Traffic, noise, and drainage were concerns raised in the meetings. Traffic impacts are addressed later in this report and a noise study was conducted by the Applicant and is provided as part of the application backup. For stormwater/drainage, the City would not be able to approve a project that has deleterious effects on neighboring properties. At time of local development

order, the developer will be required to provide a complete stormwater management plan for review.

Additionally, notices were sent to the surrounding property owners that contained the request language and the proposed hearing dates. Owners have the opportunity to state their support or opposition to the request and return the notice to Staff. At the time of this report, Staff has received two notices of opposition from homeowners residing to the north and northwest of the proposed project site. The reasons provided for opposition are that the car wash is "unnecessary and detrimental" (no additional information provided) and that there is a speeding problem on Lime Street that would be exacerbated by increased car traffic on that roadway. Speed limit enforcement is conducted by the Lee County Sherriff's office and is not the purview of Staff, the Zoning Board, or City Council. The traffic impact statement provided by the Applicant has demonstrated a traffic impact of less than 1% to the affected network, meaning that the project would not be considered one that creates a significant impact.

Criterion e: Consistency with the goals, objectives, policies, and intent of the Bonita Plan.

Staff Analysis: The property is within the General Commercial future land use category as described in the Comprehensive Plan (Bonita Plan). Further analysis is provided below.

Criterion f: Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

Staff Analysis: The car wash will be developed in compliance with the regulations of the land development code, including the requirements of the Bonita Beach Road Corridor Overlay. No deviations to the required standards are being considered as part of this application.

Criterion g: Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.

Staff Analysis: Staff did not observe any critical areas or natural resources on-site.

Criterion h: Whether the request will be compatible with existing or planned uses.

Staff Analysis: The properties are located within a commercial corridor within the Bonita Beach Road Corridor Overlay. The request of a car wash is a commercial project and is consistent with the intent of the Overlay. Other planned uses on adjacent properties to the east and west will need to meet the intent of the Overlay. With regards to the existing residential areas, the site plan indicates that the car wash tunnel and vacuum stations will be directed away from the residences and geared towards Bonita Beach Road. The Applicant is proposing a wall on the north side of the development area to better screen the car wash activities from the residential areas. A Staff condition requires that soundproofing be added to the wall to limit noise impacts generated from the car wash.

Criterion i: Whether the request will cause damage, hazard, nuisance, or other detriment to persons or property.

Staff Analysis: As explained elsewhere in this report, a noise study was provided as part of the application submittal and the project will be regulated by the City of Bonita Springs Noise Control Ordinance. A wall with soundproofing will be erected to limit the negative effects on the residential properties to the north. The Applicant will also be responsible for the provision of sidewalks along their Lime Street frontage and expanding the sidewalk on their Bonita Beach Road frontage. Pedestrian conflicts will be addressed due to the establishment of a sidewalk that is not there currently (Lime Street) with an adequately striped crosswalk that traverses the entrance to the properties.

Criterion j: Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use as set forth in this chapter (LDC Chapter 4).

Staff Analysis: The use of a car wash within the Bonita Beach Road Corridor Overlay requires special exception approval for properties located in the Commercial Zone. The Applicant has filed the required applications and submittal documentation and the site will be developed in accordance with the relevant code provisions.

Surrounding Zoning

The property is located within the Commercial Zone of the Bonita Beach Road Corridor Overlay. Adjacent property to the west is also located within the Commercial Zone. To the south is the road right of way of Bonita Beach Road, followed by Lee County remnant parcels that are currently used for drainage for Bonita Beach Road, also located in the Commercial Zone. To the east is an existing Commercial Planned Development (CPD) with retail and office uses. There is TFC-2 residentially-zoned property to the north of the CPD, which are also located in the Commercial Zone of the Bonita Beach Road Corridor Overlay and have a future land use designation of General Commercial. To the north of project site is TFC-2 residentially-zoned property that contains a variety of single-family and duplex dwelling units.

Neighborhood Compatibility

The car wash is proposed to be located on commercial properties with existing commercial entitlements as afforded under the provisions of the Bonita Beach Road Corridor Overlay. Prior to the creation of the overlay, the properties had commercial zoning (C-1A and CS-1). Properties to the east and west are also within the Commercial Zone of the overlay. Given the parameters of a car wash business, the Applicant has made an effort to locate the car wash tunnel and vacuum area as far south as possible, furthest away from the existing residential homes to the north. The Applicant is proposing a wall at least eight (8) feet in height to better screen the operation from the residential areas. Additionally, Staff is proposing a condition that would require sound attenuation on the wall in order to better capture noise associated with the blower and vacuums. The Applicant submitted a noise study that largely demonstrates compliance with the City's noise ordinance, however, it is the Staff opinion that sound attenuation methods are still appropriate in order to demonstrate compatibility and limit perceived negative impacts. The Applicant has acknowledged Staff's request.

Environmental Considerations

There are no environmentally critical areas or natural resources on-site. The Applicant is proposing to preserve several heritage trees, including a live oak, banyan tree, and oak tree, as shown on the site plan. Trees that are proposed to be removed will be reviewed by Staff and the City's Tree Advisory Board and replacement plantings will need to be consistent with the land development code. The project is not deviating from the code-required landscape buffers and the exact list of plantings will be reviewed at time of local development order review. The buffer widths are shown on the proposed site plan and include a buffer of at least fifteen (15) feet in width

running adjacent to an existing utility easement along the northern property boundary, adjacent to the residential uses.

Stormwater

Currently, discharge points exist along Bonita Beach Road to accommodate stormwater runoff. The project's stormwater plan has not been fully designed, but the developer will be required to provide detailed stormwater calculations at time of local development order submittal. In general, the project will not be permitted to negatively impact the surrounding neighborhood with stormwater. The stormwater plan will not be approved if the calculations show additional runoff onto the neighboring residential properties. Without an adequate stormwater management plan, the local development order would not be approved.

Traffic

The Applicant submitted a Traffic Impact Statement, which was reviewed by the City's traffic engineer as well as Lee County.

Several roadway links were analyzed, including Bonita Beach Road, between Race Track Road and Lime Street, and Lime Street to Imperial Parkway. The proposed car wash is projected to yield less than 100 trips during the highest peak hour, which is less than 1% of the total traffic volume associated with the surrounding roadway segments. Any project that generates less than 2% is considered a project of non-significant impact under Bonita Springs regulations. Access to the property will be from Lime Street and Staff and the Applicant are in agreement that the curb cut should be moved slightly north [of the existing curb cut] in order to reduce potential queuing conflicts on Bonita Beach Road when turning right onto Lime Street. At Staff's request, the Applicant also included a note on the site plan related to a possible cross access easement with the property to the west. Currently, there is an existing driveway on the adjacent property that dead ends at the shared side property line. Under normal circumstances, Staff would require the Applicant to connect driveways and create an accessway that runs parallel to Bonita Beach Road. However, the adjacent site was developed prior to the 2019 [current] standards of the Bonita Beach Road Corridor Overlay. Under the current standards, the adjacent building would need to be closer to Bonita Beach Road and may compromise the present driveway location. As a result, Staff requested the Applicant amend the site plan to acknowledge the possible need for cross access if/when the adjacent property comes in for redevelopment under the Overlay standards.

A copy of the Traffic Impact Statement is provided for consideration as part of the Application backup.

Comprehensive Plan Considerations

The subject property is located in the General Commercial future land use category, according to the future land use map of Bonita Springs. The category includes the following provisions:

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

a. *Appropriate uses include a wide range of commercial retail and service uses for residents and visitors; hotels/motels; offices; light industrial uses; schools; recreation; public and semi-public uses; multi-family uses up to 10 units per acre within the approximately 1,468 acres of gross land area in the land use category; and mixed residential and commercial use in planned developments.*
b. *If affordable housing is provided, residential density may be increased by up to five additional units per acre.*
c. *Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves except that no new structures or modification of existing structures located on the islands west of the mainland may be constructed in excess of 35 feet in height.*
d. *Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.*

The project is commercial in nature and is located on a commercial property within the City. It is the Staff opinion the requested use does not violate the provisions of the future land use category as outlined in the Comprehensive Plan/Bonita Plan.

With regards to the Traffic Element of the Comprehensive Plan, the project fronts fully constructed roadways and suitable access to the site will be provided as part of the development of the project. The Applicant will be providing sidewalks along the Lime Street frontage and will expand the existing sidewalk along Bonita Beach road, as required by code. It is the Staff opinion the request does not violate the applicable provisions of the Traffic Element of the Bonita Plan.

It is the Staff opinion that the remaining Comprehensive Plan elements of Conservation/Coastal Management, Intergovernmental Coordination, Housing, Capital Improvements, and Recreation/Open Space are not applicable to this request. This determination was made after Staff examined all elements for applicability to this request.

It is the Staff opinion the request does not violate the applicable provisions of the Comprehensive Plan.

Findings & Conclusion

It is Staff's opinion that the special exception request for a car wash at the proposed location is consistent with the provisions of the Comprehensive Plan, is compatible with existing uses within the area, will not cause damage, hazards or nuisance, will not impact environmentally critical areas (none are on site), and is located in an area with adequate public facilities.

Based upon an analysis of the Application and the special exception approval criteria, Staff makes the following findings and conclusions, as conditioned:

1. The requested special exception, as conditioned:

    a) Meets or exceed all applicable performance and locational standards set forth for the proposed use;

    b) is consistent with the goals, objectives, policies and intent set forth in the City of Bonita Springs Comprehensive Plan;

    c) is compatible with existing or planned uses in the surrounding area;

    d) will not cause damage, hazard, nuisance or other detriment to persons or property;

    e) will not have an adverse effect on surrounding properties; and

    f) will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the City's Land Development Code.

III. RECOMMENDATION:

Staff recommends **APPROVAL** of the request with the following conditions:

1. The special exception will be valid for this Applicant only and should be generally consistent with the attached site plan (Attachment A).

2. Soundproofing will be required on the interior side of the proposed solid wall. The exact material and a determination of specific locations shall be determined during the local development order process.

3. The City of Bonita Springs Noise Control Ordinance remains in effect in its entirety.

4. The hours of operation shall be from 7:00am to 9:00pm, seven days a week.

5. Additional information or changes to the plan not covered by this approval may require additional approvals. Such approvals will follow the processes outlined in the Land Development Code.

6. Approval of this special exception request does not guarantee approval of a local development order or building permit.

7. Unless modified by this approval, the property shall be consistent with the regulations of the Land Development Code.

SUBJECT PROPERTY

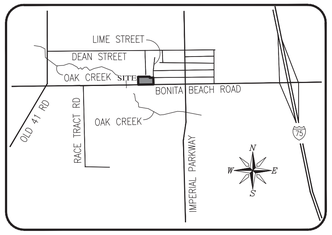
The Applicant indicates the STRAP numbers are: 36-47-25-B4-01600.0270 and 36-47-25-B4-00200.0210

EXHIBITS

A. Sketch and Legal Description of the Subject Property

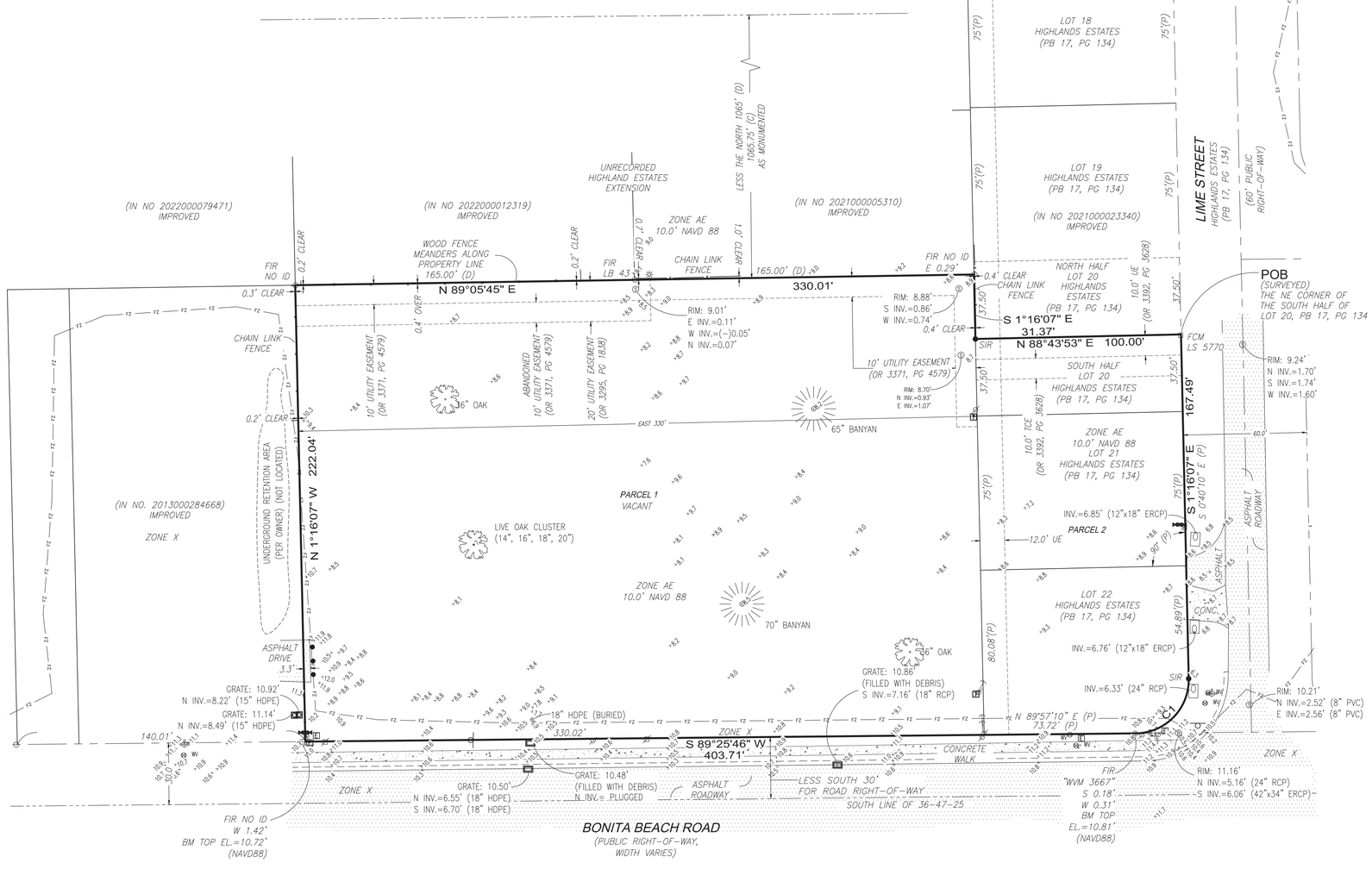
ATTACHMENTS

A. Proposed Site Plan
B. Application Backup (Final Documents)



VICINITY MAP
NOT TO SCALE

CURVE TABLE					
CURVE #	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD LENGTH
C1	26.00'	41.12'	90°37'20"	N 44°02'33" E	36.97'
C1(P)	26.00'	41.12'	90°37'20"	———	———



PROPERTY DESCRIPTION

(INSTRUMENT # 2022000136407)

PARCEL 1:
THE EAST 330 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, LESS AND EXCEPTING THE SOUTH 30 FEET THEREOF RESERVED FOR ROAD RIGHT-OF-WAY AND LESS THE NORTH 1065 FEET THEREOF.

PARCEL 2:
THE SOUTH 1/2 OF LOT 20 AND ALL OF LOTS 21 AND 22, HIGHLAND ESTATES, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 17, PAGE 134, PUBLIC RECORDS OF LEE COUNTY, FLORIDA

(OVERALL DESCRIPTION PREPARED BY SURVEYOR)
THE SOUTH 1/2 OF LOT 20 AND ALL OF LOTS 21 AND 22, HIGHLAND ESTATES, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 17, PAGE 134, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND THE EAST 330 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, LESS THE NORTH 1065 FEET THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF THE SOUTH 1/2 OF LOT 20, HIGHLAND ESTATES, PLAT BOOK 17, PAGE 134, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THE SAME BEING A POINT ON THE WEST RIGHT-OF-WAY OF LIME STREET AS SHOWN ON SAID PLAT; THENCE ALONG SAID RIGHT-OF-WAY FOR THE FOLLOWING TWO (2) COURSES AND DISTANCES, 1) SOUTH 01°16'07" EAST, A DISTANCE OF 167.49 FEET TO A POINT ON A CURVE TO THE RIGHT; 2) THENCE SOUTHWESTERLY 41.12 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 26.00 FEET, A CENTRAL ANGLE OF 90°37'20", (CHORD BEARING SOUTH 44°04'49" WEST, A DISTANCE OF 36.99 FEET) TO A POINT ON THE NORTH RIGHT-OF-WAY OF BONITA BEACH ROAD; THENCE ALONG SAID RIGHT-OF-WAY, SOUTH 89°25'46" WEST, A DISTANCE OF 403.71 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST 330 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 36; THENCE ALONG SAID WEST LINE, NORTH 01°16'07" WEST, A DISTANCE OF 222.04 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF LOT 13 OF UNRECORDED HIGHLAND ESTATES EXTENSION AS DESCRIBED IN INSTRUMENT NUMBER 2011000101895 OF SAID PUBLIC RECORDS; THENCE ALONG SAID SOUTH LINE AND THE SOUTH LINE OF LOT 26 OF SAID HIGHLAND ESTATES EXTENSION AS RECORDED IN OFFICIAL RECORDS BOOK 4709, PAGE 1842 OF SAID PUBLIC RECORDS, NORTH 89°05'45" EAST, A DISTANCE OF 330.01 FEET TO A POINT ON THE WEST LINE OF THE AFOREMENTIONED PLAT; THENCE ALONG SAID WEST LINE, SOUTH 01°16'07" EAST, A DISTANCE OF 31.37 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 1/2 OF THE AFOREMENTIONED LOT 20; THENCE ALONG SAID NORTH LINE, NORTH 88°43'53" EAST, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.13 ACRES, MORE OR LESS.

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE STATE PLANE COORDINATE SYSTEM ESTABLISHED BY THE NATIONAL GEODETIC SURVEY FOR FLORIDA WEST ZONE, 1983 DATUM WITH 2011 ADJUSTMENT OBTAINED UTILIZING RTK GPS OBSERVATIONS ON THE FDOT NETWORK AND REFER TO THE NORTH RIGHT-OF-WAY LINE OF BONITA BEACH ROAD, LEE COUNTY, FLORIDA AS BEING S 89°25'46" W.

2. THIS SURVEY WAS PREPARED WITH THE BENEFIT OF TITLE SEARCH REPORTS PROVIDED BY COLEMAN, YOVANOVICH & KOESTER, P.A. WITH FILE NUMBERS OF 19048502 AND 19048495, BOTH HAVING AN EFFECTIVE DATE THROUGH MARCH 21, 2019 AT 8:00 AM. MAY BE SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD. ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

3. THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE AE, HAVING A BASE FLOOD ELEVATION OF 10.0' NAVD 88 AND ZONE X, HAVING NO BASE FLOOD ELEVATION, PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP # 12071C 0659 F, DATED 8/28/2008. FLOOD LINES SHOWN HEREON WERE SCALED FROM THE REFERENCED FIRM MAP

4. CERTAIN FEATURES REPRESENTED BY SYMBOLS MAY NOT BE SHOWN AT THEIR TRUE LOCATION AND/OR SCALE IN ORDER TO BE ABLE TO DEPICT THEM ON THIS MAP.

5. DIMENSIONS SHOWN HEREON ARE IN U.S. SURVEY FEET AND DECIMALS THEREOF. ELEVATIONS SHOWN HEREON ARE IN FEET AND ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988. SOURCE BENCHMARK IS 175 Z 10.

6. THIS SURVEY DOES NOT ADDRESS ANY ENVIRONMENTAL CONCERNS, ENDANGERED WILDLIFE OR JURISDICTIONAL WETLANDS, IF ANY, EXCEPT AS SHOWN ON THIS SURVEY.

7. THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.

8. THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. NO ADDITIONS OR DELETIONS TO THIS SURVEY MAP ARE PERMITTED WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE SIGNING PARTY.

9. UNLESS OTHERWISE NOTED, BELOW GROUND UTILITIES AND FOUNDATIONS WERE NOT LOCATED FOR THE PURPOSES OF THIS SURVEY.

10. BY SIGNING BELOW I CERTIFY THAT THIS SURVEY WAS MADE UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J–17.051, F.A.C, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

11. DATE OF LAST FIELD WORK: 4/27/2022.

-N-

0 15' 30' 60'
SCALE: 1" = 30'

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

LEGEND

POC	POINT OF COMMENCEMENT	BM	BENCHMARK	ELEV	ELEVATION		CATCH BASIN		LIGHT POLE
POB	POINT OF BEGINNING	PB	PLAT BOOK	INV	INVERT ELEVATION		DRAINAGE MANHOLE		TELEPHONE MANHOLE
FIP	FOUND IRON PIPE	OR	OFFICIAL RECORDS BOOK	RIM	RIM ELEVATION	MES	MITERED END	TRS	TELEPHONE RISER/BOX
FIR	FOUND 5/8" IRON ROD	PG	PAGE(S)	A/C	AIR CONDITIONING UNIT/PAD		YARD DRAIN	TVR	CABLE TELEVISION RISER/BOX
SIR	SET 5/8" IRON ROD w/CAP, L.B. #5151	PSM	PROFESSIONAL SURVEYOR AND MAPPER	CONC	CONCRETE	WV	WATER VALVE		ELECTRIC MANHOLE
FCM	FOUND CONCRETE MONUMENT	LB	LICENSED BUSINESS	CMP	CORRUGATED METAL PIPE		WATER METER		ELECTRIC RISER/BOX/METER
SCM	SET CONC. MONUMENT w/ALUMINUM DISK, L.B. #5151	SPC	STATE PLANE COORDINATES	CPP	CORRUGATED PLASTIC PIPE		BACK FLOW PREVENTOR		ELECTRIC TRANSFORMER
		ROW	RIGHT-OF-WAY	RCP	REINFORCED CONCRETE PIPE		FIRE HYDRANT	TL	TRAFFIC LIGHT
FPK	FOUND PARKER KALON NAIL	PUE	PUBLIC UTILITY EASEMENT	CHW	CONCRETE HEADWALL		FIRE DEPARTMENT CONNECTION		UNDERGROUND UTILITY MARKER
SPK	SET PARKER KALON NAIL w/ALUMINUM DISK, L.B.# 5151	CUE	COUNTY UTILITY EASEMENT	TOB	TOP OF BANK		BACTERIA SAMPLE POINT	SIGN	SIGN ON POLE
		UE	UTILITY EASEMENT	TOS	TOE OF SLOPE	ARV	AIR RELEASE VALVE		OAK TREE
FDH	FOUND DRILL HOLE	AE	ACCESS EASEMENT	EOW	EDGE OF WATER	IRV	IRRIGATION VALVE/ CONTROL VALVE		PALM TREE
SDH	SET DRILL HOLE	DE	DRAINAGE EASEMENT	℄	CENTER LINE	GV	GAS VALVE		PINE TREE
FMN	FOUND MAG NAIL	LME	LAKE MAINTENANCE EASEMENT	EOP	EDGE OF PAVEMENT	GSM	GAS METER/SERVICE		TREE OTHER
FND	FOUND	LBE	LANDSCAPE BUFFER EASEMENT	BOL	BOLLARD	GMM	GAS MARKER	TCE	TEMPORARY CONSTRUCTION EASEMENT
(P)	PLAT	IRRE	IRRIGATION EASEMENT		GREASE TRAP		UTILITY POLE – WOOD	IN NO	INSTRUMENT NUMBER
(M)	MEASURED	FPL	FLORIDA POWER AND LIGHT		SANITARY MANHOLE		UTILITY POLE – CONCRETE		
(C)	CALCULATED	BSUE	BONITA SPRINGS UTILITY EASEMENT	CO	CLEAN OUT	GA	GUY ANCHOR		2" POLY TUBE STUB OUT
(D)	DEED	NAVD	NORTH AMERICAN VERTICAL DATUM OF 1988	SV	SEWER VALVE	OH	OVERHEAD WIRES		SCALED FLOOD ZONE LINE
		NGVD	NATIONAL GEODETIC VERTICAL DATUM OF 1929						

REVISED: 06/01/2022 CHANGED TITLE OF SURVEY

GradyMinor
Civil Engineers • Land Surveyors • Planners • Landscape Architects
Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266
www.GradyMinor.com
Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134
Fort Myers: 239.690.4380
Bonita Springs: 239.947.1144

DRAWN BY:	AH
CHECKED BY:	TJD
JOB CODE:	RWBBRDD
SCALE:	1" = 30'
DATE:	28 APRIL 2022
FILE:	22-92-B-T
SHEET:	1 of 1

BOUNDARY, TREE AND TOPOGRAPHIC SURVEY

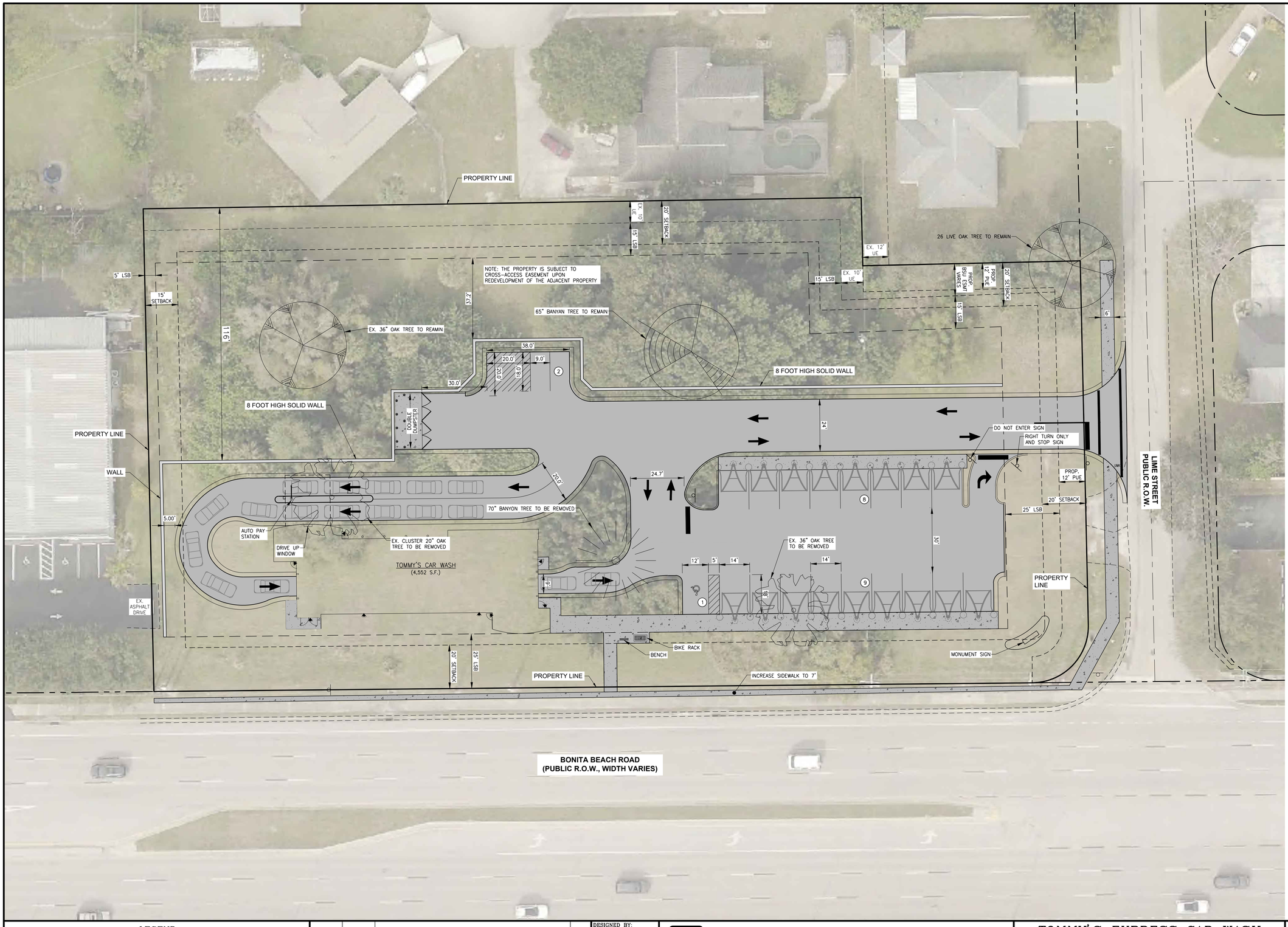
11290 BONITA BEACH RD SE
BONITA SPRINGS, FL 34135

LYING IN
SECTION 36, TOWNSHIP 47 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

6/1/2022
DATE SIGNED

TIMOTHY J. DEVRIES, P.S.M
FL LICENSE #6758
FOR THE FIRM

G:\SURVEY\PROJECT SURVEY 2022\92 – 11290 BONITA BEACH ROAD\SURVEY\22-92-B-T.DWG



N

0 20' 40' 80'

SCALE: 1" = 40'

LEGEND

Revision	Date	Description	By

DESIGNED BY: M.T.H.
DRAWN BY: C.J.R.
APPROVED: D.W.A.
JOB CODE: TECWSE-22
SCALE:

GradyMinor

Civil Engineers • Land Surveyors • Planners • Landscape Architects
Cert. of Auth. EB 0005151 • Cert. of Auth. LB 0005151 • Business LC 26000266
Bonita Springs: 239.947.1144 • Fort Myers: 239.690.4380
www.GradyMinor.com

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

TOMMY'S EXPRESS CAR WASH

EXHIBIT IV-G
CONCEPTUAL SITE PLAN
REVISED: 01/25/2023

MUNICIPALITY: BONITA SPRINGS
SEC/TWNSHP/RNG: 36/47S/25E
DATE: JANUARY 2023
SUBMITTAL TYPE: SPECIAL EXCEPTION
SHEET 1 OF 1

G:\PLANNING\PROJ - PLANNING\TECWSE-22 TOMMYS EXPRESS CAR WASH (SPE22-92499-BOS)\DRAWINGS\TECWSE-22 EXH IV-G-R4.DWG 1/31/2023 2:12 PM

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-06-119
June 7, 2023

REQUESTED MOTION: Appearances by State Senator Jonathan Martin and State Representative Adam Botana and a legislative update from the City's lobbyists, Greenberg Traurig.

REQUESTOR: Arleen M. Hunter, City Manager; Carly Sanseverino, Staff Attorney

AGENDA: Presentations

STRATEGIC PRIORITY: #1 Stormwater Management, #2 Transportation, #3 Community Aesthetics, #4 Environmental Proteection, #5 Strengthen City Finanaces, #6 Enhance Council Relations, #7 Government Transparency, #8 Economic Development

---

BACKGROUND:

State Senator Martin, State Representative Botana, and Hayden Dempsey of Greenberg Traurig will be present to discuss highlights of this year's legislative session as well as the upcoming session.

For reference, attached is the City's list of legislative priorities and legislative appropriations project funding requests from this session.

STAFF RECOMMENDATION: Receive update.

ATTACHMENTS:

1. City of Bonita Springs Legislative Priorities and Appropriations Requests
2. 2023 Regular Session Overview and Highlights

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield

City of Bonita Springs
2023 State Legislative Agenda

Legislative Session: March 7, 2023 – May 5, 2023

This document represents the 2023 Florida Legislative Agenda of the City of Bonita Springs City Council. While these priorities guide the City's advocacy efforts in Tallahassee, they are not exhaustive and new issues may arise or evolve that will require the Council's attention.

These issues are not ranked in order of priority. Council Members, staff, and contract lobbyists will pursue all legislative policies approved by the Council and will prioritize as appropriate according to opportunities that arise during the legislative process.

1. The City of Bonita Springs supports legislation and policy that encourages and promotes the City's recovery from Hurricane Ian by providing increased funding, technical assistance, economic development opportunities, and projects in furtherance of sustainable resiliency.

2. The City of Bonita Springs supports funding for flooding reduction/mitigation projects within its municipal boundaries and improvements to water quality.

3. The City of Bonita Springs supports sustainability initiatives, especially those which would prevent discharges from Lake Okeechobee and which promote clean fresh and salt water bodies. The City also opposes any water quality proposals which would negatively impact our City.

4. The City of Bonita Springs supports State funding for projects which would advance enhanced transportation connectivity for pedestrian and bicyclists, as well as design and construction of additional Complete Streets.

5. The City of Bonita Springs believes in affordable insurance rates for our citizens. Towards that end, the City opposes any action or legislation, at any government level, that will have the effect of significantly increasing flood insurance rates.

6. The City of Bonita Springs supports efforts to provide State funding for local acquisition of preservation lands in the Density Reduction Groundwater Resource (DR/GR) areas of the City.

7. The City of Bonita Springs opposes any effort to allow fracking in and around the Southwest Florida area.

8. The City of Bonita Springs supports legislation that would allow parimutuel facilities within counties that have passed referendums to provide slot gaming.

9. The City of Bonita Springs supports implementation of the legislatively required study to determine hydrological boundaries of the Big Cypress Basin resulting in a larger district that includes the portion of Lee County within the watershed.

10. The City of Bonita Springs supports policies that protect our community's ability to make decisions that protect the City's vision for our community and preserve our quality of life.

Legislative Requests:

For 2023, the City is requesting legislative funding for multiple local projects that will further the City's recovery from Hurricane Ian, improve resiliency from future storms, and continue with the City's water quality improvement priorities.

1. City-wide Home Elevation and Buyout Program
2. Spring Creek/Bonita Springs Golf Course Stormwater Improvement Project
3. Hurricane Ian Recovery – South Bonita Beach and Dune Renourishment

[Briefing sheets will be added for each priority project as approved by the City Council]

HURRICANE IAN RECOVERY

HOME ELEVATION AND BUYOUT PROGRAM:
Funding Request: $5,000,000

Background:

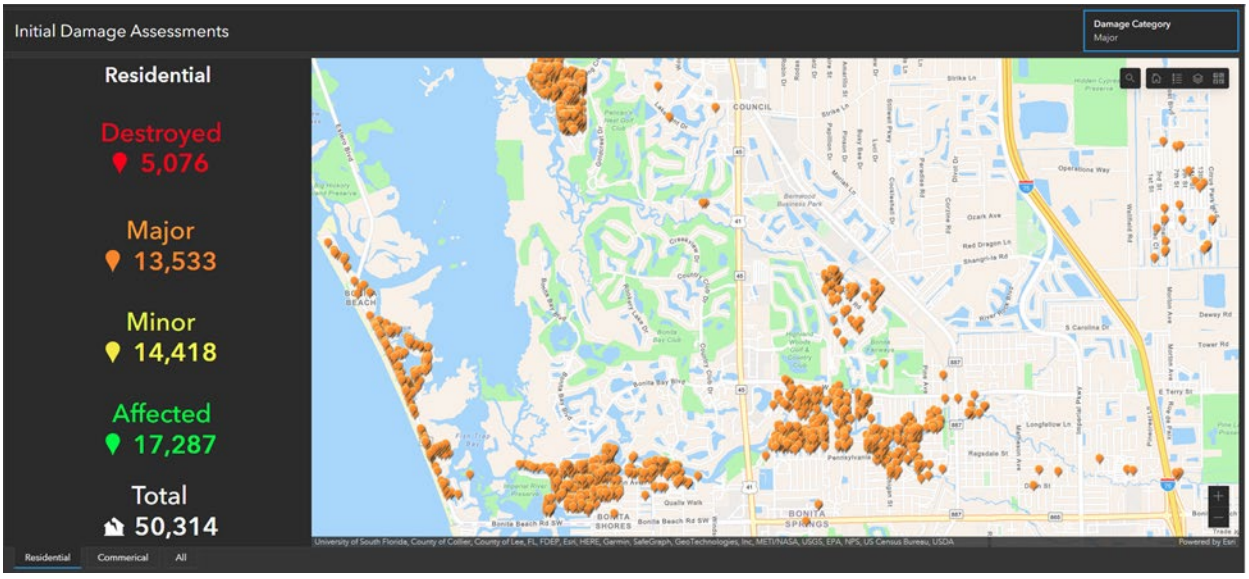
In 2017, the City of Bonita Springs was the third-worst affected community in the wake of Hurricane Irma. Some neighborhoods endured over four feet of standing water in their homes for several weeks.



Pictured above: Quinn Street, taken 8 days post-Irma (9/18/2017)

Since the impacts of Hurricane Irma, the City has implemented a Voluntary Home Elevation and Buyout Program, the focus of which is to acquire properties that are in a Special Flood Hazard Area (SFHA) and other high-risk flood areas to help reduce the impact of future disasters. The program also offers assistance to property owners to relocate outside of the area under threat of flooding. To date, the City has closed on six properties, with eight additional properties at various stages in the buyout process.

On September 28, 2022, the historic storm surge caused by Hurricane Ian carried inland 4.6 miles, which inundated the City's 13.4 miles of natural waterways, including Spring Creek and the Imperial River. This caused severe flooding through the many residential neighborhoods and mobile home parks situated along the waterways, in addition to the devastation of the barrier islands. The orange pins in the map below illustrate residential areas with major flood damage from Hurricane Ian.



Proposal:

The City is now seeking to expand the Voluntary Home Elevation and Home Buyout Program to the areas affected worst by Hurricane Ian. The City will provide owners of vulnerable properties the opportunity to either elevate their homes out of areas prone to flooding, or alternatively, allow the City to purchase their home so that they can relocate outside of the floodplain area. Any properties acquired by the City will be deed restricted to remain open space in perpetuity for stormwater management or water quality purposes.



Pictured above: Hurricane Ian storm surge, approximately 1.5 miles inland. 9/28/2022

Benefits:

- Reduces number of flood insurance claims filed in the City
- Eliminates repetitive-loss properties that opt in
- Relocates vulnerable residents into safer homes

Contact:

For more information or discussion, please contact:

Elly McKuen, Senior Project Manager
elly.mckuen@cityofbonitasprings.org
(239) 949-6262



Pictured left: Hurricane Ian Flood Damage, 9/30/2022



Pictured above and below: Hurricane Ian Flood Damage, taken 9/30/2022



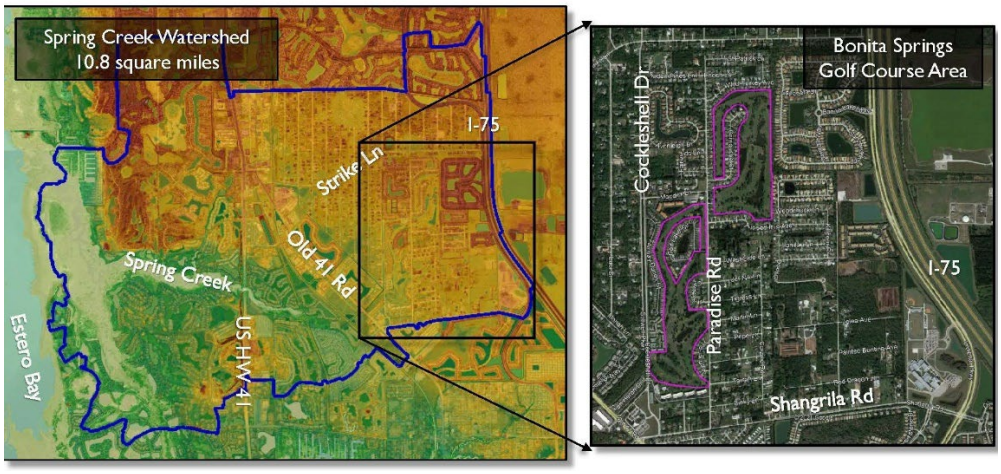
SPRING CREEK/BONITA SPRINGS GOLF COURSE

STORMWATER IMPROVEMENT PROJECT:

Funding Request: $5,400,000

Background:

The City of Bonita Springs has experienced chronic flooding issues in the upper reaches of the Spring Creek watershed. The 1,358 homes that are affected by flooding in the watershed are situated in neighborhoods that surround a now defunct 111-acre golf course. Many of the neighborhoods were constructed in the early 1980's and lack modern storm water management systems.



In 2017, two storm events within a 20-day period - Invest 92L and Hurricane Irma - dumped over 23.5 inches of rain on Bonita Springs, which is 45% of the average rainfall that Bonita Springs receives in one year. The rainfall created significant flooding that was persistent for up to 4 weeks within the watershed's neighborhoods.



As a result of these storm events, and previous flooding concerns, the City hired Singhofen and Associates, Inc., to design a drainage retrofit project for the affected neighborhoods to reduce the risk of flooding in future rain events. Given the existing built out condition, the project required complex storm water modeling and design. The final design showed a system of storm water retention ponds, conveyance pipes, and water control weirs to create flood protection from a FEMA-standard 100-year storm event. Additionally, the improvements will bring an added benefit by improving water quality in Spring Creek.

