

NOTICE OF PUBLIC MEETING
CITY COUNCIL
CITY OF BONITA SPRINGS
OFFICIAL AGENDA
WEDNESDAY, SEPTEMBER 16, 2020

5:30 P.M.

**BONITA SPRINGS FIRE CONTROL AND RESCUE DISTRICT
27701 BONITA GRANDE DRIVE
BONITA SPRINGS, FL 34135**

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

Due to social distancing guidelines, please email the City at CITYMEETINGS@CITYOFBONITASPRINGS.ORG in order to:

1. Submit your comment in writing prior to the meeting; or
2. Provide your name and telephone number to participate by phone during the meeting. A member of staff will contact you prior to the meeting with call-in instructions. Also, please indicate in your email which meeting you would like to participate by phone.

PLEASE INCLUDE THE MEETING DATE IN THE SUBJECT LINE OF YOUR EMAIL. ALL EMAILS FOR PUBLIC COMMENT MUST BE RECEIVED BY NOON ON SEPTEMBER 16, 2020.

[CLICK HERE](#) to watch the meeting online, or visit the City's website at WWW.CITYOFBONITASPRINGS.ORG and click "how do i?" and then click "watch a meeting live" to access the live stream.

Interested parties may also attend the public hearing in person to provide comments in accordance with the City's code or as those provisions may be modified by the City Council. Social distancing and other centers for disease control (CDC) and Florida Department of Health (FDOH) guidelines pertaining to COVID-19 will be followed and observed.

I. Call to order

II. Invocation

III. Pledge of Allegiance

IV. Roll call

V. Public comment on agenda items

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

A. Approve Agreement between Lee County and the City of Bonita Springs for West Coast Inland Navigation District (WCIND) grant funding to be used for marine law enforcement. (Greensheet No. 20-09-278)

B. Approve a Special Event application for the weekly Local Roots LLC Farmer's Market to be held at the Promenade each Saturday morning from 8:00 a.m. to 12:00 p.m. (Greensheet No. 20-09-257)

- C. Approve a Resolution accepting the Selection Committee's recommendations, and authorize staff to begin negotiations with the selected firms for RFQ 20-07 Miscellaneous Survey Services for the Voluntary Home Buyout Program. (Greensheet No. 20-09-276)
- D. Approve a sub-recipient agreement between the City of Bonita Springs and Pegasus Engineering, Inc., for Grant Writing and Support Services. (Greensheet No. 20-09-277)
- E. Approve increase in Operating Reserves as of September 30, 2020 in accordance with the City's Financial Policy. (Greensheet No. 20-09-270)
- F. Approval of an Interlocal Agreement between Lee County and the City of Bonita Springs under the CARES Act for funding for eligible expenditures relating to COVID-19. (Greensheet No. 20-09-284)
- G. Approve the Parks and Recreation Agreement between the City of Bonita Springs and the Casa Mexico Adult Soccer league for the 2020-2021 soccer season. (Greensheet No. 20-09-272)

- OPPORTUNITY FOR CITY COUNCIL COMMENTS ON CONSENT AGENDA ITEMS

VII. Proclamations and Presentations:

VIII. Mayor and Council Member items:

- A. Introduction by Dr. Michael Parsons of the Bonita Springs Water Steward. (Mayor Simmons; Greensheet No. 20-09-282)

Short recess, if needed

IX. Second reading and public hearing of the following Ordinance:

- A. An Ordinance of the City of Bonita Springs, Florida, amending Division 37, Subdivision II, Temporary Uses and Subdivision III. Mobile Food Vendors of the Land Development Code relating to mobile food vendors; providing for severability, conflicts, codification, scrivener's errors; and providing for an effective date. (Greensheet No. 20-09-279)

X. City Attorney's items:

- A. Approve Emergency Resolution suspending code enforcement fines under certain conditions for the duration of the State of Emergency due to COVID-19. (Greensheet No. 20-09-280)
- B. PERMISSION TO ADVERTISE: An Ordinance to amend the Land Development Code (LDC) to create regulations to clarify the implementation of conventional single-family homes in Mobile Home (MH-1 and MH-2) districts and two-family attached dwelling units in the Two Family Conservation (TFC-2) Zoning District. If approved, the Ordinance will be scheduled on October 7, for its First Reading and Public Hearing, October 8, Local Planning Agency (Public Hearing), and then October 21 for a Second Reading and Public Hearing. (Greensheet No. 20-09-271)
- C. Approve Employment Agreement with City Manager. (Greensheet No. 20-09-281)

XI. City Manager's items:

- A. City's COVID-19 update.

XII. Mayor and Council reports:

XIII. Approval of Minutes: 07/15/20

XIV. Public comment:

XV. Adjournment.

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

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

NEXT MEETING: 10/7/2020

BONITA SPRINGS CITY COUNCIL		/GREEN SHEET:	20-09-278
AGENDA ITEM SUMMARY			
REQUESTED MOTION: Approve Agreement between Lee County and the City of Bonita Springs for West Coast Inland Navigation District grant funding to be used for marine law enforcement.			
MEETING DATE: 9/16/2020			
AGENDA:		REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐ PRESENTATIONS	☐ STATUTE	Carly Sanseverino Staff Attorney	
☒ CONSENT	☐ ORDINANCE		
☐ PUBLIC HEARING	☐ ADMIN. CODE		
☐ MAYOR AND COUNCIL MEMBER ITEMS	☒ OTHER		
☐ MAYOR AND COUNCIL MEMBER'S REPORTS			
☐ CITY ATTORNEY ITEMS			
☐ CITY MANAGER ITEMS			
BACKGROUND:			
On February 5, 2020, City Council approved the submittal of a Lee County Natural Resources Division/WCIND Waterway Development Program Proposal Form for Sub-grantees in the amount of \$40,000.00. The grant provides matching funds to continue marine law enforcement activities along the Imperial River and in Estero Bay. The funding amount requested was \$40,000.00 to accommodate the hourly rate in boat fuel and maintenance. The WCIND has approved the requested grant in the amount of \$40,000.00 for support of the marine unit of the Lee County Sheriff's Office to provide on-water patrol. The patrol unit will continue to primarily patrol waters in the Imperial River and Estero Bay. The City's proposed FY20-21 budget provides matching funds of \$40,000.00 (Fund Grants: 13.708.3372000). Staff is recommending Council maintain the City's match at \$40,000.00 to maintain the current levels of service for marine law enforcement. Attachment: Agreement for WCIND Sub-grant Funding.			
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ YES ☐ NO IF YES, WHICH STRATEGIC OBJECTIVE? #7 Environmental Protection			
STAFF RECOMMENDATIONS: Approve the agreement for WCIND sub-grant funding, permit Mayor and staff to execute the grant agreement and maintain the City's match at \$40,000.00 as currently proposed in FY2018-2019 budget.			
REVIEWED BY:			
City Manager:	<u>Arleen Hunter</u>		
City Attorney:	<u>Derek Rooney</u>		
City Clerk:	<u>Debra Filipek</u>		
Department Director:	_____		
COUNCIL ACTION:			
☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER			

AGREEMENT FOR WCIND SUBGRANT FUNDING

THIS AGREEMENT is entered into by and between the LEE COUNTY BOARD OF COUNTY COMMISSIONERS, hereafter referred to as the "County" and City of Bonita Springs hereafter referred to as "Recipient", and is for implementation of the Marine LE - Bonita 2021 Project for marine law enforcement activity within district waters (Law Enforcement L-530) (hereafter "Project") to be carried out with funding provided by the Recipient, and grant funding provided by the County from the WEST COAST INLAND NAVIGATION DISTRICT (hereafter "WCIND") under its Waterway Development Program.

WHEREAS, the County is considered the applicant and assumes responsibility for the grant funds; and

WHEREAS, the Recipient is a co-applicant and will assume responsibility for daily grant administration; and

WHEREAS, the County, on April 21, 2020 adopted Resolution No. 20-04-17 and certified that the moneys from the WCIND Waterway Development Program will be appropriately and effectively used by Recipient for its Project, and that the grant funds will not be used to supplant existing County budget allocations; and

WHEREAS, funds received from WCIND through the Waterway Development Program are committed for expenditure in program activities that meet WCIND's criteria for grants; and

WHEREAS, the County has approved the Recipient's request for grant funding under the WCIND Waterway Development Program in accordance with their Pre-Application Form for Sub-grantees, incorporated herein by reference;

NOW, THEREFORE, the parties hereto agree as follows:

1. This Agreement shall be governed and construed in accordance with the provisions of Florida Statutes, and those specific provisions and rules pertaining to WCIND and the Waterway Development Program (Rule 66A-2, Florida Administrative Code). In the event that any provision in this Agreement is in conflict with the applicable rules and statutes, the parties hereto may negotiate in good faith to reconcile such conflict, or either party may terminate this Agreement to the extent funds have not been expended prior to the date of the Notice to Terminate.
2. The County agrees, warrants and covenants to distribute funds to Recipient on a reimbursement basis for project costs accrued in accordance with the scope of work specified in Resolution No. 20-04-17 and the agreement between WCIND and the County. The funding of the grant shall not exceed \$40,000 during the County's fiscal 2020-2021 year. No reimbursement shall be made for expenses made prior to October 1, 2020.

3. The Recipient agrees, warrants, and covenants that:
- a. All moneys expended shall be for services, equipment, and supplies solely used to further the goals and objectives of the WCIND Waterway Development Program, as set forth in the current grant program guidelines in Rule 66A-2, Florida Administrative Code. Moneys shall not be used for tools, equipment, boats, motors, office furniture and supplies, law enforcement and safety equipment, contract labor and materials not used exclusively for the authorized project, in-house labor, equipment or other services, and operational or administrative costs.
 - b. All funds used for the project which are expended to acquire professional architectural, engineering, landscape architecture or land surveying services for the accomplishment of the project shall be secured in accordance with the provisions of Chapter 287, Florida Statutes. (NOTE: Rule 66A-2.005(2)(b), F.A.C., provides that moneys from the WCIND Waterway Development Program Fund shall not be used for project-related pre-construction costs incurred for surveys, appraisals, engineering and architectural fees, permitting and utilities fees.)
 - c. All purchases of equipment and supplies shall be made on a competitive basis. Items with a purchase price of \$2000.00 or greater must have no less than three written bids. Bids must be submitted to the County for approval prior to purchases being made. Costs for items purchased without the required prior approval may not be eligible for reimbursement. Exceptions may be granted by the County, subject to applicable rules and regulations, but must be requested in writing and describe why the Recipient cannot meet the bidding requirement.
 - d. WCIND funds may not be used for any land acquisition projects.
 - e. The Recipient agrees to submit quarterly signed project status reports to the County which are due on the 15th day of January, April, July, and October. Failure to provide timely reports may result in termination of the Project Agreement, or loss of present or future funding eligibility.
 - f. The Recipient agrees to submit reimbursement requests with supporting documentation no more frequently than monthly. The final reimbursement request must be received by the County no later than the October quarterly report.

- g. ☐ (checked if applicable) For environmental education or boater safety projects, the recipient must also provide in their quarterly and annual reports the following in order to show an established curriculum relating to the waters of the WCIND:
- i. Who attended and taught the course.
 - ii. Date class was held.
 - iii. Location of class.
 - iv. Course material.
- h. ☐ (checked if applicable) Matching funds are required for this project. The Recipient must identify and enumerate the amount of all matching funds in quarterly and annual reports. Matching funds must be cash only and constitute 50% of the total project cost.
- i. ☒ (checked if applicable) This project is for marine enforcement. The Recipient must identify and include the following information in all quarterly and annual reports:
- i. standard Marine Enforcement Quarterly Report Form
 - ii. documentation of warnings and citations
 - iii. general activity as it pertains to vessels or equipment with a purchased value of \$5,000 or greater that WCIND funds were used to produce
- j. Official communications shall be delivered as follows.

County designated Liaison Agent:

Michael Campbell
Lee County Natural Resources
P.O. Box 398
Ft. Myers, FL 33902-0398
239-533-8133 phone
mcampbell@leegov.com

Recipient designated Project Manager who shall be responsible for ensuring performance of the terms and conditions of this Agreement:

Name	Carly Sanseverino
Title	Staff Attorney
Company	City of Bonita Springs
Address	9101 Bonita Beach Rd.
City, State, Zip	Bonita Springs, FL 34135
Phone	239-949-6262
Email	carly.sanseverino@cityofbonitasprings.org

Changes to the listed contact information shall be submitted immediately in writing to the other party.

4. The County and the Recipient agree, covenant, and warrant as follows:
- a. The grant funds will be disbursed no more than monthly based on project deliverables to Recipient upon receipt of appropriate paid invoices with sufficient supporting documentation and a report indicating activities that have occurred during the billing period. Project deliverables must be verifiable to reflect the work accomplished before funds will be disbursed.
 - b. The Recipient shall prepare and submit to the County an annual report (due by the end of each calendar year) summarizing the work accomplished, problems encountered, location and status of equipment with a purchase value of \$5000 or more and other relevant information. The annual reporting requirement shall remain in effect until the County has verified in writing to the Recipient that no equipment or asset remains with a value of \$5000 or more.
 - c. The County has the right to terminate the grant and demand full refund of all moneys in the event it is determined that any grant funds were expended in non-compliance with the terms of this Agreement, WCIND rules, or other applicable statutes and rules.
 - d. This grant period is for County fiscal year 2020/2021 only. All unspent grant funds remaining at the end of the grant period, September 30, 2021, will be retained by WCIND for use in the Lee County Countywide Navigation Improvement Fund. A one year extension may be granted under extenuating circumstances. A written request for extension must be submitted by the Applicant and received by the County prior to July 15, 2021.

- e. Accurate records of expenditures of grant funds shall be maintained and these records shall be available at all reasonable times for inspection, review or audit by the County and WCIND. Records shall be kept for a period of at least three (3) years following the end of the grant period and until all annual reporting requirements have been satisfied.
- f. Expenditure reports must be accompanied by sufficient supporting invoices and documentation to support pre-audit and post-audit review. The sufficiency of said documentation shall be determined by the County's Clerk of the Circuit Court and WCIND's Executive Director who may seek additional information as the circumstances require.
- g. The performance of this Agreement shall be in compliance with all applicable laws, orders, and codes of Federal, State and Local governments.
- h. The County shall not be liable to any person, firm or corporation that contracts with the Recipient to provide goods and services associated with the Project conducted with grant moneys. Nor shall the County be liable to any person, firm, or corporation for claims against the Recipient or debts incurred by the Recipient.
- i. Neither party to this Agreement may assign this Agreement without prior written consent of the other party.
- j. This Agreement may be terminated and the Recipient shall return to the County all moneys received from the County under this Agreement, upon the occurrence of one or more of the following events:
 - (1) Should it be determined that the County is not a qualified grantee for funds awarded under the applicable statutes or rules, or
 - (2) Should the Recipient fail to provide the quarterly and annual reports and documents required under this Agreement in accordance with the grant criteria or fail to expend the funds in a manner consistent with the grant criteria.
- k. Upon written notice by the County of the occurrence of either one of the conditions stated above, the Recipient shall, within thirty (30) days thereafter, return the funds to the County without regard to whether such funds have already been expended or encumbered by the Recipient.

- l. This Agreement may not be modified, amended or extended orally. This Agreement may be amended only by written agreement executed with the same formality as this Agreement except that the extension provided for in Section 4d above may be approved by the County designated Liaison Agent.
- m. In the event that any section or paragraph of this Agreement is adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect or nullify the remaining sections or paragraphs, but shall be confined solely to the sections or paragraphs involved in such decision.
- n. Each of the parties hereto covenants to the other party that it has lawful authority to enter into this Agreement and has authorized the execution of this Agreement by the party's authorized representative.
- o. Any capital equipment expenditure made under this grant shall become the property of the County when it is no longer necessary for or used for the Recipient's Project unless the County (and, if necessary, WCIND) releases the capital equipment to the Recipient pursuant to Exhibit "A", Disposal of Assets Acquired with WCIND Grant Funds.
- p. The County and Recipient mutually agree to the following special terms and conditions incorporated as part of this Agreement:
 - (1) Exhibit "A" - Disposal of Assets Acquired with WCIND Grant Funds;
 - (2) Exhibit "B" - (check if applicable):
 - ☐ Matching Funds Certification Form;
 - ☒ Certification of Law Enforcement Expenditures;
 - ☒ Standard Marine Enforcement Quarterly Report Form
 - ☐ Quarterly Report Form,(Applicable to all except LE)
 - (3) Exhibit "C" - Definition of Funding Conditions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the undersigned officials, as duly authorized this _____ day of _____, 20__.

FOR THE COUNTY:

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
DEPUTY CLERK

BY: _____
DEPUTY COUNTY MANAGER

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

BY: _____
LEE COUNTY ATTORNEY'S OFFICE

FOR THE RECIPIENT:

By: _____
Type Name: _____
Title: _____
Address: _____

Witness

Witness

The foregoing instrument was acknowledged before me in the State of Florida, County of Lee, this ____ day of _____, 20__, by _____, who produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 20__.

(SEAL)

Notary Public

Printed Name of Notary Public

My Commission Expires: _____

EXHIBIT "A"

DISPOSAL OF ASSETS ACQUIRED WITH WCIND GRANT FUNDS

Disposal of assets acquired with WCIND grant funds (such as tools, equipment, boats, motors, office furniture, law enforcement and safety equipment, and other materials) shall be handled in accordance with the following provisions:

A. When replacing assets or equipment acquired in whole or in part under a WCIND grant, the grantee or subgrantee may use the assets or equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the prior written approval of WCIND.

B. When original or replacement assets or equipment acquired under a WCIND grant are (a) sold (except as authorized in the preceding paragraph); (b) no longer available for use in a WCIND-sponsored program; (c) used for purposes not authorized by WCIND; or (d) no longer needed for the original project or program or for other activities currently or previously supported by WCIND, disposition of the assets will be made as follows:

1. Assets or items of equipment with a current per-unit fair market value of less than \$5,000.00 may be retained, sold, or otherwise disposed of without any further obligation to WCIND.
2. Assets or items of equipment with a current per-unit fair market value in excess of \$5,000.00 may be retained or sold and WCIND's equity in the asset will be refunded in the same proportion as WCIND's participation in the cost based on the current market value or proceeds from sale.