One of the key challenges in the design's development was the sheer size of the lakes needed to create the flood protection. Ultimately, the City needed 55 acres, or 49.5 %, of the 111 acre golf course for storm water lakes to mitigate the flooding. The City worked with the golf course landowner, Barron Collier Companies, to develop a lake design that would allow for redevelopment of the remaining 56 acres of the golf course into single family home sites. For mutual benefit, Barron Collier agreed to limit the footprint of that development in order to accommodate the Singhofen drainage design into their planned development master concept plan ("MCP").

After revising the MCP, the City and Barron Collier have jointly applied for and received from the South Florida Water Management District an environmental resource permit ("ERP") for construction.

Proposal:

The City's engineer's Opinion of Cost for the drainage project was $21 million and contemplated the City acquiring the 55 acres from Barron Collier and then the City bidding and constructing the project on its own. Barron Collier offered a different approach to the City. In the Barron Collier proposal, they would construct the drainage project in accordance with the City's design over a three-year period, selling the completed project in three phases spanning three fiscal years for a total project cost of $16.4 Million. This proposal cuts upwards of 1 year off of the construction timeline, saves the City thousands in financing costs, and saves the City $4.7 Million in anticipated construction costs.

Recognizing the value on multiple levels, the parties entered into the requisite Agreement for Purchase that effectively allows the City to purchase the identified stormwater improvements in their constructed state. The City and developer have shovel-ready plans for construction, and this funding request will assist the City with the purchase of the constructed improvements to provide much needed relief to 1,358 homes.

Benefits:

- **Proposal saves the City $4,700,000 in construction costs and thousands of dollars in financing costs**
- **Reduces construction timeline by 1+ years**
- **Improves storm water management for multiple residential neighborhoods**
- **Reduces the number of flood insurance claims filed within the City**
- **Reduces potential for repetitive loss properties**

Contact:

For more information or discussion, please contact:

Matt Feeney, Assistant City Manager
matt.feeney@cityofbonitasprings.org
(239) 949-6262

SINGHOFEN DESIGN



The Agreement of Purchase provides for an estimated timeline for completion as follows:

Parcel 4, Lake 10 – $2,018,666 (est. closing Oct 2023)

Parcel 2, Lake 1 - $9,977,000 (est. closing Oct 2024)

Parcel 1, Lake 8 - $3,528,000 (est. closing Oct 2025)



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



Hurricane Ian removed an estimated 70,000 cubic yards of sand above the mean high-water line on south Bonita Beach between reference markers R-230 to R-239.25.

Per a request from the Florida Department of Environmental Protection (FDEP) in advance of the Florida Legislature's Special Session in December 2022, the City provided an estimated need of $4,495,500 to renourish the southern portion of Bonita Beach.

As a result of the December 2022 Special Session, the City has been coordinating with FDEP and anticipates a forthcoming funding agreement for $2,180,767.05.

Proposal:

This legislative appropriation request is to provide the balance of the funding needed to restore the City's beaches.

Benefits:

- **Public Safety and Welfare**
- **Environmental and Flood Protection**
- **Economic Development and Tourism**

Contact:

For more information or discussion, please contact:

Matt Feeney, Assistant City Manager
matt.feeney@cityofbonitasprings.org
(239) 949-6262



2023 Regular Legislative Session

Overview:

The Florida Legislature approved a $117 billion budget, which is the largest in Florida history and exceeds the prior year by more than $6 billion. Among other things, the budget invests almost $11 billion in total reserves, $27.9 billion for education, $47.3 billion for healthcare, and $350 million for hurricane recovery grant programs.

Hurricane Relief and Recovery:

- Hurricanes Ian and Nicole Recovery Grant Program- $350 million
- Department of Environmental Protection Beach Recovery and Renourishment - $106 million
- Department of Financial Services My Safe Florida Homes Program - $100 million

Of the 1,828 bills filed, over 340 passed both chambers and were sent to Governor DeSantis for his signature or veto.

Legislators will return to Tallahassee for interim committee meetings in September ahead of the 60-day 2024 Regular Legislative Session, which is set to convene on January 9, 2024.

Passed Bills of Interest:

Florida Shared-Use Nonmotorized Trail Network (CS/SB 106)

CS/SB 106 expands the existing Shared-Use Nonmotorized (SUN) Trail Network and enhances coordination of the state's trail system with the Florida Wildlife Corridor. Specifically, the bill:

- Prioritizes the development of "regionally significant trails" which are defined as trails crossing multiple counties; serving economic and ecotourism development; showcasing the state's wildlife areas, ecology, and natural resources; and serving as main corridors for trail connectedness across the state.
- Enhances the planning, coordination, and marketing of the state's bicycle and pedestrian trail system and the Wildlife Corridor.
- Stipulates that trails developed within the Wildlife Corridor maximize the use of previously disturbed lands, such as abandoned roads and railroads, canal corridors, and drainage berms, and be compatible with applicable land use provisions.
- Requires the Florida Department of Transportation (FDOT) to erect uniform signage identifying trails that are part of the SUN Trail Network and to submit a periodic report on the status of the SUN Trail Network.
- Authorizes the FDOT and local governments to enter into sponsorship agreements for trails and to use associated revenues for maintenance, signage, and related amenities.
- Recognizes "trail town" communities and directs specified entities to promote the use of trails as economic assets, including the promotion of trail-based tourism.

- Increases recurring funding for the SUN Trail Network from $25 million to $50 million and provides a non-recurring appropriation of $200 million to plan, design, and construct the SUN Trail Network.

The bill was approved by the Governor on April 11, and will become effective July 1, 2023.

Natural Emergencies (CS/CS/SB 250)

CS/CS/SB 250 makes various changes throughout Florida Statutes regarding the preparation and response activities of state and local government when natural emergencies impact the state.

Specifically, the bill:

- Requires the Division of Emergency Management to post on its website a model debris removal contract for the benefit of local governments.
- Encourages local governments to create emergency financial plans in preparation for major natural disasters.
- Provides that counties and municipalities cannot prohibit a resident from placing a temporary residential structure on their property for up to 36 months following a natural emergency under certain circumstances.
- Authorizes local governments to create specialized building inspection teams following a natural disaster and encourages interlocal agreements for additional building inspection services during a state of emergency.
- Requires local governments to expedite the issuance of permits following a natural disaster.
- Increases the extension of certain building permits following a declaration of a state of emergency from six to 24 months and caps such extension at 48 months in the event of multiple natural emergencies.
- Prohibits counties and municipalities within the disaster declaration for Hurricane Ian or Hurricane Nicole from increasing building fees until October 1, 2024.
- Allows registered contractors to engage in contracting for the types of work covered by their registration within areas for which a state of emergency has been declared.
- Prohibits counties and municipalities within the disaster declaration for Hurricane Ian or Hurricane Nicole from adopting more restrictive or burdensome procedures to its comprehensive plan or land development regulations concerning review, approval, or issuance of a site plan, development permit, or development order before October 1, 2024.
- Extends the date for fire control districts to submit the statutorily-required performance reviews in the event of a natural disaster or a major hurricane.
- Amends the Consultants' Competitive Negotiation Act to allow for additional disaster-related construction projects relating to Hurricane Ian to utilize the "continuing contracts" provision through December 31, 2023.
- Makes the Local Government Emergency Bridge Loan Program a revolving program and makes funds available for local governments impacted by federally declared disasters

until July 1, 2038. Additionally, the bill appropriates $50 million in nonrecurring funds from the General Revenue Fund to the program.
- Provides clarification regarding the 45-day grace period following a hurricane in which owners must bring a derelict vessel into compliance before being charged with a violation.
- Directs the Division of Emergency Management to administer a revolving loan program for local government hazard mitigation projects, and appropriates $1,000,000 in nonrecurring funds from the General Revenue Fund and $10,000,000 in nonrecurring funds from the Federal Grants Trust Fund for such activity. Such funds will be held in reserve, contingent upon FEMA approval and release by the Legislative Budget Commission.
- Requires property insurers doing business within the state to annually submit a claims handling manual to the Office of Insurance Regulation (OIR).
- Appropriates $971,331 in recurring funds and $37,456 in nonrecurring funds from the Insurance Regulatory Trust Fund to fund eight new positions at the OIR for hurricane-related market conduct activity.

If approved, the bill takes effect on July 1, 2023, unless otherwise expressly provided.

Local Ordinances (CS/CS/SB 170)

The bill requires counties and cities to produce a "business impact estimate" prior to passing an ordinance, with exceptions. The estimate must be published on the local government's website and include certain information, such as the proposed ordinance's purpose, estimated economic impact on businesses, and compliance costs.

Additionally, the bill imposes certain conditions on lawsuits brought by any party to challenge the legal validity of local ordinances as preempted by state law, arbitrary, or unreasonable. In these cases, the bill:
- Requires the local government to suspend enforcement of an ordinance of such legal challenge, under certain circumstances.
- Requires the court to give those cases in which enforcement of the ordinance is suspended priority over other pending cases and render a preliminary or final decision as expeditiously as possible.
- Provides that a court may award up to $50,000 in attorney fees to a prevailing plaintiff who successfully challenges an ordinance as arbitrary or unreasonable.
- The bill also provides that properly noticed consideration of a proposed ordinance may be continued to a subsequent meeting under certain circumstances without further publication, mailing, or posted notice.

If approved, the bill takes effect October 1, 2023, except as otherwise provided.

Public Construction (CS/CS/SB 346)

The bill requires each contract for construction services between a local government entity and a contractor to include a list of items required to render complete, satisfactory, and acceptable the construction services contracted for which outlines the estimated cost of each item necessary to complete the work. The local government must pay all portions of the contract balance, except for 150 percent of the portion attributed to those projects on the list, within 20 days after the list is created, subject to certain exceptions. A local government must pay the contractor for the remaining list projects upon their total completion, subject to certain exceptions.

The bill limits local governments' ability to withhold certain amounts under the contract to only those subject to a written good faith dispute or claims against public surety bonds.
The bill shortens timeframes in which a disputed construction services contract must be resolved and clarifies that a local government must pay the undisputed portions of a contract within 20 days.

The bill makes similar conforming changes to construction services contracts with public entities.

The bill was approved by the Governor on May 25, and takes effect July 1, 2023.

Local Government Comprehensive Plans (CS/CS/SB 540)

The bill provides that in challenges to the comprehensive plan and plan amendments, including small scale plan amendments, the prevailing party is entitled to recover attorney fees and costs, including reasonable appellate attorney fees and costs.

The bill revises the statute regulating land development regulations, to provide that land development regulations relating to any characteristic of development other than use, or intensity or density of use, do not apply to Florida College System institutions.

Lastly, the bill clarifies the scope of review for a local government decision to grant or deny a development order by providing that the order may only be challenged if it would materially alter the use, density, or intensity of the property in a manner not consistent with the comprehensive plan.

The bill was approved by the Governor on May 24, and takes effect on July 1, 2023.

Ethics Requirements for Public Officials (CS/CS/SB 774)

The bill makes the following changes to ethics requirements for public officials:

- Requires specified local officers to file a Form 6 financial disclosure, beginning January 1, 2024, instead of the Form 1 they are currently required to file.

- Maintains and makes permanent requirements for e-filing of financial disclosures as specified in the current year implementing bill, by:
    - Maintaining the requirement that Form 6 filers submit their financial disclosures via the Commission on Ethics electronic filing system beginning January 1, 2023, and requiring Form 1 filers to submit their disclosures electronically beginning January 1, 2024.
    - Allowing filers to submit federal tax returns for purposes of showing income.
- Allows the Commission on Ethics to dismiss complaints or investigations for certain minor infractions.
- Increases the maximum civil penalty for violations of the Code of Ethics to $20,000 from $10,000.
- Adds commissioners of a community redevelopment agency to the list of officers exempt from having to complete ethics training in the year they begin their term, if the term begins after March 31.
- Clarifies that a candidate may submit a verification or receipt of a previous financial disclosure filing to the qualifying officer in lieu of the full financial disclosure.
- Permits the Commission a narrow rulemaking exemption for the bills implementation.

The bill was approved by the Governor on May 11 took effect immediately.

Environmental Protection (CS/CS/HB 1379)

The bill:

- Requires any county or municipality with a basin management action plan (BMAP) within its jurisdiction to include within the capital improvement element of its comprehensive plan a list of projects necessary to achieve the pollutant load reductions attributable to the local government as established in the BMAP.
- Prohibits the installation of new onsite sewage treatment and disposal systems (OSTDSs) within a BMAP area adopted under s. 403.067, F.S., a reasonable assurance plan, or a pollution reduction plan where connection to a publicly owned or investor-owned sewerage system is available. In addition, on lots of 1 acre or less within such areas where a publicly owned or investor-owned sewerage system is not available, the bill requires the installation of enhanced nutrient-reducing OSTDSs or other wastewater treatment systems that achieve at least 65 percent nutrient reduction.
- Authorizes DEP to provide grants for projects that reduce the amount of nutrients entering waters that: are not attaining nutrient or nutrient-related standards; have an established total maximum daily load (TMDL); or are located within a BMAP area, a reasonable assurance plan area adopted by final order, an accepted alternative restoration plan area, or a rural area of opportunity.
- Requires DEP, relevant local governments, and relevant local public and private wastewater utilities, as part of a BMAP that includes an Outstanding Florida Spring, to develop an OSTDS remediation plan for a spring if DEP determines OSTDSs within a BMAP contribute at least 20 percent of nonpoint source nitrogen pollution or if DEP determines remediation is necessary to achieve the TMDL.

- Establishes the Indian River Lagoon Protection Program within DEP.
- Dedicates $100 million annually to DEP from the Land Acquisition Trust Fund for the acquisition of lands through the Florida Forever Program.
- Increases the contract price for a land acquisition agreement that requires approval by the Board of Trustees of the Internal Improvement Trust Fund and increases the threshold for when two appraisals are required.
- Requires appraisal reports to be disclosed to private land-owners during negotiations for acquisition.

The bill was approved by the Governor on May 30 and takes effect on July 1, 2023.

Land Use and Development Regulations (CS/CS/SB 1604)

CS/CS/SB 1604 revises local comprehensive planning requirements by increasing the two required planning periods to a 10-year and 20-year period, from 5 and 10, and prohibiting local governments that fail to update their comprehensive plans in accordance with the 7-year evaluation and appraisal process from initiating or adopting any publicly-initiated plan amendments. Additionally, the bill prescribes certain procedures for the Department of Economic Opportunity to apply when local governments remain out of compliance with comprehensive planning updates.

The bill also prohibits local governments from requiring specified building design elements for residential dwellings in planned unit developments, master planned communities, and communities with a design review board or architectural review board created on or after January 1, 2020.

Additionally, the bill precludes an independent special district from complying with the terms of a development agreement executed within 3 months preceding a law modifying the manner of selecting members of the governing body of the special district, and requires the new governing body to vote on whether to seek readoption of such development agreement within 4 months of taking office. These provisions expire on July 1, 2028, unless reviewed and reenacted by the Legislature.

The bill was approved by the Governor on May 5, and except as otherwise expressly provided in the bill, the bill takes effect July 1, 2023.

Failed Bills of Interest:

Residential Building Permits (CS/HB 671 & SB 682)

The bill:

- Requires local jurisdictions to reduce their permit fee by 75% when the property owner or contractor retains a private provider for plans review or building inspection services.

- Shortens timeframes for the submittal, process, and review of applications for a building permit.
- Limits when a permit application is deemed complete and sufficient.
- Provides that a local government can request additional information once for certain residential dwelling building permits.
- Requires local jurisdictions provide an opportunity for an in-person or virtual meeting before a second request for additional information may be made.
- Requires that local governments follow certain prescribed timeframes unless a local ordinance is more stringent.
- Allows a developer to build 50 percent of residential units after preliminary plat approval, under certain circumstances.

Sovereign Immunity (CS/HB 401 & SB 604)

The bill:

- Increases the sovereign immunity caps for damages against state and local government entities to $2,500,000 per person and $5,000,000 per incident.
- Allows a subdivision of the state to settle a claim and pay the settled amount without the need for a claim bill.
- Eliminates any statute of limitations for filing a claim against a state or local government entity for sexual battery actions involving a victim who was younger than 16 years old at the time of the incident. However, the bill does not resuscitate any such claim which would have been time-barred as of July 1, 2010.
- Increases the time limitation for filing a claim from three years to four years after the claim accrues.
- Reduces from six months to three months the general pre-suit statutory time period for a government entity to review and dispose of a claim.

Vacation Rentals (CS/CS/HB 833 & CS/CS/CS/SB 714)

The bill:

- The bill permits “grandfathered” local laws, ordinances, or regulations adopted on or before June 1, 2011, to be amended to be less restrictive or to comply with local registration requirements.
- Additionally, a local government that had such a grandfathered regulation in effect on June 1, 2011, to pass a new, less restrictive ordinance.

- The bill does not affect vacation rental ordinances in jurisdictions located in an area of critical state concern.
- The bill provides that a local law, ordinance, or regulation may restrict the maximum occupancy for rented residential properties if the restriction applies uniformly without regard to whether the residential property is used as a vacation rental.

Financing Improvements to Real Property (CS/CS/HB 1151 & SB 810)

The bill makes several changes to Florida's Property Assessed Clean Energy (PACE) law as it relates to commercial real property. In particular, the bill:

- Defines "commercial property;"
- Expands the types of improvements to commercial property that are eligible for PACE financing;
- Modifies the requirements for commercial property owners to be eligible for PACE financing, including the addition of a requirement for mortgage holder consent;
- Authorizes progress payments, or payments made before completion, for commercial property;
- Limits fees imposed on PACE assessments on commercial property; and
- Authorizes the use of PACE financing on government property leased for commercial uses.

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

BONITA SPRINGS
CITY COUNCIL
MEETING MINUTES

May 17, 2023
9:00 a.m.

DRAFT

1. **Call to Order**
   Mayor Rick Steinmeyer called the meeting to order at 9:00 a.m.

2. **Invocation**
   Invocation provided by Rev. Ann Grandell, Gulf Shore Church

3. **Pledge of Allegiance**
   Mayor Steinmeyer led the Pledge of Allegiance

4. **Roll Call**
   The City Clerk called the roll:

   Present 7 — *Mayor Steinmeyer, Council Member Bogacz, Council Member Purdon, Council Member Carr, Council Member Corrie, Council Member Fullick, Council Member Forbes*

   Absent 0

5. **Approval of Agenda**
   No objections or changes

6. **Mayor's Welcome**
   Mayor Steinmeyer welcomed attendees and thanked them for their participation.

7. **Public Comment on Agenda Items**
   None

8. **Zoning and Land Use Items:**

A. (FIRST READING AND PUBLIC HEARING) A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR AN AMENDMENT TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO INCLUDE 24 MULTI-FAMILY UNITS AS THE PRINCIPAL USE OF THE PROPERTY, AND TO ADD ONE DEVIATION; LOCATED AT 04-48-25-B1-00002.000A, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet No. 23-05-115)

The Clerk read the Ordinance title into the record. City Attorney Rooney administered the oath to those who intended to give testimony. Council Member Carr motioned to move to second reading; Council Member Forbes seconded. Mayor Steinmeyer called for public comments; seeing none, he asked the Clerk to call the roll. The motion carried unanimously.

9. **Consent Agenda:**

Council Member Carr motioned to approve the Consent Agenda; Council Member Bogacz seconded. The motion carried unanimously.

A. Approval of the May 3rd Draft City Council Meeting Minutes

B. Approve the Sovereignty Submerged Land Lease Renewal with Florida Department of environmental Protection (FDEP) for the Riverside Park Canoe and Kayak Launch (BOT No. 361095875) (Green Sheet No. 23-05-100)

C. Confirm and ratify Resolutions extending the Local State of Emergency due to Hurricane Ian. (Green Sheet No. 23-05-102)

D. Approve Purchase Agreement Amendment #2 for the Voluntary Home Buyout Program extending the agreement expiration date from May 31, 2023 to June 30, 2023. (Green Sheet No. 23-05-103)

E. Approve a purchase agreement to acquire parcels located in the Quinn/Downs/Dean Neighborhood for the Voluntary Home Buyout Program (Green Sheet No. 23-05-104)

F. Approve an Agreement of Exchange of Real Property (Section 1031 of the Internal Revenue Code and the Treasury Regulations) for duplex purchase in the Voluntary Home Buyout Program (Green Sheet No. 23-05-105)

G. Approve a Right-of-Entry Agreement with Lee County to conduct geotechnical and archaeological inspections on County owned properties for the Quinn/Downs/Dean Neighborhood Infrastructure Project (Green Sheet No. 23-05-106)

H. Approve two special event permits for the City's "STAR-SPANGLED BONITA" event and the Bonita Springs Professional Firefighters Local 3444's parade at Riverside Park on Tuesday, July 4, 2023, with temporary road closures of portions of Old 41. (Green Sheet No. 23-05-108)

- Opportunity for City Council Comments on Consent Agenda

DRAFT

10. **Mayor and Council Member Items:**

A. Discussion regarding a request for permit coordination with West Coast Inlet Navigation District (WCIND) for the maintenance dredging of Week's Fish Camp Marina Access Channel. (Green Sheet No. 23-05-112)

Council Member Bogacz stated that London Bay, the developer of the Week's Fish Camp property, has asked West Coast Inlet Navigation District (WCIND) to coordinate the environmental permitting process involved with dredging the Week's Fish Camp marina access channel. She asked for the Council's support in the form of a letter to Lee County requesting that the County assist WCIND with the permitting process. Mayor Steinmeyer motioned to approve; Council Member Purdon seconded. The motion carried unanimously.

11. **Public Hearing:**

A. (First Reading and Public Hearing) AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 – ZONING, TO AMEND SEC. 4-1052- BACKYARD HENS; PROVIDING FOR 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. 23-05-107)

The Clerk read the Ordinance title into the record. Staff member Sean Gibbons presented. Mayor Steinmeyer motioned to move to second reading; Council Member Purdon seconded. Mayor Steinmeyer called for public comments; seeing none, he asked the Clerk to call the roll. The motion carried unanimously.

12. **City Attorney's Items:**

A. Continue the adoption of an ordinance approving the Petition of Bonita Springs Utilities, Inc., to Approve Special Service Charges for Sun Village Estates and the Lakes of San Souci. (Green Sheet No. 23-05-113)

City Attorney Rooney informed Council that the second reading/public hearing will be scheduled for the next Council meeting in order to meet legal advertising timing requirements.

B. Adopt a resolution that provides the Bonita Springs City Council's notice and consent to the Lee County Board County Commissioners for the establishment of the Saltleaf Community Development District within the municipal boundaries of Bonita Springs (Green Sheet No. 23-05-110)

Council Member Carr motioned to adopt the resolution; Council Member Bogacz seconded. The motion carried unanimously.

DRAFT

13. **City Manager's Items:**

A. Discussion regarding the City's proposed project for the Hazard Mitigation Grant Program (HMGP) for Hurricane Ian. (Green Sheet No. 23-05-111)

Council Member Corrie motioned to allow staff the flexibility to adjust the City's submitted HMGP grant applications in order to meet the needs identified by residents; seconded by Council Member Fullick. The motion carried unanimously.

B. Presentation and review of the March Financial Report. (Green Sheet No. 23-05-101)

Finance Director Lisa Griggs-Roberson presented the March Financial Report (copy on file in the Clerk's office).

C. Update regarding Hurricane Ian recovery

City Manager Hunter informed Council that the Recovery Task Force is collecting data from all county jurisdictions regarding Hurricane Ian permitting, and therefore City staff will be forwarding the requested data. She also informed Council that there will be a hurricane preparation/preparedness update scheduled for the June 21st Council meeting, in conjunction with the start of the 2023 hurricane season.

14. **Mayor and Council Member Reports**

Council Member Carr reported on RSW Airport expansion plans.

15. **Public Comment**

None

16. **Adjournment**

There being no further business, the meeting adjourned at 9:44 a.m.

Prepared by:

_____
Mike Sheffield, City Clerk

APPROVED BY CITY COUNCIL

Date: _____

AUTHENTICATED:

_____
Rick Steinmeyer, Mayor

DRAFT

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

Bonita Springs City Council
Special Meeting Minutes
May 17, 2023

1. Call to Order

Mayor Rick Steinmeyer called the meeting to order at 9:58 a.m.

2. Roll Call

The City Clerk called the roll:

Present 7 — *Mayor Steinmeyer, Council Member Bogacz, Council Member Purdon, Council Member Carr, Council Member Corrie, Council Member Fullick, Council Member Forbes*

Absent 0

3. Review of Hurricane Recovery Projects for Potential Funding from CDBG– DR Funds

Elly McKuen, Senior Project Manager, summarized the CDBG-Disaster Recovery program and project eligibility requirements. City Manager Hunter and Assistant City Manager Feeney provided an overview of current Capital Improvement Projects in low-moderate income areas of the City (presentation and areal map on file in the Clerk's office).

Council Member Corrie stated that City projects submitted to the Task Force will compete with many other projects countywide for inclusion in the action plan. He stated that projects in partnership with other communities, and projects that meet several branch committee priorities, are more likely to be included in the Task Force' action plan, to be presented to County Commissioners in December. He also said that other county municipalities have obtained a consultant, and perhaps Council should consider doing so as well.

Additional projects suggested by Council Members included septic to sewer conversions in partnership with BSU, workforce housing, and undergrounding FPL electrical lines. City Manager Hunter suggested that the City conduct a community planning project study that will cover those topics.

4. City Council Discussion and Direction

After deliberations, Mayor Steinmeyer called for two separate motions, first for transportation projects, followed by a second motion/vote for non-transportation projects.

DRAFT

Council Member Corrie motioned that the following transportation projects be forwarded to the Recovery Task Force; seconded by Mayor Steinmeyer. The motion carried unanimously.

1. *Sun Trail (Rails to Trails)*
2. *Goodwin Street Sidewalk and Drainage Improvements*
3. *Pine Avenue Multi-Use Pathway*
4. *Dean Street Multi-Use Drainage and Multi-Use Pathway*
5. *West Terry Street South Side Sidewalk*
6. *Rosemary Drive Drainage and Multi-Use Pathway*
7. *Old 41 Road Bike and Pedestrian Improvement Project*
8. *US 41 Bridge Beautification*

Council member Corrie then motioned that the following non-transportation projects be forwarded to the Recovery Task Force seconded by Council Member Purdon. The motion carried unanimously.

1. *Parking Garage Feasibility Study*
2. *Maywood Soccer Fields*
3. *Community Pool Expansion*
4. *Children's Activity Pool and Family Restroom*
5. *Former Community Hall and Banyan Tree Park Improvement Conceptual Study*
6. *Bonita Springs Old Library Facility*
7. *Nature Place Updates and Expansion*
8. *Recreation Center Expansion and Improvements*

*Council Member Carr motioned to add **Bandshell renovations**; seconded by Council Member Bogacz. The motion carried unanimously.*

5. Public Comment

Ann Grandell - Suggested the City partner with non-profit/faith-based agencies to use disaster recovery funds for the purchase of land for affordable housing.

6. Adjournment

There being no further business, the meeting adjourned at 11:34 a.m.

Prepared by:

_____
Mike Sheffield, City Clerk

APPROVED BY CITY COUNCIL
Date: _____

AUTHENTICATED:

Rick Steinmeyer, Mayor

_____

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-06-116
June 7, 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. 23-37 issued on May 15, 2023
2. Resolution No. 23-39 issued on May 22, 2023
3. Resolution No. 23-40 issued on May 29, 2023

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Mike Sheffield

CITY OF BONITA SPRINGS
RESOLUTION NO. 23-37

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 15th day of May, 2023.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney

Date filed with City Clerk: 5/16/23

CITY OF BONITA SPRINGS
RESOLUTION NO. 23-39

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 22nd day of May, 2023.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney

Date filed with City Clerk: 5/22/23

CITY OF BONITA SPRINGS
RESOLUTION NO. 23-40

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 29th day of May, 2023.

AUTHENTICATION:

Rick Steinmeyer
Mayor

Mike McNees
City Clerk

APPROVED AS TO FORM: _____
City Attorney

Date filed with City Clerk: 5/31/23

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-06-124
June 7, 2023

REQUESTED MOTION: Notice of updated hearing dates for the backyard hen ordinance.

REQUESTOR: John Dulmer & Sean Gibbons, Community Development

AGENDA: Consent Agenda

STRATEGIC PRIORITY: N/A

BACKGROUND:

On May 17, 2023, the first reading of the attached ordinance was conducted before Council with a tentative schedule of being heard by the LPA on May 18th and conducting the second reading and public hearing before Council on June 7th. Due to scheduling conflicts, the LPA meeting had to be rescheduled.

This ordinance is tentatively scheduled to be heard by the LPA on June 8th, and the second reading and public hearing before Council is tentatively scheduled for June 21st.

STAFF RECOMMENDATION: Note the updated schedule.

ATTACHMENTS:

1. Revised Code Language (Sec. 4-1052. Backyard Hens) in Strike-Through/Underline Format.

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	John Dulmer

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 23 – __

AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 – ZONING, TO AMEND SEC. 4-1052-BACKYARD HENS; PROVIDING FOR 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, on December 5, 2012, adopted a two-year pilot program to permit backyard hens on a limited number of residential properties; and

WHEREAS, on December 17, 2014, City Council adopted Resolution No. 14-60 to extend the pilot program until such time that an ordinance could be adopted to codify the program; and

WHEREAS, on March 18, 2015, the City Council adopted Ordinance No. 15-06 creating a program under which no more than twenty-five permit holders at any given time could be allowed up to four (4) backyard hens on residential properties; and

WHEREAS, the City Council now wishes to amend the Ordinance to remove the limit of permit holders that may have backyard hens.

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 the Land Development Code, 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 of 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: _____ By: _____
Michael Sheffield, City Clerk Mayor Rick Steinmeyer

Reviewed for legal sufficiency:

By: _____
City Attorney's Office

Vote:

Steinmeyer	Corrie
Bogacz	Fullick
Purdon	Forbes
Carr	

Date filed with City Clerk: _____

Sec. 4-1052. Backyard Hens.

(a) *Purpose.* The City of Bonita Springs allows ~~a limited number of~~ permits for "backyard hens" that are kept in the backyards of single-family or duplex residential units under certain conditions. ~~At any time, only 25 households within the City of Bonita Springs may be permitted for backyard hens.~~

(b) *Letter of determination for backyard hens.* The city manager or designee will review and approve applicants utilizing the Letter of Determination process at a fee of ~~$50.00~~ 25.00, where applicants are selected based on meeting specific criteria contained in the backyard hens permit approved by this section.

(1) Residents must apply for a Letter of Determination to allow hens in backyard coops.

(2) Community Development will issue a Letter of Determination, subject to subsection (c) of this section.

(c) *Permit requirements.*

(1) Applicants of single-family or duplex dwellings within the City of Bonita Springs may apply for a Letter of Determination by submitting an application, a site plan indicating proposed coop location, and preliminary plans for the covered coop to the Community Development Department. Community development has the final authority to approve or deny permit a permit. A staff representative will review the application and perform a site visit prior to final permit approval.

(2) Up to four (4) hens are allowed at a single-family or duplex residence.

(3) No sale of eggs or chicken products. Eggs should be consumed by household.

(4) Roosters are prohibited.

(5) Townhome, multi-family and similar units are prohibited from keeping hens.

(6) Hens must be contained within a covered chicken coop and fenced pen area. The coop and fenced pen area must be located in the rear half of the residential lot behind the principal structure. It shall be unlawful for any person to allow hens to run at large upon the streets, alleys, or other public places of the city, or upon the property of any other person.

(7) The coop and fenced pen area shall meet or exceed the zoning district's setbacks for accessory structures for the subject property and must be set back a minimum of 20 feet from any adjacent residential principal structure or accessory structure that contains a residential unit which is off the subject property (unless the adjacent neighbor agrees in writing to a lesser setback or a waiver of these requirements). ~~,and meets the zoning district's setbacks for accessory structures for the subject property.~~

(8) The coop and pen area must be kept in a clean sanitary manner, free of insects and rodents, offensive odors (odor must be undetectable at property line), excessive noise, or any other condition which could potentially cause a nuisance (i.e., the coop should be cleaned frequently). The coop shall be visually screened from view by the adjoining parcel (e.g., plants, fencing, or placed so it is out of sight). Stored feed must be secured in metal containers to prevent mice and other pests.

(9) No slaughtering of the hens is allowed on the subject site.

(10) As long as the coop is movable or prefabricated and is 12 square feet or less, no building permit is required. Stationary or affixed coops larger than 12 square feet will require an accessory structure building permit, a condition of which may be required to be removed upon ceasing to keep an active permit for over six months.

(11) If a resident decides not to continue with their permit, if the permit is revoked pursuant to section (4), or this section is repealed, the resident is responsible for finding appropriate homes for the hens.

(12) If this section is repealed, the city will mail notices to each active permit holder advising that they will need to relocate their hens, providing them at least 60 days' notice from the adoption of any ordinance repealing the backyard hens permit.

(d) *Revocation and transfer of permits.*

(1) *Revocation.* A permit may be revoked by the city for the following reasons:

a. Inactivity. If a permit holder fails to obtain hens within six months of obtaining the permit.

b. Inactivity. If a permit holder discontinues maintaining hens for a six-month period.

c. If, after notice and reasonable time in which the grounds for revocation may be corrected, the resident fails to comply with any of the standards in this section, any condition of approval, or the diagram or plans.

d. Revocation may also occur if there are more than three separate complaints occurring in a 90-day period arising from the backyard hens, such as loud noise at night, offensive smells, or roaming at large.

e. If revoked, neither the resident nor anyone else on the same premises may reapply for a period for 12 months from the date of revocation. All hens must be removed from the property during any time the permit is revoked.

(2) *Transfer.* A permit issued pursuant to this section shall not be transferred to a subsequent property owner. Any subsequent property owner will be required to reapply for a permit pursuant to this section if the subsequent property owner wants backyard hens.

~~(3) *Priority status.* Any active permit holder who relocates to a new location may apply for a backyard hen permit with a priority status of not having to be waitlisted behind property owners who do not currently have a permit. The reason is to allow continuity of ownership for existing hens in Bonita Springs.~~

~~(4)~~(3) *Property owner withdrawal of consent.* The property owner may withdraw its consent to the permit at any time by submitting a letter instructing the city to cancel the permit. The letter must include evidence that the permit holder received notice of this withdrawal and the cancel date for the permit. The property owner may reinstate consent within 30 days from the cancel date, otherwise, a new permit application must be submitted to accommodate backyard hens.

(e) *Enforcement.* ~~Community Development will refer cases~~ Violations will be referred to the city's ~~code enforcement department~~ Neighborhood Services (Code Enforcement) Department when a person maintains hens on their property without a permit or violates the provisions of this section. Any person who violates any section of this section or fails to comply with any of its requirements may be prosecuted through the city's code enforcement process. The code enforcement officers may, in addition, or alternatively, to pursuing criminal penalties or seeking injunctive relief, bring violations before the code enforcement hearing examiner, in accordance with all of the provisions of, and pursuant to, the enforcement procedures established under section 2-107 et seq. Each separate occurrence of a violation of this section shall constitute a separate violation and shall be punishable as such.

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-06-118
June 7, 2023

REQUESTED MOTION: Discussion regarding potentially partnering with Bonita Springs High School students for future organized clean-up events.

REQUESTOR: Mayor Rick Steinmeyer

AGENDA: Mayor & Council Member Items

STRATEGIC PRIORITY:

BACKGROUND:

I would like to discuss with Council potentially partnering with the Bonita Springs High School for organized clean-up of various designated locations throughout the City. This would be in addition to those that are regularly programmed each year.

Should Council agree, I would like to work with staff coordinating with the high school on future events.

STAFF RECOMMENDATION: Council's pleasure.

ATTACHMENTS: None.

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-06-120
June 7, 2023

REQUESTED MOTION: Consider adopting a resolution appointing Alyona Ushe to the Art in Public Places Board.

REQUESTOR: Council Member Nigel P. Fullick, District 5

AGENDA: Mayor and Council Member Items

STRATEGIC PRIORITY: none

BACKGROUND:

In 2005, the City Council approved Ordinance No. 05-18 establishing an Art in Public Places Board with seven appointed members of the Board. On September 17, 2018, the City Council approved an amendment to the ordinance increasing the members of the Board to eleven members, while keeping the quorum at the same level (4 members). Additionally, the ordinance states the composition of the Art in Public Places Board will include one voting member who represents the Bonita Springs Centers for the Arts. Susan Bridges has recently retired from her position as Executive Director of the Center for the Arts.

Attached is an application from Alyona Ushe, who is the new Executive Director of the Bonita Springs Centers for the Arts. She has expressed an interest in being appointed to the Art in Public Places board.

The Board currently consists of Amy Quaremba, Gary Price, Janet Flanders, Melissa Layner, Susan Bridges, and Shelley Andersen, and there are currently five vacancies.

STAFF RECOMMENDATION: Approve Resolution appointing applicant to the Art in Public Places Board.

ATTACHMENTS:

1. Resolution
2. Application and Resume – Alyona Ushe

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	Nicole Perino

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 23-

A RESOLUTION OF THE CITY OF BONITA SPRINGS APPOINTING A MEMBER TO THE CITY OF BONITA SPRINGS ART IN PUBLIC PLACES BOARD; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs, Florida adopted Ordinance No. 05-18 establishing the City of Bonita Springs Art in Public Places Board; and

WHEREAS, the Ordinance sets forth the Appointment and Composition of the Committee, which is to consist of 7 members; and was amended to 11 members.

WHEREAS, the vacancy has been properly advertised in accordance with Administrative Code AC-1-6 establishing a procedure for obtaining appointees for various city advisory boards;

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

Section 1. The following person is hereby appointed to the City of Bonita Springs Art in Public Places Board: Alyona Ushe

Section 2. Effective Date. This resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of June,2023.

AUTHENTICATION:

_____ _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney's office

Vote:

Purdon	_____	Bogaz	_____
Forbes	_____	Steinmeyer	_____
Fullick	_____	Carr	_____
Corrie	_____		

Date filed with City Clerk: _____

APPLICATION TO SERVE ON ADVISORY COMMITTEE

(PLEASE TYPE OR PRINT)

PLEASE BE ADVISED THAT ALL INFORMATION CONTAINED IN THIS APPLICATION BECOMES PUBLIC RECORD ONCE SUBMITTED TO CITY OF BONITA SPRINGS

Note: Applications will be kept on file and active for a period of two years from date received.

City Council District #_____

DATE:_____

PLEASE COMPLETE ALL SECTIONS					
NAME:	Ushe	Alyona		A	
	Last	First		Middle Initial	
RESIDENCE ADDRESS:					
Street	23800 Costa del Sol Rd, 204	City	Bonita Springs	Zip Code	34135
BUSINESS ADDRESS:					
Street	26100 Old 41 Rd	City	Bonita Springs	Zip Code	34135
MAILING ADDRESS:					
Street	26100 Old 41 Rd	City	Bonita Springs	Zip Code	34135
PHONE NO.			CELL PHONE #	561-245-0180	
	Home			Business	239-495-8989
E-MAIL ADDRESS:	ushe@artsbonita.org				
FAX:					

I hereby submit my name for consideration to serve in an advisory capacity to the City of Bonita Springs on the following Advisory Committee:

Art in Public Places

NAME OF ADVISORY COMMITTEES

OCCUPATION: Executive Director

CIVIC/PROFESSIONAL ACCOMPLISHMENTS/OFFICES HELD:

Do you reside in Bonita Springs? [X] Yes [ ] No Address: 23800 Costa del Sol Rd, 204, Bonita Springs,34135

APPLICATION TO SERVE ON A CITY OF BONITA SPRINGS ADVISORY COMMITTEE – CONTINUED

My qualifications to be eligible are as follows:

If applicable, please indicate any employment, contractual relationship or status that you may have, or have had within the past 12 months, with any private business entity that rents, leases or sells any realty, or provides any goods or services to the City or that is conducting any business with the City.

I joined the staff of the Centers for the Arts Bonita Springs on May 15, 2023

If you have previously served on a City of Bonita Springs Advisory Committee or are currently serving and seeking reappointment, please indicate the number and general nature of any voting conflict disclosure memorandum filed (Form 8B) while serving on the committee:

If applicable, attach a résumé of additional personal and professional qualifications and experience that pertains to the above.

I understand that:

1.) **Some of the Boards and Committees appointed by the City Council are required to comply with Chapter 112, Florida Statutes, the Financial Disclosure Law and you may be required to file a Form 1 Financial Disclosure.**

2.) **City of Bonita Springs, an equal opportunity/affirmative action employer, considers the selection and appointment of persons to advisory committees in a non-discriminatory manner consistent with the requirements of Federal, State and Local non-discrimination laws.**

Signature

May 27, 2023

Date

PLEASE RETURN THIS COMPLETED FORM TO:

CITY OF BONITA SPRINGS
ADVISORY COMMITTEES
9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135

CITY OF BONITA SPRINGS

Committee ID# _____
(Office Use Only)

The City of Bonita Springs complies with Local State and Federal laws, regulations and guidelines that prohibit discrimination based on race, sex, color, national origin, handicap, age or marital status

STATUTORILY CREATED REQUIRED COMMITTEE REPORTING DATA

The City of Bonita Springs is required by the State of Florida to collect and maintain the information requested below for statistical reporting purposes only. This information will be maintained separately from your application and will not be considered in the application evaluation process.