C. Tangible property acquired under county projects must be shown as property acquired in the records for that project of the county. Also, that such property be available for audit or appropriate recording of disposition of such property be readily available should the item or items be disposed of or are no longer in use.

WEST COAST INLAND NAVIGATION DISTRICT
WCIND WATERWAY DEVELOPMENT PROGRAM

CERTIFICATION OF LAW ENFORCEMENT EXPENDITURES

PROJECT: Marine LE - Bonita 2021

COUNTY: LEE

PROJECT NO: L-530

I certify that all funds allocated for the above named project were expended for marine law enforcement only, pursuant to the Waterway Development Program rules and regulations adopted by WCIND on November 11, 1990, and as authorized by Section 374.976, Florida Statutes, to ensure program funds are not used to supplement other activities.

Date

Recipient

STATE OF _____)
 _____)
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, who produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 20____.

(SEAL)

Notary Public

Printed Name of Notary Public
 My Commission Expires: _____

DATE

ACCEPTED BY COUNTY
 LIAISON AGENT:

 (6843)

LEE COUNTY ENVIRONMENTAL SERVICES DIVISION MARINE SERVICES PROGRAM STANDARD MARINE ENFORCEMENT QUARTERLY REPORT

AGENCY: _____

Today's Date: _____ Report Period: _____

	_____	Oct. - Dec.	_____
	_____	Jan. - Mar.	_____
	_____	Apr. - Jun.	_____
	_____	Jul. - Sep.	_____

Total Hrs. Worked for the Period _____ Total Hrs. on the Water _____

Verbal Warnings _____ Manatee Zone Warnings _____

Written Warnings _____ Manatee Zone Citations _____

Total Citations _____ Complaints Dispatched _____

Assists:	Agency/Boaters	(Attach additional pages if necessary)	Hours

Signage needs or enforcement problems:	(Attach additional pages if necessary)

List other significant activity on reverse side.

I certify that the above information is true and accurate to the best of my knowledge.

Print Name

Signature

EXHIBIT "C"

GUIDELINES TO DEFINE FUNDING CONDITIONS FOR LAW ENFORCEMENT, NAVIGATION, ENVIRONMENTAL EDUCATION, BOATING SAFETY-EDUCATION AND RECREATION

LAW ENFORCEMENT - 100%

- A. All funds must be used for waterway law enforcement.
- B. Funds shall be used for major overhaul or major repairs. No funding for general operation and maintenance will be approved.
- C. All equipment purchased by competitive bid or as specified by each county.
- D. The funding cap is 30% of the annual (fiscal year) allocation of ad valorem proceeds per county in which the grant is requested.
- E. Activities reports must be submitted with each quarterly report and grant payment request.

NAVIGATION IMPROVEMENT PROJECTS - 100%

- A. Project must directly improve navigation of District waters.
- B. Channel marking, navigation hazards removal and regulatory signage pertaining to District waters are applicable to navigation improvement projects.

ENVIRONMENTAL EDUCATION PROJECTS - 100%

- A. Must directly relate to waters of the District.
- B. Curriculum must be established via in-house classroom and/or field trip class instruction.
- C. The funding cap is 25% of the annual (fiscal year) allocation of ad valorem proceeds per county in which the grant is requested.
- D. Activity reports must be submitted with each quarterly report and grant payment request.

BOATING SAFETY AND EDUCATION - 50% MATCH FUNDED

- A. Funds can be used for classroom equipment providing the equipment is used for boater education and boater safety programs.
- B. Funds can be used for equipment placed on boats providing the boat is used for boater education and safety programs.
- C. Funds can be used for fire/rescue equipment, specifically for use in waters of the District.
- D. Funds may not be used for the operation and maintenance of equipment nor facilities.
- E. Funds may be used for signage pertaining to safety and education of boaters at launching facilities of the District.
- F. Activity reports must be submitted with each quarterly report and grant payment request.

BOATING RECREATION - 50% MATCH FUNDED

- A. Funds may be used to construct boat ramps.
- B. Funds may be used to rehabilitate boat ramps.
- C. Funds may be used for marine recreation parks usable by boaters and non-boaters.
- D. Funds may be used for spoil island and spoil area restoration affording boater recreation.

BONITA SPRINGS CITY COUNCIL		GREEN SHEET:	20-09-257
AGENDA ITEM SUMMARY			
REQUESTED MOTION: Approve a Special Event Application for the weekly Local Roots LLC Farmers Market to be held at the Promenade each Saturday morning from 8:00 a.m. to 12:00 p.m.			
MEETING DATE: 9/16/2020			
AGENDA:		REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐ PRESENTATIONS	☐ STATUTE	Lora Taylor Director of Communications	
☒ CONSENT	☐ ORDINANCE		
☐ PUBLIC HEARING	☐ ADMIN. CODE		
☐ MAYOR AND COUNCIL MEMBER ITEMS	☐ OTHER		
☐ MAYOR AND COUNCIL MEMBER'S REPORTS			
☐ CITY ATTORNEY ITEMS			
☐ CITY MANAGER ITEMS			
BACKGROUND:			
For the past several years, Local Roots LLC has sponsored a weekly Farmers Market on South Bay Drive at the Promenade each Saturday morning, from 8:00 a.m. till noon. They are requesting approval of a permit for October 3, 2020 through April 24, 2021. Local Roots LLC anticipates five to seven hundred weekly attendees. Lee County Sheriff's Office has signed off on this event. During the pandemic, Farmers Markets have been considered essential services for the public per the Office of the Governor Executive Order number 20-91 (Essential Services and Activities During COVID-19 Emergency) Essential services means and encompasses the list detailed by the U.S. Department of Homeland Security in its Guidance on the Essential Critical Infrastructure Workforce, v. 2 (March 28, 2020) and any subsequent lists published. B. Essential services also include those businesses and activities designated by Executive Order 20-89 and its attachment which consists of a list propounded by Miami-Dade County in multiple orders. Local Roots LLC has provided a COVID-19 Safety Plan and is committed to implementing the policies necessary to enhance the safety of attendees, vendors and staff. Should it be determined that the applicant is failing to implement safety precautions related to the coronavirus pandemic, the city may revoke the permit.			
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ YES ☒ NO IF YES, WHICH STRATEGIC OBJECTIVE?			
STAFF RECOMMENDATIONS: Approve Local Roots LLC Farmers Market special event request.			
REVIEWED BY:			
City Manager:	<u>Arleen Hunter</u>		
City Attorney:	<u>Derek Rooney</u>		
City Clerk:	<u>Debra Filipek</u>		
Department Director:	<u>Lora Taylor</u>		
COUNCIL ACTION:			
☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER			

Local Roots Farmers Markets Plan for the 2020-2021 Season in response to COVID-19

Local Roots, LLC is committed to implement policies to enhance the safety of attendees, vendors and staff to encourage behaviors that reduce the spread of Covid-19. We believe we have an obligation to keep the community safe but still allow for fresh food access in an open-air essential market. Below is a plan for reopening and management of the farmers markets for the 2020-2021 season or until the number of cases in SWFL has significantly dropped to a point we can go back to our normal procedures. We understand that the situation is in constant change and in need of continuing updates.

I. Educating the Vendors, their staff, and attendees.

- **Staying Home when Appropriate**

- Educate staff and attendees about when they should stay home.
 - Advise vendors and attendees to stay home if they have tested positive for COVID-19 or are showing COVID-19 symptoms.
 - Advise vendors and attendees to stay home and monitor their health if they have had a close contact with a person who has symptoms of COVID-19 within the past 14 days.
 - Follow CDC's criteria for when vendors should return to the market if they have tested positive for Covid-19 or been in close contact with a person with Covid-19.

- **Hand Hygiene and Respiratory Etiquette**

- Require frequent vendors handwashing (e.g., before, during, and after taking money; after touching garbage. Etc.) with soap and water or disinfectant with at least 60% alcohol.
- Encourage staff to **cover the mouth and nose with a tissue when coughing and sneezing**. Used tissues should be thrown in the trash and hands washed immediately with soap and water or disinfectant for at least 20 seconds.
- Signs displayed to discourage attendees from social interaction while at the market. Grab and Go Market!

- **Cloth Face Coverings**
 - Require the use of cloth face coverings among vendors and their staff. Cloth face coverings are **most** essential in times when physical distancing is difficult (e.g., when moving within a crowd or audience). If unable to social distance customers are encouraged to wear masks while at the market.
 - Provide all vendors with information on proper use, removal and washing of face coverings.
 - Advise vendors that face coverings should **not** be placed on:
 - Babies or children younger than 2 years old
 - Anyone who has trouble breathing
 - Anyone who is unconscious, incapacitated, or otherwise unable to remove the cloth face covering without assistance
 - Encourage attendees ahead of the event to bring and use face coverings at the market.
 - Cloth face coverings are meant to protect other people. They are not personal protective equipment.
- **Adequate Supplies**
 - We will ensure to have adequate supplies to support healthy hygiene behaviors. Supplies include soap and water in the restrooms, hand sanitizer containing at least 60 percent alcohol, face coverings (as feasible), and no-touch trash cans.
- **Signs and Messages**
 - Post signs in highly visible locations that promote healthy protective measures and describe how to help stop the spread of germs by properly washing hands and properly wearing a face covering.
 - Include messages about behaviors that prevent spread of COVID-19 when communicating with staff, vendors, and attendees (such as on the farmers market social media accounts).

II. Procedures to Maintain a Healthy Environment During Farmers Market

- **Cleaning and Disinfection**
 - Use disposable gloves when removing garbage bags or handling and disposing of trash.
 - After using disposable gloves, they will be thrown out
 - Gloves will not be reused or disinfected.
 - Wash or disinfect hands after removing gloves.

- **Restrooms**

- We may limit the number of people who occupy the restroom at one time to allow for social distancing.
- We will expect and all open restrooms with help from the County. City or landlord are:
 - Operational with functional toilets.
 - Clean and disinfected regularly, particularly high-touch surfaces such as faucets, toilets, stall doors, doorknobs, countertops, diaper changing tables, and light switches.
 - Adequately stocked with supplies for handwashing, including soap and water or hand sanitizer with at least 60% alcohol (for staff and older children who can safely use hand sanitizer).

- **Modified Layouts and normal procedures**

- Use multiple entrances and exits and discourage crowded waiting areas.
- Eliminate lines if possible or encourage people to stay at least 6 feet apart by providing signs or other visual cues such as tape or chalk marks.
- Possibly reimplement online market options in addition to in-person attendance to help reduce the number attendees. WebsiteLocalRootsOnlineFarmersMarkets.com
- No Music
- No non-essential activities/events – Letters to Santa, Trick or Treating etc.
- Encourage shoppers to pre-order from vendors which will reduce the amount of time shopping
- Encourage shoppers to make a list before coming to market.
- Encourage vinyl table coverings or ones that can be cleaned on site.
- Foot print to be expanded where possible to allow for even greater distancing between vendors.

- **Physical Barriers and Guides**

- Install physical barriers, such as sneeze guards and partitions, in areas where it is difficult for individuals to remain at least 6 feet apart. Barriers can be useful at booths and other areas where maintaining physical distance of 6 feet is difficult.

- **Food Service**

- There is no evidence that COVID-19 is spread by food. However, people sharing utensils and congregating around food service areas can pose a risk.
- CDC's COVID-19 considerations for food service will be applied.
- Use touchless payment options as much as possible.
- Ask customers and employees to exchange cash or card payments by placing them on a receipt tray or on the counter rather than by hand to avoid direct hand-to-hand contact.
- Clean and disinfect frequently touched surfaces such as pens, counters, or hard surfaces between use.

- Use disposable food service items including utensils and dishes
 - Vendors will wash their hands or disinfect after removing their gloves or after directly handling used food service items.
 - Self-serve prepared food and drinks will not be allowed, such as making your own salads or coffee. Most, if not all prepared foods will be in pre-packaged boxes or bags for each attendee.
- **Shared Objects**
 - Limit any sharing of food, tools, equipment, or supplies by vendors and staff

- **Inclement Weather**

In the event of lightening, all vendors and customers are required to take shelter in their vehicles to avoid any close gathering in spaces such as restrooms, pavilions, tents, etc.

PLEASE NOTE: Lee County Sheriff's Department will not sign-off on your event unless they see a completed Special Event Packet. This sign-off sheet must be completed by the Lee County Sheriff's Office with your Special Event Packet when you return it to Bonita Springs City Hall.



CITY OF BONITA SPRINGS SPECIAL EVENT DEPARTMENT
9101 BONITA BEACH ROAD | BONITA SPRINGS, FL 34135 | (239) 949-6262

LEE COUNTY SHERIFF'S DEPARTMENT SIGN-OFF

Details Unit - 14750 Six Mile Cypress Parkway | Fort Myers, FL 33912 | (239) 477-1199

Parking:

Parking in authorized areas only.

Road Closures (Please Explain):

None

Alcoholic Beverages:

None

Special Arrangements:

None

SHERIFF'S PERSONNEL USE ONLY

LCSO DETAIL COMMANDER:

St. Steven J. Brady
SIGNATURE

DATE:

8-27-19

DEPUTIES BOOKED FOR EVENT (How Many?):

0

DATE BOOKED:

Please Note: "Deputies Booked for Event" is an estimate. Amount of Deputies may change at any time before or during your event.

**SPECIAL EVENT
PERMIT APPLICATION**

PERMIT. SEP- _____



City of Bonita Springs
9101 Bonita Beach Road

Date Received: _____ Bonita Springs, FL 34135 Effective Date/Time: _____
Application Fee: \$50.00 Phone: 239/949-6262 Fax: 949-6239
\$25.00 (501C3 organizations)
Fee is non-refundable

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

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

Organization: Local Roots, LLC
Nature of Event: Farmers Market
Location (Attach Site Plan): The Promenade, 26795-27911 South Bay Dr.

Date	Set-Up Time	Actual Event Times	Take Down Time
10/03/2020 - 04/24/2021		8am to Noon	Noon to 1:30 pm

Has this event been held in the past? Yes If so, when was the last event? 2019-20 Season
Individual Contact for Activity/Event: Jean Baer Phone: 239-691-9249
Address: 1418 Sandcastle Rd Sanibel FL 33957 Fax: _____
E-Mail Address: jmbaer@comcast.net
Major Sponsor(s): _____
Promoter(s): _____ Phone or Contact #: _____

- | | Yes | No |
|---|--------------------------|-------------------------------------|
| 1. Crowd: Is anticipated crowd size 1,000 or more? | ☐ | ☒ |
| Actual Anticipated number: <u>500 - 700</u> | | |
| 2. Parking: Will off-site parking be provided? _____ | ☐ | ☒ |
| Will "shuttle" service to parking be provided? By whom? _____ | ☐ | ☒ |
| 4. Noise: Will there be amplified music or entertainment? If yes, please attach type(s) of Entertainment and time(s) of performances(s). <u>Indicated stage location(s) on site plan.</u> | ☐ | ☒ |

Yes No

15. Sanitary Facilities:

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

☐
☒

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

☐
☒

Will additional refuse containers/dumpsters be provided?

☒
☐

If yes, by whom: The Promenade Staff

16. Insurance Requirement: (Events on City property or City co-sponsored) Please provide the City of Bonita Springs with a Certificate of Insurance for property and liability coverage of the event, naming the City as additional insured. (Liability - \$1,000,000 each occurrence, \$2,000,000 aggregate; Property Damage - \$500,000). Must be provided to finalize permit before event.

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

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

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

Jean Barr
Signature of Applicant

08/04/2020
Date

Comments: _____

City Manager

Date

Comments: _____

Application Fee is non refundable.

PLEASE NOTE: Lee County Sheriff's Department will not sign-off on your event unless they see a completed Special Event Packet. This sign-off sheet must be completed by the Lee County Sheriff's Office with your Special Event Packet when you return it to Bonita Springs City Hall.



CITY OF BONITA SPRINGS SPECIAL EVENT DEPARTMENT
9101 BONITA BEACH ROAD | BONITA SPRINGS, FL 34135 | (239) 949-6262

LEE COUNTY SHERIFF'S DEPARTMENT SIGN-OFF

Details Unit - 14750 Six Mile Cypress Parkway | Fort Myers, FL 33912 | (239) 477-1199

Parking:

Road Closures (Please Explain):

Alcoholic Beverages:

Special Arrangements:

SHERIFF'S PERSONNEL USE ONLY

LCSO DETAIL COMMANDER: _____ DATE: _____

SIGNATURE

DEPUTIES BOOKED FOR EVENT (How Many?): _____ DATE BOOKED: _____

Please Note: "Deputies Booked for Event" is an estimate. Amount of Deputies may change at any time before or during your event.

May 30, 2020

City of Bonita Springs – Community Development
9220 Bonita Beach Road, suite 111
Bonita Springs, Florida 34135

Re: 26795 – 26851 South Bay Drive, Bonita Springs, FL 34134
Strap # 28-47-25-B3-0320D.0010

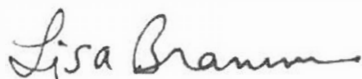
To Whom It May Concern:

R.L.R. Investments, L.L.C. is the record owner of the referenced Promenade At Bonita Bay, the property located at 26795 - 26851 South Bay Drive, Bonita Springs, Florida 34134.

Please accept this letter as written documentation that R.L.R. Investments, L.L.C. has entered into a Lease Agreement with Local Roots, L.L.C. for the operation of a weekly Farmer's Market in the parking lot of the subject property, from 8:00 a.m. to 12:00 p.m. every Saturday from October 3, 2020 through and including April 24, 2021.

If you have any questions, please do not hesitate to contact me.

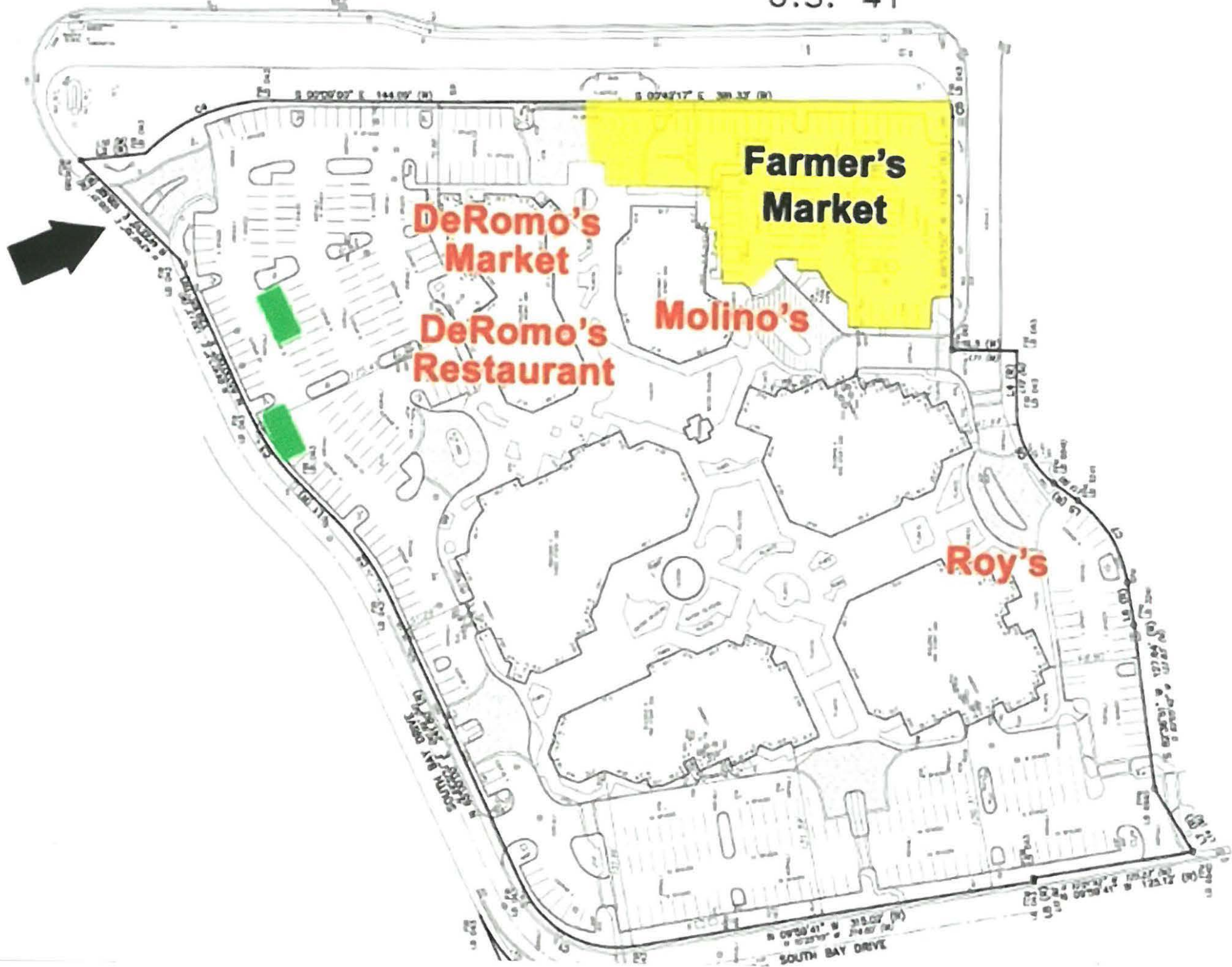
Sincerely,



Lisa Bramm
Director of Property Management

U.S. 41

U.S. 41





LOCAL-6

OP ID: LS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

01/25/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Pro Insur, Inc. dba Campbell Risk Management 9595 Whitley Drive, Suite 204 Indianapolis, IN 46240 Larry Spilker ext 203		317-848-9075		CONTACT Larry Spilker ext 203	
				PHONE (A/C, No, Ext):	317-848-9075
				FAX (A/C, No):	317-848-9093
				E-MAIL ADDRESS: lspilker@campbellrisk.com	
				INSURER(S) AFFORDING COVERAGE	
				INSURER A : HANOVER INSURANCE GROUP	
				NAIC # 22292	
INSURED Local Roots LLC 1418 Sandcastle Road Sanibel, FL 33957				INSURER B :	
				INSURER C :	
				INSURER D :	
				INSURER E :	
				INSURER F :	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y		AA2370 LHW D481967	02/27/2019	02/27/2020	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

R.L.R. Investments, LLC, is an additional Insured.

CERTIFICATE HOLDER**CANCELLATION**

R.L.R. Investments, LLC
2340 Periwinkle Way, Ste L-2
Sanibel, FL 33957

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/21/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Pro Insur, Inc dba Campbell Risk Management 9595 Whitley Drive, Suite 204 Indianapolis, IN 46240 Larry Spilker Ext 203	CONTACT NAME: Larry Spilker ext 203 PHONE (A/C, No, Ext): 317-848-9075 FAX (A/C, No): 317-848-9093 E-MAIL ADDRESS: lspilker@campbellrisk.com																					
INSURED Local Roots LLC 1418 Sandcastle Rd Sanibel Florida 33957	<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A:</td><td>HANOVER INSURANCE GROUP</td><td>22292</td></tr><tr><td>INSURER B:</td><td></td><td></td></tr><tr><td>INSURER C:</td><td></td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	HANOVER INSURANCE GROUP	22292	INSURER B:			INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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INSURER F:																						

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
☒	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	☒	☒	AAM5115-1 LHW D481967	02/01/2020	02/01/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
☐	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
☐	UMBRELLA LIAB EXCESS LIAB DED ☐ RETENTION \$ ☐						EACH OCCURRENCE \$ AGGREGATE \$
☐	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	☐	☐				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Those usual to the Insured's operation. Blanket additional Insured applies per coverage form 421-2915 06 15. Certificate holder, if any, is hereby an additional insured.

CERTIFICATE HOLDER

CANCELLATION

City of Bonita Springs 9101 Bonita Beach Rd SE Bonita Springs FL 34135	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>John C. Campbell</i>
--	--

© 1988-2014 ACORD CORPORATION. All rights reserved.

PLEASE NOTE: Lee County Sheriff's Department will not sign-off on your event unless they see a completed Special Event Packet. This sign-off sheet must be completed by the Lee County Sheriff's Office with your Special Event Packet when you return it to Bonita Springs City Hall.



CITY OF BONITA SPRINGS SPECIAL EVENT DEPARTMENT
9101 BONITA BEACH ROAD | BONITA SPRINGS, FL 34135 | (239) 949-6262

LEE COUNTY SHERIFF'S DEPARTMENT SIGN-OFF

Details Unit - 14750 Six Mile Cypress Parkway | Fort Myers, FL 33912 | (239) 477-1199

Parking:

Parking for the event will be in authorized areas only. Right-of way must not be impeded.

Road Closures (Please Explain):

None required for this event.

Alcoholic Beverages:

It is understood by this office that alcohol will not be served.

Special Arrangements:

Vendor is responsible for ensuring that the area in which the market is set up is clearly

designated as a pedestrian area only with no vehicle access.

SHERIFF'S PERSONNEL USE ONLY

LCSO DETAIL COMMANDER:

[Signature] 04/23
SIGNATURE

DATE: 8/2/20

DEPUTIES BOOKED FOR EVENT (How Many?): None required

DATE BOOKED: _____

Please Note: "Deputies Booked for Event" is an estimate. Amount of Deputies may change at any time before or during your event.

BONITA SPRINGS CITY COUNCIL		GREEN SHEET:	20-09-276
AGENDA ITEM SUMMARY			
REQUESTED MOTION: Approve a resolution accepting the Selection Committee's recommendations and authorize staff to begin negotiations with the selected firms for RFQ 20-07 Miscellaneous Survey Services for the Voluntary Home Buyout Program			
MEETING DATE: 9/16/2020			
AGENDA:		REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐ PRESENTATIONS	☐ STATUTE	Matt Feeney Assistant City Manager Elly Soto McKuen Senior Project Manager	
☒ CONSENT	☐ ORDINANCE		
☐ PUBLIC HEARING	☐ ADMIN. CODE		
☐ MAYOR AND COUNCIL MEMBER ITEMS	☒ OTHER		
☐ MAYOR AND COUNCIL MEMBER'S REPORTS			
☐ CITY ATTORNEY ITEMS			
☐ CITY MANAGER ITEMS			
BACKGROUND: Staff issued a Request for Qualifications (RFQ 20-07) on June 20, 2020 for miscellaneous surveying services for the CDBG-DR Voluntary Home Buyout Program. The City received nine (9) proposals on July 28, 2020. The Selection Committee met on September 4, 2020 and evaluated the following submittals (in no order of preference): KCI Technologies, Inc.; Atkins, Inc.; Nativetec; Agnoli, Barber Brundage, Inc.; AIM Engineering and Surveying, Inc.; Banks Engineering, Inc.; Hole Montes, Inc.; Grady Minor, Inc.; and RWA Engineering. Based on the selection criteria and experience of the proposals the Committee voted unanimously to recommend approval of all survey companies. Attachment: Resolution			
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ YES ☐ NO IF YES, WHICH STRATEGIC OBJECTIVE? 3) Strengthen/Enhance City Finances			
STAFF RECOMMENDATIONS: Accept Selection Committee's recommendations and authorize staff to begin negotiations with the selected firms for RFQ 20-07 Miscellaneous Survey Services for the Voluntary Home Buyout Program			
REVIEWED BY: City Manager: City Attorney: City Clerk: Department Director: <u>Arleen Hunter</u> <u>Derek Rooney</u> <u>Debra Filipek</u> <u>Matt Feeney</u>			
COUNCIL ACTION: ☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER			

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 20-

RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA, AUTHORIZING STAFF TO NEGOTIATE MISCELLANEOUS SURVEY SERVICES WITH THE RECOMMENDED LIST OF SURVEYORS FOR THE CDBG-DR VOLUNTARY HOME BUYOUT PROGRAM, UPON APPROVAL OF THE DOCUMENTS BY THE CITY ATTORNEY.

WHEREAS, on June 20, 2020, the City advertised for Request for Qualifications (RFQ 20-07) for Miscellaneous Survey Services for the CDBG-DR Voluntary Home Buyout Program, and

WHEREAS, on July 28, 2020, the City received nine (9) proposals from the following:

Consultant	Consultant
KCI Technologies, Inc.	Atkins, Inc
Nativetec	Agnoli, Barber Brundage, Inc.
AIM Engineering and Surveying, Inc.	Banks Engineering, Inc.
Hole Montes, Inc.	Grady Minor, Inc.
RWA Engineering	

WHEREAS, the Selection Committee met on September 4, 2020 to evaluate the proposals and recommended the selection of surveyors for the program.

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

Section 1. That the Selection Committee, after careful consideration, unanimously recommended the selection of the nine (9) consultant firms for the program.

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 16th day of September 2020.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney's office

Vote:

Forbes _____
Gibson _____
Quaremba _____
Corrie _____

Simmons _____
Carr _____
Purdon _____

Date filed with City Clerk: _____

BONITA SPRINGS CITY COUNCIL		GREEN SHEET:	20-09-277
AGENDA ITEM SUMMARY			
REQUESTED MOTION: Approve a sub-recipient agreement between the City of Bonita Springs and Pegasus Engineering, Inc. for Grant Writing and Support Services			
MEETING DATE: 9/16/2020			
AGENDA:		REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐ PRESENTATIONS	☐ STATUTE	Matt Feeney Assistant City Manager Elly Soto McKuen Senior Project Manager	
☒ CONSENT	☐ ORDINANCE		
☐ PUBLIC HEARING	☐ ADMIN. CODE		
☐ MAYOR AND COUNCIL MEMBER ITEMS	☒ OTHER		
☐ MAYOR AND COUNCIL MEMBER'S REPORTS			
☐ CITY ATTORNEY ITEMS			
☐ CITY MANAGER ITEMS			
BACKGROUND: Staff issued a Request for Qualifications (CN 20-10) on May 22, 2020 for Grant Writing and Support Services. The City received five (5) proposals on June 2, 2020. The Selection Committee met on August 11, 2020 and evaluated the following submittals Woodard & Curran, Inc., Pegasus Engineering and Excel Contractors, LLC. At the August 19, 2020 City Council meeting the three consultants were approved. Attached is the agreement between the City and Pegasus Engineering. Once the agreement is fully executed it will remain in effect for a period of two (2) years with the option to renew for one (1) additional year, upon mutual agreement. The City will be billed monthly for work completed during the previous month at the rates included in the agreement. Staff is still negotiating contract terms with Woodard & Curran, Inc., and Excel Contractors, LLC. Once complete, the draft contracts with the two firms will be forwarded to City Council for review. Attachment: Agreement			
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ YES ☐ NO IF YES, WHICH STRATEGIC OBJECTIVE? #7 – Government Transparency			
STAFF RECOMMENDATIONS: Approve a sub-recipient agreement between the City of Bonita Springs and Pegasus Engineering, Inc. for grant writing and support services.			
REVIEWED BY:			
City Manager:	<u>Arleen Hunter</u>		
City Attorney:	<u>Derek Rooney</u>		
City Clerk:	<u>Debra Filipek</u>		
Department Director:	<u>Matt Feeney</u>		
COUNCIL ACTION:			
☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER			

CITY OF BONITA SPRINGS, FLORIDA
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (hereinafter referred to as "Agreement") is made and entered into this _____ day of _____, 2020, between the City Council of the City of Bonita Springs, a municipality incorporated in the State of Florida (hereinafter referred to as the "City") and Pegasus Engineering, LLC (hereinafter referred to as the "Consultant").

WITNESSETH

WHEREAS, the City desires to obtain the professional services of said Consultant to provide and perform professional services as further described hereinafter concerning the project to be referred to and identified as: GRANT WRITING AND SUPPORT SERVICES CN 20-10, and

WHEREAS, the Consultant hereby certifies that Consultant has been granted and possesses valid, current licenses to do business in the State of Florida and in the City of Bonita Springs, Florida, issued by the respective State Boards and Government Agencies responsible for regulating and licensing the professional services to be provided and performed by the Consultant pursuant to this Agreement; and

WHEREAS, the selection and engagement of the Consultant has been made by the City in accordance with the provisions of the Consultants Competitive Negotiation Act, Florida Statutes §287.055.

NOW, THEREFORE, in consideration of the mutual covenants, terms and provisions contained herein, the parties hereto agree that with the mutual acceptance of this Agreement as indicated hereinafter by the execution of this Agreement by both parties that a contract shall exist between both parties consisting of:

ARTICLE 1.00-SCOPE OF PROFESSIONAL SERVICES

Consultant hereby agrees to provide and perform the professional services required and necessary to complete the services and work as set forth in the Scope of Professional Services, which is attached hereto and made a part of this Agreement.

ARTICLE 2.00-DEFINITIONS

The following definition of terms associated with this Agreement is provided to establish a common understanding between both parties to this Agreement as to the intended usage, application, and interpretation of such terms pertaining to this Agreement.

2.01 CITY

The term "City" shall refer to the City of Bonita Springs, a municipality incorporated within the State of Florida, and any official and/or employees thereof who shall be duly authorized to act on the City's behalf relative to this Agreement.

2.02 CONSULTANT

The term "Consultant" shall refer to the individual or firm offering professional services which by execution of this Agreement shall be legally obligated, responsible, and liable for providing and performing any and all of the services, work and materials, including services and/or work of sub-consultants and subcontractors, required under the covenants, terms and provisions contained in this Agreement and any and all change orders thereto.

2.03 PROFESSIONAL SERVICES

The term "Professional Services" shall refer to all of the services, work materials and all related professional, technical and administrative activities which are necessary to be provided and performed by the Consultant and its employees and any and all sub-consultants and subcontractors the Consultant may engage to provide, perform and complete the services required pursuant to the covenants, terms and provisions of this Agreement.

2.04 SUB-CONSULTANT

The term "Sub-Consultant" shall refer to any individual or firm offering professional services which is engaged by the Consultant to assist the Consultant in providing and performing the professional services, work and materials for which the Consultant is contractually obligated, responsible and liable to provide and perform under this Agreement. The City shall not be a party to, responsible or liable for, or assume any obligation whatever for any agreement entered into between the Consultant and any sub-consultant.

2.05 SUBCONTRACTOR

The term "Subcontractor" shall refer to any individual, company or firm providing other than professional services which is engaged by the Consultant to assist the Consultant in contractually obligated, responsible, and liable to provide and perform under this Agreement. The City shall not be a party to, responsible or liable for, or assume any obligation whatever for any agreement entered into between the Consultant and any subcontractor.

2.06 PROJECT

The term "Project" shall refer to such facility, system, program or item as described in the summary statement set forth in the preamble of this Agreement.

2.07 BASIC SERVICES

The term "Basic Services" shall refer to the professional services set forth and required pursuant to this Agreement and as described in further detail in the attached Scope of Professional Services.

2.08 ADDITIONAL SERVICES

The term "Additional Services" shall refer to such professional services as the City may request and authorize, in writing, the Consultant to provide and perform relative to this Agreement which are not included in the basic services. Additional services shall be authorized by the execution of both parties to this Agreement by a change order agreement.

2.09 CHANGE ORDER

The term "Change Order" shall refer to a written document, change order agreement, executed by both parties to this Agreement setting forth and authorizing changes to the agreed upon scope of professional services and tasks, compensation and method of payment, time and schedule of performance, or project guidelines and criteria as such were set forth and agreed to in the initial agreement, supplemental task authorization(s), or previous change orders issued thereto. The change order document, which shall be executed on a City standard form, shall set forth the authorized changes to the: scope of professional services, tasks, work or materials to be performed or provided by the Consultant; the compensation and method of payment; the schedule or time period for performance and completion, and the guidelines, criteria and requirements pertaining thereto.