The information provided is required by State Statute, however, you have the right not to disclose any or all of this information. This form must be returned to the City of Bonita Springs.

Gender:	☐ **Male**	☒ **Female**	☐ **Choose Not to Disclose**			
Handicapped/Disabled	☐ **Yes**	☒ **No**	☐ **Choose Not to Disclose**			

If you have require special assistance or accommodations, please contact the City of Bonita Springs at 239 949-6262

If special accommodations are required, please specify:

_____

++

RACIAL/ETHNIC DATA (CHECK ONE)

☒ **WHITE: (Not of Hispanic Origin): All persons having origins in any of the original people of Europe, North Africa or the Middle East.**

☐ **BLACK: (Not of Hispanic Origin): All persons having origins in any of the Black racial groups of Africa.**

☐ **ASIAN OR PACIFIC ISLANDER: All persons having origins in any of the original Peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands. This area includes, for example: China, Japan, Korea, the Philippine Islands and Samoa.**

☐ **AMERICAN INDIAN OR ALASKAN NATIVE: All persons having origins in any of the original Peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.**

☐ **HISPANIC: All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race.**

☐ **CHOOSE NOT TO DISCLOSE**

ALYONA USHE

561-245-0180 alyona.ushe@gmail.com
4511 S. Ocean Blvd, Highland Beach, FL 33487
linkedin.com/in/alyonaushe/

SENIOR EXECUTIVE

Over twenty years of executive and leadership experience

A successful track record of starting and growing nonprofit organizations and cultural programming from inception to multi-million-dollar operations. Use creativity, vision, and passion to develop community and business collaborations, entrepreneurial ventures, and programs. Embrace creative risk-taking to expand organizational growth significantly. Extensive experience in programming, fundraising, significantly increasing earned and contributed revenue, financial planning, marketing, and conceiving and achieving effective educational and outreach programs.

St. Lucie Cultural Alliance | Fort Pierce, FL | Executive Director
2020 – 2023

- Increased paid membership base from $295 to over $25,000
- Increased the organization's operational budget from $150,000 to over $350,000
- Conceived, presented, and secured over $30,000 in sponsorships for a two-day signature Art, Mind & Soul Fest
- Created and launched ACE - Arts Conserve the Environment, a multi-faceted initiative that promotes recycling through arts, and secured over $100,000 in support, including the National Endowment for the Arts grant.
- Created a free ten-concert music series and received a multi-year $90,000 Levitt Foundation grant
- Developed an array of new programs throughout the county, including gallery exhibitions, musical series, independent film screenings, and professional development workshops
- Launched Creative Academy
- Opened a new gallery in downtown Fort Pierce at a highly subsidized rate
- Substantially increased awareness of the organization through numerous newspaper articles, radio and tv interviews, social media blogs, and word of mouth
- Published Cultural Alliance’s first Art St Lucie Magazine in collaboration with Martin County Arts Council
- Developed partnerships with the City of Fort Pierce and the City of Port St. Lucie
- Created collaborations with cultural and arts organizations

Blackrock Center For the Arts | Germantown, MD | Executive Director
2017 – 2019

- Rebuild from a skeleton staff to a full-capacity team
- Managed and programmed two theaters, classrooms, an art gallery, and a rental program
- Increased and expanded the quantity and diversity of programming from twenty events to over 80 performances and 60 productions annually
- Developed and implemented an annual organizational budget of $1.5 million
- Generated additional earned and contributed revenues
- Reinstated and raised matching funds required for the National Endowment for the Arts and Arts and Humanities Council of Montgomery County grants which had been neglected and unfulfilled
- Revamped the membership program to double its annual enrollment
- Guided the creation of marketing, public relations, and communication plans

Creative City Collaborative | Delray Beach, FL & Pompano Beach, FL | President & CEO
2010 – 2017

- Grew CCC from a dormant nonfunctioning organization into to multi-million-dollar institution.
- Envisioned and created mission, vision, and values for the company
- Developed a prestigious Board of Directors, Established Policies and Procedures manuals
- Developed and executed comprehensive fundraising, marketing, and community outreach strategic plans and campaigns
- Conceived and organized fundraising events, galas, receptions, and other special events to increase contributed support and community engagement
- Established numerous collaborations with local, regional, and national cultural nonprofit groups, as well as with businesses and community organizations
- Build an online presence by creating social media platforms and the company's website
- Coordinated the schedule of five cultural facilities in two counties

Delray Beach

- Founded Arts Garage, Arts Garage Academy, Theatre at Arts Garage, and Arts Garage Guild, which became the beacon of cultural innovation for the region
- Developed and implemented multiple signature music series
- Produced over 20 original, critically acclaimed, and award-winning theater productions
- Presented major gallery exhibitions featuring regional and national artists
- Established educational tuition-based programs, outreach initiatives for underserved children, and community-based events
- Obtained significant funding from individuals, corporations, foundations, and federal, state, and local government totaling over five million dollars
- Was awarded the prestigious John S. and James L. Knight Foundation challenge grant, the first-ever Knight Foundation People's Choice Award, and the Impact 100 Grant

Pompano Beach

- Won a highly competitive RFP from the Pompano Beach Community Redevelopment Agency and the City of Pompano Beach
- Opened new venues: Bailey Contemporary Arts Center and a 25-million-dollar Cultural Center
- Revitalized a three-thousand-seat dormant amphitheater
- Started Pompano Beach Arts Foundation
- Grew budget to over three-million-dollars
- Developed distinctly different programming initiatives for each site to serve respective demographics and size of the space
- Developed community outreach partnerships and collaborations with civic organizations and businesses

New Orleans Opera Association | New Orleans, LA | Executive Director
2008 – 2010

- Launched numerous partnerships with local community groups.
- Organized over five hundred volunteers for various special events
- Developed and implemented annual giving strategies
- Increased government, foundation, and individual support
- Develop giving categories and benefit packages
- Identified, cultivated, solicited, and secured funding from new donors
- Organized fundraising events, galas, receptions, and other special events

Classika & Synetic Theaters | Arlington VA | Founder & Executive Director
1996 – 2008

- Initiated and realized a successful merger between Classika Theatre & Synetic Theater in 2003
- Expanded Classika-Synetic programs to prestigious institutions:
  - The John F. Kennedy Center for Performing Arts
  - The National Theatre Sunday Morning program
  - Wolf Trap in the Woods
- Organized company's participation at the International New York Fringe Festival (2004); The Kennedy Center Prelude Festival at the Terrace Theatre (2005 and 2006); the first annual Shakespeare Festival in Washington, D.C. (2006)
- Increased the organization's budget from $10,000 to over $1,000,000
- Worked with the members of the House of Delegates and Senate to secure $600,000 in Federal Appropriation funds through the U.S. Departments of Labor and Health and Human Services to expand Classika's educational outreach programs
- Produced over 100 original productions
- Negotiated leases for facilities at a significantly reduced rent or Pro-Bono, and assembled a team of construction companies and developers to build out the theater and the theater studio completely on an in-kind basis of both labor and materials
- Grew full-time staff to ten employees and 30-50 part-time employees and independent contractors
- Featured on local television stations including NBC, CBS, Fox, ABC
- Profiled on National Public Radio and The Washington Post

HONORS & AWARDS

- The best-nonprofit award, Delray Chamber of Commerce
- Knight Foundation People's Choice Award
- Impact 100 Grant for the best educational initiatives in Palm Beach County
- Arlington County Public Schools Partnership in Education Awards
- STAR Award by the Arlington Commission for the Arts: Excellence in Community Outreach
- ABBIES Award for Excellence in Community Service
- Elizabeth Campbell Award for the Advancement of the Arts in Arlington

VOLUNTEER WORK

- Board Member former or present: Original Florida Highwaymen Museum, Germantown Alliance, Pompano Beach Sister Cities International, Greater Pompano Beach Chamber of Commerce
- Chair: Nonprofit Committee of the Greater Pompano Beach Chamber of Commerce
- Grant Panelist: Florida Department of State, Division of Cultural Affairs, and Maryland State Arts Council
- Graduate of Leadership Arlington, Leadership Delray Beach, Leadership Palm Beach, and Leadership St. Lucie

EDUCATION

- St. Petersburg University, St. Petersburg, Russia
  Graduate work in Russian Language and Literature

- The University of Maryland, College Park, MD
  Bachelor of Arts - Political Science and Russian Language and Literature

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-06-126
June 7, 2023

REQUESTED MOTION: An Ordinance of the City of Bonita Springs approving the Petition of Bonita Springs Utilities, Inc., to Approve Special Service Charges for Sun Village Estates and the Lakes of San Souci; and providing for an effective date.

REQUESTOR: Derek Rooney, City Attorney

AGENDA: Public Hearing

STRATEGIC PRIORITY: #4 Environmental Protection

BACKGROUND: Bonita Springs Utilities, Inc. (BSU) has provided the City a petition to approve special service charges for Sun Village Estates and the Lakes of San Souci.

Bonita Springs Utilities is requesting to adopt an adjustment to the current tariff (rate) structure specifically relating to BSU's need to establish special service charges for Sun Village Estates and the Lakes of San Souci to further the conversion from existing septic to a centralized wastewater system.

Pursuant to Section 27 of the Charter, a petition for rate changes must be approved by Ordinance.

The first reading occurred before Council on May 3, 2023.

STAFF RECOMMENDATION: Approve

ATTACHMENTS:

1. Draft Ordinance
2. BSU Petition for Sun Village Estates and BSU Petition for Lakes of San Souci

---

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 2023 -

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, APPROVING THE PETITION OF BONITA SPRINGS UTILITIES, INC., TO SPECIAL SERVICE CHARGES FOR SUN VILLAGE ESTATES AND THE LAKES OF SAN SOUCI SUBDIVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Bonita Springs Utilities, Inc. ("BSU") provides water and wastewater service within and outside the City of Bonita Springs pursuant to that certain Franchise Agreement By, Between And Among Bonita Springs Utilities, Inc., The City of Bonita Springs, Florida, and Lee County, Florida ("Franchise");

WHEREAS, the City of Bonita Springs received the Petitions dated April 7, 2023 to amend its tariff structures to provide special service charges to facilitate the expansion of wastewater into the Sun Village Estates and Lakes of San Souci subdivisions in the City of Bonita Springs, which Petition were accepted by the City Council at its regular meeting of May 3, 2023 which are attached hereto as Exhibits A and B, respectively; and,

WHEREAS, the City Council has set the said Petition and Ordinance for a public hearing on June 7, 2023, at 9:00 a.m., and caused due notice thereof to be published in the Fort Myers News-Press, a copies of which said notice are on file with the City Clerk; and,

WHEREAS, a public hearing was held on June 7, 2023, in the City Council Chambers, Bonita Springs, Florida, at which time BSU presented evidence and testimony in support of its Petition, and all interested parties were permitted to address the Bonita Springs City Council and to make a statement of record, and the Council, after being fully advised in the premises, makes the following determinations:

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BONITA SPRINGS, FLORIDA, THAT:

Section 1. Recitals.

Each and all of the foregoing recitals are hereby incorporated into this Ordinance as if specifically set forth herein.

Section 2. Amended Tariff Adopted.

The revised Tariffs, as proposed by BSU in its Petition, is hereby approved and granted.

Section 3. Effective Date.

This ordinance shall take effect immediately upon adoption.

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: _____ By: _____
City Clerk Mayor Rick Steinmeyer

Reviewed for legal sufficiency:

By: _____
City Attorney's Office

Date filed with City Clerk: _____

Bonita Springs Utilities, Inc.

April 7, 2023

Derek Rooney, Esq.
City Attorney
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs Florida 34135

Re: Bonita Springs Utilities, Inc.:
Petitions to Approve Special Service Charges for
Sun Village Estates and Lakes of San Souci Subdivisions

Dear Mr. Rooney:

Pursuant to section five of the Franchise Agreement by, between and among Bonita Springs Utilities, Inc., the City of Bonita Springs, and Lee County, Florida, as amended, enclosed please find the Petitions to Approve Special Service Charges for Sun Village Estates and the Lakes of San Souci on behalf of Bonita Springs Utilities, Inc. Under separate cover we are providing copies of these Petitions to Lee County through the County Attorney's Office.

We look forward to working with you and the City staff on this matter. Contact persons for these Petitions are Director of Finance Steven Richards, General Counsel Don Thomson, and me. Should you have questions regarding the Petitions or other matters, please feel free to call.

Sincerely,

John R. Jenkins
Executive Director

Enclosures

Cc: Ms. Arleen Hunter
Mr. Steven Richards
G. Donald Thomson, Jr., Esq.

PETITION TO APPROVE SPEICAL SERVICE CHARGE FOR SUN VILLAGE ESTATES

Bonita Springs Utilities Inc. ("BSU" or "Company"), a not-for-profit Florida Corporation, files this Petition to Approve a Special Service Charge for Sun Village Estates and in support thereof states:

1. The Florida 2021 Clean Waterways Act addressed a number of environmental issues related to water quality improvement including the creation of septic remediation plans. Governor DeSantis recently issued Executive Order 23-06 which directs funding and strategic action to expedite critical Everglades restoration projects, to protect and restore our waterways, and fund infrastructure projects to improve water quality and safeguard Florida's water supply.

2. Governor DeSantis created the Blue-Green Algae Task Force to play a role in protecting Florida's water resources. Among its 2019 recommendations the Task Force found "septic systems are also a well-known and substantial source of nutrients to groundwater and surface waters across the state." And "The task force further recommends legislation and funding to accelerate cost-effective septic to sewer programs with the aim of reducing nutrient pollution that leads to harmful algal blooms."

3. The City identifies expansion of centralized sanitary sewer systems in its Comprehensive Plan Infrastructure Element and Sanitary Sewer Sub-Element Objective. The Plan includes a Sub-Element Policy: "The City shall require on-site sewage disposal systems to connect to central sanitary sewer when sanitary collection lines have been installed immediately adjoining, and service is available to, the property served by the on-site system." The Plan assigns priority to cost feasible capital improvement projects intended to extend central sewer service to areas within the City currently served by septic tanks.

4. As part of the State's water quality improvement initiative, and in response to the City's efforts to obtain grant funding for septic tank replacement projects, BSU developed engineering design plans and cost estimates to have a "shovel ready" project to convert Sun Village Estates from septic tanks to central wastewater service ("Project").

5. The City has obtained $2,050,000 in grant funding from the State of Florida, Department of Environmental Protection (FDEP) to extend central wastewater treatment service to Sun Village Estates.

6. The FDEP grant funds require a one-to-one match. The City is contributing $1,025,000 to pay for the Project. BSU is paying another $1,025,000 toward the Project, half of which will be reimbursed by the customers receiving wastewater service. This total of $2,050,000 will satisfy the match.

7. In response to the availability of grant funds, the City and BSU entered into a Septic Replacement and Groundwater Protection Agreement ("Agreement") pursuant to which BSU will extend central wastewater treatment service to Sun Village Estates using the grant

funding to reduce the cost to the residents.

8. Attached as Exhibit "A" is a Septic to Sewer Funding Analysis which summarizes the cost of the Project, the Special Service Charge payment calculation, and the cost allocation to ensure that the residents benefiting from the Project will pay an equitable share of the cost.

9. The Special Service Charge has been determined to be Three Thousand Five Hundred Eighty-Four dollars ($3,584) per residential unit. These residents are also responsible for payment of the appropriate Aid-to-New Construction ("ANC") fee of Three Thousand Nine Hundred Twenty-Five dollars ($3,925) for an overall cost of Seven Thousand Five Hundred Nine Dollars ($7,509).

10. Residents may pay the Special Service Charge in a single up-front payment, or through a monthly payment option of Thirty-Five Dollars and Eighty-Five Cents ($35.85) per residential unit. Monthly payments are over a thirty-year term at four percent (4%) interest. The Special Service Charge and ANC fee may be paid off in full at any time without penalty.

11. Pursuant to the Franchise Agreement by, between and among Bonita Springs Utilities, Inc., the City of Bonita Springs and Lee County dated October 2, 2002 and enacted as City of Bonita Springs Ordinance No. 02-14 (as amended), BSU's Water and Wastewater Tariffs changes are subject to City approval.

12. BSU requests approval of an addition to the Wastewater Tariff as set forth in Exhibit "B" attached hereto, authorizing collection of the Sun Village Estates Special Service Charge. A revised Wastewater Tariff (in its entirety) is attached hereto as Exhibit "C".

Bonita Springs Utilities, Inc. respectfully requests City Council set a public hearing and take such action as may be required by law to hear this Petition and approve the Special Service Charge as set forth herein.

Respectfully submitted this
7th day of April, 2023 by:

John R. Jenkins, Executive Director

EXHIBIT “A”

RAFTELIS

BONITA SPRINGS UTILITIES

Septic to Sewer Funding Analysis

Final June 10, 2020

RAFTELIS
FINANCIAL CONSULTANTS, INC.

SEPTIC TO SEWER PROGRAM

BSU has two separate design projects for gravity sewer expansion to the existing two residential neighborhoods currently on septic tanks:

- Sun Village
- Lakes of San Souci

BSU currently serves potable water to these neighborhoods so historical usage data is available

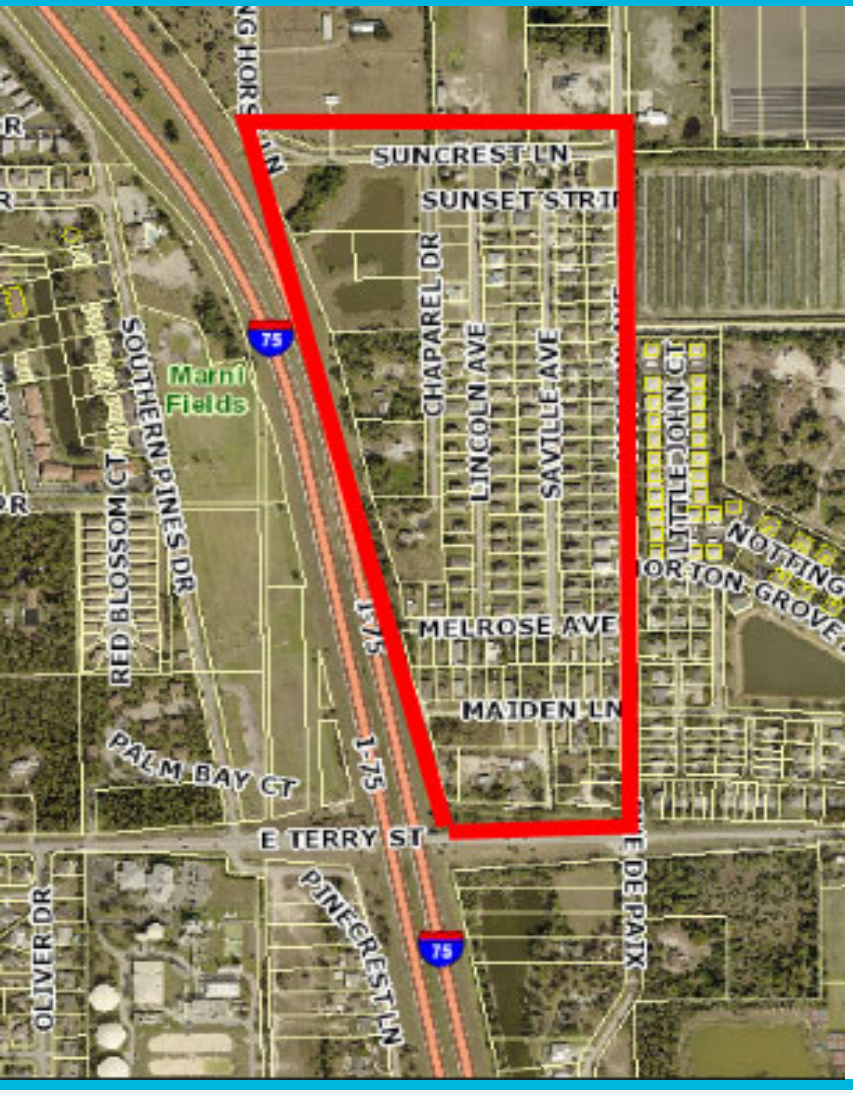
SERVICE AREA MAPS



Sun Village

Lakes of San Souci

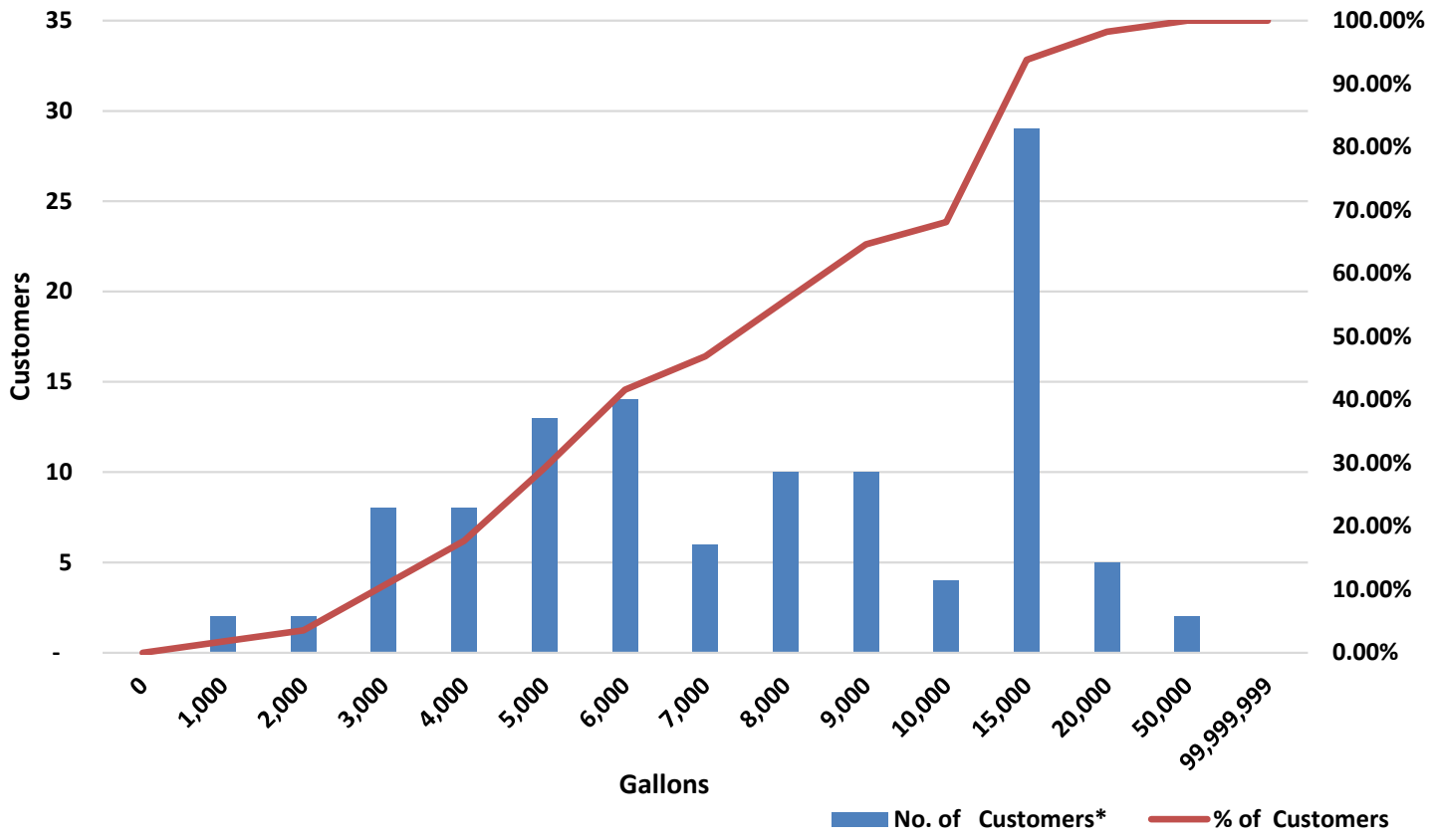
SUN VILLAGE



- 143 residential units (based on design cost estimate)
- Built between 1961 and 2018
- Median home built: 2006
- Median value: $218,127 (excluding vacant parcels)

SUN VILLAGE CUSTOMER BILLING ANALYSIS

- 113 water accounts reviewed* (2019 consumption)
- Median Usage 7,000 gallons/mo.
- Approximately 7% of bills above 10,000 gallons



* 113 accounts were identified from billing data out of the 143 sewer connections from design project information.

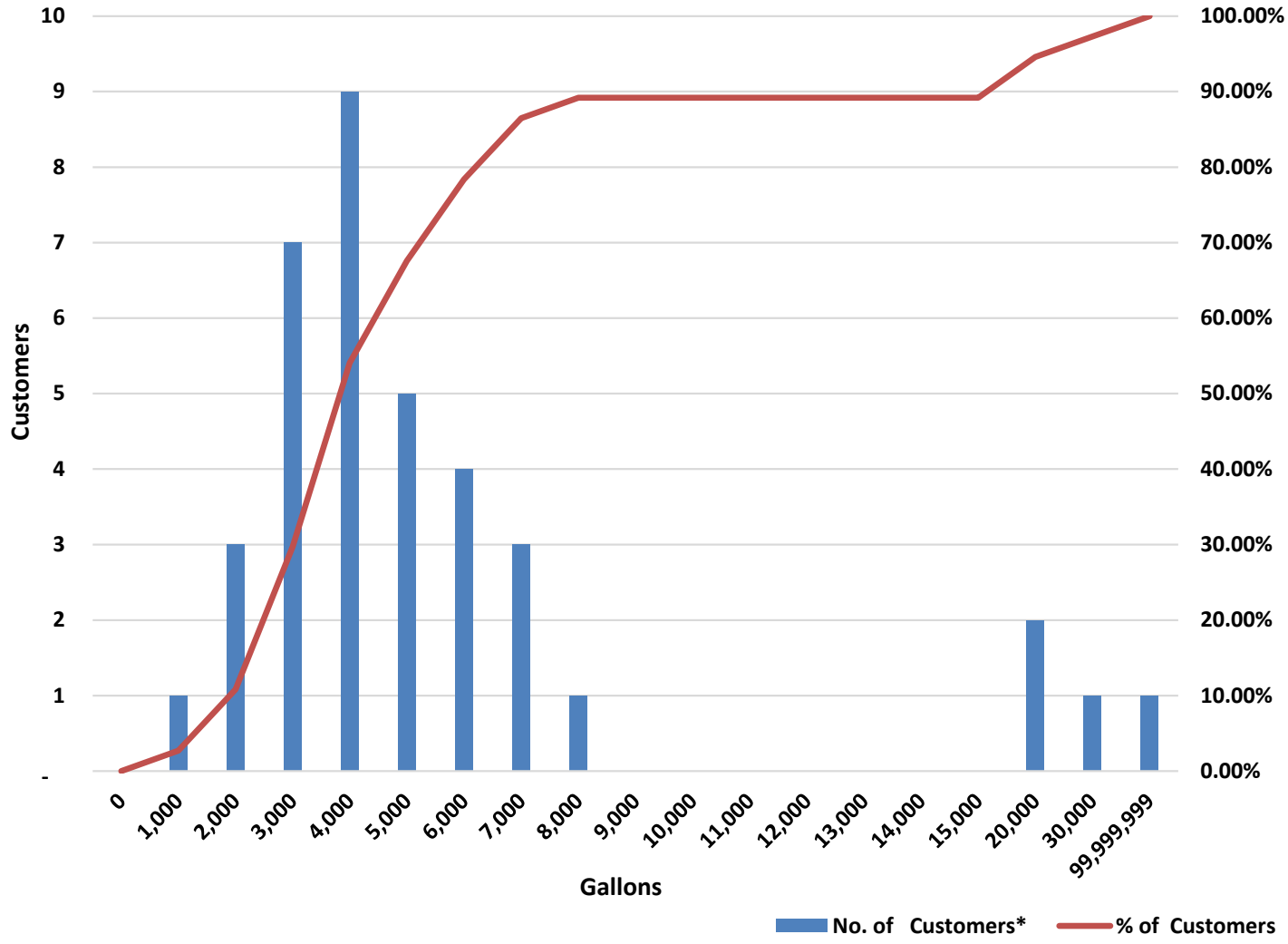
LAKES OF SAN SOUCI



- 48 units (based on design cost estimate)
- Most residential (1 church)
- Built between 1973 and 2017
- Median home built: 1999
- Median value: $243,048 (excluding vacant parcels)
- Higher S2S cost per unit
  - Larger homes / lot sizes
  - Less density

SAN SOUCI CUSTOMER BILLING ANALYSIS

- 37 water accounts reviewed* (2019 consumption)
- Median Usage 4,000 gallons
- 4 accounts (10%) above 10,000 gallons



* 37 accounts were identified from billing data out of the 48 sewer connections from design project information.

SEPTIC TO SEWER FUNDING ISSUES

- Assess vacant parcels?
- Differing parcel sizes / economies?
- Are connections and charges mandatory?
- Will there be incentives for (early) connection?
- Does age of septic tank matter / will there be accommodative policies for connection?
- Are property owners are also responsible for lateral and septic tank removal costs?
- BSU historical special sewer charges for wastewater connection:
  - $795 to $7,210; or
  - $5.68 to $43.23 / month

PROJECT COST SUMMARY

	Sun Village	San Souci	Total
Total Project [1]	$4,100,000	$1,900,000	$6,000,000
Units / ERCs [2]	143	48	191
Cost per Unit	$28,671	$39,583	$31,412
ANC Fee	$3,925	$3,925	$3,925
Total	$32,596	$43,508	$35,339

_____

[1] Project costs include construction cost estimate, design, construction services, permitting, and other allowances. Amounts exclude ANC fees.

[2] Assumes that each residential unit is one ERC.

POTENTIAL COST ALLOCATION

	Sun Village	San Souci	Total
Cost per Unit [1]	$32,596	$43,508	$35,339
Property Owner Target Cost:	$12,000	$12,000	$12,000
ANC Portion	$3,925	$3,925	$3,925
Construction Portion	$8,075	$8,075	$8,075
Remaining Costs	$20,596	$31,508	$23,339

[1] Includes ANC Fees.

PROPERTY OWNER COST SCENARIO

	Amount	Comment
Property Owner Target Cost:	$12,000	Amount is 5.5% of median home values in area
Construction Portion	$8,075	
Cost per Month [1]	$80	Based on 20-year assessment with 5% interest; amount excludes monthly wastewater bill

_____

[1] Amortized 20 years assuming 5% interest; amount excludes monthly wastewater bill.

CAPITAL IMPROVEMENT FUNDING

	Amount	Comment
Sun Village and San Souci Septic to Sewer (S2S)	$6,000,000	Construction, design, CEI
Funding Sources:		
BSU reserves	$290,000	Net present value: $10 per month of average $40 - $50 new wastewater bill is applied toward project cost.
BSU new debt	$1,540,000	New debt assumes all property owners connect and choose a 20 year assessment (assumes mandatory connection)
Outside Funding	$4,170,000	Other non-BSU sources; this is amount necessary to avoid BSU ratepayers subsidizing S2S program.

ADDITIONAL STEPS

- What are similar other utilities charging (and why)?
- How will any precedent affect future conversion areas?
- Formulate incentive structure and accommodations:
  - Is it mandatory?
  - What if septic tank is less than 3 years old? 5 years? 10 years?
  - Incentives for early connections?
  - Vacant parcels

EXHIBIT “B”

SPECIAL SERVICE CHARGE TO THE SUN VILLAGE subdivision –

In addition to the other rates and charges contained in this Tariff, customers in the Sun Village subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers.

Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% annum.

The charges are set forth below:

Single Family Unit One Time Payment: $3,584

Monthly Amortization: $17.11

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Sun Village customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

SPECIAL SERVICE CHARGE TO THE LAKES OF SAN SOUCI subdivision –

In addition to the other rates and charges contained in this Tariff, customers in the Lakes of San Souci subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers.

Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% annum.

The charges are set forth below:

Single Family Unit One Time Payment: $4,948

Monthly Amortization: $23.62

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Lakes of San Souci customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

EXHIBIT “*C*”

BONITA SPRINGS UTILITIES, INC.

WASTEWATER TARIFF

BONITA SPRINGS UTILITIES, INC.
11900 East Terry Street
Bonita Springs, Florida 34135

(239) 992-0711

(Effective August 3, 2022)

WASTEWATER TARIFF

TABLE OF CONTENTS

Page Number

Territory Served 3

Technical Terms and Abbreviations 4

Index of Rules and Regulations 6

Index of Service Availability Policy 7

Rules and Regulations 8

Rate Schedules 15

Miscellaneous Service Charges 20

Service Availability Policy 22

TERRITORY SERVED

That territory set forth in the Bonita Springs Utilities, Inc. Franchise Agreement By, Between and Among Bonita Springs Utilities, Inc., the City of Bonita Springs, and Lee County, Florida, and on file at the Company's office.

TECHNICAL TERMS AND ABBREVIATIONS

1.0 "ANC" - Fee for Aid to New Construction.

2.0

2.0 "ASSISTED LIVING FACILITY" - An institutional class of customer licensed by the State of Florida, Agency for Health Care Administration pursuant to Chapter 400, Florida Statutes.

3.0 "COMPANY" - Bonita Springs Utilities, Inc., a Florida Not-For-Profit Corporation.

3.1 "CITY" - Refers to the City of Bonita Springs, a political subdivision of the State of Florida.

4.0 "CONNECTION FEE" - Charge for labor and facilities necessary for connection to lines of Company.

5.0 "CONSUMER or CUSTOMER" - Any person, firm, association, corporation, governmental agency or similar organization, supplied with wastewater service by the Company.

6.0 "CONSUMER'S INSTALLATION" - All pipes, shut-offs, valves, fixtures and appliances or apparatus of every kind and nature which are located on the customer's side of the "Point of Delivery" and used in connection with or forming a part of the installation necessary for disposing of sewage collected from the customer's premises regardless of whether such installation is owned by the customer or used by the Consumer under lease or other agreement.

7.0 "COUNTY" - refers to Lee County, a political subdivision of the State of Florida.

8.0 "EQUIVALENT RESIDENTIAL CONNECTION" ("ERC") - A measure of the average daily flow for a single residential unit which is a factor used to calculate a given average daily flow for non-single family residence uses.

9.0 "FRANCHISE" - The franchise granted by the City and County to the Company.

10.0 "MAIN" - Shall refer to a pipe, conduit, or other facility installed to convey wastewater service to individual service lines or to other mains.

11.0 "MEMBER" - The holder of a member account with the Company, which may be a Member-Owner or a Member-Tenant.

11.1 "MEMBER-OWNER" – A Member who holds a direct ownership interest in the property where the Company is providing Service.

11.2 "MEMBER-TENANT" – A Member who does not hold a direct ownership interest in the property where the Company is providing service, but who occupies an individually metered premises and who accepts responsibility for service and payment obligations on a temporary basis in lieu of the Member-Owner.

12.0 “MIXED MASTER” - Refers to a class of service where one meter serves customers utilizing different classes of service.

13.0 “MULTI-FAMILY UNIT” - Refers to a class of service where one meter serves more than three residential units such as apartments, condominiums, mobile homes, or combinations thereof.

14.0 "POINT OF DELIVERY" - The point where the Company's pipes are connected with pipes of the Consumer, which is typically the property, right-of-way or easement line.

15.0 "POLLUTANT" – Any substance identified as a prohibited discharge pursuant to Section 62-625.400, Florida Administrative Code, or its successor law.

15.0 "RATE SCHEDULE" - Refers to rates or charges for a particular classification of service, which rates or charges are subject to change from time to time by approval of the City Council.

16.0 "SERVICE" or "WASTEWATER SERVICE" - All wastewater service required by the Consumer, as well as the readiness and ability on the part of the Company to furnish wastewater service to the Consumer. Thus, the maintenance by the Company of the availability of service at the point of delivery upon request shall constitute the rendering of wastewater service, irrespective of whether Consumer makes any use thereof.

17.0 "SERVICE LINES" - The pipes of the Company which are connected from the Mains to Point of Delivery.

INDEX OF RULES AND REGULATIONS

Rule Number		Page Number
1.0	General Information	8
2.0	Service Application	8
3.0	Withholding Service	8
4.0	Extensions	8
5.0	Limitations of Use	8
6.0	Continuity of Service	9
7.0	Termination of Use	9
8.0	Type and Maintenance	9
9.0	Change of Customer's Installation	9
10.0	Inspection of Customer's Installation	9
11.0	Protection of Company's Property	10
12.0	Access to Premises	10
13.0	Right of Way or Easements	10
14.0	Billing Periods	10
15.0	Disconnection for Non-Payment	10
16.0	Payment of Water and Wastewater Service Bills Concurrently	10
17.0	Returned Checks	11
18.0	Change of Occupancy	11
19.0	Unauthorized Connections	12
20.0	Adjustment of Bills	12
21.0	Evidence of Consumption	12
22.0	Service Deposit	13
23.0	Tampering	13
24.0	Rate Schedules	14
25.0	Normal Reconnection Charge	20
26.0	Violation Reconnection Charge	20
27.0	Reimbursements for Extra Expenses	20
28.0	Transfer Fees	20
29.0	Miscellaneous Service Charges	20
29.1	Reclaimed Water Rate	21

INDEX OF SERVICE AVAILABILITY POLICY

Rule Number		Page Number
30.0	Purpose	22
31.0	Applicability	22
32.0	Agreement for Service	22
33.0	Applications by Agents	22
34.0	Applications for Building Permit	22
35.0	Non-Transferability	22
36.0	Letters of Availability	22
37.0	Service Availability Payments	23
38.0	ANC Fees	23
39.0	Connection/Meter Installation Fee	24
40.0	Capacity Reservation Fees	24
41.0	Contribution of Lines	24
42.0	Obligations of Developer	24
43.0	Miscellaneous Construction Provisions	25
44.0	Service to Existing Subdivisions	25
45.0	Special Service Charge to Imperial Harbor Subdivision	25
45.1	Special Service Charge to Former Hacienda Customers	26
45.2	Special Service Charge to Spring Creek Village Subdivision	26
45.3	Special Service Charge to Bonita Springs Golf & Country Club	26
45.4	Special Service Charge to the Fountain Lakes and Marsh Landing Communities	27
45.5	Special Service Charge to the Villages in Imperial Bonita Estates	27
45.6	Special Service Charge to Forest Mere and Spring Lakes Subdivisions	28
45.7	Special Service Charge to Leisure Time Campsites	28
45.8	Special Service Charge to Sun Village Estates Subdivision	29
45.9	Special Service Charge to Lakes of San Souci Subdivision	29
46.0	Service to Gravity Expansion Areas	29
47.0	Quality of Wastewater	29
48.0	Refundable Advances	30
49.0	Wastewater Reuse	30
50.0	Allocation of Capacity	31

RULES AND REGULATIONS

1.0 GENERAL INFORMATION - These Rules and Regulations are a part of the rate schedules and applications and contracts of the Company and, in the absence of specific written agreement to the contrary, apply without modifications or change to each and every customer to whom the Company renders wastewater service.

In the event that a portion of these Rules and Regulations are declared unconstitutional or void for any reason by any court of competent jurisdiction, such decision shall in no way affect the validity of the remaining portions of the Rules and Regulations for wastewater service unless such court order or decision shall so direct.

2.0 SERVICE APPLICATION - As a condition of Wastewater Service, Service Company may require an application for Service, government-issued photo identification (i.e. identification card, driver's license or passport), proof of ownership or occupancy and payment of a connection or transfer fee and deposit. The conditions of such application are binding upon the customer and the Company. A copy of the application for wastewater service accepted by the Company will be furnished to the Customer upon request. The Customer shall furnish to the Company the correct name, street address and lot and block number of the property at which service is to be rendered.

3.0 WITHHOLDING SERVICE - The Company may withhold or discontinue service rendered upon application made by any member or agent of a household, organization or business unless all prior indebtedness to the Company of such member, household, organization or business for service has been paid in full. Service may also be discontinued for any violation made by the Consumer of any rule or regulation set forth in this Tariff. The Member-Owner shall be responsible for any Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time, due on rental property in the event of nonpayment by the Member-Tenant. In the event the Member-Owner fails to pay the Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time when due on rental property, such nonpayment may be enforced at the rental property, including through disconnection of service.

4.0 EXTENSIONS - The Company will extend service in accordance with the Service Availability Policy set forth herein.

5.0 LIMITATIONS OF USE - Wastewater service purchased from the Company shall be used by the customer only for the purposes specified in the application for wastewater service. Wastewater service shall be rendered to the customer for the customer's own use, shall be collected directly into the Company's main wastewater lines, and may not be submetered, resold or otherwise disposed of to lessees, tenants, or others unless: (i) Company elects not to individually meter; (ii) customer provides 60 days prior written notice to Company; (iii) customer collects a rate or charge which does not exceed the actual purchase price for wastewater service paid to the Company; (iv) except in the case of a condominium association, customer retains ownership of the property served; and, (v) customer complies with all other technical and policy requirements of the Company. In no case shall a customer extend his lines across a street, alley, lane, court, property line, avenue, or other way in order to furnish wastewater service to the adjacent property even though such

adjacent property may be owned by him. In case of such unauthorized extension, sale or disposition of service, the customer's wastewater service will be subject to discontinuance until such unauthorized extension, sale or disposition of service is discontinued and full payment is made to the Company for wastewater service rendered by the Company (calculated on proper classification and rate schedules) and until reimbursement is made in full to the Company for all extra expenses incurred for clerical work, testing and inspections.