The amount of the change in contract compensation and time set forth in any and all change orders executed and issued under this Agreement shall be understood and agreed by both parties to this Agreement to be fair, equitable, adequate and complete. The changed compensation shall be understood and agreed to be the total of all costs associated with or impacted by the change order including, but not limited to, any and all direct costs, indirect costs and associated costs which may result from or be caused by the change order, and shall be understood and agreed to include a fair, equitable and adequate adjustment to cover the Consultant's general administrative and overhead costs and profit.

In the event the City decides to delete all, or portions, of the scope of services, task(s), or requirements set forth in the initial agreement, supplemental task authorizations or previously authorized change orders, the City may do so by the unilateral issuance of a written change order to the Consultant. Such a unilaterally issued change order shall set forth, if appropriate, an agreement by both the City and the Consultant establishing changes in the amount of compensation to be paid the Consultant as a result of the deletion or decrease in the services required shall have no effect on, or otherwise prevent the City from exercising its rights to direct the stated deletion or decrease in the services to be provided or performed by the Consultant.

2.10 SUPPLEMENTAL TASK AUTHORIZATION

The term "Supplemental Task Authorization" as used refers to a written document executed by both parties to an existing professional services agreement setting forth and authorizing a limited number of professional services, tasks, or work.

2.11 CITY MANAGER

The term "City Manager" shall refer to the City Manager or his designee requesting the service, employed by the City Council to serve and act on the City's behalf, as it relates to this project. The City Manager within the authority conferred by the City Council, acting as the City's designated representative shall issue written notification to the Consultant of any and all changes approved by the City in the Consultant's: (1) compensation; (2) time and/or schedule of service delivery; (3) scope of services; or other change(s) relative to basic services and additional services pursuant to this Agreement or change order(s) or supplemental task authorization(s) pertaining thereto. The City Manager shall be responsible for acting on the City's behalf to administer, coordinate, interpret and otherwise manage the contractual provisions and requirements set forth in this Agreement, change order(s) or supplemental task authorization(s) issued thereunder.

2.12 PROJECT MANAGER

The term "Project Manager" shall refer to the person employed or retained by the City and designated, in writing, to serve and act on the City's behalf to provide direct contact and communication between the City and Consultant with respect to providing information, assistance, guidance, coordination, review, approval and acceptance of the professional services,

work and materials to be provided and performed by the Consultant pursuant to this Agreement and such written change order(s) and supplemental task authorization(s) as are authorized. The Project Manager is not authorized to, and shall not, issue any verbal, or written, request or instruction to the Consultant that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever the: (1) scope of services to be provided and performed by the Consultant; (2) the time the Consultant is obligated to commence and complete all such services; (3) the amount of compensation the City is obligated or committed to pay the Consultant. The Project Manager shall review and make appropriate recommendations on all requests submitted by the Consultant for payment for services and work provided and performed, and reimbursable costs and expense, as provided for in this Agreement and change order(s), supplemental task authorization(s) thereto.

2.13 LUMP SUM FEE(S)

Lump Sum Fee(s), hereinafter identified as L.S., are understood and agreed to include all direct and indirect labor costs, personnel related costs, overhead and administrative costs, costs of sub-consultant(s) and/or sub-contractor(s), out-of-pocket expenses and costs, professional service fee(s) and any other costs or expenses which may pertain to the services and/or work to be performed, provided and/or furnished by the Consultant as may be required and/or necessary to complete each and every task set forth in the Scope of Professional Services, or as may be set forth in subsequent work orders, supplemental agreements, and/or change orders agreed to in writing by both parties to this Agreement.

2.14 NOT-TO-EXCEED FEE(S)

When all, or any portion, of the Consultant's compensation to provide and perform the services and work necessary and required pursuant to the tasks set forth in the Scope of Professional Services, and any change orders, supplemental task authorizations, and work orders authorized thereto, is established to be made on a not-to-exceed (NTE) amount basis, it is mutually understood and agreed that such compensation for each completed task shall be made on the following basis:

For the actual hours necessary, required and expected by the Consultant's professional and technical personnel, multiplied by the applicable hourly rates for each classification or position as set forth in the Compensation and Method of Payment, which is attached hereto and made a part of this Agreement, to the above referenced Agreement and any change orders or supplemental task authorizations authorized thereto; and

For the actual, necessary and required hours, and non-personnel expenses and costs, expended by sub-consultants and subcontractors engaged by the Consultant, multiplied by such hourly rates and unit costs as are agreed to by the City and the Consultant and as are set forth as a part of the above referenced Agreement and any change orders or supplemental task authorizations authorized thereto; and

With the understanding and agreement that the City shall pay the Consultant for all such costs and expenses within the established NTE amount for each task or sub-task subject to the Consultant presenting an itemized and detailed invoice with appropriate supporting documentation attached thereto to show evidence satisfactory to the City covering all such costs and expenses; and

With the understanding and agreement that the Consultant's invoices and all payments to be made for all NTE amounts shall be subject to the review, acceptance and approval of the City; and with the understanding and agreement that when the Consultant's compensation is established on a NTE basis for a specific task(s) or sub-task(s) the total amount of compensation to be paid the Consultant to cover all personnel costs, non-personnel reimbursable expenses and costs, and sub-consultant and subcontractor costs for any such specific task(s) or sub-task(s) shall not exceed the amount of the total NTE compensation established and agreed to for each specific task(s) or sub-task(s). In the event the amount of compensation for any task(s) or sub-task(s) to which the Consultant is entitled on the NTE basis set forth above is determined to be necessary, required and actually expended and is determined to be actually less than the NTE amount established for the specific task or sub-task, it is understood and agreed that any unexpended amount under a specific task or sub-task may not be used, applied, transferred, invoiced or paid for services or work provided or performed on any other task(s) or sub-task(s).

ARTICLE 3.00-OBLIGATIONS OF THE CONSULTANT

The obligations of the Consultant with respect to all the basic services and additional services authorized pursuant to this Agreement shall include, but not be limited to, the following:

3.01 LICENSES

The Consultant agrees to obtain and maintain throughout the period this Agreement is in effect all such licenses as are required to do business in the State of Florida, Lee County and in the City of Bonita Springs, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the professional services provided and performed by the Consultant pursuant to this Agreement.

3.02 PERSONNEL

1) QUALIFIED PERSONNEL

The Consultant agrees when the services to be provided and performed relate to a professional service(s) which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in responsible charge of all basic services and additional services to be provided pursuant to this Agreement.

2) CONSULTANT'S PROJECT DIRECTOR

The Consultant agrees to employ and designate, in writing, a qualified and, if required by law, a licensed professional to serve as the Consultant's Project Director. The Consultant's Project Director shall be authorized and responsible to act on behalf of the Consultant with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement thereto. The Consultant's Project Director shall have full authority to bind and obligate the Consultant on any matter arising under this Agreement unless substitute arrangements have been furnished to the City in writing. The Consultant agrees that the Project Director shall devote whatever time is required to satisfactorily direct, supervise and manage the services provided and performed by the Consultant throughout the entire period this Agreement is in effect. The person selected by the Consultant to serve as the Consultant's Project Director shall be subject to the prior approval and acceptance of the City.

3) CONSULTANT'S STAFF

Consultant will specify the technical and support staff who will be assigned to this project. Consultant will notify City's Project Manager of any changes and/or substitution of staff working on the project.

4) REMOVAL OF PERSONNEL

The Consultant agrees, within thirty (30) calendar days of receipt of a written request from the City, to promptly remove and replace the Consultant's Project Director, or any other personnel employed or retained by the Consultant, or personnel of the sub-consultant(s) or subcontractor(s) engaged by the Consultant to provide and/or perform services and/or work pursuant to the requirements of this Agreement, who the City shall request, in writing, be removed, this request may be made by the City with or without cause.

5) IMMIGRATION LAW COMPLIANCE

Consistent with Bonita Springs Code §36.22, effective June 1, 2009, Contractors providing services to the City, as a condition of each contract, must use E-Verify to verify the employment of any person hired during the contract term by the contractor and assigned by the Contractor to perform work for the City. Before any contract with the City is signed, proof of enrollment with E-Verify must be provided. The Contractor acknowledges that he will comply with the Immigration Reform and Control Act of 1986 and is committed to employing only those individuals who are authorized to work in the United States, by hiring employees who properly complete, sign and date the first section of the Immigration and Naturalization Services (INS) Form I-9 and presenting to the Contractor the original necessary document(s) to prove identity and employment eligibility, as verified through E-Verify.

The Contractor must also be responsible for entering into an agreement with each and every vendor and subcontractor that states that vendors and subcontractors (and their vendors) are independently responsible for their own employment decisions, including hiring, disciplinary and termination decisions, and will comply with the Immigration Reform and Control Act of 1986 and use the E-Verify system for verification. The agreements shall also state that each business is responsible for its own I-9 and other employment record-keeping requirements, and with compliance with all immigration laws.

3.03 TIMELY ACCOMPLISHMENT OF SERVICES

The timely performance and completion of the required services, work and materials is vitally important to the interests of the City. Time is of the essence for all of the duties and obligations contained in this Agreement thereto. The City may suffer damages in the event that the Consultant does not accomplish and complete the required services in a timely manner. The Consultant agrees to employ, engage, retain and/or assign an adequate number of personnel throughout the period of this Agreement so that all basic services and additional services will be provided, performed and completed in a timely and diligent manner throughout.

3.04 STANDARDS OF PROFESSIONAL SERVICE

The work and/or services to be provided and/or performed by the Consultant and by any sub-consultant(s) and/or subcontractor(s) engaged by the Consultant as set forth in the Scope of Professional Services shall be done in accordance with the generally accepted standards of professional practice and in accordance with the laws, rules, regulations, ordinances, codes, policies, standards or other guidelines issued by those governmental agencies which have jurisdiction over all or a portion of this project and which are in effect at the time the City approves this Agreement, or which may subsequently be changed or revised. Any subsequent change or revision to such laws, rules, regulations, ordinances, codes,

policies, standards or other guidelines which requires the Consultant to provide and/or perform work and/or services which are significantly different from that set forth in the Scope of Professional Services shall serve as a basis for the City to consider the development and issuance of a change order to provide for a change to, or additional services to, the services set forth in this Agreement.

3.05 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

1) RESPONSIBILITY TO CORRECT

The Consultant agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and other services, work and materials performed, provided, and/or furnished by Consultant or by any sub-consultant(s) and/or subcontractor(s) retained or engaged by the Consultant pursuant to this Agreement. The Consultant shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents and instruments, and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of Consultant or any sub-consultant(s) or subcontractor(s) engaged by the Consultant.

2) CITY'S APPROVAL SHALL NOT RELIEVE CONSULTANT OF RESPONSIBILITY

Neither review, approval, nor acceptance by the City of data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and incidental professional services, work and materials furnished hereunder by the Consultant, or any sub-consultant(s) or subcontractor(s) engaged by the Consultant to provide and perform services in connection with this Agreement. Neither the City's review, approval or acceptance of, nor payment for, any of the Consultant's services, work and materials shall be construed to operate as a waiver of any of the City's rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

3.06 LIABILITY AND HOLD HARMLESS

To the fullest extent permitted by Florida law and to the limit by Florida Statutes § 725.08, the Contractor/Vendor/ Consultant shall be liable and agrees to be liable for and shall indemnify and hold harmless the City of Bonita Springs, its officers and employees from any and all liabilities, damages, losses and costs, to person or property including, but not limited to, reasonable attorneys' fees arising out of or caused in whole or in part by any act, omission, error or default by the Contractor/Vendor/Consultant, its subcontractors, materialmen, or agents of any tier or their employees arising out of this agreement or its performance. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph. This section does not pertain to any incident arising from the sole negligence of the City of Bonita Springs.

3.07 NOT TO DIVULGE CERTAIN INFORMATION

Consultant agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without City's prior written consent, or unless incident to the proper performance of Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by Consultant or any sub-consultant(s) or subcontractor(s) pursuant to this Agreement. Consultant shall require all of its employees, sub-consultant(s) and subcontractor(s) to comply with the provisions of this paragraph.

3.08 CONSULTANT TO REPAIR PROPERTY DAMAGE CAUSED BY THE CONSULTANT

Consultant agrees to promptly repair and/or replace, or cause to have repaired and/or replaced, at its sole cost and expenses and in a manner acceptable to and approved by the City, any property damage arising out of, or caused by, the willful or negligent acts of the Consultant, or of its sub-consultants and/or subcontractors. This Consultant's obligation under this sub-article does not apply to property damage caused by any other Consultant or Contractor engaged directly by the City.

The City reserves the right, should the Consultant fail to make such repairs and/or replacement within a reasonable period of time, to cause such repairs and/or replacement to be made by others and for all costs and expenses associated with having such repairs and/or replacement done to be paid for by the Consultant, or by the Consultant reimbursing the City for all such costs and expenses.

3.09 RESPONSIBILITY FOR ESTIMATES

- 1) In the event the services required pursuant to this Agreement include the Consultant preparing and submitting to the City cost estimates, the Consultant, by exercise of this experience, effort, knowledge and judgment, shall develop such cost estimates as are set forth in, or as may be required under this Agreement and shall be held accountable, responsible and liable for the accuracy, completeness, and corrections of any and all such cost estimates. For purposes of the liability provisions of this article only, the Consultant's estimate(s) shall be

considered valid and effective for a period of six (6) months from the date of the City's acceptance of the estimate(s).

- 2) The cost estimates of Consultants or sub-consultants engaged by Consultants, for the appraisal or valuation of property or easements, or the estimate of damages or costs associated with the acquisition of property or easements are exempted from the provisions provided in Consultant to Repair Property Damage Caused by the Consultant.

3) COST ESTIMATES

a) ORDER OF MAGNITUDE ESTIMATE

This is an approximate estimate made without detailed architect/engineering data. Examples include, but are not limited to, an estimate from cost-capacity curves, an estimate using scale-up or scale-down factors, and an approximate ratio estimate. This type of estimate shall be accurate within plus forty percent (40%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the order of magnitude estimate shall be recoverable by the City.

b) BUDGET ESTIMATE

Budget in this case applies to the City's budget and not to the budget as a project-controlled document. A budget is prepared with the use of flow sheets, layouts, and equipment details. This type of estimate shall be accurate within plus twenty percent (20%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the budget estimate shall be recoverable by the City.

c) CONSTRUCTION COST ESTIMATE

A construction cost estimate for purposes of this Agreement is an estimate prepared on the basis of well-defined engineering/architectural data and on detailed information set forth in specifications, designs or drawings which are to be used as a basis for obtaining bids or price proposals for constructing the project. This type of estimate shall be accurate within plus or minus ten percent (10%) of the cost of the construction of the project. The accuracy and reliability of a construction cost estimate is vital to the City's interests because it may be used for such purposes as, but not limited to the following: budgeting, obtaining, allocating or obligating funds for the project; evaluating and determining the reasonableness and acceptableness of bids or price proposals for construction project.

In the event the City solicits and receives bids or price proposals from contractors on a construction project based on specifications, design, drawings and a construction cost estimate prepared by the Consultant, and the lowest bid or price proposal, submitted by a responsive and responsible bidder or proposer, which bid or price proposal exceeds the amount of the Consultant's construction cost estimate by more than the percent accuracy set forth hereinabove, the Consultant shall, upon notification by the City, assume responsibility for and proceed to provide and perform the following service without additional compensation.

The Consultant will, subject to the review and approval of the City, modify at its expense the specifications, design, drawings and related bidding and contract documents to the extent necessary to reduce the anticipated construction costs so that the re-solicitation of bids or price proposals will realize bids or price proposals being received that are within the range of accuracy established for the construction cost estimate prepared by the Consultant. Any such modifications made by the Consultant shall not conflict with the functional or operational requirements established by the City for the project and set forth in this Agreement or change order(s) or supplemental task authorization(s) issued thereto, nor shall any such modifications conflict with established rules, regulations, requirements or professional standards pertaining to the design, specifications or drawing prepared by the Consultant, nor shall such modifications adversely affect the safe use or operation of the constructed project.

In the event (1) the Consultant's modification of the design, specifications, drawings and related bidding and contract documents, and (2) the re-solicitation of bids or price proposals do not result in bids or price proposals being received from a responsive and responsible bidder or proposer that are within the established percent accuracy of the Consultant's construction cost estimate, the costs associated with the Consultant's preparation and development of the construction cost estimate shall be recoverable by the City by an appropriate reduction in the Consultant's invoice requesting payment for services rendered.

For determination of compliance with the accuracy requirement established for the construction cost estimate prepared by the Consultant, the amount of the construction cost estimate submitted by the Consultant shall be adjusted from the date the construction cost estimate was received by the City until the date bids or price proposals are received by the City, by applying the percent change in the "20 Cities Cost Index" as published in the ENR (formerly Engineering News-Record) a McGraw-Hill, Inc. publication.

If, in response to its solicitation, the City receives less than three bids or priced proposals for a project, there is the potential that such bids or priced proposals may not be a realistic representation of the costs expected to be associated with the project. If under such circumstances, and if in the professional judgment of the Consultant, the low bid or the low priced proposal received from a responsive bidder or proposer does not realistically represent the costs associated with the project, the Consultant may deem it appropriate to recommend the City reject any such bid(s) or priced proposal(s). If under such circumstances the City concurs with the Consultant's recommendation and rejects the bid(s) or priced proposal(s), the City will not hold the Consultant responsible to, nor will the City require the Consultant to, modify the specifications, design, drawings and related bidding and contract documents as set forth hereinbefore.