6.0 CONTINUITY OF SERVICE - The Company will at all times use reasonable diligence to provide continuous wastewater service and, having used reasonable diligence, shall not be liable to the customer for failure or interruption of continuous wastewater service. The Company shall not be liable for any act or omission caused directly or indirectly by strikes, labor troubles, accidents, litigation, breakdowns, shutdowns for emergencies, repairs or adjustments, acts of sabotage, enemies of the United States, Wars, United States, State, Municipal or other governmental interference, acts of God, discontinuation of service for non-payment or as otherwise provided herein, or other causes beyond its control.

7.0 TERMINATION OF SERVICE - At Member-Owner's written request, Company will terminate service to a property on a specified date. Termination is the permanent end of service to a particular location and shall be distinguished from a discontinuation of service which is temporary in nature as in the case of a rental occupancy or a seasonal customer. In the event of a termination of service, Member-Owner will no longer be responsible for payment for service to the property. However, such termination of service shall result in the forfeiture of all fees paid (including, but not limited to ANC Fees). Any subsequent request for service to the same location must be accompanied by payment of all rates and charges then in effect.

8.0 TYPE AND MAINTENANCE - The customer's pipes, apparatus and equipment shall be selected, installed, used and maintained in accordance with standard practice and shall conform with the Rules and Regulations of the Company, and shall comply with all governmental regulations applicable to same. The Company shall not be responsible for the maintenance and operation of the customer's pipes and facilities. Customer agrees to keep such facilities in good repair, to promptly stop all infiltration and inflow on the premises. The customer expressly agrees not to introduce anything into the collection system which may adversely affect the wastewater service; the Company reserves the right to discontinue or withhold wastewater service to such apparatus, equipment, or Point of Delivery.

9.0 CHANGE OF CUSTOMER'S INSTALLATION - No changes or increases in the customer's installation, which will materially affect the proper operation of the pipes, mains, or stations of the Company, shall be made without written consent of the Company. The customer shall be liable for any charge resulting from a violation of this Rule. Upon increasing the size of a water meter, the customer shall be charged for the increase in wastewater ANC Fees and Deposits, as stated in Rate Schedule.

10.0 INSPECTION OF CUSTOMER'S INSTALLATION - All customer's wastewater service installations or changes shall be inspected upon completion by a competent authority to ensure that the customer's piping, equipment, and devices have been installed in accordance with accepted standard practice and such local governmental or other rules as may be in

effect. Where municipal or other governmental inspection is required, the Company cannot render wastewater service until such inspection has been made and a formal notice of approval from the inspecting authority has been received by the Company. Notwithstanding the above, the Company reserves the right to inspect the customer's installation prior to rendering wastewater service, and from time to time thereafter, but assumes no responsibility whatsoever for any portion thereof.

11.0 PROTECTION OF COMPANY'S PROPERTY - The customer shall exercise reasonable diligence to protect the Company's property on the customer's premises and shall knowingly permit no one but the Company's agents or persons authorized by law, to have access to the Company's pipes and apparatus. In the event of any loss or damage to property of the Company caused by or arising out of carelessness, neglect or misuse by the customer or customer's agents including, but not limited to, contractors, repairmen, landscape maintenance crews or other entities, the customer shall be responsible for paying the Company the cost of such loss or repairing such damage. It shall then be the Customer's responsibility to recover any costs from customer's agent if appropriate.

12.0 ACCESS TO PREMISES - The duly authorized agents of the Company shall have access at all reasonable hours to the premises of the customer for the purpose of installing, maintaining, inspecting or removing Company's property or for performance under or termination of the Company's agreement with the customer and in such performance shall not be liable for trespass. Without notice, the Company may remove any landscaping or ancillary feature in a manner and to the extent reasonably required to provide access to the Company's property.

13.0 RIGHT OF WAY OR EASEMENTS - The customer shall grant or cause to be granted to the Company, and without cost to the Company, all rights, easements, permits, and privileges which are necessary for the rendering of wastewater service as determined by the Company.

14.0 BILLING PERIODS - Bills for wastewater service will be billed monthly, and are due when rendered and will be considered as received by customer when delivered or mailed to the service address or some other place mutually agreed upon. Non-receipt of bills by customer shall not release or diminish the obligation of the customer with respect to payment thereof.

15.0 DISCONNECTION FOR NON-PAYMENT - Field personnel shall not accept payment from customers when disconnecting meters for non-payment or reconnecting service. Customer may avoid meter removal, after personnel have been dispatched, by making payment in full at the Company's office or entering into a written agreement to pay the full amount due by a mutually agreed upon date including non-payment trip charge and/or reconnect fees. If the Member-Tenant account has not been paid or reinstated following final meter reading or disconnection for non-payment, the Member-Owner shall thereafter be responsible for payment of all charges incurred during this period of temporary disconnection as a condition of the initiation of service to a subsequent Member-Tenant.

16.0 PAYMENT OF WATER AND WASTEWATER SERVICE BILLS CONCURRENTLY
When both water and wastewater service are provided by the Company, payment of any wastewater service bill rendered by the Company to a customer shall not be accepted by

the Company without the simultaneous or concurrent payment of any water service bill rendered by the Company. The Company may discontinue both water service and wastewater service to the customer's premises for non-payment of the wastewater service bill or water service bill or if payment is not made concurrently. The Company shall not reestablish or reconnect wastewater service and/or water service until such time as all wastewater and water service bills and all charges are paid. A Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time is considered a part of the Customer's bill. No partial payment of any bill rendered will be accepted by the Company, except by agreement with Company.

17.0 RETURNED CHECKS - Upon return of a check for any reason, the Company may redeposit the check, but the customer will be responsible for any service charge. Upon return of a check for the second time, customer is to be notified that restitution must be made immediately by cash, money order, or credit card only, including the service charges. Customers failing to respond or to make restitution shall have water and/or wastewater service disconnected and will be charged a violation reconnect fee. Service will not be restored until payment in full is received for all charges due. A Member-Owner shall not be held responsible for the service charge incurred because of a bad check from their Member-Tenant.

Check Return -	Check Amount	Charge
	$ 0.00 - $ 50.00	$25.00
	$50.01 - $300.00	$30.00
	Over $300.00	$40.00 or 5% whichever is greater

18.0 CHANGE OF OCCUPANCY - When a change of occupancy takes place on any premises supplied by the Company with wastewater service, notice shall be given to the Company not less than three (3) days prior to the date of change by the outgoing Customer. The outgoing customer shall be held responsible for all wastewater service rendered on such premises until such notice is received by the Company and the Company has had reasonable time to discontinue the wastewater service. However, if such notice has not been received, the application of a succeeding occupant for wastewater service will automatically terminate the prior account. For the convenience of its customers, the Company will accept telephone orders, to discontinue or transfer wastewater service from one service address to another, and will use all reasonable diligence in the execution thereof. All transactions must be reported and cleared through the Company, including transfers, sales and charges.

Notwithstanding the foregoing, a Member-Tenant account will be discontinued and the Member-Owner will automatically become responsible on a going-forward basis for all charges and costs incurred by the Company in providing Wastewater Service if: 1) the Member-Tenant account has not been paid or reinstated following final meter reading or disconnection for nonpayment; 2) Company personnel verify that the property where the Company is providing Service is vacant; or 3) a Member-Tenant voluntarily discontinues service. All charges and costs for Wastewater Service, or the availability thereof, accruing while a property is vacant shall be the responsibility of the Member-Owner and must be paid prior to the provision of Wastewater Service to a subsequent Member-Tenant.

In the event a change of occupancy involving a sale or conveyance of property subject to the Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time, such rate, fee, or charge must be either paid off in full, or the new Customer must supply a copy of the deed or other document evidencing ownership and complete a lien form in favor of the Company securing the balance of the charge and provide notice of such payment requirement to a subsequent purchaser of the property, and resume periodic payments.

In the event of a change in ownership, a foreclosure, or other circumstance in which service to the property is temporarily disconnected but Service Company must maintain plant capacity and service availability to the property, the property owner including, but not limited to, Member-Owner, bank, mortgage company, trustee in bankruptcy or foreclosure, or other such entity receiving the benefit of such service availability shall be responsible for payment of Service Company's base facility charge and other rates, fees, and charges accrued during this period of temporary disconnection and as a condition of reconnection or initiation of service. Service Company shall not reconnect service or initiate service for a purchaser of property until any such outstanding balance at that or any other property owned by purchaser is paid in full.

19.0 UNAUTHORIZED CONNECTIONS - Connections to the Company's wastewater system for any purpose whatsoever are to be made only by employees or agents of the Company. Any unauthorized connections to the customer's wastewater service shall be subject to immediate discontinuance without notice. Wastewater service shall not be restored until such unauthorized connections have been removed and until payment is made in full for all wastewater service estimated by the Company to have been used by reason of such unauthorized connection. A party illegally connecting to facilities of the Company, or doing so in violation of the Company's Rules and Regulations, shall be charged costs plus expenses and back-billed for wastewater service based upon a reasonable estimate of service taken.

20.0 ADJUSTMENT OF BILLS - When a customer has been overcharged or undercharged as a result of incorrect application of the rate schedules, incorrect reading of the meter, incorrect connection of the meter, or other similar reasons, the amount may be credited or billed to the customer as the case may be. No adjustment shall be made to the base charge. The Company may refund or bill the Customer the amount billed/unbilled in error for one-half of the period since the last test, said one-half period not to exceed six (6) months; provided that, if it can be shown that the error was due to some cause the date of which can be identified, the adjustment will be based on that date. If meter does not register, or if no reading can be obtained, only current billing may be adjusted using an estimate of previous billings. In the event a customer provides acceptable documentation evidencing an extraordinary circumstance such as a pipe break or the filling of a swimming pool, the Company may take such information into account in calculating the monthly charge for wastewater service, and in determining the appropriate block water usage rate.

21.0 EVIDENCE OF CONSUMPTION - The initiation or continuation or resumption of water service to the customer's premises shall constitute the initiation or continuation or resumption of wastewater service to the customer's premises regardless of occupancy.

22.0 SERVICE DEPOSIT - Before rendering service, the Company shall require a non-interest bearing deposit or guarantee satisfactory to the Company to secure the payment of bills by the member. The amount of initial deposit shall be according to meter size and ERC's as follows:

SINGLE FAMILY RESIDENTIAL,
DUPLEX, TRIPLEX and
GENERAL:

Meter Size	Deposit Amount
5/8 x 3/4"	$ 100.00
1"	250.00
1.5"	500.00
2"	800.00
3"	1,600.00
4"	2,500.00
6"	5,000.00
8"	8,000.00

Institutional, Multi-Family & Mixed Master: $100.00 per unit or ERC

The Company may waive the deposit requirement based on one of the following: 1) receipt of a letter from the customer's most recent utility company stating that the customer's account was at no time more than thirty (30) days in arrears for the 12-month period immediately preceding the application to Company for service; 2) the customer authorizes the Company to establish automatic bill payment through electronic funds transfer or other means; or 3) such other evidence of customers good credit as determined by the Company. Member-Tenants are not eligible for a waiver of deposit.

After a residential customer has established a satisfactory payment record and has continuous service for 12 months, the Company may refund the customer's deposit provided the customer has not, in the preceding 12 months: (a) made more than one late payment of a bill, (b) paid with a check or automatic funds transfer refused by a bank, (c) been disconnected for nonpayment, or (d) used service in a fraudulent or unauthorized manner. Subsequent to such refund, or if a deposit was waived, Company may require a new deposit as a result of any of the above-referenced deficiencies.

General, multi-family, mixed master, institutional, and Member-Tenant deposits, however, are not refundable until change of ownership occurs and final settlement has been made. Upon final settlement of customer's account, any unused or remaining balance of the deposit shall be refunded, without interest.

Service Company may require a service deposit for irrigation service separate and apart from a water or wastewater deposit. Company may require an additional deposit if usage or payment history warrants. Upon final settlement of customer's account, any unused balance of the deposit will be refunded.

23.0 TAMPERING – No person shall tamper with, work on, connect to, or in any way alter or damage the Service Lines or any other component of the Company's sewer system without

prior written consent from the Company. If tampering is found and it causes the Company to repair or remove its property, an amount equal to the Violation Reconnection Charge or the actual cost to make repairs and reconnect (whichever is greater) will be charged to the customer. In addition, the Company may impose a tampering fee. It is unlawful to willfully alter, tamper with, damage, or knowingly suffer to be damaged any meter, meter seal, pipe or other apparatus or property belonging to the Company with intent to avoid payment for utility service. According to State statute this tampering is a misdemeanor of the first degree punishable by fine or imprisonment. Company shall be entitled to recover the value of the Service provided. Authorities shall be notified and Company will prosecute. In addition, whoever is found in civil action to have violated the provisions hereof shall be liable to Company in an amount equal to 3 times the amount of services unlawfully obtained or $3,000.00, whichever is greater. The Company may discontinue service upon reasonable notice to the customer for any infraction of this section in accordance with section 812.14, Florida Statutes.

24.0 RATE SCHEDULES - The following are the Company's rate schedules for service, and are subject to change from time to time.

GENERAL SERVICE RATE SCHEDULE

AVAILABILITY - Available throughout the area served by the Company to all customers for which no other schedule applies.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
3/4"	$ 29.48
1"	73.70
1 1/2"	147.40
2"	235.84
3"	471.68
4"	737.00
6"	1,474.00
8"	2,358.40

Gallonage Rate – $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of the past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

SINGLE FAMILY RESIDENTIAL, DUPLEX AND TRIPLEX RATE SCHEDULE

AVAILABILITY - Available to single family customers or their equivalent throughout the area served by the Company, including duplexes and triplexes, except for those instances where four or more residential units are contained in duplexes or triplexes behind a master meter.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
All	$29.48

Gallonage Rate - $3.83 (Per 1000 gallons capped at 16,000 gallons per month per unit served)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may then be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

MULTI-FAMILY AND MIXED MASTER RATE SCHEDULE

AVAILABILITY - Available to multi-family and mixed master customers as herein defined or their equivalent throughout the area served by the Company, including those instances where four or more residential units are contained in duplexes or triplexes behind a master meter.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
All	$23.58

Gallonage Rate - $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

INSTITUTIONAL RATE SCHEDULE

AVAILABILITY - For service to all assisted living facilities and other applicable institutional customers.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per ERC

Meter Size	Charge
N/A	$29.48

Gallonage Rate - $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of the past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

FIXED WASTEWATER RATE SCHEDULE

AVAILABILITY - Available throughout the area served by the Company for wastewater only customers.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Charge Per Unit

Meter Size	Charge
N/A	$48.37

Gallonage Rate None

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

25.0 NORMAL RECONNECTION CHARGE - Removal or reconnection of service subsequent to a customer-request.

$40.00 Disconnect charge
$40.00 Reconnect charge

26.0 VIOLATION RECONNECTION CHARGE - Subsequent to disconnection of service for cause, including a delinquency in bill payments and/or tampering with Company property, service shall not be reinstated until reconnection charge plus all past-due balances are paid in full.

$50.00 during normal work hours
$135.00 after hours and weekends.

27.0 REIMBURSEMENTS FOR EXTRA EXPENSES - The consumer shall reimburse the Company for extra expenses (such as for special trips, inspections, additional clerical expenses, etc.) incurred by the Company on account of consumer's violation of the Rules and Regulations. The customer will be advised of these expenses prior to Company rendering service.

28.0 TRANSFER FEES - Charge for transfer of existing service to a new owner or to a new Member-Tenant at an existing service. Existing Member-Owners are not charged when Member-Tenants vacate.

$35.00 (one charge only for transfer of water, sewer, or both)

29.0 MISCELLANEOUS SERVICE CHARGES - The Company charges the following miscellaneous service charges in accordance with the terms stated herein. If both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the Company requires multiple actions.

Usage Reports - $50.00 minimum or $0.25 per meter, whichever is greater.

Non-Payment Trip Charge - $45.00- only applicable during normal work hours

Capacity Reservation Fee - a monthly charge equal to the base charge plus billing charge for the applicable class of service.

Plan Review and Inspection Fees –
The greater of $835.00 or 1.0% of the cost of utility infrastructure subject to review and inspection.

Plan Review Resubmittal Fee - $250.00 – At the second request for additional information.

Re-Inspection Fee - $75.00 – At the request for additional inspection.

Warranty Expiration Televising (cleaning) - $1.25 per linear foot (minimum of $500)

Developer Agreement Administration Fees -
not to exceed $1,000.00 per Main Extension Manual

Labor & Equipment -
$65.00 per 1 man crew per hour
85.00 per 2 man crew per hour

Sewer Tap Locate
Other related and similar activities
$35.00 during normal work hours
$85.00 After hours and weekends

Estoppels Letter Fee
Normal Delivery - $15.00
Rush Delivery - $30.00
No extra charge if customer is also a water customer.

Late Payment Fee
$5 or 1% of past due amount, whichever is greater.

Meter Tampering Charge
Greater of 3 times the amount of services unlawfully obtained, or $3,000.

Grease Trap Fee - $150.00 – Initial plan review and inspection.

29.1 RECLAIMED WATER RATE - $.49 per 1000 gallons except as otherwise set by contract.

SERVICE AVAILABILITY POLICY

30.0 PURPOSE - The Company has determined that it is necessary to set forth a policy for the availability of sewer capacity which will provide a non-discriminatory and equitable basis upon which to provide service to future customers and plan capital expenditures for facilities expansion.

31.0 APPLICABILITY - This policy is applicable throughout the service territory of the Company.

32.0 AGREEMENT FOR SERVICE - Service is provided through a Service or Developer Agreement (if the capacity request warrants) and upon payment of the appropriate ANC Fees, Capacity Reservation Fees, Connection Fee, Special Service Charge and other charges as set forth herein. Company will reserve the number of connections paid for and will provide service to those units pursuant to its rules and regulations upon notification by Developer that service is required. A person who owns property with houses, duplexes, or other units and who has one or more sewer connections on this property cannot serve sewer to a buyer of any previously unserved portion of the property. The sale of a portion of the property must be reported to the Company in order for the Company to provide service in accordance herewith. If there are multiple owners of a duplex, triplex, or other multiunit building, each must pay an ANC Fee, Deposit Connection Fee and any other applicable fees appropriate to such unit.

33.0 APPLICATIONS BY AGENTS – Applications for sewer service requested by a person who owns property with houses, duplexes, or other units, property owner, person, firms, partnerships, associations, corporations, and others shall be rendered only by duly authorized parties. When sewer service is rendered under application between the Company and an agent of the principal, the use of such sewer service by the principal shall constitute full and complete ratification by the principal of the application between agent and the Company and under which such sewer service is rendered.

34.0 APPLICATIONS FOR BUILDING PERMIT – Upon request for a permit letter for the purpose of obtaining a building permit, the applicant shall pay in full the ANC Fee and all other applicable charges in effect at that time for the number of ERC's/Units as defined by the Company's Rules and Regulations.

35.0 NON-TRANSFERABILITY - A person who has paid an ANC Fee on one location, must pay another ANC Fee for sewer service at a new location. Plant capacity reserved through Developer's payment of ANC Fees cannot be assigned, transferred, leased, encumbered or disposed of in any manner unless, prior to connection, Developer has obtained the written consent of the Company and all applicable rates and charges are transferred or paid for the new lot. Following written notice, Company's consent to an assignment of capacity in connection with a bona fide sale of the property to which the plant capacity reservation relates will not be unreasonably withheld. In no instance shall Developer sell or assign plant capacity for a consideration which is more than the ANC Fee amount actually paid by Developer to reserve the capacity.

36.0 LETTERS OF AVAILABILITY - Company may issue Letters of Availability of sewer service to Developers for use in obtaining zoning changes and development orders

necessary for construction on their property. Such letters are not permit letters as referenced in this Tariff and are not specific reservations of capacity for Developer and do not guarantee that capacity will be available for Developer's project at any later date. Such a reservation can only be made through execution of an agreement with the Company and payment of rates and charges as set forth herein. Such an agreement is required prior to issuing Permit Letters for the purpose of obtaining a concurrency letter or building permit.

37.0 SERVICE AVAILABILITY PAYMENTS - In consideration for the provision of sewer service by the Company, Developer shall be required to pay certain costs of making service available, including on-site sewage collection system contributed in cash or in kind; payments to defray in part, or in total, the cost of off-site lines and related facilities, ANC Fees, Connection Fees, and Capacity Reservation Fees. Default in the payment of the charges set forth herein shall result in a cancellation of reserved capacity and forfeiture of monies previously paid to Company. Company shall provide fifteen (15) days written notice prior to taking such action.

38.0 ANC FEES - An Aid-To-New-Construction Fee (ANC Fee) shall be paid for each connection to the Company's system to defray all or a portion of the cost of providing service to the property. The ANC Fee shall be based on an ERC basis. For this purpose, the average daily flow of one ERC is 250 gallons per day ("gpd"). The number of ERC's contained in a given average daily flow is determined by dividing that average daily flow by 250 gpd.

ANC FEE SCHEDULE

(a) Single Family Residential, Duplex and Triplex:

Meter Size	
All	$3,925.00 per unit served

(b) Multi-family and Mixed-Master: $3,140.00 per unit served

(c) Assisted Living Facility: $3,925.00 per ERC.
The ANC Fee is calculated based on the estimated water capacity at a rate of 100 gpd/bed plus 5 gpd/meal served (resident or staff) divided by 250 gpd to determine the number of ERC's. The number of ERC's is then multiplied by the ANC Fee then in effect.

(d) General Service:

Meter Size	ERC Equivalent	ANC Fee per ERC
3/4"	1	$ 3,925.00
1"	2.5	9,812.50
1-1/2”	5	19,625.00
2"	8	31,400.00
3"	16	62,800.00
4"	25	98,125.00
6"	50	196,250.00
8"	80	314,000.00

Company reserves the right to increase ANC Fees as it deems necessary in the best interests of the Company, subject to approval of the City Council. All connections made to the Company's system subsequent to the effective date of the ANC Fee increase shall be subject to the higher charge, notwithstanding a prior Letter of Availability, Developer Agreement, or the prepayment of ANC Fees at the previous level.

ANC Fees are refundable only in the following cases:

(1) Governmental agency reduces the number of units, or denies a building permit
(2) Water meter has not been installed at time of customer's request for refund

In the event a customer wishes to utilize an ANC Fee credit which has been banked by the City consistent with the Franchise, the customer shall provide a copy of the City resolution authorizing a transfer of the banked fee and any other documentation required by the Franchise or reasonably required by the Company.

39.0 CONNECTION/METER INSTALLATION FEE - Upon execution of a Wastewater Service Application and a request for meter installation, Customer shall pay for costs associated with the tap-in or connection of the Consumer Installation to the collection or transmission system of the Company according to the following schedule:

Customer Connection (tap-in) Charge - Actual Cost

40.0 CAPACITY RESERVATION FEES - Upon execution of a Wastewater Service Application in order to reserve capacity in the system and/or payment of ANC Fees for any reason, Customer shall pay a monthly Capacity Reservation Fee equal to the base facility charge per unit then in effect for each unit of capacity not yet receiving service. As active connections are made, the Capacity Reservation Fee obligation shall be proportionately reduced. Failure to make payments as due shall result in cancellation of the capacity reservation and a forfeiture of all charges previously paid including ANC Fees. Company shall provide 15 days written notice prior to cancellation in order to remedy delinquent payments. Depending on the amount of capacity reserved, Company may require annual prepayments of Capacity Reservation Fees to secure payment. In that event, a credit shall be given for the prepayment of capacity reservation fees for that portion of the year during which a customer has connected to the system and begun paying a base facility charge for service. Such credit shall be made at the time of the next year's capacity reservation fee prepayment.

41.0 CONTRIBUTION OF LINES - Developer may be required to construct and contribute to the Company on-site facilities, particularly sewer collection lines, and off-site facilities including transmission mains to connect Company's transmission system in order to provide service to Developer's property. Contribution of such lines is independent of the payment of any charges hereunder. Construction of such lines shall meet the minimum specifications of the Company's Technical Specifications Manual.

42.0 OBLIGATIONS OF DEVELOPER - All contributors and developers shall furnish to the Company accurate information regarding matters of engineering, construction of buildings, dwellings and proposed densities. Developer shall advise Company of changes in density

factors or consumption requirements during construction of the project, and Developer shall be liable for adjustment in ANC Fees and charges paid or payable.

43.0 MISCELLANEOUS CONSTRUCTION PROVISIONS - Any contractor or similar person doing work for the Company must first show a certificate of insurance acceptable to the Company. In case of a service size change being requested by a Consumer regardless of pre-installation, or after installation, the Company will charge based on actual cost involved. The cost of a change or relocation of a service will be based on actual cost. To the extent any construction or other activities are addressed in the Company's Technical Specifications Manual, the party performing the work shall comply with the Manual requirements.

44.0 SERVICE TO EXISTING SUBDIVISIONS - In the event Company determines to provide service to an existing subdivision served by individual septic systems or package plants in an area other than one which the Company has designated as a Gravity Expansion Area, Company shall determine availability of capacity for that subdivision. The representatives of the subdivision shall provide all information reasonably necessary for Company to make such determination. In the event service is available, the subdivision residents (or someone other than Company) shall be responsible for construction, or the cost of construction, of all on-site and off-site facilities including, but not limited to, lift stations necessary to serve the subdivision. Provision of service by the Company shall further be conditioned upon payment of all applicable rates and charges as set forth herein. Company, in its sole discretion, shall determine whether to accept a subdivision's existing collection system, which may be subject to upgrade at the sole discretion of the Company, or render service pursuant to a master meter or both in the case of a subdivision system owned and maintained by a homeowners association, developer, or other such similar unit.

Should the cost of such future wastewater service expansion programs vary significantly from the general charges contained herein, the Company may institute an additional or lesser charge to affected customers, based upon the Company’s actual costs, and may allow the amortization of charges and costs over a reasonable time period, if warranted. In the event a customer elects to amortize these costs, the customer shall allow the Company to place a lien on the property to secure repayment and to provide notice of such payment requirement to a subsequent purchaser of the property.

45.0 SPECIAL SERVICE CHARGE TO IMPERIAL HARBOR SUBDIVISION - As a result of the abandonment of Harbor Utilities Company, Inc., the Company provides wastewater service to the Imperial Harbor Subdivision. In order to provide such service, the lines, lift stations and appurtenant facilities within Imperial Harbor required substantial upgrading. In addition to the other rates and charges contained in this Tariff, the customers within Imperial Harbor are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Special Services Charge in a lump sum, or amortize the cost over 25 years which charges are set forth below.

Special Service Charge:	$ 1,095.67 per unit
or	
Monthly Amortization:	$ 7.74 per unit

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment.

45.1 SPECIAL SERVICE CHARGE TO FORMER HACIENDA CUSTOMERS - As a result of the abandonment of Hacienda Treatment Plant, Inc. ("Hacienda"), the Company provides wastewater service to former Hacienda customers. In order to provide such service, the former Hacienda customers needed to be interconnected with the Company's wastewater facilities. In addition to the other rates and charges contained in this Tariff, the customers formerly served by Hacienda, as well as future customers who would have been served by Hacienda, are required to pay a Special Service Charge that is intended to defray the cost of necessary interconnection in order to render service to such customers, and which provides a special benefit to those customers. Such customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years as set forth below:

Special Service Charge:	$ 795.00 per ERC
or	
Monthly Amortization:	$ 5.68 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment.

45.2 SPECIAL SERVICE TO SPRING CREEK VILLAGE SUBDIVISION – In addition to the other rates and charges contained in this Tariff, the customers within Spring Creek Village are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years which charges are set forth below:

Special Service Charge:	$7,210.00 per unit
or	
Monthly Amortization:	$ 43.23 per unit

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection or service for nonpayment.

45.3 SPECIAL SERVICE CHARGE TO BONITA SPRINGS GOLF AND COUNTRY CLUB – In addition to the other rates and charges contained in this Tariff, customers formerly served by, or in the former service area of, Bonita Springs Golf and Country Club are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum,

or amortize the cost over 25 years at an interest rate of 6.0% per annum. Interest shall begin to accrue one year after implementation of the charge. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$3,365	$2,692
or		
Monthly Amortization:	$21.68	$17.34

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.4 SPECIAL SERVICE CHARGE TO THE FOUNTAIN LAKES AND MARSH LANDING COMMUNITIES – In addition to the other rates and charges contained in this Tariff, wastewater customers in the Fountain Lakes and Marsh Landing communities are required to pay a Special Service Charge which is intended to defray the cost of system acquisition and necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or may pay over time based on a 25 year amortization, with an interest rate of 6.0% per annum. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$3,442	$2,754
or		
Monthly Amortization:	$22.18	$17.74

A multi-family unit refers to a class of service where one meter serves more than three residential units. Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the Special Service Charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.5 SPECIAL SERVICE CHARGE TO THE VILLAGES IN IMPERIAL BONITA ESTATES In addition to the other rates and charges contained in this Tariff, customers in The Villages section of Imperial Bonita Estates are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 25 years. The charges are set forth below:

	Single Family Unit
One Time Payment:	$1,552.00
or	
Monthly Amortization:	$ 10.00

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.6 SPECIAL SERVICE CHARGE TO THE FOREST MERE AND SPRING LAKES SUBDIVISIONS – In addition to the other rates and charges contained in this Tariff, customers in the Forest Mere and Spring Lakes Subdivisions are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years with an interest rate of 5.0% annum. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$2,182	$1,854
or		
Monthly Amortization:	$14.40	$12.24

A multi-family unit refers to a class of service where one meter serves more than three residential units. Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.7 SPECIAL SERVICE CHARGE TO LEISURE TIME PARK - In addition to the other rates and charges contained in this Tariff, customers in the Leisure Time Park are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years with an interest rate of 5.0% interest per annum. The charges are set forth below:

	Single Family/Clubhouse
One Time Payment:	$ 943.73 per ERC

or	
Monthly Amortization	$ 6.23 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.8 SPECIAL SERVICE CHARGE TO SUN VILLAGE ESTATES SUBDIVISION- In addition to the other rates and charges contained in this Tariff, customers in the Sun Village Estates subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% interest per annum. The charges are set forth below:

	Single Family
One Time Payment:	$ 3,584.00 per ERC
or	
Monthly Amortization	$ 17.11 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Sun Village Estates customers are also responsible for payment of the appropriate ANC fee for their unit which may also be amortized up to 30 years.

45.9 SPECIAL SERVICE CHARGE TO THE LAKES OF SAN SOUCI SUBDIVISION- In addition to the other rates and charges contained in this Tariff, customers in the Lakes of San Souci subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% interest per annum. The charges are set forth below:

	Single Family
One Time Payment:	$ 4,948.00 per ERC
or	
Monthly Amortization	$ 23.62 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Lakes of San Souci customers are also responsible for payment of the appropriate ANC fee for their unit which may also be amortized up to 30 years.

46.0 SERVICE TO GRAVITY EXPANSION AREAS - The Company has undertaken a program of constructing local collection and transmission systems to replace septic tanks serving existing residential areas in a program designated as the Gravity Expansion Program. The territory included in the Gravity Expansion Program is on file with the Company. Customers within the Gravity Expansion area may be required to connect to the system when service becomes available following required notice by the Company. In addition to the other rates and charges contained in this Tariff, customers within the Gravity Expansion area are required to pay a charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Gravity Expansion charge in a lump sum, or amortize the cost up to 30 years which charges are set forth below. In the event a customer elects to amortize the Gravity Expansion charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Gravity Expansion Residential Charge: $1,717.00 per unit

plus

Gravity Expansion customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

47.0 QUALITY OF WASTEWATER - No substance other than domestic wastewater will be placed into the sewage system and delivered to the lines of the Company. Should any non-domestic wastes or pollutants be delivered to the lines, the customer will be responsible for payment of the cost and expense required in correcting or repairing any resulting damage to the system or property of third parties.

Developer, or subsequent owners or occupants of the Property, may introduce non-domestic wastes from commercial establishments on the Property only upon prior written approval from Service Company based on Service Company's determination that such non-domestic waste will not harm utility facilities. Developer further agrees that no waste waters, fluids, or any substances and materials which contain any pollutants in whole or in part, regardless of the concentrations of said constituents, shall be discharged into Service Company's sanitary sewer collection/transmission system. Service Company shall have the right to sample the Developer's sewage to verify Developer's compliance with this paragraph.

In addition to the preceding paragraphs, and not by way of limitation, in the event Company determines that the property to be served poses a threat of introducing pollutants into the collection or transmission system at levels determined by the Company to be harmful to the sewer system, including, but not limited to, the system's ability to provide effluent meeting reuse standards, and its acceptability as an irrigation supply source for vegetation, the Company has the right to decline or discontinue service, or charge a higher rate due to increased treatment costs if applicable, to such property or customer.

No person shall discharge or cause to be discharged materials, water or waste, if it appears likely, in the opinion of the Company, that such discharge may cause harm to the utility system or have an adverse effect or cause interference with the operation of the wastewater treatment facility. In that event, the customer shall be subject to such pretreatment or other measures as are necessary to protect the integrity of Company's system and the ability to serve its members including the requirements set forth in Chapter 62-625 Florida Administrative Code, Pretreatment Requirements for Existing and Other Sources of Pollution, those standards set forth in the Company's Sewer Use Manual or such other pretreatment standards as shall have been approved by the Company's Board of Directors, and those industrial pretreatment standards and grease management standards as may be adopted and enforced by the City of Bonita Springs or Lee County as they apply in their respective portions of Company's service territory.

48.0 REFUNDABLE ADVANCES - Company may require, in addition to those set forth herein, a refundable advance by a Developer to temporarily defray the cost of off-site extension of sewer mains, pumping stations and other facilities necessary to connect the Developer's property with the then proper point of interconnection with the Company's existing sewer facilities, in excess of the size needed to provide service to the subject property. Costs paid by the Developer over and above the Developer's hydraulic share of the off-site facilities, may be refunded to the Developer in accordance with the terms and conditions of a Refundable Advance Agreement with Company. Company shall not be required to refund to Developer any fees or charges collected from consumers as a result of his contribution toward the cost of constructing the off-site facilities.

At the time the engineer of record certifies the off-site facilities as complete, he will also be requested to provide a determination of the hydraulic capacity of the facilities and the number of connections it is capable of serving based upon the Company's current determination of an ERC. On that basis, Company will establish a refundable advance charge per ERC and Company will agree to collect and refund same to Developer upon payment of such charges by subsequent customers obtaining service through the off-site facilities. Unless otherwise agreed to by Company, no refundable advance treatment will be available to Developer constructing lines and appurtenant facilities less than eight (8) inches in diameter. Company may limit the life of the Refundable Advance Agreement to a term of not more than seven (7) years, after which time a portion of the refund not made to the Developer will be retained by the Company. In no event shall a Developer recover an amount greater than the difference between the capitalized cost of such improvements and the Developer's own hydraulic share of such improvement. The Service Company will not include any interest upon the refund of the Developer's advance.

49.0 WASTEWATER REUSE - The Company owns, operates and maintains wastewater treatment facilities, pursuant to operating permits from the Florida Department of Environmental Regulation, which produce treated effluent of a quality suitable for the

irrigation of grasses, woodlands and certain vegetation. The Company may make treated effluent available to consumers within the service area of the Company that own large tracts of green areas requiring landscape irrigation ("Users"), based on the Board of Directors determination of the best interests of the Company and its members. Determination of the quantity, price, terms and conditions of the provision of effluent to Users shall be at the sole discretion of the Company, and may be set forth in an Effluent Reuse Agreement entered into by the Company and the User.

User shall be responsible for the design, construction and installation, at User's sole cost and expense subject to the approval and inspection by the Company, of on-site and off-site utility lines and facilities needed to initially create or thereafter connect into the Company's effluent disposal system. User shall convey ownership to Company of all lines and facilities from authorized treatment facilities to the point of delivery of effluent to User by bill of sale in a form satisfactory to the Company; it being understood that lines and facilities must be sized and constructed to the satisfaction of Company in accordance with the guidelines and specifications of the Company, subject to refundable advance treatment for oversized facilities. Acceptance of said lines and facilities shall be within the sole discretion of the Company.

User shall be responsible for obtaining information and preparing all necessary environmental planning, hydrogeologic monitoring studies and reports reasonably necessary for the permitting, preparation and continued utilization of User's property as a site for effluent reuse. User shall further be required to provide wet weather storage (non-application day) for not less than five (5) days effluent allocation. Wet weather storage capacity is subject to evaluation on a case-by-case basis and may be increased due to, among other things, changes in regulatory requirements.

User shall be responsible for any and all costs relative to the maintenance of any water management tract constructed upon User's land and User shall be responsible, at its sole cost and expense, for the construction and maintenance of any effluent spray irrigation device or other system which draws from the water management tract. User shall incur the cost of securing licenses and permits from applicable governmental agencies relative to the reuse of the Company's treated effluent upon User's property, including any costs incurred by Company to secure same.

As a prerequisite to the Company's acceptance of effluent discharge and delivery lines, facilities and appurtenances thereof, User shall grant Company, its successors and assigns, all easements and rights of ingress and egress, necessary for the discharge and delivery of effluent upon User's property, including, but not limited to, easements covering lines and facilities. The easements shall allow the Company to own effluent discharge lines and other facilities required for the effluent delivery.

50.0 ALLOCATION OF CAPACITY - It is the policy of the Florida Department of Environmental Protection ("DEP") to reduce the capacity available in Company's water and sewer systems upon issuance of a DEP Collection and/or Distribution System Permit (or its equivalent) to construct an on-site system which will receive treatment capacity from Company. DEP reduces Company's uncommitted capacity by the total number of ERC's which can be served by the on-site system approved in the Permit ("Permit Capacity"). This DEP policy prevents Company from committing the Permit Capacity to other

developers and customers, regardless of an immediate need and willingness to pay for such capacity.

In an effort to fairly allocate plant capacity, it is Service Company's policy to require that, concurrent with Company signing off on Developer's Permit Application, Developer pay all charges related to the Permit Capacity committed to Developer at that time. This requirement is intended to avoid a situation in which developers who have not paid service availability charges tie up capacity to the exclusion of customers with an immediate need and ability to pay.

Bonita Springs Utilities, Inc.

April 7, 2023

Derek Rooney, Esq.
City Attorney
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs Florida 34135

Re: Bonita Springs Utilities, Inc.:
Petitions to Approve Special Service Charges for
Sun Village Estates and Lakes of San Souci Subdivisions

Dear Mr. Rooney:

Pursuant to section five of the Franchise Agreement by, between and among Bonita Springs Utilities, Inc., the City of Bonita Springs, and Lee County, Florida, as amended, enclosed please find the Petitions to Approve Special Service Charges for Sun Village Estates and the Lakes of San Souci on behalf of Bonita Springs Utilities, Inc. Under separate cover we are providing copies of these Petitions to Lee County through the County Attorney's Office.

We look forward to working with you and the City staff on this matter. Contact persons for these Petitions are Director of Finance Steven Richards, General Counsel Don Thomson, and me. Should you have questions regarding the Petitions or other matters, please feel free to call.

Sincerely,

John R. Jenkins
Executive Director

Enclosures

Cc: Ms. Arleen Hunter
Mr. Steven Richards
G. Donald Thomson, Jr., Esq.

PETITION TO APPROVE SPEICAL SERVICE CHARGE FOR LAKES OF SAN SOUCI

Bonita Springs Utilities Inc. ("BSU" or "Company"), a not-for-profit Florida Corporation, files this Petition to Approve a Special Service Charge for Lakes of San Souci and in support thereof states:

1. The Florida 2021 Clean Waterways Act addressed a number of environmental issues related to water quality improvement including the creation of septic remediation plans. Governor DeSantis recently issued Executive Order 23-06 which directs funding and strategic action to expedite critical Everglades restoration projects, to protect and restore our waterways, and fund infrastructure projects to improve water quality and safeguard Florida's water supply.

2. Governor DeSantis created the Blue-Green Algae Task Force to play a role in protecting Florida's water resources. Among its 2019 recommendations the Task Force found "septic systems are also a well-known and substantial source of nutrients to groundwater and surface waters across the state." And "The task force further recommends legislation and funding to accelerate cost-effective septic to sewer programs with the aim of reducing nutrient pollution that leads to harmful algal blooms."

3. The City identifies expansion of centralized sanitary sewer systems in its Comprehensive Plan Infrastructure Element and Sanitary Sewer Sub-Element Objective. The Plan includes a Sub-Element Policy: "The City shall require on-site sewage disposal systems to connect to central sanitary sewer when sanitary collection lines have been installed immediately adjoining, and service is available to, the property served by the on-site system." The Plan assigns priority to cost feasible capital improvement projects intended to extend central sewer service to areas within the City currently served by septic tanks.

4. As part of the State's water quality improvement initiative, and in response to the City's efforts to obtain grant funding for septic tank replacement projects, BSU developed engineering design plans and cost estimates to have a "shovel ready" project to convert Lakes of San Souci from septic tanks to central wastewater service ("Project").

5. The City has obtained $950,000 in grant funding from the State of Florida, Department of Environmental Protection (FDEP) to extend central wastewater treatment service to the Lakes of San Souci.

6. The FDEP grant funds require a one-to-one match. The City is contributing $475,000 to pay for the Project. BSU is paying another $475,000 toward the Project, half of which will be reimbursed by the customers receiving wastewater service. This total of $950,000 will satisfy the match.

7. In response to the availability of grant funds, the City and BSU entered into a Septic Replacement and Groundwater Protection Agreement ("Agreement") pursuant to which BSU will extend central wastewater treatment service to Lakes of San Souci using the grant

funding to reduce the cost to the residents.

8. Attached as Exhibit "A" is a Septic to Sewer Funding Analysis which summarizes the cost of the Project, the Special Service Charge payment calculation, and the cost allocation to ensure that the residents benefiting from the Project will pay an equitable share of the cost.

9. The Special Service Charge has been determined to be Four Thousand Nine Hundred Forty-Eight dollars ($4,948) per residential unit. These residents are also responsible for payment of the appropriate Aid-to-New Construction ("ANC") fee of Three Thousand Nine Hundred Twenty-Five dollars ($3,925) for an overall cost of Eight Thousand Eight Hundred Seventy-Three Dollars ($8,873).

10. Residents may pay the Special Service Charge in a single up-front payment, or through a monthly payment option of Forty-Two Dollars Thirty-Six Cents ($42.36) per residential unit. Monthly payment terms are on a thirty-year term at four percent (4%) interest. The Special Service Charge and ANC fee may be paid off in full at any time without penalty.

11. Pursuant to the Franchise Agreement by, between and among Bonita Springs Utilities, Inc., the City of Bonita Springs and Lee County dated October 2, 2002 and enacted as City of Bonita Springs Ordinance No. 02-14 (as amended), BSU's Water and Wastewater Tariffs changes are subject to City approval.

12. BSU requests approval of an addition to the Wastewater Tariff as set forth in Exhibit "B" attached hereto, authorizing collection of the Lakes of San Souci Special Service Charge. A revised Wastewater Tariff (in its entirety) is attached hereto as Exhibit "C".

Bonita Springs Utilities, Inc. respectfully requests City Council set a public hearing and take such action as may be required by law to hear this Petition and approve the Special Service Charge as set forth herein.

Respectfully submitted this
7th day of April, 2023 by:

John R. Jenkins, Executive Director

EXHIBIT “A”

RAFTELIS

BONITA SPRINGS UTILITIES

Septic to Sewer Funding Analysis

Final June 10, 2020

RAFTELIS
FINANCIAL CONSULTANTS, INC.

SEPTIC TO SEWER PROGRAM

BSU has two separate design projects for gravity sewer expansion to the existing two residential neighborhoods currently on septic tanks:

- Sun Village
- Lakes of San Souci

BSU currently serves potable water to these neighborhoods so historical usage data is available

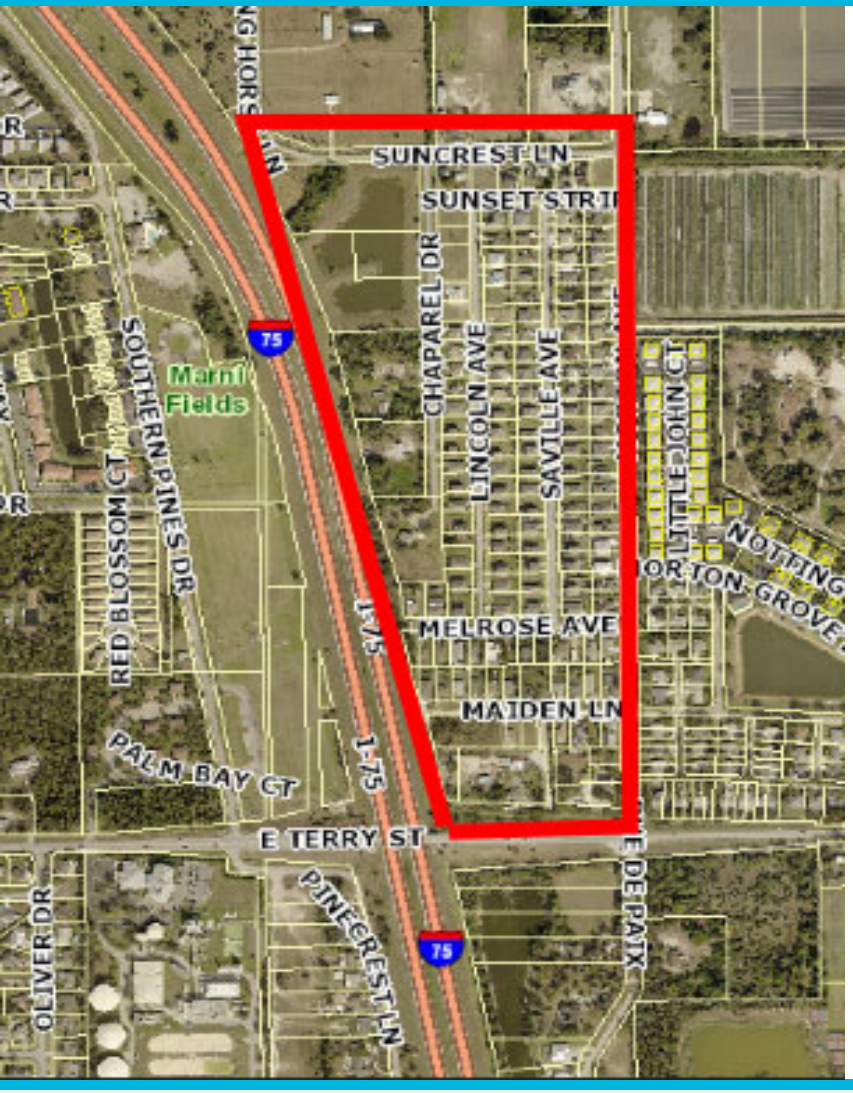
SERVICE AREA MAPS



Sun Village

Lakes of San Souci

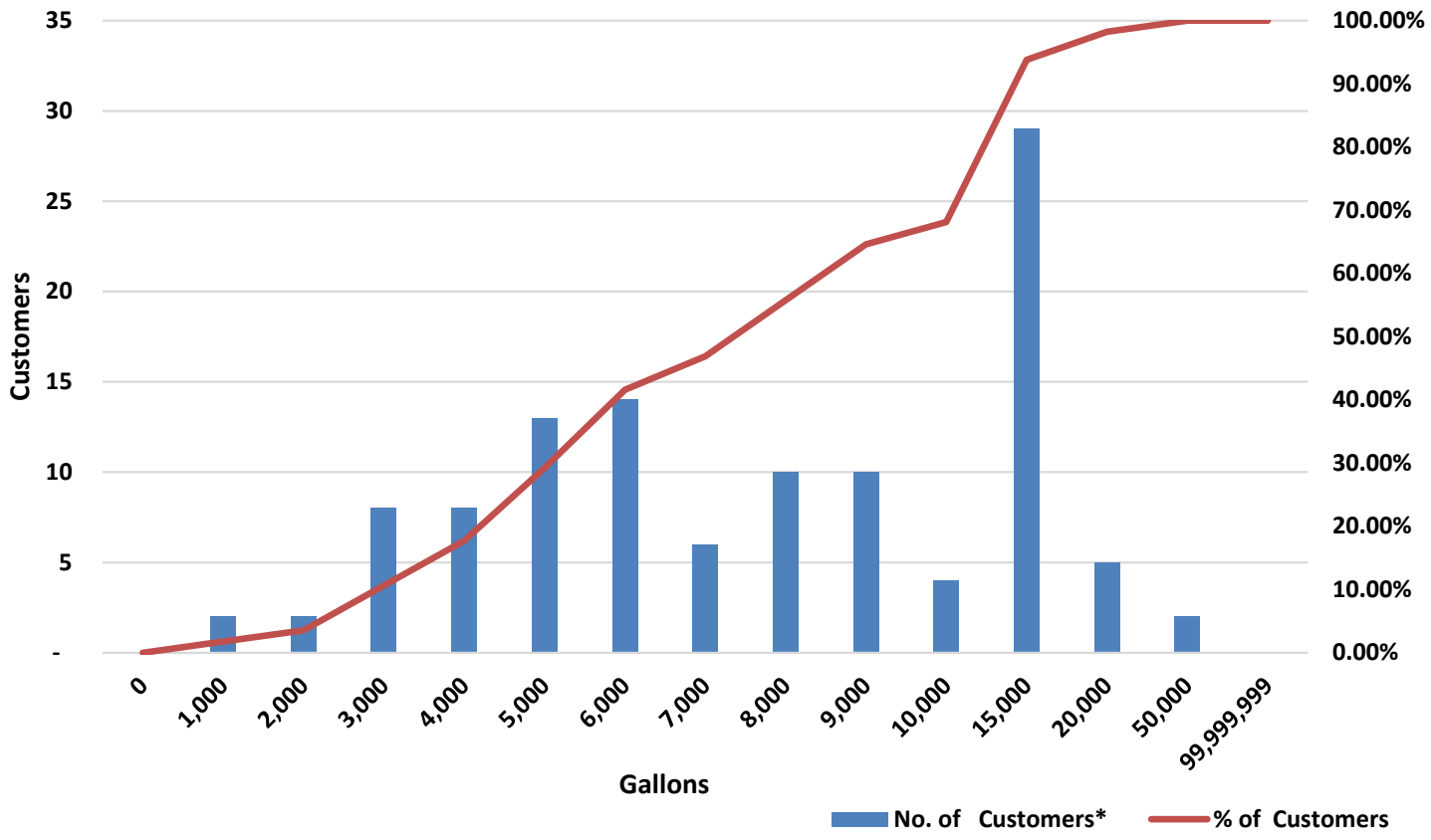
SUN VILLAGE



- 143 residential units (based on design cost estimate)
- Built between 1961 and 2018
- Median home built: 2006
- Median value: $218,127 (excluding vacant parcels)

SUN VILLAGE CUSTOMER BILLING ANALYSIS

- 113 water accounts reviewed* (2019 consumption)
- Median Usage 7,000 gallons/mo.
- Approximately 7% of bills above 10,000 gallons



* 113 accounts were identified from billing data out of the 143 sewer connections from design project information.

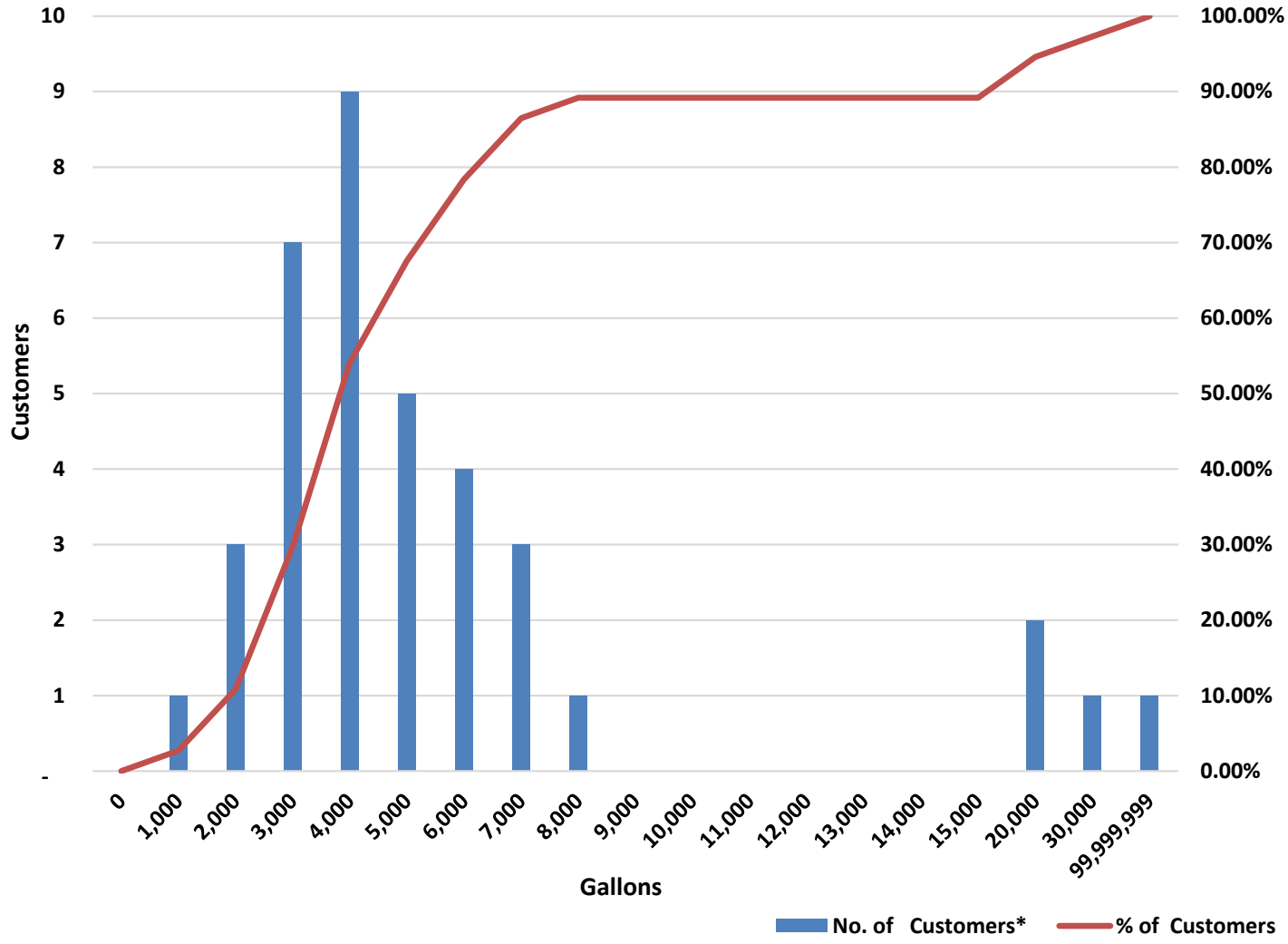
LAKES OF SAN SOUCI



- 48 units (based on design cost estimate)
- Most residential (1 church)
- Built between 1973 and 2017
- Median home built: 1999
- Median value: $243,048 (excluding vacant parcels)
- Higher S2S cost per unit
  - Larger homes / lot sizes
  - Less density

SAN SOUCI CUSTOMER BILLING ANALYSIS

- 37 water accounts reviewed* (2019 consumption)
- Median Usage 4,000 gallons
- 4 accounts (10%) above 10,000 gallons



* 37 accounts were identified from billing data out of the 48 sewer connections from design project information.

SEPTIC TO SEWER FUNDING ISSUES

- Assess vacant parcels?
- Differing parcel sizes / economies?
- Are connections and charges mandatory?
- Will there be incentives for (early) connection?
- Does age of septic tank matter / will there be accommodative policies for connection?
- Are property owners are also responsible for lateral and septic tank removal costs?
- BSU historical special sewer charges for wastewater connection:
  - $795 to $7,210; or
  - $5.68 to $43.23 / month

PROJECT COST SUMMARY

	Sun Village	San Souci	Total
Total Project [1]	$4,100,000	$1,900,000	$6,000,000
Units / ERCs [2]	143	48	191
Cost per Unit	$28,671	$39,583	$31,412
ANC Fee	$3,925	$3,925	$3,925
Total	$32,596	$43,508	$35,339

_____

[1] Project costs include construction cost estimate, design, construction services, permitting, and other allowances. Amounts exclude ANC fees.

[2] Assumes that each residential unit is one ERC.

POTENTIAL COST ALLOCATION

	Sun Village	San Souci	Total
Cost per Unit [1]	$32,596	$43,508	$35,339
Property Owner Target Cost:	$12,000	$12,000	$12,000
ANC Portion	$3,925	$3,925	$3,925
Construction Portion	$8,075	$8,075	$8,075
Remaining Costs	$20,596	$31,508	$23,339

[1] Includes ANC Fees.

PROPERTY OWNER COST SCENARIO

	Amount	Comment
Property Owner Target Cost:	$12,000	Amount is 5.5% of median home values in area
Construction Portion	$8,075	
Cost per Month [1]	$80	Based on 20-year assessment with 5% interest; amount excludes monthly wastewater bill

_____

[1] Amortized 20 years assuming 5% interest; amount excludes monthly wastewater bill.

CAPITAL IMPROVEMENT FUNDING

	Amount	Comment
Sun Village and San Souci Septic to Sewer (S2S)	$6,000,000	Construction, design, CEI
Funding Sources:		
BSU reserves	$290,000	Net present value: $10 per month of average $40 - $50 new wastewater bill is applied toward project cost.
BSU new debt	$1,540,000	New debt assumes all property owners connect and choose a 20 year assessment (assumes mandatory connection)
Outside Funding	$4,170,000	Other non-BSU sources; this is amount necessary to avoid BSU ratepayers subsidizing S2S program.

ADDITIONAL STEPS

- What are similar other utilities charging (and why)?
- How will any precedent affect future conversion areas?
- Formulate incentive structure and accommodations:
  - Is it mandatory?
  - What if septic tank is less than 3 years old? 5 years? 10 years?
  - Incentives for early connections?
  - Vacant parcels

EXHIBIT “B”

SPECIAL SERVICE CHARGE TO THE SUN VILLAGE subdivision –

In addition to the other rates and charges contained in this Tariff, customers in the Sun Village subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers.

Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% annum.

The charges are set forth below:

Single Family Unit One Time Payment: $3,584

Monthly Amortization: $17.11

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Sun Village customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

SPECIAL SERVICE CHARGE TO THE LAKES OF SAN SOUCI subdivision –

In addition to the other rates and charges contained in this Tariff, customers in the Lakes of San Souci subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers.

Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% annum.

The charges are set forth below:

Single Family Unit One Time Payment: $4,948

Monthly Amortization: $23.62

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Lakes of San Souci customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

EXHIBIT “*C*”

BONITA SPRINGS UTILITIES, INC.

WASTEWATER TARIFF

BONITA SPRINGS UTILITIES, INC.
11900 East Terry Street
Bonita Springs, Florida 34135

(239) 992-0711

(Effective August 3, 2022)

WASTEWATER TARIFF

TABLE OF CONTENTS

Page Number

Territory Served 3

Technical Terms and Abbreviations 4

Index of Rules and Regulations 6

Index of Service Availability Policy 7

Rules and Regulations 8

Rate Schedules 15

Miscellaneous Service Charges 20

Service Availability Policy 22

TERRITORY SERVED

That territory set forth in the Bonita Springs Utilities, Inc. Franchise Agreement By, Between and Among Bonita Springs Utilities, Inc., the City of Bonita Springs, and Lee County, Florida, and on file at the Company's office.

TECHNICAL TERMS AND ABBREVIATIONS

1.0 "ANC" - Fee for Aid to New Construction.

2.0

2.0 "ASSISTED LIVING FACILITY" - An institutional class of customer licensed by the State of Florida, Agency for Health Care Administration pursuant to Chapter 400, Florida Statutes.

3.0 "COMPANY" - Bonita Springs Utilities, Inc., a Florida Not-For-Profit Corporation.

3.1 "CITY" - Refers to the City of Bonita Springs, a political subdivision of the State of Florida.

4.0 "CONNECTION FEE" - Charge for labor and facilities necessary for connection to lines of Company.

5.0 "CONSUMER or CUSTOMER" - Any person, firm, association, corporation, governmental agency or similar organization, supplied with wastewater service by the Company.

6.0 "CONSUMER'S INSTALLATION" - All pipes, shut-offs, valves, fixtures and appliances or apparatus of every kind and nature which are located on the customer's side of the "Point of Delivery" and used in connection with or forming a part of the installation necessary for disposing of sewage collected from the customer's premises regardless of whether such installation is owned by the customer or used by the Consumer under lease or other agreement.

7.0 "COUNTY" - refers to Lee County, a political subdivision of the State of Florida.

8.0 "EQUIVALENT RESIDENTIAL CONNECTION" ("ERC") - A measure of the average daily flow for a single residential unit which is a factor used to calculate a given average daily flow for non-single family residence uses.

9.0 "FRANCHISE" - The franchise granted by the City and County to the Company.

10.0 "MAIN" - Shall refer to a pipe, conduit, or other facility installed to convey wastewater service to individual service lines or to other mains.

11.0 "MEMBER" - The holder of a member account with the Company, which may be a Member-Owner or a Member-Tenant.

11.1 "MEMBER-OWNER" – A Member who holds a direct ownership interest in the property where the Company is providing Service.

11.2 "MEMBER-TENANT" – A Member who does not hold a direct ownership interest in the property where the Company is providing service, but who occupies an individually metered premises and who accepts responsibility for service and payment obligations on a temporary basis in lieu of the Member-Owner.

12.0 “MIXED MASTER” - Refers to a class of service where one meter serves customers utilizing different classes of service.

13.0 “MULTI-FAMILY UNIT” - Refers to a class of service where one meter serves more than three residential units such as apartments, condominiums, mobile homes, or combinations thereof.

14.0 "POINT OF DELIVERY" - The point where the Company's pipes are connected with pipes of the Consumer, which is typically the property, right-of-way or easement line.

15.0 "POLLUTANT" – Any substance identified as a prohibited discharge pursuant to Section 62-625.400, Florida Administrative Code, or its successor law.

15.0 "RATE SCHEDULE" - Refers to rates or charges for a particular classification of service, which rates or charges are subject to change from time to time by approval of the City Council.

16.0 "SERVICE" or "WASTEWATER SERVICE" - All wastewater service required by the Consumer, as well as the readiness and ability on the part of the Company to furnish wastewater service to the Consumer. Thus, the maintenance by the Company of the availability of service at the point of delivery upon request shall constitute the rendering of wastewater service, irrespective of whether Consumer makes any use thereof.

17.0 "SERVICE LINES" - The pipes of the Company which are connected from the Mains to Point of Delivery.

INDEX OF RULES AND REGULATIONS

Rule Number		Page Number
1.0	General Information	8
2.0	Service Application	8
3.0	Withholding Service	8
4.0	Extensions	8
5.0	Limitations of Use	8
6.0	Continuity of Service	9
7.0	Termination of Use	9
8.0	Type and Maintenance	9
9.0	Change of Customer's Installation	9
10.0	Inspection of Customer's Installation	9
11.0	Protection of Company's Property	10
12.0	Access to Premises	10
13.0	Right of Way or Easements	10
14.0	Billing Periods	10
15.0	Disconnection for Non-Payment	10
16.0	Payment of Water and Wastewater Service Bills Concurrently	10
17.0	Returned Checks	11
18.0	Change of Occupancy	11
19.0	Unauthorized Connections	12
20.0	Adjustment of Bills	12
21.0	Evidence of Consumption	12
22.0	Service Deposit	13
23.0	Tampering	13
24.0	Rate Schedules	14
25.0	Normal Reconnection Charge	20
26.0	Violation Reconnection Charge	20
27.0	Reimbursements for Extra Expenses	20
28.0	Transfer Fees	20
29.0	Miscellaneous Service Charges	20
29.1	Reclaimed Water Rate	21

INDEX OF SERVICE AVAILABILITY POLICY

Rule Number		Page Number
30.0	Purpose	22
31.0	Applicability	22
32.0	Agreement for Service	22
33.0	Applications by Agents	22
34.0	Applications for Building Permit	22
35.0	Non-Transferability	22
36.0	Letters of Availability	22
37.0	Service Availability Payments	23
38.0	ANC Fees	23
39.0	Connection/Meter Installation Fee	24
40.0	Capacity Reservation Fees	24
41.0	Contribution of Lines	24
42.0	Obligations of Developer	24
43.0	Miscellaneous Construction Provisions	25
44.0	Service to Existing Subdivisions	25
45.0	Special Service Charge to Imperial Harbor Subdivision	25
45.1	Special Service Charge to Former Hacienda Customers	26
45.2	Special Service Charge to Spring Creek Village Subdivision	26
45.3	Special Service Charge to Bonita Springs Golf & Country Club	26
45.4	Special Service Charge to the Fountain Lakes and Marsh Landing Communities	27
45.5	Special Service Charge to the Villages in Imperial Bonita Estates	27
45.6	Special Service Charge to Forest Mere and Spring Lakes Subdivisions	28
45.7	Special Service Charge to Leisure Time Campsites	28
45.8	Special Service Charge to Sun Village Estates Subdivision	29
45.9	Special Service Charge to Lakes of San Souci Subdivision	29
46.0	Service to Gravity Expansion Areas	29
47.0	Quality of Wastewater	29
48.0	Refundable Advances	30
49.0	Wastewater Reuse	30
50.0	Allocation of Capacity	31

RULES AND REGULATIONS

1.0 GENERAL INFORMATION - These Rules and Regulations are a part of the rate schedules and applications and contracts of the Company and, in the absence of specific written agreement to the contrary, apply without modifications or change to each and every customer to whom the Company renders wastewater service.

In the event that a portion of these Rules and Regulations are declared unconstitutional or void for any reason by any court of competent jurisdiction, such decision shall in no way affect the validity of the remaining portions of the Rules and Regulations for wastewater service unless such court order or decision shall so direct.

2.0 SERVICE APPLICATION - As a condition of Wastewater Service, Service Company may require an application for Service, government-issued photo identification (i.e. identification card, driver's license or passport), proof of ownership or occupancy and payment of a connection or transfer fee and deposit. The conditions of such application are binding upon the customer and the Company. A copy of the application for wastewater service accepted by the Company will be furnished to the Customer upon request. The Customer shall furnish to the Company the correct name, street address and lot and block number of the property at which service is to be rendered.

3.0 WITHHOLDING SERVICE - The Company may withhold or discontinue service rendered upon application made by any member or agent of a household, organization or business unless all prior indebtedness to the Company of such member, household, organization or business for service has been paid in full. Service may also be discontinued for any violation made by the Consumer of any rule or regulation set forth in this Tariff. The Member-Owner shall be responsible for any Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time, due on rental property in the event of nonpayment by the Member-Tenant. In the event the Member-Owner fails to pay the Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time when due on rental property, such nonpayment may be enforced at the rental property, including through disconnection of service.

4.0 EXTENSIONS - The Company will extend service in accordance with the Service Availability Policy set forth herein.

5.0 LIMITATIONS OF USE - Wastewater service purchased from the Company shall be used by the customer only for the purposes specified in the application for wastewater service. Wastewater service shall be rendered to the customer for the customer's own use, shall be collected directly into the Company's main wastewater lines, and may not be submetered, resold or otherwise disposed of to lessees, tenants, or others unless: (i) Company elects not to individually meter; (ii) customer provides 60 days prior written notice to Company; (iii) customer collects a rate or charge which does not exceed the actual purchase price for wastewater service paid to the Company; (iv) except in the case of a condominium association, customer retains ownership of the property served; and, (v) customer complies with all other technical and policy requirements of the Company. In no case shall a customer extend his lines across a street, alley, lane, court, property line, avenue, or other way in order to furnish wastewater service to the adjacent property even though such

adjacent property may be owned by him. In case of such unauthorized extension, sale or disposition of service, the customer's wastewater service will be subject to discontinuance until such unauthorized extension, sale or disposition of service is discontinued and full payment is made to the Company for wastewater service rendered by the Company (calculated on proper classification and rate schedules) and until reimbursement is made in full to the Company for all extra expenses incurred for clerical work, testing and inspections.

6.0 CONTINUITY OF SERVICE - The Company will at all times use reasonable diligence to provide continuous wastewater service and, having used reasonable diligence, shall not be liable to the customer for failure or interruption of continuous wastewater service. The Company shall not be liable for any act or omission caused directly or indirectly by strikes, labor troubles, accidents, litigation, breakdowns, shutdowns for emergencies, repairs or adjustments, acts of sabotage, enemies of the United States, Wars, United States, State, Municipal or other governmental interference, acts of God, discontinuation of service for non-payment or as otherwise provided herein, or other causes beyond its control.

7.0 TERMINATION OF SERVICE - At Member-Owner's written request, Company will terminate service to a property on a specified date. Termination is the permanent end of service to a particular location and shall be distinguished from a discontinuation of service which is temporary in nature as in the case of a rental occupancy or a seasonal customer. In the event of a termination of service, Member-Owner will no longer be responsible for payment for service to the property. However, such termination of service shall result in the forfeiture of all fees paid (including, but not limited to ANC Fees). Any subsequent request for service to the same location must be accompanied by payment of all rates and charges then in effect.

8.0 TYPE AND MAINTENANCE - The customer's pipes, apparatus and equipment shall be selected, installed, used and maintained in accordance with standard practice and shall conform with the Rules and Regulations of the Company, and shall comply with all governmental regulations applicable to same. The Company shall not be responsible for the maintenance and operation of the customer's pipes and facilities. Customer agrees to keep such facilities in good repair, to promptly stop all infiltration and inflow on the premises. The customer expressly agrees not to introduce anything into the collection system which may adversely affect the wastewater service; the Company reserves the right to discontinue or withhold wastewater service to such apparatus, equipment, or Point of Delivery.

9.0 CHANGE OF CUSTOMER'S INSTALLATION - No changes or increases in the customer's installation, which will materially affect the proper operation of the pipes, mains, or stations of the Company, shall be made without written consent of the Company. The customer shall be liable for any charge resulting from a violation of this Rule. Upon increasing the size of a water meter, the customer shall be charged for the increase in wastewater ANC Fees and Deposits, as stated in Rate Schedule.

10.0 INSPECTION OF CUSTOMER'S INSTALLATION - All customer's wastewater service installations or changes shall be inspected upon completion by a competent authority to ensure that the customer's piping, equipment, and devices have been installed in accordance with accepted standard practice and such local governmental or other rules as may be in

effect. Where municipal or other governmental inspection is required, the Company cannot render wastewater service until such inspection has been made and a formal notice of approval from the inspecting authority has been received by the Company. Notwithstanding the above, the Company reserves the right to inspect the customer's installation prior to rendering wastewater service, and from time to time thereafter, but assumes no responsibility whatsoever for any portion thereof.

11.0 PROTECTION OF COMPANY'S PROPERTY - The customer shall exercise reasonable diligence to protect the Company's property on the customer's premises and shall knowingly permit no one but the Company's agents or persons authorized by law, to have access to the Company's pipes and apparatus. In the event of any loss or damage to property of the Company caused by or arising out of carelessness, neglect or misuse by the customer or customer's agents including, but not limited to, contractors, repairmen, landscape maintenance crews or other entities, the customer shall be responsible for paying the Company the cost of such loss or repairing such damage. It shall then be the Customer's responsibility to recover any costs from customer's agent if appropriate.

12.0 ACCESS TO PREMISES - The duly authorized agents of the Company shall have access at all reasonable hours to the premises of the customer for the purpose of installing, maintaining, inspecting or removing Company's property or for performance under or termination of the Company's agreement with the customer and in such performance shall not be liable for trespass. Without notice, the Company may remove any landscaping or ancillary feature in a manner and to the extent reasonably required to provide access to the Company's property.

13.0 RIGHT OF WAY OR EASEMENTS - The customer shall grant or cause to be granted to the Company, and without cost to the Company, all rights, easements, permits, and privileges which are necessary for the rendering of wastewater service as determined by the Company.

14.0 BILLING PERIODS - Bills for wastewater service will be billed monthly, and are due when rendered and will be considered as received by customer when delivered or mailed to the service address or some other place mutually agreed upon. Non-receipt of bills by customer shall not release or diminish the obligation of the customer with respect to payment thereof.

15.0 DISCONNECTION FOR NON-PAYMENT - Field personnel shall not accept payment from customers when disconnecting meters for non-payment or reconnecting service. Customer may avoid meter removal, after personnel have been dispatched, by making payment in full at the Company's office or entering into a written agreement to pay the full amount due by a mutually agreed upon date including non-payment trip charge and/or reconnect fees. If the Member-Tenant account has not been paid or reinstated following final meter reading or disconnection for non-payment, the Member-Owner shall thereafter be responsible for payment of all charges incurred during this period of temporary disconnection as a condition of the initiation of service to a subsequent Member-Tenant.

16.0 PAYMENT OF WATER AND WASTEWATER SERVICE BILLS CONCURRENTLY
When both water and wastewater service are provided by the Company, payment of any wastewater service bill rendered by the Company to a customer shall not be accepted by

the Company without the simultaneous or concurrent payment of any water service bill rendered by the Company. The Company may discontinue both water service and wastewater service to the customer's premises for non-payment of the wastewater service bill or water service bill or if payment is not made concurrently. The Company shall not reestablish or reconnect wastewater service and/or water service until such time as all wastewater and water service bills and all charges are paid. A Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time is considered a part of the Customer's bill. No partial payment of any bill rendered will be accepted by the Company, except by agreement with Company.

17.0 RETURNED CHECKS - Upon return of a check for any reason, the Company may redeposit the check, but the customer will be responsible for any service charge. Upon return of a check for the second time, customer is to be notified that restitution must be made immediately by cash, money order, or credit card only, including the service charges. Customers failing to respond or to make restitution shall have water and/or wastewater service disconnected and will be charged a violation reconnect fee. Service will not be restored until payment in full is received for all charges due. A Member-Owner shall not be held responsible for the service charge incurred because of a bad check from their Member-Tenant.

Check Return -	Check Amount	Charge
	$ 0.00 - $ 50.00	$25.00
	$50.01 - $300.00	$30.00
	Over $300.00	$40.00 or 5% whichever is greater

18.0 CHANGE OF OCCUPANCY - When a change of occupancy takes place on any premises supplied by the Company with wastewater service, notice shall be given to the Company not less than three (3) days prior to the date of change by the outgoing Customer. The outgoing customer shall be held responsible for all wastewater service rendered on such premises until such notice is received by the Company and the Company has had reasonable time to discontinue the wastewater service. However, if such notice has not been received, the application of a succeeding occupant for wastewater service will automatically terminate the prior account. For the convenience of its customers, the Company will accept telephone orders, to discontinue or transfer wastewater service from one service address to another, and will use all reasonable diligence in the execution thereof. All transactions must be reported and cleared through the Company, including transfers, sales and charges.

Notwithstanding the foregoing, a Member-Tenant account will be discontinued and the Member-Owner will automatically become responsible on a going-forward basis for all charges and costs incurred by the Company in providing Wastewater Service if: 1) the Member-Tenant account has not been paid or reinstated following final meter reading or disconnection for nonpayment; 2) Company personnel verify that the property where the Company is providing Service is vacant; or 3) a Member-Tenant voluntarily discontinues service. All charges and costs for Wastewater Service, or the availability thereof, accruing while a property is vacant shall be the responsibility of the Member-Owner and must be paid prior to the provision of Wastewater Service to a subsequent Member-Tenant.

In the event a change of occupancy involving a sale or conveyance of property subject to the Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time, such rate, fee, or charge must be either paid off in full, or the new Customer must supply a copy of the deed or other document evidencing ownership and complete a lien form in favor of the Company securing the balance of the charge and provide notice of such payment requirement to a subsequent purchaser of the property, and resume periodic payments.

In the event of a change in ownership, a foreclosure, or other circumstance in which service to the property is temporarily disconnected but Service Company must maintain plant capacity and service availability to the property, the property owner including, but not limited to, Member-Owner, bank, mortgage company, trustee in bankruptcy or foreclosure, or other such entity receiving the benefit of such service availability shall be responsible for payment of Service Company's base facility charge and other rates, fees, and charges accrued during this period of temporary disconnection and as a condition of reconnection or initiation of service. Service Company shall not reconnect service or initiate service for a purchaser of property until any such outstanding balance at that or any other property owned by purchaser is paid in full.

19.0 UNAUTHORIZED CONNECTIONS - Connections to the Company's wastewater system for any purpose whatsoever are to be made only by employees or agents of the Company. Any unauthorized connections to the customer's wastewater service shall be subject to immediate discontinuance without notice. Wastewater service shall not be restored until such unauthorized connections have been removed and until payment is made in full for all wastewater service estimated by the Company to have been used by reason of such unauthorized connection. A party illegally connecting to facilities of the Company, or doing so in violation of the Company's Rules and Regulations, shall be charged costs plus expenses and back-billed for wastewater service based upon a reasonable estimate of service taken.

20.0 ADJUSTMENT OF BILLS - When a customer has been overcharged or undercharged as a result of incorrect application of the rate schedules, incorrect reading of the meter, incorrect connection of the meter, or other similar reasons, the amount may be credited or billed to the customer as the case may be. No adjustment shall be made to the base charge. The Company may refund or bill the Customer the amount billed/unbilled in error for one-half of the period since the last test, said one-half period not to exceed six (6) months; provided that, if it can be shown that the error was due to some cause the date of which can be identified, the adjustment will be based on that date. If meter does not register, or if no reading can be obtained, only current billing may be adjusted using an estimate of previous billings. In the event a customer provides acceptable documentation evidencing an extraordinary circumstance such as a pipe break or the filling of a swimming pool, the Company may take such information into account in calculating the monthly charge for wastewater service, and in determining the appropriate block water usage rate.

21.0 EVIDENCE OF CONSUMPTION - The initiation or continuation or resumption of water service to the customer's premises shall constitute the initiation or continuation or resumption of wastewater service to the customer's premises regardless of occupancy.

22.0 SERVICE DEPOSIT - Before rendering service, the Company shall require a non-interest bearing deposit or guarantee satisfactory to the Company to secure the payment of bills by the member. The amount of initial deposit shall be according to meter size and ERC's as follows:

SINGLE FAMILY RESIDENTIAL,
DUPLEX, TRIPLEX and
GENERAL:

Meter Size	Deposit Amount
5/8 x 3/4"	$ 100.00
1"	250.00
1.5"	500.00
2"	800.00
3"	1,600.00
4"	2,500.00
6"	5,000.00
8"	8,000.00

Institutional, Multi-Family & Mixed Master: $100.00 per unit or ERC

The Company may waive the deposit requirement based on one of the following: 1) receipt of a letter from the customer's most recent utility company stating that the customer's account was at no time more than thirty (30) days in arrears for the 12-month period immediately preceding the application to Company for service; 2) the customer authorizes the Company to establish automatic bill payment through electronic funds transfer or other means; or 3) such other evidence of customers good credit as determined by the Company. Member-Tenants are not eligible for a waiver of deposit.

After a residential customer has established a satisfactory payment record and has continuous service for 12 months, the Company may refund the customer's deposit provided the customer has not, in the preceding 12 months: (a) made more than one late payment of a bill, (b) paid with a check or automatic funds transfer refused by a bank, (c) been disconnected for nonpayment, or (d) used service in a fraudulent or unauthorized manner. Subsequent to such refund, or if a deposit was waived, Company may require a new deposit as a result of any of the above-referenced deficiencies.

General, multi-family, mixed master, institutional, and Member-Tenant deposits, however, are not refundable until change of ownership occurs and final settlement has been made. Upon final settlement of customer's account, any unused or remaining balance of the deposit shall be refunded, without interest.

Service Company may require a service deposit for irrigation service separate and apart from a water or wastewater deposit. Company may require an additional deposit if usage or payment history warrants. Upon final settlement of customer's account, any unused balance of the deposit will be refunded.

23.0 TAMPERING – No person shall tamper with, work on, connect to, or in any way alter or damage the Service Lines or any other component of the Company's sewer system without

prior written consent from the Company. If tampering is found and it causes the Company to repair or remove its property, an amount equal to the Violation Reconnection Charge or the actual cost to make repairs and reconnect (whichever is greater) will be charged to the customer. In addition, the Company may impose a tampering fee. It is unlawful to willfully alter, tamper with, damage, or knowingly suffer to be damaged any meter, meter seal, pipe or other apparatus or property belonging to the Company with intent to avoid payment for utility service. According to State statute this tampering is a misdemeanor of the first degree punishable by fine or imprisonment. Company shall be entitled to recover the value of the Service provided. Authorities shall be notified and Company will prosecute. In addition, whoever is found in civil action to have violated the provisions hereof shall be liable to Company in an amount equal to 3 times the amount of services unlawfully obtained or $3,000.00, whichever is greater. The Company may discontinue service upon reasonable notice to the customer for any infraction of this section in accordance with section 812.14, Florida Statutes.

24.0 RATE SCHEDULES - The following are the Company's rate schedules for service, and are subject to change from time to time.