3.10 PERMITS

The Consultant will be responsible for preparing and submitting all required applications and other supportive information necessary to assist the City in obtaining all reviews, approvals and permits, with respect to the Consultant's design, drawings and specifications required by any governmental body having authority over the project. Any fees required for such reviews, approvals or permits will be covered by a check issued by the City and made payable to the respective governmental body upon the Consultant furnishing the City satisfactory documentation of such fees. The Consultant will be similarly responsible for preparing and submitting all required applications and other supportive information necessary to assist the City in obtaining any renewals and/or extensions of reviews, approvals or permits that may be required while this Agreement is in effect. The City shall, at the Consultant's request, assist in obtaining required signatures and provide the Consultant with all information known to be available to the City so as to assist the Consultant in the preparation and submittal of any original, renewal or extension of required reviews, approvals or permits.

3.11 ADDITIONAL SERVICES

Should the CITY request the Consultant to provide and perform professional services for this project which are not set forth in the Scope of Professional Services, the Consultant agrees to provide and perform such additional services as may be agreed to in writing by both parties to this Agreement.

Such additional services shall constitute a continuation of the professional services covered under this Agreement and shall be provided and performed in accordance with the covenants, terms, and provisions set forth in this Agreement thereto.

Additional services shall be administered and authorized as change orders or supplemental task authorizations under this Agreement. The Consultant shall not provide or perform, nor shall the City incur or accept any obligation to compensate the Consultant for any additional services unless and until a written change order or supplemental task authorization has been agreed to and executed by both parties.

Each such change order or supplemental task authorization shall set forth a comprehensive, detailed description of: (1) the scope of the additional services requested; (2) the basis of compensation; and (3) the period of time and/or schedule for performing and completing said additional services.

3.12 TRUTH-IN-NEGOTIATIONS CERTIFICATE

The City may request the Consultant to execute a Truth-in-Negotiations Certificate ("Certificate"). The Certificate shall state that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time this Agreement is executed. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates or other factual unit costs.

3.13 COMPLETION OF TASKS

Unless otherwise set forth in the Agreement, the Consultant shall be responsible for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete all of the tasks set forth in the Scope of Professional Services, change orders and supplemental task authorizations authorized. The compensation to be paid the Consultant as set forth in the Compensation and Method of Payment, change orders, and supplemental task authorizations authorized thereto shall be understood and agreed to adequately and completely compensate the Consultant for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete the tasks set forth in the Scope of Professional Services, change orders and supplemental task authorizations authorized thereto as stated above.

ARTICLE 4.00-OBLIGATIONS OF THE CITY

4.01 DESIGNATION OF PROJECT MANAGER

The City agrees after the execution of this Agreement to promptly advise the Consultant, in writing, of the person designated to serve and act as the City's Project Manager. Such notification shall be provided to the Consultant by the Project Manager.

4.02 AVAILABILITY OF CITY INFORMATION

1) PROJECT GUIDELINES AND CRITERIA

Guidelines to the Consultant regarding requirements the City has established or suggests relative to the project including, but not limited to such items as: goals, objectives, constraints, and any special financial, budgeting, space, site, operational, equipment, technical, construction, time and scheduling criteria are set forth in the Project Guidelines and Criteria, which is attached hereto and made a part of this Agreement.

2) CITY TO PROVIDE PERTINENT REFERENCE MATERIAL

At the Consultant's request, the City agrees to provide to the Consultant, at no cost to the Consultant, all pertinent information known to be available to the City to assist the Consultant in providing and performing the required professional services. Such information may include, but not be limited to: previous reports; plans, drawings and specifications; maps; property, boundary, easement, right-of-way, topographic, reference monuments, control points, plats and related survey data; data prepared or services furnished by others to the City such as sub-surface investigations, laboratory tests, inspections of natural and man-made materials, property appraisals, studies, designs and reports.

4.03 AVAILABILITY OF CITY'S DESIGNATED REPRESENTATIVES

The City agrees that the City Manager and the Project Manager shall be available within a reasonable period of time, with reasonable prior notice given by the Consultant, to meet and/or consult with the Consultant on matters pertaining to the services to be provided and performed by the Consultant. The City further agrees to respond within a reasonable period of time to written requests submitted by the Consultant.

4.04 ACCESS TO CITY PROPERTY

The City agrees, with reasonable prior written notice given by the Consultant, to provide the Consultant with access within a reasonable period of time to City property, facilities, buildings and structures to enable the Consultant to provide and perform the required professional services and work pursuant to this Agreement. Such rights of access shall not be exercised in such a manner or to such an extent as to impede or interfere with City operations, or the operations carried on by others under a lease, or other contractual arrangement with the City, or in such a manner as to adversely affect the public health and safety. Such access may, or may not be, within the Consultant's normal office and/or field workdays and/or work hours.

ARTICLE 5.00-COMPENSATION AND METHOD OF PAYMENT

5.01 BASIC AND ADDITIONAL SERVICES

The City shall pay the Consultant for all requested and authorized basic services rendered hereunder by the Consultant and completed in accordance with the requirements, provisions, and/or terms of this Agreement and accepted by the City in accordance with the provisions for compensation and payment of said basic services set forth and prescribed in the Compensation and Method of Payment or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement as evidenced by a written change order executed by both parties.

5.02 METHOD OF PAYMENT

1) MONTHLY STATEMENTS

The Consultant shall be entitled to submit no more than one (1) invoice statement to the City each calendar month covering services rendered during the preceding calendar month. The Consultant's invoice statement(s) shall be itemized to correspond to the basis of compensation as set forth in the Agreement or change order(s) and supplemental task authorization(s) thereunder.

2) PAYMENT FOR SERVICES PERFORMED

The City shall pay the Consultant for services performed using either of the following methods, or using a combination thereof:

- a) The City shall pay Consultant on the basis of services completed for tasks set forth in the Scope of Professional Services and the Compensation and Method of Payment, as evidenced by work products such as reports, drawings, specifications, etc., submitted by the Consultant and accepted by the City. No payments shall be made for Consultant's work-in-progress until service items for which payment amounts have been established and set forth in this Agreement have been completed by the Consultant and accepted by the City. Whenever an invoice statement covers services for which no work product is required to be furnished by the Consultant to the City, the City reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.
- b) The City shall pay the Consultant for services performed for tasks set forth in the Scope of Professional Services and the Compensation and Method of Payment on the basis of an invoice statement covering Consultant's work-in-progress expressed as a percentage of the total cost of the service and/or work required for each task invoiced in this manner. All such work-in-progress percentages are subject to the review and approval of the City. The decision of the City shall be final as to the work-in-progress

percentages paid. Payment by the City for tasks on a work-in-progress percentage basis shall not be deemed or interpreted in any way to constitute an approval or acceptance by the City of any such service or work-in-progress. The Consultant shall be responsible for correcting, re-doing, modifying or otherwise completing the services and work required for each task before receiving final, full payment whether or not previous work-in-progress payments have been made. All tasks to be paid for on a work-in-progress percentage basis shall be agreed to by both parties to the Agreement and each task to be paid in this manner shall be identified in the Compensation and Method of Payment with the notation (WIPP). Only tasks so identified will be paid on a work-in-progress percentage basis. The City reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

3) PAYMENT SCHEDULE

The City shall issue payment to the Consultant within thirty (30) calendar days after receipt of an invoice statement from the Consultant in an acceptable form and containing the requested breakdown and detailed description and documentation of charges. Should the City object or take exception to the amount of any Consultant's invoice statement, the City shall notify the Consultant of such objection or exception within the thirty (30) calendar days payment period set forth hereinbefore. If such objection or exception remains unresolved at the end of said thirty (30) calendar days' period, the City shall withhold the disputed amount and make payment to the Consultant of the amount not in dispute. Payment of any disputed amount, or adjustments thereto, shall be made within thirty (30) calendar days of the date such disputed amount is resolved by mutual agreement of the parties to this Agreement.

5.03 PAYMENT WHEN SERVICES ARE TERMINATED AT THE CONVENIENCE OF THE CITY

In the event of termination of this Agreement at the convenience of the City, not at the fault of the Consultant, the City shall compensate the Consultant only for the services performed prior to the effective date of termination, reimbursable expenses then due and reasonable expenses incurred by the Consultant in affecting the termination of services and work, and incurred by the submittal to the City of project drawings, plans, data, and other project documents.

5.04 PAYMENT WHEN SERVICES ARE SUSPENDED

In the event the City suspends the Consultant's services and work on all or part of the services required to be provided and performed by the Consultant pursuant to this Agreement, the City shall compensate the Consultant only for the services performed prior to the effective date of suspension, reimbursable expenses then due and any reasonable expenses incurred or associated with, or as a result of such suspension.

5.05 NON-ENTITLEMENT TO ANTICIPATED FEES IN THE EVENT OF SERVICE TERMINATION, SUSPENSION, ELIMINATION, CANCELLATION AND/OR DECREASE

In the event the services required pursuant to this Agreement are terminated, eliminated, cancelled, or decreased due to: (1) termination; (2) suspension in whole or in part; (3) and/or are modified by the subsequent issuance of supplemental task authorization(s) and/or change order(s), other than receiving the compensation set forth in Payment When Services are Terminated at the Convenience of the City and Payment When Services are Suspended, the Consultant shall not be entitled to receive compensation for anticipated professional fees, profit, general and administrative overhead expenses or for any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, cancelled or decreased.

ARTICLE 6.00-TIME AND SCHEDULE OF PERFORMANCE

6.01 NOTICE TO PROCEED

Following the execution of this Agreement by both parties, and after the Consultant has complied with the insurance requirements set forth hereinafter, the City may authorize specific tasks to be completed. Upon agreement on the scope and fee for this work and execution of supplemental task authorization, the City will issue the Consultant a written notice to proceed. Following the issuance of such notice to proceed the Consultant shall be authorized to commence work and the Consultant thereafter shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion.

6.02 TIME OF PERFORMANCE

The Consultant agrees to complete the services required pursuant to this Agreement within the time period(s) for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in the Schedule of Performance, which is attached hereto and made a part of this Agreement.

Should the Consultant be obstructed or delayed in the prosecution or completion of its obligations under this Agreement as a result of causes beyond the control of the Consultant, or its sub-consultant(s) and/or subcontractor(s), and not due to their fault or neglect, the Consultant shall notify the City, in writing, within five (5) calendar days after the commencement of such delay, stating the cause(s) thereof and requesting an extension of the Consultant's time of performance. Upon receipt of the Consultant's request for an extension of time, the City shall grant the extension if the City determines the delay(s)

encountered by the Consultant, or its sub-consultant(s) and/or subcontractor(s), is due to unforeseen causes and not attributable to their fault or neglect.

6.03 CONSULTANT WORK SCHEDULE

The Consultant shall be required as a condition of this Agreement to prepare and submit to the City, on a monthly basis, commencing with the issuance of the notice to proceed, a Consultant's work schedule. The work schedule shall set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of the services and work required completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in the Schedule of Performance, pursuant to this Agreement in such a manner that the Consultant's planned and actual work progress can be readily determined. The Consultant's work schedule of planned and actual work progress shall be updated and submitted by the Consultant to the City on a monthly basis.

6.04 FAILURE TO PERFORM IN A TIMELY MANNER

Should the Consultant fail to commence, provide, perform and/or complete any of the services and work required pursuant to this Agreement in a timely and diligent manner, the City may consider such failure as justifiable cause to terminate this Agreement. As an alternative to termination, the City at its option, may, upon written notice to the Consultant, withhold any or all payments due and owing to the Consultant, not to exceed the amount of the compensation for the work in dispute, until such time as the Consultant resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements set forth in this Agreement, or any change order(s) and supplemental task authorization(s) issued thereto.

ARTICLE 7.00-SECURING AGREEMENT

The Consultant warrants that the Consultant has not employed or retained any company or person other than a bona fide, regular, full time employee working for the Consultant to solicit or secure this Agreement and that the Consultant has not paid or agreed to pay any person, company, corporation or firm other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 8.00-CONFLICT OF INTEREST

The Consultant represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The Consultant further agrees that no person having any such interest shall be employed or engaged by the Consultant for said performance.

If Consultant, for itself and on behalf of its sub-consultants, is about to engage in representing another client, which it in good faith believes could result in a conflict of interest with the work being performed by Consultant or such sub-consultant under this Agreement, then it will promptly bring such potential conflict of interest to the City's attention, in writing. The City will advise the Consultant, in writing, within ten (10) calendar days as to the period of time required by the City to determine if such a conflict of interest exists. If the City determines that there is a conflict of interest, Consultant or such sub-consultant shall decline the representation upon written notice by the City.

If the City determines that there is not such conflict of interest, then the City shall give its written consent to such representation. If Consultant or sub-consultant accepts such a representation without obtaining the City's prior written consent, and if the City subsequently determines that there is a conflict of interest between such representation and the work being performed by Consultant or such sub-consultant under this Agreement, then the Consultant or such sub-consultant agrees to promptly terminate such representation. Consultant shall require each of such sub-consultants to comply with the provisions of this section.

Should the Consultant fail to advise or notify the City as provided hereinabove of representation which could, or does, result in a conflict of interest, or should the Consultant fail to discontinue such representation, the City may consider such failure as justifiable cause to terminate this Agreement.

ARTICLE 9.00-ASSIGNMENT, TRANSFER AND SUBCONTRACTS

The Consultant shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfers that result from: (1) the merger or consolidation of Consultant with a third party; or (2) the disestablishment of the Consultant's professional practice and the establishment of a successor Consultant, or consulting organization. Nor shall the Consultant subcontract any of its service obligations hereunder to third parties, except as otherwise authorized in this Agreement thereto, without prior written approval of the City. The Consultant shall have the right, subject to the City's prior written approval, to employ other persons and/or firms to serve as sub-consultants and/or subcontractors to Consultant in connection with Consultant providing and performing services and work pursuant to the requirements of this Agreement. The City shall have the right and be entitled to withhold such approval. Such approval shall not be unreasonably withheld.

In providing and performing the services and work required pursuant to this Agreement, Consultant intends to engage the assistance of the sub-consultant(s) and/or subcontractor(s) set forth in Consultant's Associated Sub-Consultants and Subcontractors, which is attached hereto and made a part of this Agreement.

ARTICLE 10.00-APPLICABLE LAW

Unless otherwise specified, this Agreement shall be governed by the laws, rules, regulations of the State of Florida, or the laws, rules, and regulations of the United States when providing services funded by the United States Government.

ARTICLE 11.00-COVENANTS AGAINST DISCRIMINATION FOR PROJECTS WITH FUNDS APPROPRIATED FROM BONITA SPRINGS GENERAL REVENUES

The Consultant for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to City hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The Consultant shall comply with the state laws in the hiring of sub-consultants.

ARTICLE 12.00-WAIVER OF BREACH

Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

ARTICLE 13.00-INSURANCE

For the Insurance Section and Exhibit, Consultant will be referred to as "Vendor". The Vendor shall at its own expense, carry and maintain insurance coverage from responsible companies duly authorized to do business in the State of Florida as set forth in Insurance and Bonding Requirements of this solicitation.

The Vendor shall procure and maintain property insurance (Builder's Risk, Installation Floaters, etc.) upon the entire project, if required, to the full insurable value of the scope of work. The City and the Vendor waive against each other and the City's separate Vendors, Contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. The Vendor and City shall, where appropriate, require similar waivers of subrogation from the City's separate Vendors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts. All deductibles for property insurance procured by the Vendor shall be the responsibility of the Vendor.

Certificates issued as a result of the award of this solicitation must identify: "For any and all work performed on behalf of the City of Bonita Springs."

The General Liability Policy provided by Vendor to meet the requirements of this solicitation shall name the City of Bonita Springs, Florida, as an additional insured including completed operations (and products if applicable). The policy shall be endorsed to be primary to any similar coverage carried by the City.

The Certificate Holder shall be named as: City of Bonita Springs. The Certificates of Insurance must state the Contract Number, or Project Number, or specific project description, or must read: "For any and all work performed on behalf of the City of Bonita Springs."

The amounts and types of insurance coverage shall conform to the minimum requirements set forth in Insurance and Bonding Requirements with the use of Insurance Services Office (ISO) forms and endorsements or their equivalents. If Vendor has any self-insured retentions or deductibles under any of the below listed minimum required coverage, Vendor must identify on the Certificate of Insurance the nature and amount of such self-insured retentions or deductibles and provide satisfactory evidence of financial responsibility for such obligations. All self-insured retentions or deductibles will be Vendor's sole responsibility.

Coverage(s) shall be maintained without interruption from the date of commencement of the work until at least thirty (30) days beyond the date of completion or warranty period, whichever is greater, or otherwise as specified in this solicitation if longer.

The Vendor and/or its insurance carrier shall provide thirty (30) days written notice to the City of policy cancellation or non-renewal on the part of the insurance carrier or the Vendor except for non-payment which shall be ten (10) days. The Vendor shall also notify the City, in a like manner, within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverage or limits received by Vendor from its insurer and nothing contained herein shall relieve Vendor of this requirement to provide notice.

Should at any time the Vendor not maintain the insurance coverage(s) required herein, the City may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverage(s) and charge the Vendor for such coverage(s) purchased. If Vendor fails to reimburse the City for such costs within thirty (30) days after demand, the City has the right to offset these costs from any amount due Vendor under this Agreement or any other agreement between the City and Vendor. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverage(s) purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverage(s) shall in no way be construed to be a waiver of any of its rights under the Contract Documents.

If the initial or any subsequently issued Certificate of Insurance expires prior to the completion of the scope of work, the Vendor shall furnish to the City renewal or replacement Certificate(s) of Insurance not later than ten (10) calendar days after the expiration date on the certificate. Failure of the Vendor to provide the City with such renewal certificate(s) shall be considered justification for the City to terminate any and all contracts.

ARTICLE 14.00-DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

The duties and obligations imposed upon the Consultant by this Agreement and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

ARTICLE 15.00-REPRESENTATION OF THE CITY

The Consultant in providing and performing the services and work required pursuant to this Agreement thereto shall only represent the City in this manner and to the extent specifically set forth in writing in this Agreement or thereto, and as provided in any written change order(s) and supplemental task authorization(s) issued thereunder.