GENERAL SERVICE RATE SCHEDULE

AVAILABILITY - Available throughout the area served by the Company to all customers for which no other schedule applies.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
3/4"	$ 29.48
1"	73.70
1 1/2"	147.40
2"	235.84
3"	471.68
4"	737.00
6"	1,474.00
8"	2,358.40

Gallonage Rate – $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of the past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

SINGLE FAMILY RESIDENTIAL, DUPLEX AND TRIPLEX RATE SCHEDULE

AVAILABILITY - Available to single family customers or their equivalent throughout the area served by the Company, including duplexes and triplexes, except for those instances where four or more residential units are contained in duplexes or triplexes behind a master meter.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
All	$29.48

Gallonage Rate - $3.83 (Per 1000 gallons capped at 16,000 gallons per month per unit served)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may then be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

MULTI-FAMILY AND MIXED MASTER RATE SCHEDULE

AVAILABILITY - Available to multi-family and mixed master customers as herein defined or their equivalent throughout the area served by the Company, including those instances where four or more residential units are contained in duplexes or triplexes behind a master meter.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
All	$23.58

Gallonage Rate - $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

INSTITUTIONAL RATE SCHEDULE

AVAILABILITY - For service to all assisted living facilities and other applicable institutional customers.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per ERC

Meter Size	Charge
N/A	$29.48

Gallonage Rate - $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of the past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

FIXED WASTEWATER RATE SCHEDULE

AVAILABILITY - Available throughout the area served by the Company for wastewater only customers.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Charge Per Unit

Meter Size	Charge
N/A	$48.37

Gallonage Rate None

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

25.0 NORMAL RECONNECTION CHARGE - Removal or reconnection of service subsequent to a customer-request.

$40.00 Disconnect charge
$40.00 Reconnect charge

26.0 VIOLATION RECONNECTION CHARGE - Subsequent to disconnection of service for cause, including a delinquency in bill payments and/or tampering with Company property, service shall not be reinstated until reconnection charge plus all past-due balances are paid in full.

$50.00 during normal work hours
$135.00 after hours and weekends.

27.0 REIMBURSEMENTS FOR EXTRA EXPENSES - The consumer shall reimburse the Company for extra expenses (such as for special trips, inspections, additional clerical expenses, etc.) incurred by the Company on account of consumer's violation of the Rules and Regulations. The customer will be advised of these expenses prior to Company rendering service.

28.0 TRANSFER FEES - Charge for transfer of existing service to a new owner or to a new Member-Tenant at an existing service. Existing Member-Owners are not charged when Member-Tenants vacate.

$35.00 (one charge only for transfer of water, sewer, or both)

29.0 MISCELLANEOUS SERVICE CHARGES - The Company charges the following miscellaneous service charges in accordance with the terms stated herein. If both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the Company requires multiple actions.

Usage Reports - $50.00 minimum or $0.25 per meter, whichever is greater.

Non-Payment Trip Charge - $45.00- only applicable during normal work hours

Capacity Reservation Fee - a monthly charge equal to the base charge plus billing charge for the applicable class of service.

Plan Review and Inspection Fees –
The greater of $835.00 or 1.0% of the cost of utility infrastructure subject to review and inspection.

Plan Review Resubmittal Fee - $250.00 – At the second request for additional information.

Re-Inspection Fee - $75.00 – At the request for additional inspection.

Warranty Expiration Televising (cleaning) - $1.25 per linear foot (minimum of $500)

Developer Agreement Administration Fees -
not to exceed $1,000.00 per Main Extension Manual

Labor & Equipment -
$65.00 per 1 man crew per hour
85.00 per 2 man crew per hour

Sewer Tap Locate
Other related and similar activities
$35.00 during normal work hours
$85.00 After hours and weekends

Estoppels Letter Fee
Normal Delivery - $15.00
Rush Delivery - $30.00
No extra charge if customer is also a water customer.

Late Payment Fee
$5 or 1% of past due amount, whichever is greater.

Meter Tampering Charge
Greater of 3 times the amount of services unlawfully obtained, or $3,000.

Grease Trap Fee - $150.00 – Initial plan review and inspection.

29.1 RECLAIMED WATER RATE - $.49 per 1000 gallons except as otherwise set by contract.

SERVICE AVAILABILITY POLICY

30.0 PURPOSE - The Company has determined that it is necessary to set forth a policy for the availability of sewer capacity which will provide a non-discriminatory and equitable basis upon which to provide service to future customers and plan capital expenditures for facilities expansion.

31.0 APPLICABILITY - This policy is applicable throughout the service territory of the Company.

32.0 AGREEMENT FOR SERVICE - Service is provided through a Service or Developer Agreement (if the capacity request warrants) and upon payment of the appropriate ANC Fees, Capacity Reservation Fees, Connection Fee, Special Service Charge and other charges as set forth herein. Company will reserve the number of connections paid for and will provide service to those units pursuant to its rules and regulations upon notification by Developer that service is required. A person who owns property with houses, duplexes, or other units and who has one or more sewer connections on this property cannot serve sewer to a buyer of any previously unserved portion of the property. The sale of a portion of the property must be reported to the Company in order for the Company to provide service in accordance herewith. If there are multiple owners of a duplex, triplex, or other multiunit building, each must pay an ANC Fee, Deposit Connection Fee and any other applicable fees appropriate to such unit.

33.0 APPLICATIONS BY AGENTS – Applications for sewer service requested by a person who owns property with houses, duplexes, or other units, property owner, person, firms, partnerships, associations, corporations, and others shall be rendered only by duly authorized parties. When sewer service is rendered under application between the Company and an agent of the principal, the use of such sewer service by the principal shall constitute full and complete ratification by the principal of the application between agent and the Company and under which such sewer service is rendered.

34.0 APPLICATIONS FOR BUILDING PERMIT – Upon request for a permit letter for the purpose of obtaining a building permit, the applicant shall pay in full the ANC Fee and all other applicable charges in effect at that time for the number of ERC's/Units as defined by the Company's Rules and Regulations.

35.0 NON-TRANSFERABILITY - A person who has paid an ANC Fee on one location, must pay another ANC Fee for sewer service at a new location. Plant capacity reserved through Developer's payment of ANC Fees cannot be assigned, transferred, leased, encumbered or disposed of in any manner unless, prior to connection, Developer has obtained the written consent of the Company and all applicable rates and charges are transferred or paid for the new lot. Following written notice, Company's consent to an assignment of capacity in connection with a bona fide sale of the property to which the plant capacity reservation relates will not be unreasonably withheld. In no instance shall Developer sell or assign plant capacity for a consideration which is more than the ANC Fee amount actually paid by Developer to reserve the capacity.

36.0 LETTERS OF AVAILABILITY - Company may issue Letters of Availability of sewer service to Developers for use in obtaining zoning changes and development orders

necessary for construction on their property. Such letters are not permit letters as referenced in this Tariff and are not specific reservations of capacity for Developer and do not guarantee that capacity will be available for Developer's project at any later date. Such a reservation can only be made through execution of an agreement with the Company and payment of rates and charges as set forth herein. Such an agreement is required prior to issuing Permit Letters for the purpose of obtaining a concurrency letter or building permit.

37.0 SERVICE AVAILABILITY PAYMENTS - In consideration for the provision of sewer service by the Company, Developer shall be required to pay certain costs of making service available, including on-site sewage collection system contributed in cash or in kind; payments to defray in part, or in total, the cost of off-site lines and related facilities, ANC Fees, Connection Fees, and Capacity Reservation Fees. Default in the payment of the charges set forth herein shall result in a cancellation of reserved capacity and forfeiture of monies previously paid to Company. Company shall provide fifteen (15) days written notice prior to taking such action.

38.0 ANC FEES - An Aid-To-New-Construction Fee (ANC Fee) shall be paid for each connection to the Company's system to defray all or a portion of the cost of providing service to the property. The ANC Fee shall be based on an ERC basis. For this purpose, the average daily flow of one ERC is 250 gallons per day ("gpd"). The number of ERC's contained in a given average daily flow is determined by dividing that average daily flow by 250 gpd.

ANC FEE SCHEDULE

(a) Single Family Residential, Duplex and Triplex:

Meter Size	
All	$3,925.00 per unit served

(b) Multi-family and Mixed-Master: $3,140.00 per unit served

(c) Assisted Living Facility: $3,925.00 per ERC.
The ANC Fee is calculated based on the estimated water capacity at a rate of 100 gpd/bed plus 5 gpd/meal served (resident or staff) divided by 250 gpd to determine the number of ERC's. The number of ERC's is then multiplied by the ANC Fee then in effect.

(d) General Service:

Meter Size	ERC Equivalent	ANC Fee per ERC
3/4"	1	$ 3,925.00
1"	2.5	9,812.50
1-1/2”	5	19,625.00
2"	8	31,400.00
3"	16	62,800.00
4"	25	98,125.00
6"	50	196,250.00
8"	80	314,000.00

Company reserves the right to increase ANC Fees as it deems necessary in the best interests of the Company, subject to approval of the City Council. All connections made to the Company's system subsequent to the effective date of the ANC Fee increase shall be subject to the higher charge, notwithstanding a prior Letter of Availability, Developer Agreement, or the prepayment of ANC Fees at the previous level.

ANC Fees are refundable only in the following cases:

(1) Governmental agency reduces the number of units, or denies a building permit
(2) Water meter has not been installed at time of customer's request for refund

In the event a customer wishes to utilize an ANC Fee credit which has been banked by the City consistent with the Franchise, the customer shall provide a copy of the City resolution authorizing a transfer of the banked fee and any other documentation required by the Franchise or reasonably required by the Company.

39.0 CONNECTION/METER INSTALLATION FEE - Upon execution of a Wastewater Service Application and a request for meter installation, Customer shall pay for costs associated with the tap-in or connection of the Consumer Installation to the collection or transmission system of the Company according to the following schedule:

Customer Connection (tap-in) Charge - Actual Cost

40.0 CAPACITY RESERVATION FEES - Upon execution of a Wastewater Service Application in order to reserve capacity in the system and/or payment of ANC Fees for any reason, Customer shall pay a monthly Capacity Reservation Fee equal to the base facility charge per unit then in effect for each unit of capacity not yet receiving service. As active connections are made, the Capacity Reservation Fee obligation shall be proportionately reduced. Failure to make payments as due shall result in cancellation of the capacity reservation and a forfeiture of all charges previously paid including ANC Fees. Company shall provide 15 days written notice prior to cancellation in order to remedy delinquent payments. Depending on the amount of capacity reserved, Company may require annual prepayments of Capacity Reservation Fees to secure payment. In that event, a credit shall be given for the prepayment of capacity reservation fees for that portion of the year during which a customer has connected to the system and begun paying a base facility charge for service. Such credit shall be made at the time of the next year's capacity reservation fee prepayment.

41.0 CONTRIBUTION OF LINES - Developer may be required to construct and contribute to the Company on-site facilities, particularly sewer collection lines, and off-site facilities including transmission mains to connect Company's transmission system in order to provide service to Developer's property. Contribution of such lines is independent of the payment of any charges hereunder. Construction of such lines shall meet the minimum specifications of the Company's Technical Specifications Manual.

42.0 OBLIGATIONS OF DEVELOPER - All contributors and developers shall furnish to the Company accurate information regarding matters of engineering, construction of buildings, dwellings and proposed densities. Developer shall advise Company of changes in density

factors or consumption requirements during construction of the project, and Developer shall be liable for adjustment in ANC Fees and charges paid or payable.

43.0 MISCELLANEOUS CONSTRUCTION PROVISIONS - Any contractor or similar person doing work for the Company must first show a certificate of insurance acceptable to the Company. In case of a service size change being requested by a Consumer regardless of pre-installation, or after installation, the Company will charge based on actual cost involved. The cost of a change or relocation of a service will be based on actual cost. To the extent any construction or other activities are addressed in the Company's Technical Specifications Manual, the party performing the work shall comply with the Manual requirements.

44.0 SERVICE TO EXISTING SUBDIVISIONS - In the event Company determines to provide service to an existing subdivision served by individual septic systems or package plants in an area other than one which the Company has designated as a Gravity Expansion Area, Company shall determine availability of capacity for that subdivision. The representatives of the subdivision shall provide all information reasonably necessary for Company to make such determination. In the event service is available, the subdivision residents (or someone other than Company) shall be responsible for construction, or the cost of construction, of all on-site and off-site facilities including, but not limited to, lift stations necessary to serve the subdivision. Provision of service by the Company shall further be conditioned upon payment of all applicable rates and charges as set forth herein. Company, in its sole discretion, shall determine whether to accept a subdivision's existing collection system, which may be subject to upgrade at the sole discretion of the Company, or render service pursuant to a master meter or both in the case of a subdivision system owned and maintained by a homeowners association, developer, or other such similar unit.

Should the cost of such future wastewater service expansion programs vary significantly from the general charges contained herein, the Company may institute an additional or lesser charge to affected customers, based upon the Company’s actual costs, and may allow the amortization of charges and costs over a reasonable time period, if warranted. In the event a customer elects to amortize these costs, the customer shall allow the Company to place a lien on the property to secure repayment and to provide notice of such payment requirement to a subsequent purchaser of the property.

45.0 SPECIAL SERVICE CHARGE TO IMPERIAL HARBOR SUBDIVISION - As a result of the abandonment of Harbor Utilities Company, Inc., the Company provides wastewater service to the Imperial Harbor Subdivision. In order to provide such service, the lines, lift stations and appurtenant facilities within Imperial Harbor required substantial upgrading. In addition to the other rates and charges contained in this Tariff, the customers within Imperial Harbor are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Special Services Charge in a lump sum, or amortize the cost over 25 years which charges are set forth below.

Special Service Charge:	$ 1,095.67 per unit
or	
Monthly Amortization:	$ 7.74 per unit

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment.

45.1 SPECIAL SERVICE CHARGE TO FORMER HACIENDA CUSTOMERS - As a result of the abandonment of Hacienda Treatment Plant, Inc. ("Hacienda"), the Company provides wastewater service to former Hacienda customers. In order to provide such service, the former Hacienda customers needed to be interconnected with the Company's wastewater facilities. In addition to the other rates and charges contained in this Tariff, the customers formerly served by Hacienda, as well as future customers who would have been served by Hacienda, are required to pay a Special Service Charge that is intended to defray the cost of necessary interconnection in order to render service to such customers, and which provides a special benefit to those customers. Such customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years as set forth below:

Special Service Charge:	$ 795.00 per ERC
or	
Monthly Amortization:	$ 5.68 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment.

45.2 SPECIAL SERVICE TO SPRING CREEK VILLAGE SUBDIVISION – In addition to the other rates and charges contained in this Tariff, the customers within Spring Creek Village are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years which charges are set forth below:

Special Service Charge:	$7,210.00 per unit
or	
Monthly Amortization:	$ 43.23 per unit

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection or service for nonpayment.

45.3 SPECIAL SERVICE CHARGE TO BONITA SPRINGS GOLF AND COUNTRY CLUB – In addition to the other rates and charges contained in this Tariff, customers formerly served by, or in the former service area of, Bonita Springs Golf and Country Club are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum,

or amortize the cost over 25 years at an interest rate of 6.0% per annum. Interest shall begin to accrue one year after implementation of the charge. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$3,365	$2,692
or		
Monthly Amortization:	$21.68	$17.34

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.4 SPECIAL SERVICE CHARGE TO THE FOUNTAIN LAKES AND MARSH LANDING COMMUNITIES – In addition to the other rates and charges contained in this Tariff, wastewater customers in the Fountain Lakes and Marsh Landing communities are required to pay a Special Service Charge which is intended to defray the cost of system acquisition and necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or may pay over time based on a 25 year amortization, with an interest rate of 6.0% per annum. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$3,442	$2,754
or		
Monthly Amortization:	$22.18	$17.74

A multi-family unit refers to a class of service where one meter serves more than three residential units. Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the Special Service Charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.5 SPECIAL SERVICE CHARGE TO THE VILLAGES IN IMPERIAL BONITA ESTATES In addition to the other rates and charges contained in this Tariff, customers in The Villages section of Imperial Bonita Estates are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 25 years. The charges are set forth below:

	Single Family Unit
One Time Payment:	$1,552.00
or	
Monthly Amortization:	$ 10.00

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.6 SPECIAL SERVICE CHARGE TO THE FOREST MERE AND SPRING LAKES SUBDIVISIONS – In addition to the other rates and charges contained in this Tariff, customers in the Forest Mere and Spring Lakes Subdivisions are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years with an interest rate of 5.0% annum. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$2,182	$1,854
or		
Monthly Amortization:	$14.40	$12.24

A multi-family unit refers to a class of service where one meter serves more than three residential units. Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.7 SPECIAL SERVICE CHARGE TO LEISURE TIME PARK - In addition to the other rates and charges contained in this Tariff, customers in the Leisure Time Park are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years with an interest rate of 5.0% interest per annum. The charges are set forth below:

	Single Family/Clubhouse
One Time Payment:	$ 943.73 per ERC

or	
Monthly Amortization	$ 6.23 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.8 SPECIAL SERVICE CHARGE TO SUN VILLAGE ESTATES SUBDIVISION- In addition to the other rates and charges contained in this Tariff, customers in the Sun Village Estates subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% interest per annum. The charges are set forth below:

	Single Family
One Time Payment:	$ 3,584.00 per ERC
or	
Monthly Amortization	$ 17.11 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Sun Village Estates customers are also responsible for payment of the appropriate ANC fee for their unit which may also be amortized up to 30 years.

45.9 SPECIAL SERVICE CHARGE TO THE LAKES OF SAN SOUCI SUBDIVISION- In addition to the other rates and charges contained in this Tariff, customers in the Lakes of San Souci subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% interest per annum. The charges are set forth below:

	Single Family
One Time Payment:	$ 4,948.00 per ERC
or	
Monthly Amortization	$ 23.62 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Lakes of San Souci customers are also responsible for payment of the appropriate ANC fee for their unit which may also be amortized up to 30 years.

46.0 SERVICE TO GRAVITY EXPANSION AREAS - The Company has undertaken a program of constructing local collection and transmission systems to replace septic tanks serving existing residential areas in a program designated as the Gravity Expansion Program. The territory included in the Gravity Expansion Program is on file with the Company. Customers within the Gravity Expansion area may be required to connect to the system when service becomes available following required notice by the Company. In addition to the other rates and charges contained in this Tariff, customers within the Gravity Expansion area are required to pay a charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Gravity Expansion charge in a lump sum, or amortize the cost up to 30 years which charges are set forth below. In the event a customer elects to amortize the Gravity Expansion charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Gravity Expansion Residential Charge: $1,717.00 per unit

plus

Gravity Expansion customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

47.0 QUALITY OF WASTEWATER - No substance other than domestic wastewater will be placed into the sewage system and delivered to the lines of the Company. Should any non-domestic wastes or pollutants be delivered to the lines, the customer will be responsible for payment of the cost and expense required in correcting or repairing any resulting damage to the system or property of third parties.

Developer, or subsequent owners or occupants of the Property, may introduce non-domestic wastes from commercial establishments on the Property only upon prior written approval from Service Company based on Service Company's determination that such non-domestic waste will not harm utility facilities. Developer further agrees that no waste waters, fluids, or any substances and materials which contain any pollutants in whole or in part, regardless of the concentrations of said constituents, shall be discharged into Service Company's sanitary sewer collection/transmission system. Service Company shall have the right to sample the Developer's sewage to verify Developer's compliance with this paragraph.

In addition to the preceding paragraphs, and not by way of limitation, in the event Company determines that the property to be served poses a threat of introducing pollutants into the collection or transmission system at levels determined by the Company to be harmful to the sewer system, including, but not limited to, the system's ability to provide effluent meeting reuse standards, and its acceptability as an irrigation supply source for vegetation, the Company has the right to decline or discontinue service, or charge a higher rate due to increased treatment costs if applicable, to such property or customer.

No person shall discharge or cause to be discharged materials, water or waste, if it appears likely, in the opinion of the Company, that such discharge may cause harm to the utility system or have an adverse effect or cause interference with the operation of the wastewater treatment facility. In that event, the customer shall be subject to such pretreatment or other measures as are necessary to protect the integrity of Company's system and the ability to serve its members including the requirements set forth in Chapter 62-625 Florida Administrative Code, Pretreatment Requirements for Existing and Other Sources of Pollution, those standards set forth in the Company's Sewer Use Manual or such other pretreatment standards as shall have been approved by the Company's Board of Directors, and those industrial pretreatment standards and grease management standards as may be adopted and enforced by the City of Bonita Springs or Lee County as they apply in their respective portions of Company's service territory.

48.0 REFUNDABLE ADVANCES - Company may require, in addition to those set forth herein, a refundable advance by a Developer to temporarily defray the cost of off-site extension of sewer mains, pumping stations and other facilities necessary to connect the Developer's property with the then proper point of interconnection with the Company's existing sewer facilities, in excess of the size needed to provide service to the subject property. Costs paid by the Developer over and above the Developer's hydraulic share of the off-site facilities, may be refunded to the Developer in accordance with the terms and conditions of a Refundable Advance Agreement with Company. Company shall not be required to refund to Developer any fees or charges collected from consumers as a result of his contribution toward the cost of constructing the off-site facilities.

At the time the engineer of record certifies the off-site facilities as complete, he will also be requested to provide a determination of the hydraulic capacity of the facilities and the number of connections it is capable of serving based upon the Company's current determination of an ERC. On that basis, Company will establish a refundable advance charge per ERC and Company will agree to collect and refund same to Developer upon payment of such charges by subsequent customers obtaining service through the off-site facilities. Unless otherwise agreed to by Company, no refundable advance treatment will be available to Developer constructing lines and appurtenant facilities less than eight (8) inches in diameter. Company may limit the life of the Refundable Advance Agreement to a term of not more than seven (7) years, after which time a portion of the refund not made to the Developer will be retained by the Company. In no event shall a Developer recover an amount greater than the difference between the capitalized cost of such improvements and the Developer's own hydraulic share of such improvement. The Service Company will not include any interest upon the refund of the Developer's advance.

49.0 WASTEWATER REUSE - The Company owns, operates and maintains wastewater treatment facilities, pursuant to operating permits from the Florida Department of Environmental Regulation, which produce treated effluent of a quality suitable for the

irrigation of grasses, woodlands and certain vegetation. The Company may make treated effluent available to consumers within the service area of the Company that own large tracts of green areas requiring landscape irrigation ("Users"), based on the Board of Directors determination of the best interests of the Company and its members. Determination of the quantity, price, terms and conditions of the provision of effluent to Users shall be at the sole discretion of the Company, and may be set forth in an Effluent Reuse Agreement entered into by the Company and the User.

User shall be responsible for the design, construction and installation, at User's sole cost and expense subject to the approval and inspection by the Company, of on-site and off-site utility lines and facilities needed to initially create or thereafter connect into the Company's effluent disposal system. User shall convey ownership to Company of all lines and facilities from authorized treatment facilities to the point of delivery of effluent to User by bill of sale in a form satisfactory to the Company; it being understood that lines and facilities must be sized and constructed to the satisfaction of Company in accordance with the guidelines and specifications of the Company, subject to refundable advance treatment for oversized facilities. Acceptance of said lines and facilities shall be within the sole discretion of the Company.

User shall be responsible for obtaining information and preparing all necessary environmental planning, hydrogeologic monitoring studies and reports reasonably necessary for the permitting, preparation and continued utilization of User's property as a site for effluent reuse. User shall further be required to provide wet weather storage (non-application day) for not less than five (5) days effluent allocation. Wet weather storage capacity is subject to evaluation on a case-by-case basis and may be increased due to, among other things, changes in regulatory requirements.

User shall be responsible for any and all costs relative to the maintenance of any water management tract constructed upon User's land and User shall be responsible, at its sole cost and expense, for the construction and maintenance of any effluent spray irrigation device or other system which draws from the water management tract. User shall incur the cost of securing licenses and permits from applicable governmental agencies relative to the reuse of the Company's treated effluent upon User's property, including any costs incurred by Company to secure same.

As a prerequisite to the Company's acceptance of effluent discharge and delivery lines, facilities and appurtenances thereof, User shall grant Company, its successors and assigns, all easements and rights of ingress and egress, necessary for the discharge and delivery of effluent upon User's property, including, but not limited to, easements covering lines and facilities. The easements shall allow the Company to own effluent discharge lines and other facilities required for the effluent delivery.

50.0 ALLOCATION OF CAPACITY - It is the policy of the Florida Department of Environmental Protection ("DEP") to reduce the capacity available in Company's water and sewer systems upon issuance of a DEP Collection and/or Distribution System Permit (or its equivalent) to construct an on-site system which will receive treatment capacity from Company. DEP reduces Company's uncommitted capacity by the total number of ERC's which can be served by the on-site system approved in the Permit ("Permit Capacity"). This DEP policy prevents Company from committing the Permit Capacity to other

developers and customers, regardless of an immediate need and willingness to pay for such capacity.

In an effort to fairly allocate plant capacity, it is Service Company's policy to require that, concurrent with Company signing off on Developer's Permit Application, Developer pay all charges related to the Permit Capacity committed to Developer at that time. This requirement is intended to avoid a situation in which developers who have not paid service availability charges tie up capacity to the exclusion of customers with an immediate need and ability to pay.

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-06-122
June 7, 2023

REQUESTED MOTION: (First Reading) AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, REPEALING AND REPLACING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 7 ARTICLE II – SEA TURTLES; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

REQUESTOR: John Dulmer, Jacqueline Genson, and Laura Gibson, Community Development

AGENDA: City Attorney's Items

STRATEGIC PRIORITY: #4 Environmental Protection

BACKGROUND:

When the City incorporated, the City Charter adopted the Lee County Land Development Code as the City's governing regulations until such time that the City adopted its own code. In 2001, the City Council adopted Ordinance No. 01-06, which amended certain provisions regarding sea turtle conservation.

In December of 2020, the State of Florida updated the Model Lighting Ordinance for Sea Turtle Protection.

On April 19, 2023, City Council directed staff to proceed with drafting an ordinance to be consistent with the Model Ordinance. The attached proposed ordinance updates the City's Sea Turtle Ordinance to align with the State's Model Ordinance and adjacent municipalities.

The amendments are tentatively scheduled for the June 8, 2023, Local Planning Agency meeting and June 21, 2023 City Council meeting for second reading.

STAFF RECOMMENDATION: Move to the Second Reading and Public Hearing.

ATTACHMENTS:

1. Amendment Package in Strike-through/Underline format
2. Model Lighting Ordinance

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	John Dulmer

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 23 – __

AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, REPEALING AND REPLACING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 7 ARTICLE II – SEA TURTLES; PROVIDING FOR 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, Section 72 of the original City Charter adopted the Lee County Land Development Code, which included regulations pertaining to the protection and conservation of sea turtles; and

WHEREAS, on April 4, 2001, City Council adopted Ordinance 01-06 amending provisions of the Land Development Code relating to sea turtle conservation; and

WHEREAS, in December 2020, Florida Fish and Wildlife Commission issued an updated Model Lighting Ordinance for sea turtle protection; and

WHEREAS, on March 18, 2015, the City Council adopted Ordinance No. 15-06 creating a program under which no more than twenty-five permit holders at any given time could be allowed up to four (4) backyard hens on residential properties; and

WHEREAS, it is in the best interest of the City to repeal and replace Chapter 7, Article II of the Land Development Code for clarity and consistency with the State's standards.

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 the Land Development Code, 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 of 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: _____ By: _____
Michael Sheffield, City Clerk Mayor Rick Steinmeyer

Reviewed for legal sufficiency:

By: _____
City Attorney's Office

Vote:

Steinmeyer	Corrie
Bogacz	Fullick
Purdon	Forbes
Carr	

Date filed with City Clerk: _____

EXHIBIT A

PART III - LAND DEVELOPMENT CODE
Chapter 7 - ENVIRONMENT, NATURAL RESOURCES AND MARINE FACILITIES, STRUCTURES AND EQUIPMENT
ARTICLE II. SEA TURTLES

ARTICLE II. SEA TURTLES[1]

DIVISION 1. GENERALLY

Secs. 7-19—7-39. Reserved.

DIVISION 2. SEA TURTLE CONSERVATION

~~Sec. 7-40. Purpose and applicability of division.~~

~~The purpose and intent of this division is to protect endangered and threatened sea turtles along the Gulf of Mexico beaches in the city. This division protects nesting sea turtles and sea turtle hatchlings from the adverse effects of artificial lighting, provides overall improvement in nesting habitat degraded by light, and increases successful nesting activity and production of hatchlings on the beaches, as defined in this division.~~

~~(Ord. No. 01-06, § 1(14-71), 4-4-2001)~~

~~Sec. 7-41. Definitions.~~

~~When used in this division, the following words, terms and phrases have the meanings set forth below, except where their context clearly indicates a different meaning:~~

~~*Administrator* means the city manager, or his designee, who is responsible for administering the provisions of this division.~~

~~*Artificial lighting or illumination* means light emanating from a manmade point source (see *Point source of light*).~~

~~*Beach* means the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves as more particularly described in section 7-49.~~

~~*Beach equipment* means any manmade, furniture, apparatus or paraphernalia designed, manufactured, intended for use or actually used on the beach or in the adjacent tidal waters. Examples include chairs, cabanas, lounges, benches, tables, tents, umbrellas, sailing vessels, canoes, kayaks, paddle vessels, jet skis, sailboards, surfboards, concession storage units, fishing gear, sporting equipment, and floatables.~~

~~*Bug type light* means any yellow-colored incandescent light bulb that is specifically treated in such a way so as to reduce the attraction of bugs to the light, but does not include bug killing devices.~~

~~*Construction* means the carrying out of any building, clearing, filling, excavating or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, the term "construction" refers to the act of constructing or the result of construction, and includes reconstruction or remodeling of existing buildings or structures.~~

---

[1]State law reference(s)—Coastal areas used by sea turtles and rules for protection, restriction on local rules, F.S. § 161.163.

~~*Cumulatively illuminated* means illuminated by numerous artificial light sources that as a group directly or indirectly is visible from or illuminates any portion of the beach, dune or other sea turtle nesting habitat.~~

~~*Decorative lighting* means lighting used for aesthetic reasons, primarily landscaping.~~

~~*DEP* means Florida Department of Environmental Protection or successor agency.~~

~~*Development* has the same meaning stated in section 9-27.~~

~~*Directly illuminated* means illuminated by one or more point sources of light directly visible to an observer on the beach, dune, or other sea turtle nesting habitat.~~

~~*Dune* means a mound or ridge of loose sediments, usually sand-sized, lying landward of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation.~~

~~*Existing development* means completed development having received official approval in the form of a certificate of compliance, final building permit inspection, or other final governmental approval as of January 31, 1998, or development that was completed prior to the adoption of those requirements.~~

~~*FWC* means Florida Fish and Wildlife Conservation Commission or successor agency.~~

~~*Ground-level barrier* means any vegetation, natural feature or artificial structure rising from the ground intended to prevent beachfront lighting from shining directly, indirectly, or cumulatively onto the beach, dune, or other sea turtle nesting habitat.~~

~~*Hatchling* means any individual of a species of sea turtle, within or outside of a nest, that has recently hatched from an egg.~~

~~*Indirectly illuminated* means illuminated by one or more point sources of light not directly visible to an observer on the beach, dune, or other sea turtle nesting habitat.~~

~~*Low-profile lighting* means a light fixture, which places the low wattage source of light no higher than 48 inches above grade and is designed so that a point source of light does not directly, indirectly, or cumulatively illuminate sea turtle nesting habitat.~~

~~*Mechanical beach cleaning* means the one-time-only act of cleaning the beach with a motor-powered vehicle and beach cleaning equipment that must be approved by the DEP following a storm or fish kill event.~~

~~*Nest* means an area where sea turtle eggs have been naturally deposited or subsequently relocated by an authorized permittee of the FWC.~~

~~*Nesting season* means the hours from 9:00 p.m. until 7:00 a.m. during the period of May 1 through October 31 of each year.~~

~~*New development* means construction of new buildings or structures as well as renovation or remodeling of existing development, and includes the alteration of exterior lighting, occurring after the adoption of the ordinance from which this division is derived.~~

~~*Point source of light* means a manmade source of emanating light, including, but not limited to, incandescent, tungsten-iodine (quartz), mercury vapor, fluorescent, metal halide, neon, halogen, high-pressure sodium and low-pressure sodium light sources, as well as, lanterns, torches, campfires and bonfires.~~

~~*Sea turtle* means any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters or using the beach as a nesting habitat, including *Caretta caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), and *Lepidochelys kempi* (Kemp's ridley). For purposes of this division, sea turtle is synonymous with marine turtle.~~

~~*Sea turtle nesting habitat* means the beach, any adjacent dunes or areas landward of the beach used by sea turtles to deposit sea turtle eggs.~~

~~*Tinted glass* means any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less.~~

(Ord. No. 01-06, § 1(14-72), 4-4-2001)

Sec. 7-42. Violations, enforcement of division and penalty.

(a) *Violations.*

(1) Failing in any respect to comply with the provisions of this division.

(2) A rebuttable presumption that there is a violation of this division exists when:

a. A shadow is created or cast by artificial lighting directly, indirectly, or cumulatively illuminating an opaque object in sea turtle nesting habitat during the nesting season; or

b. The disorientation or mortality of a nesting sea turtle or sea turtle hatchling is caused by artificial lighting directly, indirectly, or cumulatively illuminating sea turtle nesting habitat during the nesting season.

(b) *Enforcement and penalty.* Violations of this division will be prosecuted in accordance with chapter 2, article VII. The city may take action against the property owner, occupant or person otherwise responsible for causing the violation. In addition to code enforcement action, the city may pursue other legal means of obtaining compliance, including civil and criminal remedies, that are available by law.

(Ord. No. 01-06, § 1(14-73), 4-4-2001)

Sec. 7-43. Exemptions from division.

(a) *Research or patrol vehicles.* Only authorized permittees of the DEP and FWC, and law or code enforcement officers conducting bona fide research or investigative patrols, may operate a motor vehicle on the beach or in sea turtle nesting habitat during the nesting season, so long as appropriate red-colored filters are used to ensure the safe operation of their vehicles.

(b) *Handicapped access.* A wheelchair equipped with special beach friendly tires or approved conveyance for a person with a disability, which is actually used by the person with the disability, may operate on the beach during the nesting season.

(c) *Mechanical beach cleaning.* During the nesting season mechanical beach cleaning requires a valid DEP beach cleaning permit, and must not occur before 9:00 a.m., may not disturb any sea turtle nest, and may only be performed following a storm or fish kill event.

(d) *Administrative exemptions.* The administrator may authorize, in writing, any activity or use of lighting otherwise prohibited by this division for a specified location and period of time. The authorization must be for the minimum duration and applicants must make all reasonable efforts to minimize the amount of lighting from any point sources of light. Applicants must have prior approval by DEP, office of beaches and coastal systems before any administrative exemptions may be granted.

(Ord. No. 01-06, § 1(14-74), 4-4-2001)

Sec. 7-44. Existing development.

Existing development must ensure that a sea turtle nesting habitat is not directly, indirectly, or cumulatively illuminated by lighting originating from the existing development during the nesting season. The point source of light, any reflective surface of the light fixture, or cumulative glow must not be directly visible from the beach. Also, existing development must incorporate and follow the measures outlined in section 7-48(d) to reduce or eliminate interior light emanating from doors and windows visible from the beach, dune or other sea turtle nesting habitat. The reviewing staff will take into consideration the need for balancing pedestrian safety when reviewing any site lighting.

(Ord. No. 01-06, § 1(14-75), 4-4-2001)

Sec. 7-45. New development.

New development must comply with the following requirements:

(1) Artificial lighting must conform to the requirement of section 7-44. The reviewing staff will take into consideration the need for balancing pedestrian safety when reviewing any lighting plan.

(2) A lighting plan must be submitted to the city for review prior to the earlier of building permit or development order issuance for all new development on the barrier islands identified in section 7-49, as follows:

a. For new development seaward of the coastal construction control line (CCCL), as defined in section 4-2 of this LDC, a copy of a DEP-approved lighting plan is required.

b. For new development landward of the coastal construction control line (CCCL), a lighting plan is required for all commercial and industrial development, and for all multi-story developments in multi-family zoning districts.

c. The location, number, wattage, elevation, orientation, fixture cut sheets, and all types of proposed exterior artificial light sources, including landscape lighting, must be included on the lighting plan. A city-approved lighting plan is required before a building permit will be issued.

d. Exterior light fixtures visible from the beach and sea turtle nesting habitat are considered appropriately designed if:

1. Completely shielded downlight only fixtures or recessed fixtures having 25 watt yellow bug type bulbs and non-reflective interior surfaces are used. Other fixtures that have appropriate shields, louvers, or cutoff features may also be used, if they are in compliance with section 7-44.

2. All fixtures are mounted as low in elevation as possible through the use of low-mounted wall fixtures, low bollards, and ground level fixtures.

3. All exterior lighting must be installed in such a manner and be so shielded that the cone of light will fall, substantially, within the perimeter of the property. Through the use of shielding and limitation upon intensity, ambient light traveling outward and upward, producing a sky glow, must be reduced to the greatest extent possible without unduly interfering with the intent and purpose of the exterior lighting in the first place.

4. Decorative lighting, including, but not limited to, uplighting, is not permitted seaward of the coastal construction control line (CCCL).

e. Tinted glass or any window film applied to window glass which meets the defined criteria for tinted glass, must be installed on all windows and glass doors visible from the beach and must be included on the building permit plans.

f. Parking lot lighting must use poles no higher than 12 feet in height with shoebox-style fixtures. The minimum wattage of high pressure sodium or low pressure sodium bulbs is permitted. Low pressure sodium is recommended. Low profile lighting, such as bollards no greater than 48 inches in height and step lighting is encouraged.

g. Illuminated signs must conform to the requirements of this section. Reverse lighting signs are recommended, where the background is opaque and the letters/logo are illuminated from within the sign. If exterior lighting is used to illuminate the sign, the lights must be downlights with shields and louvers to pin point the light. The use of neon is not permitted.

(3) Prior to the issuance of a certificate of occupancy (CO), the exterior lighting of new development must be inspected after dark by the city, with all exterior lighting turned on, to determine compliance with an approved lighting plan and this division.

(Ord. No. 01-06, § 1(14-76), 4-4-2001)

Sec. 7-46. Publicly owned lighting.

Streetlights and lighting at parks and other publicly owned beach access areas are subject to the following requirements:

(1) The beach must not be directly, indirectly, or cumulatively illuminated by newly installed or replaced point sources of light.

(2) Artificial lighting at parks or other public beach access points must conform to the provisions of section 7-44.

(Ord. No. 01-06, § 1(14-77), 4-4-2001)

Sec. 7-47. Additional regulations affecting sea turtle nesting habitat.

(a) *Fires.* Fires are prohibited during the nesting season.

(b) *Driving on the beach.* Driving or operating any engine powered vehicle, machine or implement, including any battery or electrical powered vehicle, machine or implement on sea turtle nesting habitat, specifically including the beach, is prohibited during the nesting season, except as allowed under section 7-43.

(c) *Parking.* Vehicle headlights in parking lots or areas on or adjacent to the beach must be screened utilizing ground-level barriers to eliminate artificial lighting directly, indirectly, or cumulatively illuminating any sea turtle nesting habitat.

(d) *Beach equipment.* From May 1 through October 31, all beach equipment must be removed from the beach as follows:

(1) All beach equipment must be removed from the beach between the hours of 9:00 p.m. and 7:00 a.m.

(2) The beach equipment must be moved behind the dune line and must not be placed on or destroy any dune vegetation. Where no dune line is present, a line will be projected from the closest areas on either side where such vegetation does exist.

(Ord. No. 01-06, § 1(14-78), 4-4-2001)

Sec. 7-48. Guidelines for mitigation and abatement of prohibited artificial lighting.

(a) Appropriate techniques to achieve lighting compliance include, but are not limited to, fitting lights with hoods or shields, utilizing recessed or down fixtures with low wattage bulbs, screening light with vegetation or other ground-level barriers, directing light away from sea turtle nesting habitat, utilizing low-profile lighting, turning off artificial light during the nesting season, motion detectors set on the minimum duration, spraying reflective surfaces within fixtures or globes on fixtures with a flat black grill or oven paint, and lowering the light intensity of the lamps to 25-watt yellow bug lights. Although plastic sleeves for fluorescent bulbs may help to reduce the amount of artificial light to an acceptable level if the bulbs are of sufficiently low wattage, additional shielding is still required as sea turtles are more sensitive to the wavelengths of fluorescent light.

(b) Opaque shields for lights covering an arc of at least 180 degrees and extending an appropriate distance below the bottom edge of the fixture on its seaward side may be installed so that the light source or any reflective surface of the light fixture is not visible from a sea turtle nesting habitat.

(c) Floodlights, uplights, spotlights, and decorative lighting directly, indirectly, or cumulatively visible from sea turtle nesting habitat should not be used during the nesting season.

(d) Appropriate techniques to eliminate interior lighting directly, indirectly, or cumulatively illuminating the beach, include, but are not limited to, applying window tint film to windows, using tinted glass, moving light fixtures away from windows, closing blinds or curtains, and turning off unnecessary lights.

(Ord. No. 01-06, § 1(14-79), 4-4-2001)

Sec. 7-49. Gulf of Mexico beaches description.

(a) *Lover's Key group of islands, including Black Island.* Lover's Key group of islands includes those beaches westerly from that point beginning at the northernmost point bearing due north of the westernmost lands of the island group fronting on the Gulf of Mexico to a point being the southernmost point of the island group bearing due south; provided, however, that said northernmost and southernmost point that are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

(b) *Big Hickory Island.* Big Hickory Island includes those beaches westerly from that point being the northernmost point of the island bearing due north to that point of the island in Big Hickory Pass being the southernmost point bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

(c) *Little Hickory Island (Bonita Beach).* Little Hickory Island includes those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the county line on the south; provided, however, that the said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

(Ord. No. 01-06, app. B, 4-4-2001)

Secs. 7-50—7-71. Reserved.