In the event the Consultant's services or work involves construction contract administrative support services, the Consultant is not authorized to act on the City's behalf, and shall not act on the City's behalf, in such a manner as to result in change(s) to (1) the cost or compensation to be paid the construction contractor; or (2) the time for completing the work as required and agreed to in the construction contract; or (3) the scope of the work set forth in the construction contract documents, unless such representation is specifically provided for, set forth and authorized in this Agreement or thereto.

The City will neither assume nor accept any obligation, commitment, responsibility or liability which may result from representation by the Consultant not specifically provided for and authorized as stated hereinabove.

ARTICLE 16.00-OWNERSHIP OF DOCUMENTS

All documents such as drawings, tracings, notes, computer files, photographs, plans, specifications, maps, evaluations, reports and other records and data relating to this project, other than working papers, specifically prepared or developed by the Consultant under this Agreement shall be property of the Consultant until the Consultant has been paid for providing and performing the services and work required to produce such documents.

Upon completion or termination of this Agreement, or upon the issuance by the City of a written change order deleting all or portions of the scope of services or task(s) to be provided or performed by the Consultant, all of the above documents, to the extent requested in writing by the City, shall be delivered by the Consultant to the City within seven (7) calendar days of the City making such a request. In the event the City gives the Consultant a written Notice of Termination of all or part of the services or work required, or upon the issuance to the Consultant by the City of a written change order deleting all or part of the services or work required, the Consultant shall deliver to the City the requested documents as set forth hereinabove, with the mutual understanding and commitment by the City that compensation earned or owing to the commitment by the City that compensation earned or owing to the Consultant for services or work provided or performed by the Consultant prior to the effective date of any such termination or deletion will be paid to the Consultant within thirty (30) calendar days of the date of issuance of the notice of termination or change order.

The Consultant, at its expense, may make and retain copies of all documents delivered to the City for reference and internal use. The Consultant shall not, and agrees not to, use any of these documents, data and information contained therein on any other project or for any other client without the prior expressed written permission of the City.

Any use by the City of said documents, data and information contained therein, obtained by the City under the provisions of this Agreement for therein, obtained by the City under the provisions of this Agreement for any purpose not within the scope of this Agreement shall be at the risk of the City, and without liability to the Consultant. The City shall be liable and agrees to be liable for and shall indemnify, defend and hold the Consultant harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the City's use of such documents in a manner contrary to the provisions set forth hereinabove. The City hereby acknowledges receipt of \$10.00 (ten and no hundred dollars) and other good and valuable consideration from the Consultant which has been paid as specific consideration for the indemnification provided herein.

ARTICLE 17.00-MAINTENANCE OF RECORDS

The Consultant will keep and maintain adequate records and supporting documentation applicable to all of the services, work, information, expense, costs, invoices and materials provided and performed pursuant to the requirements of this Agreement. Said records and documentation will be retained by the Consultant for a minimum of five (5) years from the date of termination of this Agreement.

The City and its authorized agents shall, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the City deems necessary during the period of this Agreement, and during the period five (5) years thereafter; provided, however, such activity shall be conducted only during normal business hours and at the expense of the City, and provided further that to the extent provided by law the City shall retain all such records confidential.

17.01 COMPLIANCE WITH PUBLIC RECORDS LAW

The Consultant must comply with Florida public records laws, specifically to:

- a) Keep and maintain public records required by the City to perform the service.
- b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statutes §119 or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract if the Consultant does not transfer the records to the City.
- d) Upon completion of the Contract, transfer, at no cost, to the City of Bonita Springs all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- e) The City will consider it a breach of contract should the Consultant fail to comply with any public records request.
- f) A Consultant who fails to provide the public records to the City within a reasonable time may be subject to penalties under Florida Statutes §119.10.
- g) **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DESIGN-BUILDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS (CITY CLERK) AT: 239-949-6262, CITY OF BONITA SPRINGS, 9101 BONITA BEACH ROAD, BONITA SPRINGS, FL 34135, debbie.filipek@cityofbonitasprings.org.**
- h) If the Consultant is not providing the requested public records, the burden of proof is on the Consultant to show why they did not comply with the request.

ARTICLE 18.00-HEADINGS

The headings of the articles, sections, exhibits, attachments, phases or tasks as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such articles, sections, exhibits, attachments, phases or tasks.

ARTICLE 19.00-ENTIRE AGREEMENT

This Agreement and attachments hereto, constitutes the entire agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect whatever on this Agreement.

ARTICLE 20.00-NOTICES AND ADDRESS OF RECORD

20.01 NOTICES BY CONSULTANT TO CITY

All notices required and/or made pursuant to this Agreement to be given by the Consultant to the City shall be in writing and shall be given by the United States Postal Service Department first class mail service postage prepaid, addressed to the following City address of record and sent to the attention of the City's Project Manager unless waived by City:

Elly Soto McKuen, Senior Project Manager
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

Copy: City Attorney
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

20.02 NOTICES BY CITY TO CONSULTANT

All notices required and/or made pursuant to this Agreement to be given by the City to the Consultant shall be made in writing and shall be given by the United States Postal Service Department first class mail service, postage prepaid, addressed to the following Consultant's address of record unless waived by Consultant:

Consultant Name: Pegasus Engineering, LLC

Consultant Address: 301 West State Road434, Ste 309

Consultant Address: Winter Springs, FL 32708

Telephone Number: 407.992.9160

Fax Number: 407.358.5155

ATTENTION: David Hamstra, PE, CFM
Project Director

20.03 CHANGE OF ADDRESS OF RECORD

Either party may change its address of record by written notice to the other party per above contacts.

ARTICLE 21.00-TERM

This Agreement is effective as of the date first written above and shall remain in effect a period of two (2) years with the option to renew for one (1) additional year, upon mutual agreement.

ARTICLE 22.00-TERMINATION

This Agreement may be terminated by the City at its convenience, or due to the fault of the Consultant, by the City giving thirty (30) calendar days written notice to the Consultant.

If the Consultant is adjudged bankrupt or insolvent; if it makes a general assignment for the benefit of its creditors; if a trustee or receiver is appointed for the Consultant or for any of its property; if it files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; if it disregards the authority of the City's designated representatives; if it otherwise violates any provisions of this Agreement; or for any other just cause, the City may, without prejudice to any other right or remedy, and after giving the Consultant a thirty (30) calendar days written notice, terminate this Agreement.

In addition to the City's contractual right to terminate this Agreement in its entirety as set forth above, the City may also, at its convenience, stop, suspend, supplement or otherwise change all, or any part of, the Scope of Professional Services or the Project Guidelines and Criteria, or as such may be established by change order or supplemental task authorization. The City shall provide written notice to the Consultant in order to implement a stoppage, suspension, supplement or change.

The Consultant may request that this Agreement be terminated by submitting a written notice to the City dated not less than thirty (30) calendar days prior to the requested termination date and stating the reason(s) for such a request. However, the City reserves the right to accept or not accept the termination request submitted by the Consultant, effective unless and until Consultant is notified, in writing, by the City of its acceptance.

22.01 CONSULTANT TO DELIVER MATERIAL

Upon termination, the Consultant shall deliver to the City all papers, drawings, models, and other material in which the City has exclusive rights by virtue hereof or of any business done, or services or work performed by the Consultant on behalf of the City.

ARTICLE 23.00-AMENDMENTS

The covenants, terms and provisions set forth and contained in all of the articles to this Agreement may be amended upon the mutual acceptance thereof, in writing, by both parties to this Agreement. In the event of any conflicts between the requirements, provisions and/or terms of the Agreement and any written amendment, the requirements, provisions and/or terms of the amendment shall take precedence.

ARTICLE 24.00-MODIFICATIONS

Modifications to covenants, terms and provisions of this Agreement shall only be valid when issued in writing as a properly executed change order(s) or supplemental task authorization(s). In the event of any conflicts between the requirements, provisions, and/or terms of this Agreement and any written change order(s), and/or supplemental task authorizations, the latest executed change order(s), and/or supplemental task authorization(s) shall take precedence.

In the event the City issues a purchase order, memorandum, letter, or other instruments covering the professional services, work and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that such purchase order, memorandum, letter or other instruments are for the City's internal control purposes only, and any and all terms, provisions and conditions contained herein, whether printed or written, shall in no way modify the covenants, terms and provisions of this Agreement and shall have no force or effect thereon.

No modification, waiver, or termination of the Agreement or of any terms thereof shall impair the rights of either party.

ARTICLE 25.00-ACCEPTANCE

Acceptance of this Agreement shall be indicated by the signature of the duly authorized representative of the hereinabove named parties in the space provided hereinafter and being attested and witnessed as indicated.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the day and year first written above.

ATTEST:

BY: _____
CITY CLERK

DATE: _____

CITY OF BONITA SPRINGS CITY COUNCIL

BY: _____
MAYOR

APPROVED AS TO FORM

BY: _____
CITY ATTORNEY'S OFFICE

ATTEST:

Kyleah Leavina
(Witness)
Linnie Hunt
(Witness)

CORPORATE SEAL



CONSULTANT

BY: *[Signature]*
(Authorized Signature)
Juan Fong, Principal/MGRM
(Title)

DATE: *9/6/2020*

EXHIBIT A

Scope of Professional Services Grant Writing and Support Services CN 20-10

Date: 9/8/2020

Basic Services

Section 1 General Scope Statement

The Consultant shall provide and perform the following professional services, which shall constitute the general scope of the basic services under the covenants, terms, and provisions of this Professional Services Agreement.

Section 2 Tasks

Pursuant to the general scope of the basic services stated herein above, the Consultant shall perform all services and/or work necessary to complete the following task(s) and/or provide the following item(s) which are enumerated to correspond to the task(s) and/or items set forth in Compensation and Method of Payment.

The Consultant will assist the City in administrating various tasks to supplement City staff support. The following is a program specific description of tasks:

- Provide ongoing program administration, policy, grants and financial management services to support the City's grant programs for the currently funded grant sources.
- Establish and administer a quality assurance and quality control system to comply with HUD, CDBG-DR, FDEO, FEMA and FDEM.
- Provide ongoing project implementation, compliance management support/supervision and reporting services.
- Support the City in responding to any audits requested by external organizations.
- Assist with document verification insuring no duplication of benefits in HUD, CDBG-DR, FDEO, FEMA and FDEM.
- Work with the City to provide a report that includes metrics that demonstrate the implementation costs to date with projected spending for the duration of the various grants.
- Provide a detailed timeline for implementation consistent with the milestones outlined in the subrecipient agreement between the City and the funding agencies.
- Assist with project final inspections, audits and compliance with all applicable HUD, CDBG-DR, FDEO, FEMA and FDEM rules, regulations, policies, procedures.
- Provide close-out reports in compliance with all sub-recipient agreements.
- Provide support for strategic planning and coordination for citywide, countywide and regional infrastructure related projects of all disaster and non-disaster related efforts that would meet federal and state funding criteria(s).
- Provide expert programmatic and policy advice on federal disaster relief programs. Provide extensive knowledge, experience and technical competence in dealing with Federal regulations, specifically including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Post-Katrina Emergency Management Reform Act of 2006, and the Sandy Recovery Improvement Act of 2013, and 2CFR Part 200.217-238 and others as may be identified.
- Attend meetings in conjunction with and on behalf of City Representatives.
- Provide guidance on damage assessment and assist in Project Worksheet formulation.
- Proactively identify opportunities to maximize Public Assistance and Post-Disaster Mitigation funding within the current regulatory framework.
- Work with the City to coordinate all FEMA grant programs, both through the emergency and annual funding programs, i.e., annual Public Assistance (PA) and Hazard Mitigation Assistance (HMA) program, as well as applicable Hazard Mitigation Grant Program.
- Progressively work with City officials to resolve disputes with FEMA, including the preparation of appeals or responses to arbitration if necessary.

This list of activities is not meant to be complete and absolute. The City reserves the right to add additional related activities as the City implements these programs and other grant related projects.

Compensation and Method of Payment
Grant Writing and Support Services CN 20-10

Section 1 Basic Services/Task(s)

NOTE: A lump sum (LS) or not-to-exceed (NTE) amount of compensation to be paid the Consultant should be established and set forth below for each task or sub-task described and authorized in the Scope of Professional Services. Tasks to be paid on a work-in-progress payment basis should be identified (WIPP).

(Unless list is continued on next page.)

Consultant's Personnel Hourly Rate Schedule*

Should it be mutually agreed to base compensation for additional services on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained below.

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct** Payroll Average Hourly Rate	(3) Multiplier***	(4) Hourly Rate To Be Charged (Column 2x3)
Principal/Program Manager	\$57	3.4	\$194
Project Manager/Sr. Project Engineer	\$54	3.4	\$184
Project Engineer/Grant Assistant	\$44	3.4	\$150
GIS Designer/CAD Technician	\$29.50	3.4	\$100
Administrative Assistant	\$25	3.4	\$85

***NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative and overhead costs and profit.

EXHIBIT C

Time and Schedule of Performance Grant Writing and Support Services CN 20-10

Date: 9/8/2020

This Exhibit establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in the Scope of Professional Services. The Time and Schedule of Performance set forth hereinafter is established pursuant to Time and Schedule of Performance.

Phase and/or Task Reference As Enumerated in Scope of Professional Services	Name or Title of Phase and Task	Number of Calendar Days For Completion of Each Phase and/or Task	Cumulative Number of Calendar Days for Completion From Date of Notice to Proceed

EXHIBIT D

Consultant's Associated Sub-Consultant(s) and Subcontractor(s)
Grant Writing and Support Services CN 20-10

Date: 9/8/2020

Consultant has identified the following sub-consultant(s) and/or subcontractor(s) which may be engaged to assist the Consultant in providing and performing services and work on this project:

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage (Yes or No)
	N/A	

EXHIBIT E

Project Guidelines and Criteria
Grant Writing and Support Services CN

Date: 9/8/2020

The City has established the following guidelines, criteria, goals, objectives, constraints, schedule, budget and/or requirements which shall serve as a guide to the Consultant in performing the professional services and work to be provided pursuant to this Agreement:

(If none, enter the word "none" in the space below)

Item No. 1

NONE

EXHIBIT F

Truth in Negotiation Certificate
Grant Writing and Support Services CN 20-10

Date: 9/8/2020

This Certificate is executed and given by the undersigned as a condition precedent to entering into a Professional Services Agreement with the City Council of the City of Bonita Springs for the project known as the Grant Writing and Support Services CN 20-10.

Before me, the undersigned authority personally appeared, who having personal knowledge as to the facts and statements contained herein after being duly sworn, deposes and states under oath that:

1. This Certificate shall be attached to and constitute an integral part of the above said Professional Services Agreement as provided in Truth-In-Negotiations Certificate.
2. The undersigned hereby certifies that the wage rates and other factual unit costs supporting the compensation on which this Professional Services Agreement is established are accurate, complete, and current on the date set forth hereinabove.
3. The truth of statements made herein may be relied upon by the City and the undersigned is fully advised of the legal effect and obligations imposed upon him by the execution of this instrument under oath.

Executed on behalf of the Party to the Professional Services Agreement referred to as the Consultant, doing business as:

COMPANY NAME: Pegasus Engineering, LLC

BY: [Signature]

TITLE: Principal

The foregoing instrument was signed and acknowledged before me this 8th day of September, 2020

by Juan Fong who is personally known OR has produced _____
(Print or Type Name) (Type of Identification & Number)

as identification.

Priscilla Villanueva
Notary Public Signature

GG203061 / 04/27/22
Notary Commission Number/Expiration

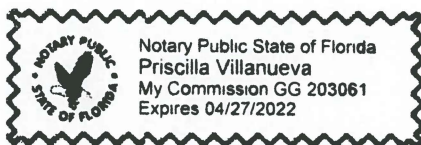


EXHIBIT G

Insurance and Bonding Requirements

All policies shall be Best's Rated "A-" or better or subject to approval

Insurance / Bond Type	Required Limits
☒ Worker's Compensation	Statutory Limits of Florida Statutes, Chapter 440 and all Federal Government Statutory Limits and Requirements. ☒ The policy shall be endorsed to provide a waiver of subrogation in favor of the City. NOTE: Any "non-construction industry" company employing more than 3 employees (not including a sole proprietor owner) must have workers' compensation coverage. ALL "construction industry" (as defined by FL Rule # 69L-6.021) companies with ANY employees must have coverage or if no statutory employees, then up to three officers or a sole proprietor MUST have a current exemption certificate from the Division of Workers' Compensation on file.
☒ Employer's Liability	<u>\$1,000,000</u> single limit per occurrence (Workers' Compensation Part B)
☒ Commercial General Liability (Occurrence Form) patterned after the current ISO form	Bodily Injury and Property Damage ☒ <u>\$1,000,000</u> per occurrence, <u>\$1,000,000</u> aggregate (Per Project) for Bodily Injury Liability and Property Damage Liability. This shall include Premises and Operations; Independent Contractors; Products and Completed Operations and Contractual Liability.
☒ Indemnification	To the fullest extent permitted by Florida law and to the limit by Florida Statutes § 725.08, the Contractor/Vendor/ Consultant shall be liable and agrees to be liable for and shall indemnify and hold harmless the City of Bonita Springs, its officers and employees from any and all liabilities, damages, losses and costs, to person or property including, but not limited to, reasonable attorneys' fees arising out of or caused in whole or in part by any act, omission, error or default by the Contractor/Vendor/Consultant, its subcontractors, materialmen, or agents of any tier or their employees arising out of this agreement or its performance. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph. This section does not pertain to any incident arising from the sole negligence of the City of Bonita Springs.
☒ Automobile Liability	☒ <u>\$ 1,000,000</u> Each Occurrence; Bodily Injury & Property Damage Owned/Non-owned/Hired; Automobile Included
☒ Other insurance as noted:	☐ Watercraft \$ _____ Per Occurrence ☐ United States Longshoreman's and Harbor Worker's Act coverage shall be maintained where applicable to the completion of the work. STATUTORY ☐ Maritime Coverage (Jones Act) shall be maintained where applicable to the completion of the work. \$ _____ Per Occurrence ☐ Property Insurance (Or Builder's Risk) Full insurable value of the scope of the work ☐ Pollution \$ _____ Per Occurrence ☒ Professional Liability <u>\$1,000,000</u> per claim and in the aggregate

☐ Railroad Right of Way	☐ Umbrella Excess \$ _____ Per Occurrence ☐ Railroad Protective Liability Insurance per occurrence limit of not less than Two Million Dollars (\$2,000,000) and aggregate limits of Six Million Dollars (\$6,000,000) to include Seminole Gulf Railway LP and CSX Transportation, Inc. as a named Insured. Seminole Gulf Railway also requires your <u>General Liability policy coverage to be \$5,000,000</u> . They require you to include Seminole Gulf Railway LP and CSX Transportation, Inc. as a named Additional Insured for General Liability and the policy must include the endorsement CG 2417, Contractual Liability and must not exclude underground coverage. For additional information on their insurance requirements <u>and other requirements such as payment for and scheduling Railroad Inspector / Flagman</u> , please contact Seminole Gulf Railway LP, 4110 Centerpointe Dr. Suite 207, Ft. Myers FL 33916, Phone # 239-275-6060 and FAX 239-275-0581.
☐ Bid bond	Shall be submitted with proposal response in the form of certified funds, cashiers' check or an irrevocable letter of credit, a cash bond posted with the City Clerk, or proposal bond in a sum equal to 5% of the cost proposal. All checks shall be made payable to the City of Bonita Springs on a bank or trust company located in the State of Florida and insured by the Federal Deposit Insurance Corporation.
☐ Performance and Payment Bonds	If the box is checked for a project less than \$200,000, a performance bond will be required. For projects in excess of \$200,000, bonds shall be submitted with the executed contract by Proposers receiving award, and written for 100% of the Contract award amount, the cost borne by the Proposer receiving an award. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to Owner; provided, however, the surety shall be rated as "A-" or better as to general policy holders rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holder's surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038. <u>Per FS §255.05, the Contractor shall provide a certified copy of the recorded bond to the City.</u>

☒ Vendor shall ensure that all subcontractors comply with the same insurance requirements that he is required to meet. The same Vendor shall provide City with certificates of insurance meeting the required insurance provisions.

☒ The City of Bonita Springs must be named as "**ADDITIONAL INSURED, INCLUDING PRODUCTS AND COMPLETED OPERATIONS**" on the Insurance Certificate for Commercial General Liability.

☒ The Certificate Holder shall be named as the City of Bonita Springs. The Certificates of Insurance must state the Contract Number, or Project Number, or specific Project description, or must read: "For any and all work performed on behalf of the City of Bonita Springs."

☒ **Thirty (30) Days Cancellation Notice (Except for Non-Payment of Premium which is ten (10) days)** Provided by the Insurance Carrier and/or the Vendor.

Policy shall be endorsed for Thirty (30) Days' Notice of Cancellation by the Insurance Carrier and a copy of the endorsement provided to the City of Bonita Springs.

EXHIBIT H

Certification Regarding Debarment, Suspension,
Ineligibility and Voluntary Exclusion

Vendor Covered Transactions

- (1) The prospective vendor certifies, by submission of this Annual Agreement, that neither it nor its principles are presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the vendor is unable to certify to the above statement, the prospective vendor shall attach an explanation to this form.

VENDOR

Pegasus Engineering, LLC
Company Name

00-607-1694
DUNS Number

[Signature]
Signature

9/8/2020
Date

Juan Fong, Principal
Print Name and Title

301 W. SR 434, Ste 309
Street Address

Winter Springs FL 32708
City, State, Zip

For City of Bonita Springs use only

To access the debarment search: <https://www.sam.gov/SAM/> > Search Records tab > Enter DUNS number > Click Search

Company: [] is debarred [] is not debarred

Verified by: _____
Name

Date: _____

EXHIBIT I

Scrutinized Companies Statement

SWORN STATEMENT UNDER SECTION 287.135(5), FLORIDA STATUTES: THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Proposal, Quote, or Contract Number **CN 20-10**, for **Grant Writing and Support Services**.
2. This sworn statement is submitted by Pegasus Engineering, LLC whose business
[Name of entity submitting sworn statement]
address is 301 W SR 434, Ste 309, Winter Springs FL 32788 and (if
applicable) its Federal Employer Identification Number (FEIN) is 26-0806410 (If the entity has no
FEIN, include the Social Security Number of the individual signing this sworn statement: _____).
3. My name is Juan Fong, P.E. and my relationship to the above is
[Please print name of individual signing]
Principal
4. I understand that "awarding body" as defined in section 287.135(1) (a), Florida Statutes, means, for purposes of state contracts, an agency or the department, and for purposes of local contracts, the governing body of the local governmental entity.
5. I understand that "Boycott of Israel" as defined in section 287.135(1) (b), Florida Statutes, has the same meaning as defined in s. 215.4725.
6. I understand that "business operations" as defined in section 287.135(1) (c), Florida Statutes, means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.
7. I understand that "local governmental entity" as defined in section 287.135(1) (d) means a county, municipality, special district, or other political subdivision of the state.
8. Based on information and belief, the statement, which I have marked below, is true in relation to the entity submitting this sworn statement. **[Please indicate which statements apply].**

X Scrutinized Companies that Boycott Israel List (bid, proposal or contract renewal for any amount)

- ☒ The entity submitting this sworn statement is not on the Scrutinized Companies that Boycott Israel List.
☐ The entity submitting this sworn statement is on the Scrutinized Companies that Boycott Israel List.

[] Scrutinized Companies with Activities in Sudan List (bid, proposal or contract renewal for \$1 Million or more)

- ☒ The entity submitting this sworn statement is not on the Scrutinized Companies with Activities in Sudan List.
☐ The entity submitting this sworn statement is on the Scrutinized Companies with Activities in Sudan List.

[] Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (bid, proposal or contract renewal for \$1 Million or more)

- ☒ The entity submitting this sworn statement is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.
☐ The entity submitting this sworn statement is on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

[] Business Operations in Cuba or Syria (bid, proposal or contract renewal for \$1 Million or more)

- ☒ The entity submitting this sworn statement does not have business operations in Cuba or Syria.
☐ The entity submitting this sworn statement does have business operations in Cuba or Syria.

The City will follow Florida Statute §287.135. If the City determines this Vendor has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel after the contract is executed, the contract may be terminated by the City by written notification. If the City determines this Vendor is found to have submitted a false certification, placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations with Cuba or Syria, the City shall notify the Vendor of its determination by written notification.

By the signature(s) below, I/we, the undersigned, as authorized signatory to commit the firm, certify that the information as provided in this attachment, Scrutinized Companies Statement, is truthful and correct at the time of submission.

 Juan Fong, P.E.
AFFIANT Typed Name of AFFIANT

Principal
Title

STATE OF Florida COUNTY OF Seminole

The foregoing instrument was executed before me this 8th day of September, 2020,

by Juan Fong as Principal of Pegasus Engineering LLC, who personally swore or affirmed that he/she is authorized to execute this document and thereby bind the Corporation, and who is personally known to me OR has

produced _____ as identification.

Priscilla Villanueva
NOTARY PUBLIC, State of Florida



THIS SPACE INTENTIONALLY LEFT BLANK

For City of Bonita Springs use only

To access the lists: <http://www.sbafla.com/fsb/> > Funds We Manage tab > FRS Pension Plan - Global Governance Mandates > Global Governance Mandate Quarterly Reports > most current quarter

Scrutinized Companies that Boycott Israel List:

☐ entity is **NOT** on list ☐ entity is on list

Scrutinized Companies with Activities in Sudan List:

☐ entity is **NOT** on list ☐ entity is on list

Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List:

☐ entity is **NOT** on list ☐ entity is on list

Business Operations in Cuba or Syria:

☐ entity is **NOT** on list ☐ entity is on list

Verified by: _____
Print Name

Date: _____

BONITA SPRINGS CITY COUNCIL		GREEN SHEET:	20-09-270
AGENDA ITEM SUMMARY			
REQUESTED MOTION: Approve increase in Operating Reserves as of September 30, 2020 in accordance with the City's Financial Policy.			
MEETING DATE: 9/16/2020			
AGENDA:		REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	Anne K. Wright, CPA, CGFO Finance Director
☒	CONSENT	☐	
☐	PUBLIC HEARING	☐	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS		
☐	CITY ATTORNEY ITEMS		
☐	CITY MANAGER ITEMS		
BACKGROUND:			
In accordance with the City's Financial Policy, General Fund Operating Reserves will be maintained at a level equal to four (4) months of average General Fund operating expenditures for the prior two (2) fiscal years. Based on the General Fund Operating Expenditures for FY 2018 of \$12,780,436 and FY 2019 of \$13,023,698, the 4 months of average General Fund Operating Expenditures rounds to \$4,300,000. ATTACHMENT: The City's Financial Policy			
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ YES ☐ NO IF YES, WHICH STRATEGIC OBJECTIVE? #7 Government Transparency			
STAFF RECOMMENDATIONS: Approve an increase of \$200,000 in Operating Reserves as of September 30, 2020, bringing Operating Reserves to \$4,300,000 as of September 30, 2020.			
REVIEWED BY:			
City Manager:		<u>Arleen Hunter</u>	
City Attorney:		<u>Derek Rooney</u>	
City Clerk:		<u>Debra Filipek</u>	
Department Director:		<u>Anne Wright</u>	
COUNCIL ACTION:			
☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER			

CITY OF BONITA SPRINGS FINANCIAL POLICIES

INTRODUCTION

Primary among the responsibilities of the City of Bonita Springs (hereinafter referred to as the “City”) to its citizens is the care of public funds and wise management of City finances, while providing for the adequate funding of the services desired by the public and the maintenance of public facilities. These financial management policies, designed to ensure the fiscal stability of the government of the City of Bonita Springs, Florida, shall guide the development of applicable operating procedures. In all matters included in these policies, the City will comply with applicable Florida Statutes and federal law.

These financial policies address Audit Policies, Financial Reporting and Accounting, Cash Management, Revenues, Budget, Debt Management, Expenditures, and Asset Capitalization.

TABLE OF CONTENTS

Section 1. Audit Policies

Section 2. Financial Reporting and Accounting

Section 3. Cash Management

Section 4. Revenues

Section 5. Budget

Section 6. Debt Management

Section 7. Expenditures

Section 8. Asset Capitalization

CITY OF BONITA SPRINGS FINANCIAL POLICIES

SECTION 1. AUDIT POLICIES.

- (1) External Audit.** An audit of the Comprehensive Annual Financial Report (CAFR) shall be conducted annually by an independent external accounting firm, whose services shall be competitively procured in accordance with Florida Statute §218.391 and the City of Bonita Springs Purchasing Policy.

The Firm(s) shall be selected by an Audit Committee, which shall consist of no less than three City Council members.

The CAFR shall be posted on the City's website no later than 270 days from the end of the fiscal year, and shall be sent to agencies requiring receipt of the City's audited financial statements on an annual basis, and at such other times as may be deemed appropriate in order to maintain effective relations and compliance with agreements.

- (2) Internal Audit.** Internal audits will be conducted as deemed necessary by the City Manager, or as directed by City Council. Such audits will be conducted by engaging outside professionals, or by City staff as deemed appropriate by the City Manager.

SECTION 2. FINANCIAL REPORTING AND ACCOUNTING.

- (1) Accounting System and Standards.** The City's accounting system shall be maintained in a manner consistent with the Generally Accepted Accounting Principles established by the Governmental Accounting Standards Board (GASB), considering all applicable guidance from the Government Finance Officers Association (GFOA), the State of Florida and Federal Laws.

Subject to the provision of this policy, City Council policies adopted pursuant thereto, the City Manager, or his designee, shall direct and supervise the operation of a computerized financial system under which authorization and use of all computer programs and program changes are subject to his approval. This financial system is to include: general ledger, accounts payable, purchasing, and all applicable operations. (Payroll is being outsourced to a third party vendor at this time.) The financial system will be monitored on an on-going basis.

The City shall annually prepare and publish, within nine months of the close of the fiscal year, a CAFR including financial statements and notes prepared in conformity with GAAP, and will diligently pursue an unqualified opinion and the GFOA Certificate of Achievement for Excellence in Financial Reporting.

- (2) Fund Structure.** The City of Bonita Springs shall establish and maintain a fund structure consistent with GAAP and sound financial administration. Only the minimum number of funds consistent with legal and operating requirements should be established.

The following types of funds should be used:

GOVERNMENTAL FUNDS

General Fund – to account for all financial resources except those required to be accounted for in another fund.

Special Revenue Funds – to account for and report the proceeds of specific revenue sources that are restricted and/or committed to expenditures for specified purposes other than debt service or capital projects. The term “proceeds of specific revenue sources” establishes that one or more specific restricted or committed revenues should be the foundation for a special revenue fund.

Capital Projects Funds – to account for and report financial resources that are restricted, committed, and/or assigned to expenditures for capital outlays, including the acquisition or construction of capital facilities and other capital assets. Capital projects funds exclude those types of capital related outflows financed by proprietary funds (if any such funds are established) or for assets that will be held in trust for individuals, private organizations, or other governments.

Debt Service Funds – to account for and report financial resources that are restricted, committed, and/or assigned to expenditures for principal and interest.

PROPRIETARY FUNDS

Enterprise Funds – not currently in use, but if it becomes applicable, to account for operations (a) that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges; or (b) where the governing body has decided that periodic determination of revenue earned, expenses incurred, and / or net income is appropriate for capital maintenance, public policy, management control, or accountability. The City does not currently engage in activities that require the use of this fund type.

Internal Service Funds – not currently in use, but if it becomes applicable, to account for the financing of goods or services provided by one department or agency to other departments or agencies of the governmental unit, or to other governmental units, on a cost-reimbursement basis. The City does not currently engage in activities that require the use of this fund type.

FIDUCIARY FUNDS

Trust and Agency Funds – not currently in use, but if it becomes applicable, to account for assets held by a governmental unit in a trustee capacity or as an agent for individuals, private organizations, governmental units, and other funds. These include Expendable Trust Funds, Non-expendable Trust Funds, Pension Trust Funds, and Agency Funds. The City does not currently engage in activities that require the use of these fund types.

- (3) Fund Balance.** Preservation of fund balance is always a primary consideration in financial management decisions. These decisions, through compliance with these policy provisions that affect fund balance, must ensure that there will be adequate liquid resources to serve as a financial cushion. Fund balance is the difference between assets and liabilities reported in a governmental fund. Governmental funds report up to five different components of fund balance, as described below, designed to indicate both the constraints on how resources of the fund can be spent and the sources of those constraints. The components of fund balance are presented below from the most constraining to least constraining.

Nonspendable fund balance - amounts that are not in a spendable form (i.e.: inventories) or are long-term receivables legally or contractually required to be maintained intact.

Restricted fund balance - amounts that can be spent only for the specific purposes stipulated by external resource providers (ie: grants), constitutionally, or through enabling legislation (i.e.: impact fees, building fees). These restrictions may be changed or lifted only with the consent of resource providers.

Unrestricted fund balance:

- (a) Committed - amounts that can be used only for the specific purpose determined by a formal action of City Council. Such commitments may be changed or lifted only by the City Council taking the same formal action that imposed the constraint originally (ie: carry-forward of unspent capital outlay budgets). Amounts classified as “committed” will be so designated by Council Resolution or Ordinance, and can only be changed by the same action that initially authorized them, unless that authorizing document states otherwise (ie: City Charter, Section 47 states “An appropriation for a capital expenditure shall continue in force until expended, revised, or repealed; the purpose of any such appropriation shall be deemed abandoned if 3 years pass without any disbursement from or encumbrance of the appropriation.”)
- (b) Assigned - amounts intended to be used by the City for specific purposes. City Council delegates the authority to classify fund balance as “assigned” to the City Manager. In governmental funds other than the General Fund, assigned fund balance represents the amount that is not restricted or committed. This indicates that resources in other governmental funds are, at a minimum, intended to be used for the purpose of that fund.
- (c) Unassigned - fund balance amounts of the General Fund not contained in the other classifications. Unassigned amounts are available for any purpose. If a governmental fund, other than the General Fund, has a fund balance deficit, it will be reported as a negative amount in the unassigned classification as these funds can never have a positive amount classified as unassigned.

The policy for the order of expenditure of funds by fund balance classification as they become available for spending is as follows: Future qualifying expenditures will first reduce the amount of fund balance classified as restricted, followed by the reduction of unrestricted fund balance starting first with “committed”, then “assigned”, then “unassigned” as applicable when expenditures are incurred for purposes for which amounts in any of those fund balance classifications could be used.

SECTION 3. CASH MANAGEMENT.

(1) Fund Balance Management. Fund Balance amounts, as indicated below and as authorized through the budget process, are designated as “Reserves”.

- (a) Disaster Reserves will be maintained to meet the City’s needs in the event of an emergency that affects the health or safety of the residents of Bonita Springs. The disaster reserve is established at one million dollars (\$1,000,000) and will be maintained at that level. The disaster reserve will be used only in the case of emergencies that cause disruption to normal day to day living in the City. The City may be faced with natural disasters that are weather related and cause disruption to daily activities that threaten the health safety and welfare of the community. In the event of a tropical storm or category one hurricane, the City Manager may authorize up to \$200,000 of the fund to be expended without City Council approval to restore normal operations within the city. Additional funds, if needed, will require City Council approval for expenditure. In the case of a category two or greater storm, the City Manager, with the approval of the Mayor and or Deputy Mayor, may expend whatever funds are needed to restore the city to normal operation. Other types of emergencies can also occur that could significantly affect the health, safety and welfare of the community. In instances where normal communications exist, the City

Manager, with the concurrence of the Mayor and or Deputy Mayor, may expend up to \$200,000 to restore adequate operations. Any additional funds will require approval of the full City Council. In an emergency where normal communications are disrupted, the City Manager is authorized to expend whatever funds are available to restore adequate operations within the city. In this case, the City Manager will make every effort to notify the Mayor, Deputy Mayor and any other members of City Council. In the event those funds are utilized from the emergency reserve, the City Council will develop a plan to restore the initial reserve amount in the next or ensuing fiscal years. The City Council can also expend these emergency reserve funds for any legal governmental purpose with a 5/7 vote of the council but only after all contingency and the other appropriated reserves have been expended.