Sec.7-40. - Purpose and Objective

The purpose and intent of this Article is to protect nesting and hatchling sea turtles on the beaches in the City of Bonita Springs by ensuring that the nesting habitat is not degraded by artificial light and other humanmade impacts to nesting habitat in an effort to facilitate successful nesting activity and hatching events. In order to further the objective of full implementation, this Article also includes provisions designed to educate residents and beach users on the benefits of appropriate coastal lighting and provides for regular inspections to ensure compliance with the acceptable lighting standards.

Sec.7-41. – Definitions

When used in this division, the following words, terms and phrases have the meanings set forth below, except where their context clearly indicates a different meaning:

Administrator means the city manager, or designee, who is responsible for administering the provisions of this division.

Artificial Lighting means light emanating from a human-made device.

Beach means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation.

Beach equipment means any manmade furniture, apparatus or paraphernalia designed, manufactured, intended for use or actually used on the beach and/or in the adjacent tidal waters. Examples include, without limitation, chairs, cabanas, lounges, benches, tables, tents, umbrellas, sailing vessels, canoes, kayaks, paddle vessels, jet skis, sailboards, surfboards, concession storage units, fishing gear, sporting equipment, and floatables.

Certified Wildlife Lighting means lighting fixtures and bulbs reviewed and approved with conditions of use through the Florida Fish and Wildlife Conservation Commission's Wildlife Lighting Certification Process and published at https://myfwc.com/conservation/you- conserve/lighting/criteria/certified/.

Construction means the carrying out of or result of any building, clearing, filling, excavating or substantial improvement in the size or use of any structure or the appearance of any land, including reconstruction or remodeling of existing buildings or structures.

Cumulatively Visible means light from numerous artificial light sources that collectively can be seen by an observer standing anywhere on the beach.

Directly Visible occurs when glowing elements, lamps, globes, or reflectors of an artificial light source can be seen by an observer standing anywhere on the beach.

Foot-Candle means the English unit for measuring illuminance; the uniform illumination of a surface one foot away from a point source of one candela; one lumen per square foot; equal to 10.76 lux.

Frontal Dune means the first natural or manmade mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.

Full Cutoff means a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90° as determined by photometric test or certified by the fixture manufacturer.

Fully Shielded means a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach. Any structural part of the light fixture providing this shielding must be permanently affixed.

Ground-level Barrier means any vegetation, natural feature or artificial structure rising from the ground intended to prevent beachfront lighting from shining directly, indirectly, or cumulatively onto the beach, dune, or other sea turtle nesting habitat.

Indirectly Visible means light reflected from glowing elements, lamps, globes, or reflectors of an artificial light source that can be seen by an observer standing anywhere on the beach without the light source being directly visible.

Lighting plan means plan view and cross section drawings describing location, number, wattage, wavelength, elevation, orientation, fixture cut sheets, and all types of proposed exterior artificial light sources, including, but not limited to, artificial lighting affixed to permanent structures, outdoor lighting, pool lighting, and internally or externally lighted signs.

Long Wavelength means a lamp or light source emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers.

Low-profile lighting means a light fixture, which places the low lumens source of light no higher than 48 inches above grade and is designed so that a point source of light does not directly, indirectly, or cumulatively illuminate sea turtle nesting habitat.

Mechanical beach cleaning (or *raking*) means the act of cleaning the beach with a motor-powered vehicle and beach cleaning equipment.

Nest means an area where sea turtle eggs have been naturally deposited or subsequently relocated by an authorized permittee of the FWC.

Nesting Season means sea turtle nesting on the beaches of the City of Bonita Springs during the period of May 1 through October 31 of each year. Nesting season may be extended before or after these dates on an annual basis based on nesting activity observed in the City.

New construction means all new construction of or additions and alterations to buildings, pools, pavement, other structures, landscape areas, or lighting systems, including the change or resumption of land use.

Nighttime means the locally effective time period between sunset and sunrise during nesting season.

Non-egress Lighting means exterior lighting that is not being used to light a distinct route or meet minimum requirements for emergency access to or from a building, including but not limited to decorative lights (e.g. strobe lights, string lights, etc.), balcony lights, landscape lights, and uplights.

Outdoor Area means any portion of a property that could have an artificial light source not attached to a permanent structure, including but not limited to pathway lighting, landscape lighting, pool lighting, etc.

Sea Turtle means any turtle, including all life stages from egg to adult, of these species: Green *(Chelonia mydas),* Leatherback *(Dermochelys coriacea),* Loggerhead *(Caretta caretta),* Hawksbill *(Eretmochelys imbricata),* and Kemp's ridley *(Lepidochelys kempil).* For the purposes of this ordinance, the term sea turtle is synonymous with marine turtle.

Sea Turtle Nesting Habitat means all sandy beaches adjoining the waters of the Gulf of Mexico and all inlet shorelines of those beaches. Nesting habitat includes all sandy beach and unvegetated or sparsely vegetated dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.

Take means an act that actually kills or injures marine turtles, and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.

Temporary Lighting means any non-permanent light source that may be hand-held or portable includingbut not limited to tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, etc.

Tinted glass means any glass modified via tinting, film or other material to reduce the inside to outside light transmittance value.

Sec. 7-42. – Applicability; Sea Turtle Lighting District

(a) An overlay district, known as the *Sea Turtle Lighting District*, is hereby established within the City of Bonita Springs, which shall include all properties within the City of Bonita Springs that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach, regardless of whether those properties are beachfront properties.

(b) The provisions of this Article apply to new and existing artificial lighting visible from the beach from all buildings and related infrastructure, including streetscapes, parking lots, outdoor areas, landscaping, as well as public parks and recreational areas and all other activities within the City of Bonita Springs which may adversely affect sea turtle nesting habitat.

(c) The provisions of this Ordinance are not intended to prevent the use of any design, materials or method of installation or operation not specifically prescribed herein, provided any such alternate has been approved. The Administrator may approve any such proposed alternate provided it:

(1) Provides at least approximate equivalence to the applicable specific requirements of this Ordinance; and

(2) Is otherwise satisfactory or complies with the intent of this Ordinance; and

(3) Has been designed or approved by a registered lighting or electrical engineer and is supported by calculations showing that the design submitted meets the intent of this Article. This sub-section shall not have the effect of waiving the lumen caps specified in this Article; and

(4) Has been determined to meet requirements for Certified Wildlife Lighting and/or lights that meet FWC's Wildlife Lighting Guidelines, including long wavelength light sources (without the use of filters), full cut-off, and fully shielded fixtures.

Sec. 7-43. - Annual Public Notice

At least thirty days prior to the commencement of every sea turtle nesting season, the City of Bonita Springs shall provide notice to affected persons of the provisions contained in this Ordinance via mailing or City website.

Sec. 7-44. – General Lighting Provisions

(a) The following standards for artificial light sources and other activities conducted in sea turtle nesting habitat

are intended to help minimize harmful effects of light pollution in sea turtle nesting areas during nighttime hours of sea turtle nesting season. The use of Certified Wildlife Lighting will provide the highest level of protection for nesting sea turtles and their hatchlings. Certified Wildlife Lighting refers to lighting fixtures and bulbs reviewed and approved through the Florida Fish and Wildlife ConservationCommission's Wildlife Lighting Certification Process and published at https://myfwc.com/conservation/you-conserve/lighting/criteria/certified/. Certified Wildlife Lighting and/or lights that meet FWC's Wildlife Lighting Guidelines, must be installed and maintained according to the approved conditions of use to achieve the light pollution reduction objectives of this Ordinance.

(b) New construction refers to all new construction of or additions and alterations to buildings, pools, pavement, other structures, landscape areas or lighting systems, including the change or resumption ofland use. The most protective lighting standards apply to new construction visible from the beach.

(c) Existing artificial lighting refers to lighting fixtures, sources and systems operating prior to the effective date of this ordinance. Existing lights and light sources that are visible from the beach shall be replaced or modified to conform to standards given in Section 7-50 In order to bring existing lighting systems into future compliance with this Article, standards for new coastal construction shall be applied when permits are sought for new structures or the alteration, movement, enlargement, replacement or installation of new lighting systems.

Sec. 7-45 Exterior and Interior Lighting Affixed to New Structures, New Construction and Improvements to Existing Structures

(a) All lighting affixed to the exterior of new permanent structures, construction or additions shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.

(b) As an exception to subsection (a) above, non-egress lighting may be affixed to the landward exterior of permanent structures provided that the fixtures are fitted with a long wavelength source and are not directly, indirectly, or cumulatively visible from any portion of the beach.

(c) Lighting at egress points shall be limited to the minimum number of fixtures and foot-candles necessary to meet federal, state, and local safety requirements.

(d) Locations including but not limited to stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach. Light screens, shades or curtains shall be used to block visibility of interior lights from the beach. Light screens shall be used on open or enclosed staircases on the seaward or shore-perpendicular side of a building or for parking garages to limit visibility of lights from the nesting beach.

(e) All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of any new construction shall use tinted glass or window film applied to glass with an inside to outside light transmittance value of forty-five percent (45%) or less.

(f) Emergency lights are not subject to the above standards if on a separate circuit and activated only during power outages or other situations in which emergency lighting is necessary for public safety.

(g) Prior to the issuance of a certificate of occupancy (CO), lighting of new construction must be inspected by the City after dark and with all lighting turned on in order to determine compliance with an approved lighting plan and this division.

Sec. 7-46 - Outdoor Areas

(a) All lighting of outdoor areas shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.

(b) Lighting of paths, walks and routes of building access shall use low level fixtures such as step, paver, path, recessed wall or bollard lights. Bollard lights are not to exceed 42 inches in height and other low-level fixtures are to meet the height requirements of FWC's Wildlife Lighting Guidelines. Fixtures shall be downward directed and utilize long wavelength lamps and beachside shields.

(c) As an exception to subsection (a) above, non-egress outdoor lighting may be installed landward of buildings or other opaque structures provided that they are fitted with long wavelength light sources and are not directly, indirectly, or cumulatively visible from any portion of the beach.

(d) Internally or externally illuminated signs shall be designed, positioned, shielded and/or screened in such a manner that they do not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.

(e) Ponds and fountains on the seaward and shore-perpendicular sides of any structures shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.

(f) Fire pits and any other object emitting flames, including gas-lit fire tables, located on the seaward and shore-perpendicular sides of any structure shall be shielded with an opaque structure or partition, and positioned such that the flame is not directly, indirectly, or cumulatively visible from any portion of the beach. Bonfires, bonfire pits, and tiki torch like fire posts are prohibited within seaturtle nesting habitat during sea turtle nesting season.

(g) Televisions or other illuminated screens shall be located landward of the dune and shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.

Sec. 7-47 - Parking Areas and Roadways

(a) All lighting of parking areas and roadways shall be long wavelength, downward directed, full cutoff, fully shielded, and mounted to the minimum level required to maintain compliance with federal, state and local law.

(b) Parking area and roadway lighting shall be shielded from the beach via vegetation, natural features, or artificial structures rising from the ground. These shall prevent artificial light sources, including but not limited to vehicular headlights, from producing light that is directly, indirectly, or cumulatively visible from any portion of the beach.

(c) Lighting of roadways and parking areas shall produce no more lighting than the minimumrequirement as outlined by federal, state and local law.

(d) Lighting of parking areas and roadways shall consist of either:

1. Ground-level downward-directed fixtures, equipped with interior dark-colored, non-reflective baffles or louvers, mounted either with a wall mount, on walls or piles, facing away from the beach, or

2. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded on the side facing the beach, or

3. Pole-Mounted Lights, if required, shall adhere to the restrictions located in subsection 7-47(e).

(e) Pole-mounted lights shall only be used in parking areas and roadways when mounting the lights at lower elevations cannot practicably comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety. If required, pole-mounted lights shall be:

a Located on the landward sides of buildings and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach,

b. Mounted at the minimum height required to meet the minimum light level requirement, and

c. Downward-directed onto non-reflective surfaces.

(f) Equipment yards, storage yards, and temporary security lights shall also adhere to the lighting restrictions contained in this Section.

Sec. 7-48 - Pool Areas

(a) Lighting of pool decks, pool facilities, swimming pools, and spas shall be long wavelength and fully shielded.

(b) Lighting of the pool water surfaces and the pool wet deck surfaces shall comply with the minimum light levels set forth in applicable federal and state laws designed to protect public safety.

(c) Above-water lighting of pool decks, pool facilities, swimming pools, and spas shall otherwise adhere to the applicable requirements for acceptable light fixtures contained in this Ordinance.

(d) Underwater lighting of pools or spa light shall:

(1) Be mounted horizontally in the wall; and

(2) Not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach; and

(3) Shall comply with minimum light levels set forth in applicable federal and state laws designedto protect public safety.

Sec. 7-49 - Beach Access Points and Dune Walkovers

(a) Lighting of public or private beach access points shall be located and configured to only illuminate areas landward of the beach and frontal dune. All lighting of beach access points shall be long wavelength, downward directed, full cutoff and fully shielded and shall not be directly, indirectly, or cumulatively visible from the beach.

(b) Lights are allowable on dune walkovers or elevated boardwalks only as required for building code purposes and may only be installed landward of the frontal dune. Walkover lighting shall not be directly, indirectly or cumulatively visible from the beach.

Sec 7-50 - Existing Exterior and Interior Lighting

(a) Reduce or eliminate the negative effects of existing exterior artificial lighting through the following measures:

(1) Reposition, modify or remove existing lighting fixtures so that the point source of light or anyreflective surface of the light fixture is no longer directly, indirectly or cumulatively visible from the beach;

(2) Replace fixtures having an exposed light source with fully shielded fixtures;

(3) Replace any light source, light bulb or lamp that is not long wavelength (e.g. incandescent, fluorescent, or high intensity lighting) with the lowest wattage long wavelength (e.g. LED or low pressure sodium) light source or lamp available for the specific application;

(4) Replace non-directional fixtures with directional fixtures that point down and away from the beach;

(5) Provide shields for fixtures visible from the beach and not practical to immediately be replaced. Beachside shields are to cover 270 degrees and extend below the bottom edge of the fixture onthe seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach;

(6) Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach;

(7) Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;

(8) Construct a ground level barrier landward of the beach and frontal dune to shield light sourcesfrom the beach. Ground-level barriers are to be considered a last resort when no other remediation of the light source is feasible. Ground level barriers may be subject to state coastal construction control line regulations under section 161.053, Florida Statutes, and must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long- term damage to the beach and dune system;

(9) Remove or disable any fixture not required for minimum lighting purposes which cannot be brought into compliance with the provisions of these standards.

(b) Take one or more of the following measures to minimize interior light emanating from doors and windows within line-of-sight of the beach:

(1) Apply window tint or film that meets the light transmittance standards for tinted glass;

(2) Rearrange lamps and other moveable fixtures away from windows;

(3) Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.

Sec. 7-51 – Special Events, Motor Vehicles, and Temporary Lighting

(a) Lighting associated with a special event or private event that may directly, indirectly, or cumulatively be visible from any portion of the beach shall not be authorized at nighttime during sea turtle nesting season.

(b) The operation of all motorized vehicles, except as exempted herein, shall be prohibited on the beach at nighttime during sea turtle nesting season.

1. *Research or patrol vehicles.* Only authorized permittees of the DEP and FWC, and law or code enforcement officers conducting bona fide research or investigative patrols, may operate a motor vehicle on the beach or in sea turtle nesting habitat during the nesting season, so long as appropriate red-colored filters are used to ensure the safe operation of their vehicles.

2. *Handicapped access.* A wheelchair equipped with special beach friendly tires or approved conveyance for a person with a disability, which is actually used by the person with the disability, may operate on the beach during the nesting season.

3. *Mechanical beach cleaning.* During the nesting season mechanical beach cleaning requires a valid DEP beach cleaning permit, and must not occur before 9:00 a.m., may not disturb any sea turtle nest, and may only be performed following a storm or fish kill event.

4. *Administrative exemptions.* The administrator may authorize, in writing, any activity or use of lighting otherwise prohibited by this division for a specified location and period of time. The authorization must be for the minimum duration and applicants must make all reasonable efforts to minimize the amount of lighting from any point sources of light. Applicants must have prior approval by DEP, office of beaches and coastal systems before any administrative exemptions may be granted.

(c) Within sea turtle nesting season, temporary work zone lighting for roadway construction and during declared emergencies shall be directed away from the beach to avoid illumination of or direct visibility from the beach. Work zone luminaires shall be shielded to avoid lighting areas outside of the immediate construction area.

(d) All other temporary construction lighting shall be:

(1) Inclusive of all the standards of this Section, including using fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, and

(2) Turned off during nighttime in sea turtle nesting season, or if authorized during sea turtle nesting season, shall only be allowed from 7:00am to 9:00pm and must be restricted to the minimal amount necessary, and shall incorporate all the standards of this Section, and

(3) Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture, and

(4) Restricted to the minimal number of foot-candles necessary to conform to the applicable construction safety regulations.

(e) Handheld and other portable temporary lighting shall not be directed toward or used in a manner that disturbs sea turtles or other coastal wildlife.

Sec. 7-52. Additional regulations affecting sea turtle nesting habitat.

(a) *Beach equipment.* From May 1 through October 31, all beach equipment must be removed from the beach between the hours of 9:00 p.m. and 7:00 a.m. The beach equipment must be moved behind the dune line and must not be placed on or destroy any dune vegetation. Where no dune line is present, beach equipment must be stored landward of the 1978 Coastal Construction Control Line.

(b) *Irrigation.* Only temporary above ground irrigation may be installed on the seaward side of the 1978 Coastal Construction Control Line and within sea turtle nesting habitat and must be removed no later than one year from the date of planting. Temporary irrigation must be turned off within 50 feet of a sea turtle nest.

(c) *Other uses and activities.* Any accessory structures or landscaping alterations to the beach and dune area seaward of the primary structure or 1978 Coastal Construction Control Line shall be approved by the City with a Beach and Dune permit meeting the following requirements:

(1) Limited to 1000 square feet as allowed by the Florida Department of Environmental Protection. FDEP permitting required.

(2) No items or materials that may cause entrapment or harm to nesting sea turtles or hatchlings, such as mesh-type garden netting, shall be permitted.

(3) The area of alteration may be limited for the preservation of sea turtle nesting habitat based on the historical limits of nesting activity.

(4) Herbicides, pesticides and other regulated chemicals shall not be applied in this area.

(5) Restoration shall be required for any unpermitted human alteration activities. A restoration plan for the beach and dune area shall be reviewed and approved with the City's Beach and Dune Permit.

Sec. 7-53. -Violations and Enforcement.

(a) Violations of this division will be prosecuted in accordance with Chapter 2, Article XI of this Code. The city may take action against the property owner, occupant or person otherwise responsible for causing the violation. In addition to code enforcement action, the city may pursue other legal means of obtaining compliance, including civil and criminal remedies, that are available by law.

CHAPTER 62B-55
MODEL LIGHTING ORDINANCE FOR MARINE TURTLE PROTECTION

62B-55.001 Purpose and Intent (Repealed)
62B-55.002 Definitions
62B-55.003 Marine Turtle Nesting Areas
62B-55.004 General Guidance to Local Governments
62B-55.005 Prohibition of Activities Disruptive to Marine Turtles (Repealed)
62B-55.006 Model Standards for New Beachfront Lighting (Repealed)
62B-55.007 Model Standards For Existing Beachfront Lighting (Repealed)
62B-55.008 Proposed Enforcement and Penalties (Repealed)
62B-55.009 Monitoring and Reporting Guidance (Repealed)

62B-55.001 Purpose and Intent.

Rulemaking Authority 161.163 FS. Law Implemented 161.163 FS. History–New 3-30-93, Formerly 16B-55.001, Repealed 11-26-15.

62B-55.002 Definitions.

(1) “Artificial light” or “artificial lighting” means the light emanating from any human-made device.

(2) “Beach” means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves.

(3) “Local government” means any county listed in Rule 62B-55.003, F.A.C., and any municipality, community development district, or special taxing district within those counties.

(4) “Marine turtle” is any turtle, including all life stages from egg to adult, of the species *Caretta caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), and *Lepidochelys kempi* (Kemp’s ridley). For purposes of this rule, marine turtle is synonymous with sea turtle.

Rulemaking Authority 161.163 FS. Law Implemented 161.163 FS. History–New 3-30-93, Formerly 16B-55.002, Amended 12-15-20.

62B-55.003 Marine Turtle Nesting Areas.

Scientific investigations have demonstrated that marine turtles can nest along the entire coastline of the state. Historical data are not sufficient to exclude any county as an area utilized by marine turtles for nesting. For the purposes of this rule, however, the coastal areas of the state utilized, or likely to be utilized, by marine turtles for nesting include all beaches adjoining the waters of the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida and located within Bay, Brevard, Broward, Charlotte, Collier, Dade, Duval, Escambia, Flagler, Franklin, Gulf, Indian River, Lee, Manatee, Martin, Monroe, Nassau, Okaloosa, Palm Beach, Pinellas, St. Johns, St. Lucie, Santa Rosa, Sarasota, Volusia, and Walton Counties; and all inlet shorelines of those beaches.

Rulemaking Authority 161.63 FS. Law Implemented 161.163 FS. History–New 3-30-93, Formerly 16B-55.003.

62B-55.004 General Guidance to Local Governments.

The State of Florida Model Lighting Ordinance for Sea Turtle Protection effective December 15, 2020, which is hereby adopted and incorporated by reference and is available at http://www.flrules.org/Gateway/reference.asp?No=Ref-12398 and https://floridadep.gov/rcp/beaches, provides guidelines for local government regulations that control artificial lighting to protect sea turtles.

Rulemaking Authority 161.63 FS. Law Implemented 161.163 FS. History–New 3-30-93, Formerly 16B-55.004, Amended 12-15-20.

62B-55.005 Prohibition of Activities Disruptive to Marine Turtles.

Rulemaking Authority 161.63 FS. Law Implemented 161.163 FS. History–New 3-30-93, Formerly 16B-55.005, Repealed 12-15-20.

62B-55.006 Model Standards for New Beachfront Lighting.

Rulemaking Authority 161.63 FS. Law Implemented 161.163 FS. History–New 3-30-93, Formerly 16B-55.006, Repealed 12-15-20.

62B-55.007 Model Standards For Existing Beachfront Lighting.

Rulemaking Authority 161.63 FS. Law Implemented 161.163 FS. History–New 3-30-93, Formerly 16B-55.007, Repealed 12-15-20.

62B-55.008 Proposed Enforcement and Penalties.

Rulemaking Authority 161.63 FS. Law Implemented 161.163 FS. History–New 3-30-93, Formerly 16B-55.008, Repealed 12-15-20.

62B-55.009 Monitoring and Reporting Guidance.

Rulemaking Authority 161.63 FS. Law Implemented 161.163 FS. History–New 3-30-93, Formerly 16B-55.009, Repealed 11-26-15.

City/County of _____, Florida

Chapter ___.

MODEL LIGHTING ORDINANCE FOR SEA TURTLE PROTECTION

Table of Contents

SECTION ___-1. - BASIS OF ORDINANCE
- Sec. ___-1.1. - Findings of Fact
- Sec. ___-1.2. - Title of Ordinance
- Sec. ___-1.3. - Ordinance Purpose and Objectives
- Sec. ___-1.4. - Definitions

SECTION ___-2. - SEA TURTLE LIGHTING DISTRICT
- Sec. ___-2.1. - Applicability
- Sec. ___-2.2. - Annual Public Notice

SECTION ___-3. - LIGHTING PROVISIONS
- Sec. ___-3.1. - General
- Sec. ___-3.2. - Exterior and Interior Lighting Affixed to New Structures, New Construction and Improvements to Existing Structures
- Sec. ___-3.3. - Outdoor Areas
- Sec. ___-3.4. - Parking Areas and Roadways
- Sec. ___-3.5. - Pool Areas
- Sec. ___-3.6. - Beach Access Points and Dune Walkovers
- Sec. ___-3.7. - Existing Exterior and Interior Lighting
- Sec. ___-3.8. - Pier Structures
- Sec. ___-3.9. - Special Events, Motor Vehicles, and Temporary Lighting

SECTION ___-4. - COMPLIANCE AND ENFORCEMENT PROCEDURES
- Sec. ___-4.1. - Beach Lighting Inspector
- Sec. ___-4.2. - Notice of Violation
- Sec. ___-4.3. - Penalties
- Sec. ___-4.4. - Sea Turtle Fund

SECTION ___-5. - OTHER CLAUSES
- Sec. ___-5.1. - Conflict with Other Ordinances
- Sec. ___-5.2. - Severability
- Sec. ___-5.3. - Effective Date

The State of Florida Model Lighting Ordinance for Sea Turtle Protection
Rule 62B-55.004, F.A.C
Effective date: December 15, 2020

ORDINANCE NUMBER 20__-__

LAND DEVELOPMENT CODE

AN ORDINANCE OF THE CITY/COUNTY OF _____ AMENDING CITY/COUNTY CODE CHAPTER ____ PROVIDING FOR AMENDMENTS TO ADOPT MODEL LIGHTING REQUIREMENTS; PROVIDING FOR REPEAL OF ORDINANCES; PROVIDING FOR TERRITORY EMBRACED; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE OF ORDINANCES; PROVIDING FOR EFFECTIVE DATE.

SECTION ___-1. – BASIS OF ORDINANCE

Sec. ___-1.1. - Findings of Fact

***Whereas, the City/County of** _____ recognizes that light pollution of beaches is a serious threat to sea turtles and other species inhabiting its beaches; and

***Whereas, the City/County of** _____ recognizes that nesting adult and hatchling sea turtles are negatively affected by light pollution created by artificial light visible from any portion of the beach; and

***Whereas, the City/County of** _____ recognizes that sea turtles are protected by federal and state law; and

***Whereas, the City/County of** _____ recognizes that both its economy and the quality of life of its residents are enriched by a healthy sea turtle population; and

***Whereas, the City/County of** _____ desires to minimize the detrimental effect on nesting sea turtle populations, and other listed sensitive wildlife by implementing a system of rules and regulations that reduces the amount of artificial light intentionally or unintentionally visible from beaches;

> **Guidance: These generic Findings of Fact are illustrative only. Findings of Fact should relate to the specific context of the County or City adopting a sea turtle lighting ordinance and may include data on sea turtle nesting, and disorientation/misorientation if available. It may also include information on the qualitative and quantitative value of sea turtles to the specific beachfront economies.*

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL/BOARD OF COUNTY COMMISSIONERS OF THE CITY/COUNTY OF _____ ON THIS ___ DAY OF ____, 20__.

Sec. ___-1.2. - Title of Ordinance

This ordinance shall be referred to as the **City/County of** _____ Lighting Ordinance for Sea Turtle Protection.

Sec. ___-1.3. - Ordinance Purpose and Objectives

The purpose of this Ordinance is to protect nesting and hatchling sea turtles on the beaches in the **City/County of** _____ by ensuring that their nesting habitat is not degraded by artificial light. The objective of the ordinance is for the appropriate design and implementation of coastal lighting systems to

ensure that light pollution does not interfere with sea turtle nesting and hatching events while at the same time protecting public safety. In order to further the objective of full implementation, this Ordinance also includes provisions designed to educate residents and beach users in the **City/County of** _____ on the benefits of appropriate coastal lighting and provides for regular inspections to ensure compliance with the acceptable lighting standards.

Sec. ___-1.4. - Definitions

1. **Artificial Light:** the light emanating from any human-made device.

2. **Beach:** the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation.

3. **Certified Wildlife Lighting:** lighting fixtures and bulbs reviewed and approved with conditions of use through the Florida Fish and Wildlife Conservation Commission's Wildlife Lighting Certification Process and published at https://myfwc.com/conservation/you- conserve/lighting/criteria/certified/.

4. **Cumulatively Visible:** light from numerous artificial light sources that as a group can be seen by an observer standing anywhere on the beach.

5. **Directly Visible:** occurs when glowing elements, lamps, globes, or reflectors of an artificial light source can be seen by an observer standing anywhere on the beach.

6. **Foot-Candle:** the English unit for measuring illuminance; the uniform illumination of a surface one foot away from a point source of one candela; one lumen per square foot; equal to 10.76 lux.

7. **Frontal Dune:** the first natural or man-made mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.

8. **Full Cutoff:** a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90° as determined by photometric test or certified by the fixture manufacturer.

9. **Fully Shielded:** a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach. Any structural part of the light fixture providing this shielding must be permanently affixed.

10. **Indirectly Visible:** light reflected from glowing elements, lamps, globes, or reflectors of an artificial light source that can be seen by an observer standing anywhere on the beach without the light source being directly visible.

11. **Long Wavelength:** a lamp or light source emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers.

12. **Nesting Season:** For the **City/County of** _____, the sea turtle nesting period is from _____ of each year.

    Guidance: For Brevard, Indian River, St. Lucie, Martin, Palm Beach, and Broward Counties, the sea turtle nesting period is from March 1 through October 31 of each year. For Bay, Charlotte, Collier, Dade, Duval, Escambia, Flagler, Franklin, Gulf, Lee, Manatee, Monroe, Nassau, Okaloosa, Pinellas, St. Johns, St. Lucie, Santa Rosa, Sarasota, Volusia, and Walton Counties, the sea turtle nesting period is from May 1 through October 31.

13. **Nighttime:** the locally effective time period between sunset and sunrise.

14. **Non-egress Lighting:** exterior lighting that is not being used to light a distinct route or meet minimum requirements for emergency access to or from a building, including but not limited to decorative lights (e.g. strobe lights, string lights, etc.), balcony lights, landscape lights, and uplights.

15. **Outdoor Area:** any portion of a property that could have an artificial light source not attached to a permanent structure, including but not limited to pathway lighting, landscape lighting, pool lighting, etc.

16. **Sea Turtle:** any turtle, including all life stages from egg to adult, of these species: Green (*Chelonia mydas*), Leatherback (*Dermochelys coriacea*), Loggerhead (*Caretta caretta*), Hawksbill (*Eretmochelys imbricata*), and Kemp's ridley (*Lepidochelys kempii*). For the purposes of this ordinance, the term sea turtle is synonymous with marine turtle.

17. **Sea Turtle Nesting Habitat:** all sandy beaches adjoining the waters of the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida in all coastal counties and all inlet shorelines of those beaches. Nesting habitat includes all sandy beach and unvegetated or sparsely vegetated dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.

18. **Temporary Lighting:** any non-permanent light source that may be hand-held or portable including but not limited to tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, etc.

19. **Tinted glass:** glass modified via tinting, film or other material to reduce the inside to outside light transmittance value.

SECTION ___-2. - SEA TURTLE LIGHTING DISTRICT

Sec. ___-2.1. - Applicability

1. An overlay district, known as the *Sea Turtle Lighting District*, is hereby established within the **City/County of** _____.

2. The *Sea Turtle Lighting District* shall include all properties within the **City/County of** _____, that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach, regardless of whether those properties are beachfront properties.

3. The provisions of this Ordinance apply to new and existing artificial lighting visible from the beach from all buildings and related infrastructure, including streetscapes, parking lots, outdoor areas, landscaping, as well as public parks and recreational areas and all other activities within the *Sea Turtle Lighting District.*

4. The provisions of this Ordinance are not intended to prevent the use of any design, materials or method of installation or operation not specifically prescribed herein, provided any such alternate has been approved. The **City/County of** _____ may approve any such proposed alternate provided it:

   a. Provides at least approximate equivalence to the applicable specific requirements of this Ordinance, and;

   b. Is otherwise satisfactory or complies with the intent of this Ordinance, and;

   c. Has been designed or approved by a registered lighting or electrical engineer and is supported by calculations showing that the design submitted meets that intent of the Ordinance. This sub-section shall not have the effect of waiving the lumen caps specified in this Ordinance.

   d. Has been determined to meet requirements for Certified Wildlife Lighting and/or lights that meet FWC's Wildlife Lighting Guidelines, including long wavelength light sources (without the use of filters), full cut-off, and fully shielded fixtures.

5. Any person substantially aggrieved by any decision of the *Beach Lighting Inspector* or the *Building Official* made in administration of this Ordinance has the right and responsibilities of appeal to the *Advisory/Appeals Board* of this jurisdiction.

Guidance: This Model establishes an Overlay District for the purpose of implementing the ordinance. This ordinance could be applied by simply consolidating (2) and (3) above and making it applicable to "all properties within the ***City/County of*** *_____ that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach, regardless of whether those properties are beachfront properties." However, creating a District may have other benefits which include incorporating other Sea Turtle best management practices not related to lighting, as well as raising awareness through signage, etc.*

Sec. ___-2.2. - Annual Public Notice

At least thirty days prior to the commencement of every sea turtle nesting season, the **City/County of** _____ shall provide notice to affected persons within the *Sea Turtle Lighting District* of the provisions contained in this Ordinance.

Declaring an official annual "lights out for sea turtles" day either the first Monday in February or April depending on the county, could also be useful. Another alternative would be designating the responsible department or official for implementing the ordinance and noticing the public.

SECTION ___-3. - LIGHTING PROVISIONS

Sec. ___-3.1. – General

Guidance: In order to provide the highest level of protection for nesting marine turtles and their hatchlings, local governments are encouraged to adopt all of the following standards for artificial beachfront lighting sources.

1. The following standards for artificial light sources are intended to help minimize harmful effects of light pollution in sea turtle nesting areas. The use of Certified Wildlife Lighting will provide the highest level of protection for nesting sea turtles and their hatchlings. Certified Wildlife Lighting refers to lighting fixtures and bulbs reviewed and approved through the Florida Fish and Wildlife Conservation Commission's Wildlife Lighting Certification Process and published at https://myfwc.com/conservation/you-conserve/lighting/criteria/certified/. Certified Wildlife Lighting and/or lights that meet FWC's Wildlife Lighting Guidelines, must be installed and maintained according to the approved conditions of use to achieve the light pollution reduction objectives of this Ordinance.

   Guidance: The FWC Certified Wildlife Lighting website references the required options and bulleted caveats for each certified fixture. These conditions of approved use are also included in the certification letter issued to the manufacturer for the fixture. FWC Sea Turtle Lighting Guidelines can be accessed at the Sea Turtles and Lights webpage at https://myfwc.com/wildlifehabitats/wildlife/sea-turtle/lighting/.

2. New construction refers to all new construction of or additions and alterations to buildings, pools, pavement, other structures, landscape areas or lighting systems, including the change or resumption of land use. The most protective lighting standards apply to new construction visible from the beach.

3. Existing artificial lighting refers to lighting fixtures, sources and systems operating prior to the effective date of this ordinance. Existing lights and light sources that are visible from the beach shall be replaced or modified to conform to standards given in Section -3.7. In order to bring existing lighting systems into future compliance with this Ordinance, standards for new coastal construction shall be applied when permits are sought for new structures or the alteration, movement, enlargement, replacement or installation of new lighting systems.

Sec. ___-3.2. Exterior and Interior Lighting Affixed to New Structures, New Construction and Improvements to Existing Structures

1. All lighting affixed to the exterior of new permanent structures, construction or additions shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.

2. As an exception to -3.2.1. above, non-egress lighting may be affixed to the landward exterior of permanent structures provided that the fixtures are fitted with a long wavelength source and are not directly, indirectly, or cumulatively visible from any portion of the beach.

3. Lighting at egress points shall be limited to the minimum number of fixtures and foot-candles necessary to meet federal, state, and local safety requirements.

4. Locations including but not limited to stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach. Light screens, shades or curtains shall be used to block visibility of interior lights from the beach. Light screens shall be used on open or enclosed staircases on the seaward or shore-perpendicular side of a building or for parking garages to limit visiblity of lights from the nesting beach.

5. All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of any new construction shall use tinted glass with an inside to outside light transmittance value of 45 percent or less.

   Guidance: Local governments may apply special considerations to control interior lighting from being directly visible from the beach.

6. Emergency lights are not subject to the above standards if on a separate circuit and activated only during power outtages or other situations in which emergency lighting is necessary for public safety.

Sec. ___-3.3. - Outdoor Areas

1. All lighting of outdoor areas shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.

2. Lighting of paths, walks and routes of building access shall use low level fixtures such as step, paver, path, recessed wall or bollard lights. Bollard lights are not to exceed 42 inches in height and other low level fixtures are to meet the height requirements of FWC's Wildlife Lighting Guidelines. Fixtures shall be downward directed and utilize long wavelength lamps and beachside shields.

3. As an exception to -3.3.1. above, non-egress outdoor lighting may be installed landward of buildings or other opaque structures provided that they are fitted with long wavelength light sources and are not directly, indirectly, or cumulatively visible from any portion of the beach.

4. Internally or externally lighted signs shall not be located on the seaward and shore-perpendicular sides of any structures, and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.

5. Ponds and fountains on the seaward and shore-perpendicular sides of any structures shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.

6. Fire pits located on the seaward and shore-perpendicular sides of any structure shall be shielded with an opaque structure or partition, and positioned such that the flame is not directly, indirectly, or cumulatively visible from any portion of the beach. Bonfires and bonfire pits are prohibited within sea turtle nesting habitat during sea turtle nesting season.

7. Televisions or other illuminated screens shall be located landward of the dune and shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.

Sec. ___-3.4. - Parking Areas and Roadways

1. All lighting of parking areas and roadways shall be long wavelength, downward directed, full cutoff, fully shielded, and mounted to the minimum level required to maintain compliance with federal, state and local law.

2. Parking area and roadway lighting shall be shielded from the beach via vegetation, natural features, or artificial structures rising from the ground. These shall prevent artifical light sources, including but not limited to vehiclular headlights, from producing light that is directly, indirectly, or cumulatively visible from any portion of the beach.

3. Lighting of roadways and parking areas shall produce no more lighting than the minimum requirement as outlined by federal, state and local law.

4. Lighting of parking areas and roadways shall consist of either:

    a. Ground-level downward-directed fixtures, equipped with interior dark-colored, non-reflective baffles or louvers, mounted either with a wall mount, on walls or piles, facing away from the beach, or

    b. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded on the side facing the beach, or

    c. Pole-Mounted Lights, if required, shall adhere to the restrictions located in subsection -3.4.5.

5. Pole-mounted lights shall only be used in parking areas and roadways when mounting the lights at lower elevations cannot practicably comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety. If required, pole-mounted lights shall be:

    a. Located on the landward sides of buildings and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach,

    b. Mounted at the minimum height required to meet the minimum light level requirement-, and

    c. Downward-directed onto non-reflective surfaces.

    Guidance: Roadway and parking area lighting designed pursuant to Section 231.2.1 Wildlife-Sensitive Conventional Lighting of the Florida Department of Transportation (FDOT) Design Manual (January 1, 2020) available at https://www.fdot.gov/roadway/fdm/default.shtm and meeting the requirements of Section 992-2.4.2, Luminaires for Wildlife-Sensitive Conventional Lighting, of the FDOT "Standard Specifications for Road and Bridge Construction (January 2020)," and available at https://www.fdot.gov/programmanagement/implemented/specbooks/default.shtm, are expected to meet the minimum standards of this section.

6. Equipment yards, storage yards, and temporary security lights shall also adhere to the lighting restrictions contained in this Section.

Sec. ___-3.5. - Pool Areas

1. Lighting of pool decks, pool facilties, swimming pools, and spas shall be long wavelength and fully shielded.

2. Lighting of the pool water surfaces and the pool wet deck surfaces shall comply with the minimum light levels set forth in applicable federal and state laws designed to protect public safety.

3. Above-water lighting of pool decks, pool facilties, swimming pools, and spas shall otherwise adhere to the applicable requirements for acceptable light fixtures contained in Section 1 and Section 2 of this Section.

4. Underwater lighting of pools or spa light shall:

    a. Be mounted horizontally in the wall,

    b. Not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach, and

    c. Shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

Sec. ___-3.6. - Beach Access Points and Dune Walkovers

1. Lighting of beach access points shall be located and configured to only illuminate areas landward of the beach and frontal dune. All lighting of beach access points shall be long wavelength, downward directed, full cutoff and fully shielded and shall not be directly, indirectly, or cumulatively visible from the beach.

2. Lights are allowable on dune walkovers or elevated boardwalks only as required for building code purposes and may only be installed landward of the frontal dune. Walkover lighting shall not be directly, indirectly or cumulatively visible from the beach.

Sec. ___-3.7. – Existing Exterior and Interior Lighting

1. Reduce or eliminate the negative effects of existing exterior artificial lighting through the following measures:

    a. Reposition, modify or remove existing lighting fixtures so that the point source of light or any reflective surface of the light fixture is no longer directly, indirectly or cumulatively visible from the beach;

    b. Replace fixtures having an exposed light source with fully shielded fixtures;

    c. Replace any light source, light bulb or lamp that is not long wavelength (e.g. incandescent, fluorescent, or high intensity lighting) with the lowest wattage long wavelength (e.g. LED or low pressure sodium) light source or lamp available for the specific application;

d. Replace non-directional fixtures with directional fixtures that point down and away from the beach;

e. Provide shields for fixtures visible from the beach and not practical to immediately be replaced. Beachside shields are to cover 270 degrees and extend below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach;

f. Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach;

g. Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;

h. Construct a ground level barrier landward of the beach and frontal dune to shield light sources from the beach. Ground-level barriers are to be considered a last resort when no other remediation of the light source is feasible. Ground level barriers may be subject to state coastal construction control line regulations under section 161.053, Florida Statutes, and must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long- term damage to the beach and dune system;

i. Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards.

2. Take one or more of the following measures to minimize interior light emanating from doors and windows within line-of-sight of the beach:

   a. Apply window tint or film that meets the light transmittance standards for tinted glass;

   b. Rearrange lamps and other moveable fixtures away from windows;

   c. Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.

Guidance: In order to provide the highest level of protection for nesting marine turtles and their hatchlings, local governments are directed to adopt all of the above standards for existing artificial beachfront lighting sources.

Sec. ___-3.8. – Pier Structures

1. Lighting of pier structures projecting over the beach or over water shall be long wavelength, downward-directed, and fully shielded.

2. Lighting of pier structures projecting over the beach, or over water, shall be mounted no higher than 42 inches above the deck surface. These shall be directed onto the deck surface only, preventing light pollution or light spillage beyond the walking surface.

3. Lighting of pier structures projecting over the beach or over water shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

Guidance: Note that the pier light standards do not address light sources from illuminated screens or signage associated with restrooms or bait shops on piers.

Sec. ___-3.9. - Special Events, Motor Vehicles, and Temporary Lighting

1. Lighting associated with a special event that may directly, indirectly, or cumulatively be visible from any portion of the beach shall not be authorized at nighttime during sea turtle nesting season.

2. The operation of all motorized vehicles, except emergency and law enforcement vehicles or those permitted on the beach for sea turtle conservation in accordance with Florida Statute 379.2431 (1), or other research and conservation, shall be prohibited on the beach at nighttime during sea turtle nesting season.

3. Within sea turtle nesting season, temporary work zone lighting for roadway construction and during declared emergencies shall be directed away from the beach to avoid illumination of or direct visibility from the beach. Work zone luminaires shall be shielded to avoid lighting areas outside of the immediate construction area.

4. All other temporary construction lighting shall be:

    a. Inclusive of all the standards of this Section, including using fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, and

    b. Turned off during nighttime in sea turtle nesting season, or if authorized by the *Beach Lighting Inspector* during sea turtle nesting season, shall only be allowed from 6:00am to 9:00pm, must be restricted to the minimal amount necessary, and shall incorporate all the standards of this Section, and

    c. Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture, and

    d. Restricted to the minimal number of foot-candles necessary to conform to the applicable construction safety regulations.

5. Handheld and other portable temporary lighting shall not be directed toward or used in a manner that disturbs sea turtles or other coastal wildlife.

SECTION ___-4. - COMPLIANCE AND ENFORCEMENT PROCEDURES

Sec. ___-4.1. - Beach Lighting Inspector

1. A position, known as the **City/County of** _____ *Beach Lighting Inspector*, is hereby established.

Guidance: While the model creates a beach lighting inspector, local governments may choose to identify someone already on staff, such as a code enforcement officer, for the position. It is

most important that the designated individual receive appropriate training.

2. It shall be the duty of the City/County Manager to appoint the *Beach Lighting Inspector*. The *Beach Lighting Inspector* shall have the necessary training, technical knowledge, and resources to enable them to effectively carry out the duties of this office. The *Beach Lighting Inspector* may access resources provided by other local, state or federal agencies such as the *Sample Beach Lighting Survey Worksheet*, training, and other information available from the Florida Fish and Wildlife Conservation Commission.

3. The *Beach Lighting Inspector* shall be responsible for:

    a. Inspecting the entire beach within the jurisdictional boundaries of the **City/County of** _____ regularly during sea turtle nesting season to determine the extent of compliance with this Ordinance.

    b. In the event of the finding of a violation at a particular public or private property, conducting further inspections at the property at any time beginning on the night after the deadline date given on the written notice of violation. These follow-up inspections shall continue until the lighting has been brought into compliance with this Ordinance.

    c. *Beach Lighting Inspector* responsibilities may also include preparation of reports, issuance of non-compliance notices, outreach and education, supporting administrative actions before a review board or special magistrate, or attending building permit pre-application and pre-construction conferences.

    Guidance: At minimum, night time lighting surveys and compliance inspections are recommended before and during sea turtle nesting season. Compliance inspections that are conducted frequently throughout the nesting season may be beneficial to local governments in identifying and addressing noncompliant lighting.

4. It shall be unlawful for any person to interfere with, or in any manner hinder the *Beach Lighting Inspector*, or any of their assistants, while in the discharge of their duties under the terms of this Ordinance.

5. It shall be unlawful for any person to knowingly conceal or disable any lighting on a property before it has been inspected by the *Beach Lighting Inspector*.

Sec. ___-4.2. - Notice of Violation

1. Upon finding any violation of this Ordinance, the *Beach Lighting Inspector* shall deliver a written notice of the violation of this Ordinance to the property owner and direct said owner to promptly remove or remediate lighting not in compliance with this Ordinance.

2. The time allowed for making the repairs shall be stated in the notice and should the responsible party neglect or refuse to remove or remediate non-compliance within the specified time stated in the notice, the party so offending shall commit a violation of this Ordinance and be penalized as provided in Subsection ___-4.3 of this Ordinance.

Sec. ___-4.3. - Penalties

1. Any person who takes any action or omission in violation of any provision of this Ordinance and fails to resolve such violation after proper notice is provided, shall be subject to a fine of up to $____ per day per violation for initial violations, and $ ____ per day per violation for repeat violations. All penalties incurred as a result of violation of this Ordinance shall continue to accrue until such violations are cured.

2. The **City/County of** _____ shall have the right to encumber such property in violation of this Ordinance with a lien for an amount equal to the total amount of fines owed at the time such lien is recorded.

Sec. ___-4.4. - Sea Turtle Fund

1. A *Sea Turtle Fund* is hereby established within the **City/County of** _____.

2. All funds collected as a result of the issuance of fines under Section 3 of this Part shall be deposited in the *Sea Turtle Fund*. The funds in this account shall be used for:

    a. Assistance to property owners for the procurement of light systems equipment and materials that comply with this Ordinance and reduce the amount of artificial beach lighting,

    b. Educational materials to inform the general public on the threats of artificial lighting to sea turtles, including but not limited to signs, door knockers, pamphlets, stickers, public service announcements, and other awareness campaigns, and

    c. Equipment, materials and other resources supporting compliance assistance and enforcement by the *Beach Lighting Inspector*.

    d. Other reasonable efforts to protect the sea turtle population within the **City/County of** _____, including but not limited to research and conservation projects.

3. The **City/County of** _____ may contribute funding from other sources into the *Sea Turtle Fund* for uses consistent with the purposes set forth above.

SECTION ___-5. - OTHER CLAUSES

Sec. ___-5.1. - Conflict with Other Ordinances

If this Ordinance conflicts with any other Ordinance or requirement of the **City/County of** _____, then this Ordinance shall control during sea turtle nesting season. Deviations from this Ordinance shall be subject to the variance procedures as established by this City/County.

Sec. ___-5.2. - Severability

If any Section or Subsection of this Ordinance is invalidated for any reason, the effected portion may be eliminated or modified to correct the reason of invalidation, if feasible without materially altering or negating the Ordinance Goals and the principles of sea turtle lighting.

Sec. ___-5.3. - Effective Date

The **City/County of** _____ Lighting Ordinance for Sea Turtle Protection shall become effective upon recommendation by _____ and approval by the _____.

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-06-125
June 7, 2023

REQUESTED MOTION: Consider adopting a Resolution designating portions of Old 41 Road in downtown Bonita as a no-thru truck zone and authorizing the placement of appropriate signage.

REQUESTOR: Derek Rooney, City Attorney and Matt Feeney, Assistant City Manager

AGENDA: City Attorney's Items

STRATEGIC PRIORITY:

BACKGROUND:

Pursuant to Council's direction, the attached draft resolution designates a no-thru-trucks zone between Dean and Terry Streets along Old 41 Road.

STAFF RECOMMENDATION: Council's pleasure.

ATTACHMENTS:

1. Resolution
2. Signage Plan

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 23 -

A RESOLUTION OF THE CITY OF BONITA SPRINGS DESIGNATING PORTIONS OF OLD 41 IN THE DOWNTOWN AS A NO-THRU-TRUCK ZONE; PROVIDING FOR PLACEMENT OF APPROPRIATE SIGNAGE; AND PROVIDING AN EFFECTIVE DATE.

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 may place and maintain such traffic control devices which conform to the specifications of the Florida Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to regulate, warn, or guide traffic; and;

WHEREAS, the City Council finds the portion of Old 41 Road in downtown of Bonita Springs between Dean Street and Terry Street is unsuitable for thru-truck traffic based on the pedestrian character of the right-of-ways and narrow traffic lanes.

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

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

SECTION TWO. The City Council of the City of Bonita Springs pursuant to Chapter 40 – Traffic and Motor Vehicles, Article IV – Limitations on Thru Truck Traffic, of the Bonita Springs Code hereby provides notice that Old 41 Road between Dean and Terry Streets is designated as a no-thru-truck zone.

SECTION THREE. The City Council hereby directs the City Manager to install appropriate signage as authorized by Florida Uniform Traffic Control Law consistent with the Federal Highway Safety Administration's Manual on Uniform Traffic Control Devices adopted by the Florida Department of Transportation.

SECTION THREE. This Resolution shall be effective immediately upon adoption.

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

AUTHENTICATION:

_____ _____
Mayor Rick Steinmeyer City Clerk

APPROVED AS TO FORM: _____
City Attorney's Office

Vote:

Carr	Corrie
Purdon	Bogacz
Forbes	Steinmeyer
Fullick	

Date filed with City Clerk: _____



R5-2a
24" x 24"

REVISIONS	
DATE	DESCRIPTION

CITY OF BONITA SPRINGS
9101 BONITA SPRINGS, FL 34135
PHONE: (239)949-6262

McMAHON TRANSPORTATION ENGINEERS & PLANNERS
2090 PALM BEACH LAKES BLVD. SUITE 400 (561) 840-8650
WEST PALM BEACH, FL 33409 FAX (561) 840-8590
CERTIFICATE OF AUTHORIZATION NO. 4908

SIGNING PLANS

OLD 41 NO TRUCK SIGNS
CITY OF BONITA SPRINGS, FLORIDA

SHEET NO.
1



REVISIONS	
DATE	DESCRIPTION

CITY OF BONITA SPRINGS
9101 BONITA SPRINGS, FL 34135
PHONE: (239)949-6262

McMAHON TRANSPORTATION ENGINEERS & PLANNERS
2090 PALM BEACH LAKES BLVD. SUITE 400 (561) 840-8650
WEST PALM BEACH, FL 33409 FAX (561) 840-8590
CERTIFICATE OF AUTHORIZATION NO. 4908

SIGNING PLANS

OLD 41 NO TRUCK SIGNS
CITY OF BONITA SPRINGS, FLORIDA

SHEET NO.
2



R5-2a
24" x 24"
CUSTOM PLAQUE
24" x 18"

NO TRUCKS
OLD 41 SOUTH

R5-2a
24" x 24"
CUSTOM PLAQUE
24" x 18"

NO TRUCKS
OLD 41 SOUTH

R5-2a
24" x 24"
CUSTOM PLAQUE
24" x 18"

NO TRUCKS
OLD 41 SOUTH

R5-2a
24" x 24"

NO TRUCKS

N

REVISIONS	
DATE	DESCRIPTION

CITY OF BONITA SPRINGS
9101 BONITA SPRINGS, FL 34135
PHONE: (239)949-6262

McMAHON TRANSPORTATION ENGINEERS & PLANNERS
2090 PALM BEACH LAKES BLVD. SUITE 400 (561) 840-8650
WEST PALM BEACH, FL 33409 FAX (561) 840-8590
CERTIFICATE OF AUTHORIZATION NO. 4908

SIGNING PLANS

OLD 41 NO TRUCK SIGNS
CITY OF BONITA SPRINGS, FLORIDA

SHEET NO.
3

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-06-117
June 7, 2023

REQUESTED MOTION: Consistent with the direction in the letter from Commissioner Brian Hamman, Chair of the Tourist Development Council (TDC), nominate an elected City of Bonita Springs official to occupy a voting seat on the TDC for a two-year term.

REQUESTOR: Mike Sheffield, City Clerk

AGENDA: City Manager's Items

STRATEGIC PRIORITY: Economic Development

BACKGROUND:

Pursuant to Lee County Ordinance 13-14 (attached), the Tourist Development Council (TDC) consists of nine members appointed by the Board of County Commissioners (BoCC), two of whom shall be elected municipal officials, rotating every two years, as follows:

> *Two (2) members of the Council shall be elected municipal officials, one of whom shall be· from one of the two municipalities that generated the highest revenues from the tourist tax in the previous two (2) fiscal years and these two (2) municipalities shall rotate membership every two (2) years. The second elected municipal official shall be from one of the remaining municipalities and the second municipal seat shall also rotate every two (2) years. Elected municipal officials appointed to those two (2) seats on the Council shall serve for terms of two (2) years.*

On 5/17/23, the City was notified in a letter from TDC Chair Commissioner Brian Hamman, that the two-year term of the municipal seat currently occupied by the City of Fort Myers will expire in June, and the City of Bonita Springs is next in the rotation to occupy the seat. Therefore, for the next two years, Bonita Springs will hold a voting seat on the TDC rather than a non-voting ex-officio seat. Presently, Council Member Nigel Fullick serves on the TDC in an ex-officio non-voting capacity.

Accordingly, the City has been asked to provide the name of the elected official nominated by Council for appointment by the BoCC to hold this voting seat. To make the cutoff for inclusion on the BoCC's 6/20/23 meeting agenda, Council must act on this nomination at its meeting on 6/7/23. Following such action, the City Clerk will provide the nominee's name to Commissioner Hamman and TDC Executive Director Tamara Pigott.

STAFF RECOMMENDATION: Council's pleasure.

ATTACHMENTS:

1. Letter from TDC Chairman Commissioner Brian Hamman, received 5/17/23.
2. Lee County Ordinance 13-14, establishing the Lee County TDC

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield

fort MYERS
LEE COUNTY TOURIST DEVELOPMENT COUNCIL

May 16, 2023

The Honorable Rick Steinmeyer, Mayor of Bonita Springs
and Members of the Bonita Springs City Council
9101 Bonita Beach Road
Bonita Springs, FL 34135

Dear Mayor Steinmeyer and Members of the Bonita Springs City Council:

This letter is to inform you that the two-year term for the rotating municipal seat on the Lee County Tourist Development Council (TDC) will expire in June 2023.

This seat is currently occupied by the City of Fort Myers. By way of this letter, I invite you to nominate an elected official from the City of Bonita Springs to occupy this voting seat on the TDC for a two-year term. Presently, Bonita Springs has Councilman Nigel Fullick serving in an ex-officio non-voting seat.

For the next two years, Bonita Springs will hold a voting seat rather than a non-voting seat. Please notify my office no later than May 31, 2023, with the name of your nominee to be included on the agenda for formal appointment at an upcoming Lee Board of County Commissioners meeting.

Sincerely,

Brian Hamman

Commissioner Brian Hamman
Chairman, Lee County Tourist Development Council
Dist4@leegov.com
239-533-2226

MAY 17 2023 1:49 PM

LEE COUNTY ORDINANCE NO. 13-14

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, REPEALING AND REPLACING IN THE ENTIRETY LEE COUNTY ORDINANCE NO. 07-28, AS AMENDED BY LEE COUNTY ORDINANCE NO. 09-01, AS AMENDED BY LEE COUNTY ORDINANCE NO. 10-31, AS AMENDED BY LEE COUNTY ORDINANCE NO. 13-07, WHICH LEVIED, IMPOSED AND SET A FIVE PERCENT (5%) TOURIST DEVELOPMENT TAX THROUGHOUT LEE COUNTY PURSUANT TO THE "LOCAL OPTION TOURIST DEVELOPMENT ACT", SECTION 125.0104, FLORIDA STATUTES; PROVIDING FOR RECITALS, PURPOSE, RESTATEMENT AND REPEALER; PROVIDING FOR A TITLE; PROVIDING FOR APPLICATION AND DEFINITIONS; PROVIDING FOR THE COLLECTION OF SAID TAX, RELATING TO A TAX ON EACH WHOLE AND MAJOR FRACTION OF EACH DOLLAR OF THE TOTAL RENTAL CHARGED EVERY PERSON WHO RENTS, LEASES OR LETS FOR CONSIDERATION ANY LIVING QUARTERS OR ACCOMMODATIONS IN ANY HOTEL, APARTMENT HOTEL, MOTEL, RESORT MOTEL, APARTMENT, APARTMENT MOTEL, ROOMINGHOUSE, TOURIST AND TRAILER CAMP, MOBILE HOME PARK, RECREATIONAL VEHICLE PARK, CONDOMINIUM, REAL PROPERTY OR TIMESHARE RESORT FOR A TERM OF SIX (6) MONTHS OR LESS; PROVIDING THAT THE REVENUES SO RAISED BE UTILIZED TO IMPLEMENT THE LEE COUNTY TOURIST DEVELOPMENT PLAN, RELATING TO BEACH PARK FACILITIES AND BEACH RELATED IMPROVEMENTS; PROVIDING FOR THE ADOPTION OF THE LEE COUNTY TOURIST DEVELOPMENT TAX; PROVIDING FOR COMPOSITION OF THE LEE COUNTY TOURIST DEVELOPMENT COUNCIL; PROVIDING AN EXCEPTION TO GENERAL LAW RELATING TO THE COMPOSITION OF THE LEE COUNTY TOURIST DEVELOPMENT COUNCIL; PROVIDING FOR THE TERMS, QUALIFICATONS AND POWERS OF THE MEMBERS OF SAID COUNCIL; PROVIDING FOR PENALTIES FOR FAILURE TO COLLECT THE TAX LEVIED; PROVIDING FOR REPEAL OF THE TAX BY REFERENDUM ELECTION; PROVIDING FOR LOCAL ADMINISTRATION OF THE TAX SO AS TO HAVE COLLECTION AND ADMINISTRATION DUTIES PERFORMED BY THE INTERNAL AUDIT DEPARTMENT OF THE CLERK OF COURT AND TO HAVE THE ENFORCEMENT AND AUDIT RESPONSIBILITIES PERFORMED BY THE LEE COUNTY CLERK OF COURT INTERNAL AUDIT DEPARTMENT; PROVIDING FOR SEVERABILITY OF ORDINANCE PROVISIONS, CONFLICTS OF LAW, CODIFICATION, INCLUSION IN CODE AND SCRIVENORS ERRORS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.0104, Florida Statutes, provides for the levy of a "Local Option Tourist Development Tax" by any county; and

WHEREAS, under the provisions of Section 125.0104, Florida Statutes, the Board of County Commissioners, Lee County, Florida, did on June 2, 1982, adopt a Resolution establishing and appointing the members of the Lee County Tourist Development Council; and

WHEREAS, said Tourist Development Council has presented to the Board of County Commissioners its plan for tourist development; and

WHEREAS, it is the intent of this Ordinance that the Tourist Development Tax be used to stabilize the tourist-related economy of Lee County on a year-round basis.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that:

SECTION ONE: RECITALS

The above recitals are hereby incorporated by reference as if set out herein at length.

SECTION TWO: PURPOSE, RESTATEMENT AND REPEALER

It is the intent of this Ordinance to repeal and replace in the entirety Lee County Ordinance No. 07-28, as amended by Ordinance No. 09-01, as amended by Ordinance No. 10-31, and as amended by Ordinance No. 13-07. Accordingly, upon adoption of this Ordinance Lee County Ordinance Nos. 07-28, 09-01, 10-31 and 13-07 are hereby duly repealed and replaced.

SECTION THREE: TITLE

This Ordinance shall be known and may be cited as the "Lee County Tourist Development Ordinance".

SECTION FOUR: APPLICATION; DEFINITIONS

A. Application - The provisions contained in Florida Statutes, Chapter 212, as may be amended, apply to the administration of any tax levied pursuant to this Ordinance.

B. Definitions – Pursuant to Florida Statutes, Chapter 125.0104, as may be amended, and for purposes of this section:

1. "Promotion" means marketing or advertising designed to increase tourist-related business activities.
2. "Tourist" means a person who participates in trade or recreation activities outside the county of his or her permanent residence or who rents or leases transient accommodations as described in paragraph (3)(a).

SECTION FIVE: TAXABLE PRIVILEGES; LEVY; RATE

A. There is hereby levied and imposed and set a tourist development tax throughout Lee County, Florida, at a rate of three percent (3%) of each whole and major fraction of each dollar of the total rental charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, tourist and trailer camp, mobile home park, recreational vehicle park, condominium, real property or timeshare resort for a term of six (6) months or less. When receipt of consideration is

by way of property other than money, the tax shall be levied and imposed on the fair market value of such non-monetary considerations.

B. In addition to the three percent (3%) tax rate imposed in Paragraph A., the County hereby levies, imposes, and sets an additional one percent (1%) tax pursuant to Section 125.0104(3)(d), Florida Statutes, on the exercise of privilege described in Paragraph A.

C. In addition to the original three percent (3%) tax rate imposed and the one percent (1%) tax imposed under Paragraph B., the County hereby levies, imposes and sets an additional one percent (1%) tax pursuant to Section 125.0104(3)(n), Florida Statues, on the exercise of the privilege described in Paragraph A.

D. The Tourist Development Tax shall be in addition to any other tax imposed pursuant to Chapter 212, Florida Statutes, and in addition to all other taxes, fees and the considerations for the rental or lease.

E. The Tourist Development Tax shall be charged by the dealer receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.

F. The dealer receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the Lee County Clerk of the Circuit Court at the time and in the manner provided for dealers who collect and remit taxes under Section 212.03, Florida Statutes. The same duties and privileges imposed by Chapter 212, Florida Statutes, upon dealers in tangible property, respecting the collection and remission of tax, the making of returns, the keeping of books, records and accounts, and compliance with the rules of the Florida Department of Revenue in the

administration of said chapter shall apply to and be binding upon all dealers who are subject to the provisions of this Act.

G. Collections received by the said Clerk less costs of administration of this Ordinance shall be paid and returned, on a monthly basis to Lee County for use by the County in accordance with the provisions of this Ordinance and shall be placed in the County tourist development trust fund in accordance with the Tourist Development Plan in Section Four hereof.

H. The effective date of the levy and imposition of the additional one percent (1%) of each dollar above the tax rate of two percent (2%) of each dollar, as previously set by Section Three hereof, shall be the first day of March, 1988. The proceeds of the additional levy shall be used for the purposes set forth in Section Four hereof.

I. The effective date of the levy and imposition of the additional two percent (2%) of each dollar above the tax rate of three percent (3%) of each dollar, as previously set out in Section Five A. hereof, shall be the first day of January 2006. The proceeds of the additional levy shall be used for the purposes set forth in Section Six A., B., and C. hereof. See also Section Six A., B., and C.

SECTION SIX: TOURIST DEVELOPMENT PLAN

A. The tax revenues received pursuant to this Ordinance shall be used to fund the Lee County Tourist Development Plan, which is hereby adopted as follows:

1. The two percent (2%) Tourist Development Tax was levied throughout Lee County beginning the first day of the month following the referendum. An additional one percent (1%) was levied in March of 1988. The additional two percent (2%) was

levied in January 2006. The Tourist Development Tax for Lee County is to strengthen our local economy and advance tourism by investing the revenue in the following priority:

a) Fifty-three and six-tenths percent (53.6%) of the receipts of the Tourist Development Tax shall be placed into a trust fund to be used for tourist advertising and promotion for Lee County.

b) Twenty percent (20%) of the receipts of the Tourist Development Tax shall be placed into the trust fund to be used to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote one or more publicly-owned and operated convention centers, sports stadiums, sports arenas, (including funding Sports Development and the Development's tourism related activities) coliseums, auditoriums or museums (funds will not be used for any museum general maintenance) within the boundaries of the County and for those other lawful purposes authorized by Sections 125.0104(5)(a) 1.,2.,3., and (b), 125.0104(3)(1), Florida Statutes, except as noted in Subparagraph c) below.

c) Twenty-six and four tenths percent (26.4%) of the receipts of the Tourist Development Tax shall be placed into the trust fund to be used for beach park facilities and beach-related improvements to include but not limited to, beach

improvements, fishing piers, maintenance, re nourishment, restoration and erosion control, including shoreline protection, enhancement, clean-up or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river.

B. The above and foregoing Tourist Ordinance may be enacted by an affirmative vote of a majority plus one additional member of the Board of County Commissioners.

C. The Plan and Tax shall continue until amended or repealed according to this Ordinance and Section 125.0104, Florida Statutes. Appropriations of the Tourist Development Tax shall be budgeted and approved by the Board of County Commissioners.

D. The revenues to be derived from the Tourist Development Tax may be used as authorized herein and Section 125.0104, Florida Statutes. In the event bonds are issued by the County for any of the purposes enumerated by the Tourist Development Plan, the amount of Tourist Development Tax receipts used to pay debt service on such bonds may exceed the percentages provided for the purpose for which such bonds were issued; provided, however, the annual debt service on such bonds (less any projected federal direct subsidy payments), together with any other obligations of the County which were issued to finance improvements for the same purpose and which are secured by the Tourist Development Tax, must not exceed in each fiscal year in which bonds and other obligations are outstanding, the amount of Tourist

Development Tax receipts provided in the Tourist Development Plan for such purpose which are projected by the County to be received in each such fiscal year and, in the case of a facility described in Section Six.A.1.b) hereof, the revenues projected to be received by the County from the use of such facility in each such fiscal year and the amount of moneys anticipated to be received from the State of Florida in each fiscal year pursuant to Sections 288.11621, 288.1162 and 212.20, Florida Statutes. For purposes of performing the calculations described in this paragraph, the amount of Tourist Development Tax receipts shall take into account any projected increase or decrease in such receipts, plus, if the levy of such tax was increased prior to the date of sale of the bonds, an amount equal to the monies the County would have received if the tax increase had been in effect during the entire period in question. The above projections shall be certified by the County Manager at the time of sale of the bonds and shall be conclusive evidence of satisfaction of the provisions of this Section Six D.

E. Trust funds in the amount of 6.6% deposited in the beach and shoreline portion of the Tourist Development Tax on December 9, 2008, and thereafter until the adoption of this Ordinance shall be transferred to the Stadium/Attractions Trust Fund

SECTION SEVEN: THE LEE COUNTY TOURIST DEVELOPMENT COUNCIL

A. There is hereby established, pursuant to the provisions of Section 125.0104, Florida Statutes, and Chapter 2013-258, Laws of Florida, an advisory council to be known as the "Lee County Tourist Development Council". The Council shall be composed of nine (9) members who shall be appointed by the Board of County Commissioners of Lee County. The Chair of the Board of County Commissioners of Lee County or another member as designated by the Chair shall serve on the Council.

Two (2) members of the Council shall be elected municipal officials, one of whom shall be from one of the two municipalities that generated the highest revenues from the tourist tax in the previous two (2) fiscal years and these two (2) municipalities shall rotate membership every two (2) years. The second elected municipal official shall be from one of the remaining municipalities and the second municipal seat shall also rotate every two (2) years. Elected municipal officials appointed to those two (2) seats on the Council shall serve for terms of two (2) years. Six (6) members of the Council shall be persons who are involved in the tourist industry and have demonstrated an interest in tourist development, of which members, not less than three (3) no more than four (4) shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the County and subject to the tax. All members of the Council shall be electors of the County. The changes in the composition of the membership of the Lee County Tourist Development Council mandated by this act are effective July 1, 2013. The changes in composition of the membership of the Lee County Tourist Development Council mandated by the act shall not cause the interruption of the current term of any person who is a member of the Lee County Tourist Development Council, except the two (2) municipal members appointed on July 1, 2013. The governing Board of the County shall have the option of designating the Chair of the Council or allowing the Council to elect a Chair. The Chair shall be appointed or elected annually and may be re-elected or reappointed. The members of the Council shall serve for staggered terms of four (4) years.

B. The Council hereby established shall, from time to time, make recommendations to the Board of County Commissioners for the effective operation of the special projects or uses of the Tourist Development Tax revenue raised by the tax hereby levied and may perform such other duties or functions as hereinafter may be prescribed by Ordinance or Resolution.

C. The Council shall continuously review all expenditures of revenues from the tourist development trust fund and shall receive, at least quarterly, expenditure reports from the Board of County Commissioners or its designee. Expenditures which the Council believes to be unauthorized shall be reported to the Board of County Commissioners. The Board of County Commissioners shall review the Council's findings and take such administrative or judicial action as it sees fit to insure compliance with this Ordinance and the provisions of Section 125.0104, Florida Statutes.

D. The members of the Council may be appointed or reappointed as authorized by Section 125.0104, Florida Statutes, and Chapter 2013-258, Laws of Florida.

SECTION EIGHT: LOCAL COLLECTION ADMINISTRATION, AUDIT AND ENFORCEMENT OF THE TAX

A. Notwithstanding any provisions hereof to the contrary, it is the intent of the County to be exempt from those requirements of Section 125.0104, Florida Statutes, that the tax collected be remitted to the Department of Revenue before being returned to the County. It is the intent of the County to provide for the collection and administration of the tax on a local basis.

B. Definitions – Pursuant to Section 212.06, Florida Statutes, as may be amended, and for purposes of this Ordinance section:

1. "Dealer" means any person who leases, or grants a license to use, occupy, or enter upon, living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property. The term "dealer" also means any person who has leased, occupied, or used or was entitled to use any living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property and who cannot prove that the tax levied by this Ordinance has been paid to the vendor or lessor on any such transactions.

C. Collection of the tax shall continue to be made in the same manner as the tax imposed under Part I of Chapter 212, Florida Statutes and as the applicable statute may be subsequently amended from time to time. Lee County, in assuming such responsibility, agrees it shall be bound by all rules promulgated by the Department of Revenue pursuant to Section 125.0104, as well as those rules pertaining to the sales and use tax on transient rentals imposed by Section 212.03. The County may use any power granted in this Section 125.0104, Florida Statutes, to the department to determine the amount of tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest.

D. The Lee County Clerk of Court, (hereinafter "Clerk of Court") Internal Audit Department shall be responsible for the collection, audit, enforcement and administration of the tax. The dealers receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the Lee County Clerk of Court. The Clerk of Court, Internal Audit Department, or their successor department or division, shall keep appropriate records of said funds. The same duties and privileges imposed by Chapter 212, Florida Statutes, and as the applicable statute may be subsequently amended from time to time, upon dealers in tangible property, respecting the collection and remission of tax, the making of returns, the keeping of books, records and accounts, the payment of a dealer's credit in compliance with the rules of the Lee County Clerk of Court in the administration of said Chapter shall apply to and be binding upon all dealer who are subject to the provisions of this Ordinance.

E. The Clerk of Court may promulgate rules, prescribe and publish the forms necessary to effectuate this Ordinance. The rules may include guidelines for registration and reporting requirements that are consistent with the provisions of Chapter 212, Florida Statutes.

F. In accordance with Chapter 125.0105, Florida Statutes, the Clerk of Court may adopt a service fee not to exceed the service fees authorized under Section 832.08(5) or five percent (5%) of the fact amount of the check, draft, or order, whichever is greater, for the collection of a dishonored check, draft, or other order for the payment of tax under this Ordinance. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee, if imposed, shall be retained by the Lee

County Clerk of Court.

G. The Lee County Clerk of Court, Internal Audit Department, or their successor department or division, shall perform the enforcement and audit functions associated with the collection and remission of this tax, including, without limitation, the following:

1. For the purpose of enforcing the collection of the tax levied by this Chapter, the Internal Audit Department of the Clerk of Courts is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all dealers, charged with the duty to report or pay a tax under this Ordinance, in order to determine whether they are collecting the tax or otherwise complying with this Ordinance. In the event said dealer refuses to permit such examination of its books, records, or other documents by the department as aforesaid, it is guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes. The Clerk shall have the right to proceed in Circuit Court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such dealer.

2. Each dealer, as defined in Section 212.06, Florida Statutes, and this Ordinance shall secure, maintain, and keep for a period of three (3) years a complete record of rooms or other lodging, that

was leased, rented, or granted license to use, occupy or enter upon living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps or real property, by said dealer, together with gross receipts from such sales, and other pertinent records and documents as may be required by the Clerk of Court for the reasonable administration of this Ordinance; and all such records which are located or maintained in this state shall be open for inspection by the Internal Audit Department of the Clerk of Court at all reasonable hours at such dealer's place of business located in Lee County. Any dealer who maintains such books and records at a point outside this County must make such books and records available for inspection by the Internal Audit Department of the Clerk of Courts in Lee County, Florida. Any dealer subject to the provisions of this Ordinance, who violates these provisions, is guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes.

3. Enforcement investigations include the examination of documents from any of the following, including but not limited to:

a) any person;

b) any community;

c) any condominium association;

d) any homeowner association; and

e) any property management company that are relevant to transient renters and rental activities. Relevant documents include but are not limited to:

f) association approval of guests to rent or lease;

g) guest gate entry passes;

h) guest golf and/or tennis membership records, and

i) other guest amenity records such as pool and community center passes.

4. The Internal Audit Department of the Clerk of Courts shall send written notification, at least thirty (30) days prior to the date an auditor is scheduled to begin an audit, informing the dealer of the audit. The Internal Audit Department of the Clerk of Courts is not required to give thirty (30) days prior notification of a forthcoming audit in any instance in which the dealer requests an emergency audit.

5. Such written notification shall contain:

a) The proximate date on which the auditor is scheduled to begin the audit.

b) A reminder that all of the records, receipts, invoices, and related documentation of the taxpayer must be made available to the auditor.

c) Any other requests or suggestions the Internal Audit Department may deem necessary.

6. Only records, receipts, invoices and related documentation which are available to the auditor when such auditor begins shall be deemed acceptable for the purposes of conducting such audit.

H. All taxes collected under this Ordinance shall be remitted to the Internal Audit Department of the Clerk of Court. In addition to criminal sanctions, the Clerk is empowered, and it shall be its duty, when any tax becomes delinquent or is otherwise in jeopardy under this Ordinance, to issue a warrant for the full amount of the tax due or estimated to be due, with the interest, penalties, and cost of collection, directed to all and singular the sheriffs of the state, and shall record the warrant in the public records of the County, and thereupon the amount of the warrant shall become a lien of any real or personal property of the taxpayer in the same manner as a recorded judgment. The Internal Audit Department of the Clerk may issue a tax execution to enforce the collection of taxes imposed by this Ordinance and deliver it to the Sheriff. The Sheriff shall thereupon proceed in the same manner as prescribed by law for executions and shall be entitled to the same fees for his services in executing the warrant to be collected. The Clerk may also have a writ of garnishment to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels, or effects of the delinquent dealer in the hands, possession, or control of the third person in the manner provided by law for the payment of the tax due. Upon payment of the execution, warrant, judgment, or garnishment, the department shall satisfy the lien of record within thirty (30) days.

I. Pursuant to Section 213.24(3) and Section 125.0104, Florida Statutes, a fee shall be imposed to offset the extraordinary costs incurred by the Clerk of Court for enforcement, administration and payment agreements incurred due to late payment of a collection event.

1. "Collection Event" means failure by a taxpayer to:

a) timely file a complete return;

b) timely pay the full amount of tax reported on a return;

c) timely pay the full amount due resulting from an audit after all appeal rights have expired or the result has been finally determined; or

d) respond to attempts to contact the dealer.

The fee shall be equal to ten percent (10%) of the total amount of tax, penalty, and interest which remains unpaid after ninety (90) days. The fee shall be imposed in addition to the taxes, fees, penalties, and interest prescribed by law.

J. Tax revenues may be used only in accordance with the provision of Section 125.0104, Florida Statutes.

K. A total of three percent (3%) of said tax collected each month herein shall be retained by the Clerk of the Circuit Court for costs of administration by the Clerk of Courts. The remainder of the tax collected shall be distributed to the County on a monthly basis.

L. The County assumes responsibility for auditing the records and accounts of dealers and assessing, collecting, and enforcing payment of delinquent Tourist Development Taxes. The County adopts any and all powers and authority granted to

the State of Florida in Section 125.0104, Florida Statutes, and Chapter 212, Florida Statutes, and as further amended or incorporated therein to determine the amount of the tax, penalties and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest by, but not limited to, distress warrants, writ of garnishments and criminal penalties as provided in Chapter 212, Florida Statutes.

M. An action may not be brought to contest an assessment of any tax, interest or penalty assessed under this Ordinance more than sixty (60) days after the date the assessment becomes final. An action may not be brought to contest a denial of refund of any tax, interest or penalty paid under this Ordinance more than sixty (60) days after the date the denial becomes final.

SECTION TEN: PERSONAL LIABILITY

Any dealer who exercises a taxable privilege hereunder and who willfully fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or through his agents or employees, shall be, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, Section 775.083, or Section 775.084, Florida Statutes.

Any dealer who willfully makes a false or fraudulent return, fails to file six (6) consecutive returns, attempts in any manner to evade the tax, and/or diverts or converts tax monies to their own use or the benefits of others shall be, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor or felony, punishable as provided in Sections 212.12, 775,082, and 775.083, Florida Statutes.

Any dealer who, after the Clerk's delivery of a written notice to the dealers last known address specifically alerting the dealer of the requirement to register the dealer's business as a dealer, intentionally fails to register the business; and any dealer who, after the clerk's delivery of a written notice to the dealer's last known address specifically alerting the dealer of the requirement to collect tax on specific transactions, intentionally fails to collect such tax, shall, in addition to the other penalties provided by law, be liable for a specific penalty of one hundred percent (100%) of any unreported or any uncollected tax or fee and, upon conviction, for fine and punishment as provided in Section 775.082 or 775.083, Florida Statutes. Delivery of written notice may be made by certified mail, or by the use of such other method as is documented as being necessary and reasonable under the circumstances. The civil and criminal penalties imposed herein for failure to comply with a written notice alerting the dealer of the requirement to register the business as a dealer or to collect tax on specific transactions shall not apply if the dealer timely files a written challenge to such notice in accordance with procedures established by the department by rule or the notice fails to clearly advise that failure to comply with or timely challenge the notice will result in the imposition of the civil and criminal penalties imposed herein.

The rental property owner is ultimately responsible to ensure the required filing of tax returns and payment of taxes owed regardless of any agreement with an agent to collect, report and/or remit the tax.

SECTION ELEVEN: REFUSAL TO COLLECT TAX

No dealer shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the person paying the rental of the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration, or when added, that it or any part thereof will be refunded or refused, either directly, or indirectly, by any method whatsoever. Any dealer who willfully violates any provision of this subsection shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, Section 775.083, or Section 775.084, Florida Statutes.

SECTION TWELVE: SEVERABILITY

Upon petition of fifteen percent (15%) or more of the electors of Lee County, the Board of County Commissioners shall cause an election to be held for the repeal of this Ordinance and the Tourist Development Tax levied subject only to any outstanding revenue bonds for which the tax has been pledged.

SECTION THIRTEEN: INVALID OR UNCONSTITUTIONAL SECTIONS

It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provisions not been included herein.

SECTION FOURTEEN: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements shall apply.

SECTION FIFTEEN: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County code; and that sections of this Ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article", or other such appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this Ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the County Manager or his designee, without need of public hearing, by filing a corrected or recodified copy of same with the Clerk of Circuit Court.

SECTION SIXTEEN: EFFECTIVE DATE

This Ordinance will take effect July 1, 2013, and upon its filing with the Office of the Secretary of the Florida Department of State, with a certified copy hereof being furnished to the State of Florida, Department of Revenue.

Commissioner Hall made a motion to adopt the foregoing ordinance, seconded by Commissioner Pendergrass. The vote was as follows:

JOHN E. MANNING	AYE
CECIL L PENDERGRASS	AYE
LARRY KIKER	AYE
TAMMARA HALL	AYE
FRANK MANN	AYE

DULY PASSED AND ADOPTED THIS **25th** day of **June, 2013**.

ATTEST: LINDA DOGGETT
CLERK OF COURTS

BY: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chair

BOARD OF COUNTY COMMISSIONERS SEAL LEE COUNTY, FLORIDA

APPROVED AS TO FORM:

BY: Andrea R. Fraser
Office of the County Attorney

FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

July 8, 2013

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Lisa L. Pierce, Deputy Clerk

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated July 3, 2013 and certified copy of Lee County Ordinance No. 13-14, which was filed in this office on July 8, 2013.

Sincerely,

Liz Cloud

Liz Cloud
Program Administrator

LC/elr

RECEIVED
JUL 12 2013
MINUTES OFFICE

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
Telephone: (850) 245-6270 • Facsimile: (850) 488-9879
www.dos.state.fl.us