- (b) Operating Reserves will be maintained at a level equal to four (4) months of average general fund operating expenditures for the prior two (2) fiscal years. These funds are in addition to any contingency funds budgeted in the General Fund. These funds shall not be expended while available budget remains in a contingency line item. The City Council could appropriate these funds if required to meet revenue shortfalls caused by unforeseen circumstances. These appropriations would be at the request of the City Manager and require approval of the City Council. If funds should be required in any fiscal year, the City Council will budget the necessary funds to bring the reserve back up to the level outlined above in the ensuing fiscal year.

(2) Cash/Check/Credit Card Receipts Handling Policy.

- (a) The Finance Department shall be empowered to establish and/or amend procedures for the depositing and handling of all cash, checks, and credit card receipts for all departments, including those that may be outsourced to contractors, of the City of Bonita Springs.
- (b) All City departments accepting receipts shall maintain adequate records and original documentation of all deposits that are made by those departments into City bank accounts. The Finance Department will communicate with each department making deposits to identify the level of documentation to be submitted to Finance.
- (c) It shall be deemed a violation of this policy for any employee to remove money that has been received on behalf of the City of Bonita Springs off the premises without the expressed written approval of the City Manager, for any purpose other than making a deposit to the appropriate City bank account. Petty cash transactions are exempt with appropriate documentation. In addition, there shall be no co-mingling of City and employee funds (ie: using City funds to cash personal checks).
- (d) All monies shall be safeguarded in the facilities as provided by the City. Additionally, departmental procedures must assure accountability of City funds at all times.
- (e) The receipts included in each deposit shall be documented. Any receipt that is voided shall be defaced and retained in its original place in the receipt book with all copies being accounted for.

(3) Petty Cash. The Finance Department shall be empowered to establish or amend the procedures for the authorization and handling of petty cash funds.

(4) Banking Services. The Finance Director will chair a Selection Committee which will develop a recommendation on financial institutions to be used that provide the most advantageous services and terms to the City based on a Request for Proposals for Banking Services. This recommendation, along with the ranking of the top proposals, will be presented to City Council for their consideration.

(5) Bank Collateralization Requirement. Before depositing any funds of the City in any bank or banks, the Finance Director must verify that the bank is a Qualified Public Depository in compliance with Florida Statute §280.

(6) Responsibility. Delegation of Authority: The authority for investing funds is vested with the Finance Director, who will manage the day-to-day operations of the City's invested cash, request bids from financial institutions, and prepare recommendations to City Council, who must approve any new bank accounts.

(7) Investments.

Pursuant to §218.415(17), F.S., local governments without a written investment policy may invest in:

- a) The State of Florida Local Government Surplus Trust Fund.
- b) Any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act.
- c) SEC registered money market funds with the highest equity credit rating from a nationally recognized rating agency.
- d) Interest-bearing time deposits or savings accounts in qualified public depositories as defined in §280.02, F.S.
- e) Direct obligations of the US Treasury.

SECTION 4. REVENUE POLICY.

(1) Sources and Revenue.

- (a) The City will strive to maintain a diversified and stable revenue system to shelter the government from short-run fluctuations in any one revenue source and ensure its ability to provide ongoing service. The City Manager or his designee will provide recommendations to City Council regarding this during the annual budget process.
- (b) Restricted revenue shall only be used for the purposes intended and in a fiscally responsible manner. Programs and services funded by restricted revenue will be clearly designated as such.
- (c) Any transfers between funds are clearly set forth in the annual budget. These transfers, under which financial resources are transferred from one fund to another, are distinctly different from inter-fund borrowings, which are usually made for temporary cash flow reasons, and are not intended to result in a transfer of financial resources by the end of the fiscal year. In summary, inter-fund transfers result in a change in fund equity; short-term inter-fund borrowings do not, as the intent is to repay the loan in the near term. Long-term inter-fund borrowings will typically result in interest charges to the borrowing fund.

(2) Revenue Reporting. In general, revenues and other governmental fund financial resource increments are recognized in the accounting period in which they become both measurable and available to finance expenditures of the fiscal period. The Finance Department shall review the actual revenue received and the most current projections of anticipated revenue on a monthly basis. The Finance Director shall report to the City Manager concerns regarding revenues

received compared to anticipated revenues. Monthly reporting of revenues received compared to budget will be provided to the City Council.

SECTION 5. BUDGET POLICY. The City will comply with Florida Statute §166.241 which addresses the Municipal budget process.

(1) Budget Timeline. Key dates in the budget cycle are as follows:

- May Budget preparation packets are delivered to Department Directors and proposed budgets returned to the Finance department, including all supporting data.
- June Department Director meetings with City Manager and Finance staff to review proposed budgets.
- July Budget workshop held to present proposed budget to Mayor, City Council and public.
- September Two public hearings are conducted to set the tax millage rate and adopt the budget.
- October 1 New fiscal year commences.

(2) The City of Bonita Springs' budget is prepared by the City Manager and the Finance staff and adopted by the City Council after receiving public input. The steps in the City's formal budget process are established by state law, commonly known as the Truth in Millage Act, or "TRIM", detailed as follows:

Truth in Millage (TRIM)

Florida Statutes §200, and Truth in Millage, known as TRIM, govern the budget and property tax rate adoption process. In Florida, properties are assessed by the County Property Appraiser and are collected by the County Tax Collector. Various exemptions are available to property owners. All property is assessed at one hundred percent of real value, which approximates eighty-five percent of market value.

The City is required to hold two public hearings for adoption of a property tax rate and budget. The first public hearing is advertised via the TRIM Notice, mailed by the Property Appraiser to each property owner. In addition to notification of this first public hearing, the TRIM notice contains the following information:

1. The new assessed value and the assessed value for the prior year.
2. The tax bill if the current property tax rate is levied for the new year.
3. The tax bill if the rolled-back rate is levied for the new year (the rolled-back rate is that tax rate which would derive the same amount of revenue based on the new taxable values as was raised in the prior year at the old taxable values, excluding net new taxable value. Net new taxable value consists primarily of new construction and additions).
4. The property tax bill if the proposed budget millage rate is adopted.

(3) On or before the 15th day of August, the City Manager will submit a proposed budget for the coming fiscal year to the City Council. The City Council will approve a budget by September 30th.

(4) Budget Preparation. The Finance Department shall provide all budget requests for the upcoming fiscal year to the City Manager in the approved format in accordance with the schedule designated on the budget timeline. The City Manager may require such reports, estimates, statistics or other financial information as may be necessary to prepare the annual budget.

Revenues will be conservatively projected and expenditures will be budgeted within these projections. One-time or short-term (18 months or less) revenues will not be budgeted to accommodate ongoing operational expenditures. This revenue may be budgeted for non-recurring capital expenditure needs. All new and continuing expenditures will be based on known and conservatively projected revenue sources.

A performance based compensation package consistent with sound economic policies of the City will be maintained to recruit and to retain qualified employees. Any wage and/or benefit increases must be recommended by the Human Resources Department, before submission to the City Manager for final approval.

The annual budget shall be composed of summary and line item accounts by department. No department by the City of Bonita Springs shall spend or obligate funds in excess of the amount budgeted in total for each department under any circumstance.

Budget amendments:

Amendments after adoption as authorized by City Charter Section 64.

(a) If during the fiscal year, revenues in excess of those estimated in the budget are available for appropriation, the City Council may make supplemental appropriations for the year in an amount not to exceed such excess, or carry over excess revenues into the next fiscal year.

(b) To meet a public emergency the City Council may make emergency appropriations in accordance with state and federal laws. If sufficient funds are not available to meet such emergencies the City Council may authorize emergency notes to be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) If, at any time during the fiscal year, it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, the Manager shall report same to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken and recommendations as to any other steps that should be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and, for that purpose, the Council may by resolution reduce one or more appropriations accordingly.

(d) Where authorized by general law, the City Council, at any time during the fiscal year, may by resolution provide for the transfer of all or part of any unrestricted appropriations balance from one department to another department within the City.

(e) No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated, or by more than the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Amendments after adoption as authorized by Florida Statute §166.241:

(f) The governing body of each municipality at any time within a fiscal year or within 60 days following the end of the fiscal year may amend a budget for that year as follows:

- (1) Appropriations for expenditures within a fund may be decreased or increased by motion recorded in the minutes if the total appropriations of the fund is not changed.
- (2) The governing body may establish procedures by which the designated budget officer may authorize budget amendments if the total appropriations of the fund is not changed.
- (3) If a budget amendment is required for a purpose not specifically authorized in paragraph (1) or paragraph (2), the budget amendment must be adopted in the same manner as the

original budget unless otherwise specified in the municipality's charter.

Amendments-Other

(g)Transfers among budget line items within the same department within the General Fund may be authorized by the Department Director.

(h)Transfers among budget line items within Special Revenue Funds and Debt Service Funds, may be authorized by the City Manager or his designee.

(i)Transfers among project budget line items within the Capital Projects Funds, may be authorized by the City Manager or his designee in an amount not to exceed an increase of \$25,000 to one project within the fiscal year, as long as there is no adverse impact on completion of the project from which the budget is being reduced. Any such transfers will be reported to City Council at the next City Council meeting after the transfer occurs.

(5) Capital Budget. In accordance with Florida Statute §163.3177, the City prepares a Capital Improvement Plan as part of the comprehensive planning process. The continuing capital improvement planning process is designated to yield four products on an annual basis:

- An annual capital budget;
- A five-year funding program;
- A ten year Capital Improvement Plan;
- Projects for future consideration.

The re-appropriation, or carry-over, of prior year's funds for capital expenditures is addressed in the City Charter, Section 47.

(a) The Capital Improvement Plan (CIP) shall consist of capital projects with an asset life of at least five (5) years. Capital projects include land, buildings, infrastructure and equipment and may involve a new purchase, new construction, major repair, renovation or replacement of existing assets.

(b) The appropriate City staff shall evaluate and prioritize capital improvement projects based upon the judgment of the City Manager considering the following criteria:

- Formal action taken by City Council
- Preservation of the health and safety of the public
- Compliance with all State and Federal mandates and prior commitments
- Elimination of existing deficiencies
- Maintenance of any adopted level of service standards
- Protection of existing capital investments
- When applicable, consistency with plans of other agencies (ie: interlocal agreements)
- Eligibility for grants
- Impact on operating costs
- Utilization of economies of scale and timing of other projects
- Adjustment for unforeseen/unanticipated opportunities and situations

(c) Funding shall be identified for each Capital Improvement Plan project.

(d) The first year of the Capital Improvement Plan (CIP) will be used as the basis for formal fiscal year appropriations during the annual budget process.

SECTION 6. DEBT MANAGEMENT. Debt management policies are intended to provide a comprehensive and viable debt policy which recognizes the capital improvement needs of the City as well as the taxpayers' ability to pay while taking into account existing legal, economic, financial and debt market considerations.

- (1) Debt Financing.** All financings are to be issued in accordance with the applicable State and Federal Laws.
- (2) Limits on Issuance of Debt as per City Charter, Section 46.** Outstanding general obligation indebtedness of the City shall not exceed ten percent of the assessed value of the taxable property value within the City of Bonita Springs.
- (3)** The City will issue long-term debt only for the purposes of financing capital improvement projects that cannot be financed from current revenues or fund balance; and for refunding outstanding debt when sufficient cost savings can be realized or it is advantageous to do so.
- (4)** The City may enter into long-term leases for the acquisition of major equipment when it is economically beneficial.
- (5)** Capital improvements requiring financing shall be financed by debt to be repaid from legally available revenue sources.
- (6)** Revenue sources will be pledged for debt only when legally available. In those situations where proposed revenues to be pledged have been used for operation and maintenance expenses, an alternative revenue source to replace the same must be identified prior to committing the revenues as a pledge.
- (7)** The City will use a "pay as you go" policy unless internal funding is not sufficient to meet capital needs and future citizens will realize a significant benefit from the project.
- (8)** Based on periodic review and the recommendation of a Financial Advisor and/or Bond Counsel, the City will refund or prepay any outstanding debt when sufficient cost savings can be realized or is considered advantageous to City.
- (9)** The City shall comply with all covenants and requirements of the bond resolutions, bond trust agreements and State and Federal laws authorizing and governing the issuance and administration of debt obligations.
- (10)** The City may choose to issue short-term financing tools such as bond anticipation notes, tax anticipation notes, or line of credit, where their use is judged by the City's Financial Advisor and/or Bond Counsel to be prudent and advantageous.
- (11)** The City will not use short-term borrowing to finance operating needs except in the case of an extreme financial emergency, which is unforeseen and beyond its control.

SECTION 7. EXPENDITURES.

- (1)** Disbursement of City funds may occur by check or electronic means with the following internal authorization process:
 - (a) Approved documentation for the disbursement, as determined by the City Manager or his designee.
 - (b) Approval of two authorized account signers, with no more than one authorized signer from the Finance Department approving any single disbursement.

- (2) The City will provide for a level of expenditures sufficient to ensure the ongoing health, safety, and welfare of citizens.
- (3) Within the resources available each fiscal year, the City shall maintain capital assets and infrastructure at a sufficient level to protect the City's investment, to minimize future replacement and maintenance costs, and to continue service levels.
- (4) The operating and capital budgets will be reviewed concurrently. A fiscal impact operating analysis must be provided by the Department Director for new items requested within the capital improvement budget and incorporated into the operating budget as part of the annual budget process.
 - a. New services/programs will not be added without a cost-benefit analysis incorporating current and future budget impact.
 - b. Department Directors must review and control expenditures so that actual expenditures do not exceed budget. Departments are expected to adjust spending levels as required to ensure compliance within the established budget. If the department head determines additional budget is required and not available within the department's budget, a request for funding assistance should immediately be forwarded to the City Manager containing department analysis and recommendation.

SECTION 8. ASSET CAPITALIZATION POLICY.

The Asset Capitalization Policy provides information concerning the City's tangible and intangible assets. All City of Bonita Springs assets shall be capitalized in compliance with all applicable laws and standards set forth by the GASB and GAAP. The dollar value at which assets shall be required to be capitalized shall be established by the Finance Director. All capital assets will have a useful life extending beyond one year. The following definitions and accounting procedures provide for a general listing of the categories of capital assets, however as applicable laws and standards change so shall the treatment and capitalization of assets change within the financial system.

- (1) **Land.** A capital asset account reflecting all expenditures in connection with land procurement shall include purchase price, negotiation fees, title search fees, surveying fees, cost of consent, clearing the land for its intended use, demolishing or removing structures, and filing costs. All land acquired by City of Bonita Springs will be capitalized. As appropriate, donated land will be recorded at its fair market value at the date of donation.
- (2) **Buildings.** For the purposes of this policy, building shall include all City-owned buildings, as well as permanently installed fixtures such as boilers, lighting fixtures, and plumbing. Any subsequent additions of minor fixtures or equipment to a building shall be recorded as equipment. The costs of major improvements to a building including renovation shall be capitalized and recorded as a part of the building asset value.

Buildings are structures to house equipment, services, functions, etc. Capitalized costs for buildings shall include the cost to build or the market value at the time of acquisition, architects' and engineers' fees, permits, insurance during construction, interest during construction, and other administration costs such as a clerk of the works and appraisals. Site improvements are not included but listed and recorded separately. In addition to the cost of the building, the following items shall be included as part of building valuation even though they might not have been included in the construction contract:

- Fixtures and equipment
- Carpeting
- Heating and air systems when piped into the building

(3) Improvements & Betterments.

(a) Improvements. Improvements shall include additions or changes made which are expected to prolong the life of and to increase the efficiency of a capital asset over and above that arising from normal maintenance. Improvements (land) include paving, fencing, concrete walks and steps, lighting, plumbing, irrigation, signs, flagpoles, walls, fountains, etc. Additions are considered new and separate units or extensions of some existing unit and shall be capitalized at cost when construction or installation is completed; however, any addition less than the Finance Director's designated floor for capitalization will be considered an operating expense.

(b) Betterments. A betterment exists when a part of an existing asset is replaced by another and the replacement provides a significant increase in the life or value of the property. Betterment (building & equipment) includes costs incurred during building renovations or equipment that has a significant increase in life and value. Betterments shall be recorded by increasing the value of the item.

(4) Construction Work In Progress. Construction work in progress includes expenditures that materially add to the value of an asset (ie: building, infrastructure) over a period of time. Upon the completion of the unit, all costs involved shall be recorded and the unit will be capitalized within the appropriate category. As costs are incurred on a construction project, they shall be accumulated in the appropriate account in the Capital Projects Funds.

(5) Equipment. The equipment category includes all moveable property of a relatively permanent nature and of significant value such as mobile equipment (automobiles, trucks, tractors, etc.), data processing equipment, machinery, tools, office furniture, and fixtures. Equipment shall include total purchase price before any trade in allowance, minus trade discounts. Contributions will be recorded at fair market value at the date of donation.

(6) Maintenance. Maintenance shall be categorized as expenditures that neither materially add to the value of an asset nor appreciably prolong its life. The purpose of maintenance is to keep an asset in an ordinary efficient operating condition. These expenditures are not included in the capitalized cost of the asset.

(7) Intangible Assets. Nonfinancial assets that lack physical substance and are primarily used for operations must be capitalized. For the purposes of this policy, intangible assets shall include internally generated computer software, patents, copyrights, trademarks, easements, water rights, and any of the aforementioned not yet placed in service are reported as construction in progress. Expenditures associated with an intangible asset are capitalized when placed into operation. External and internal expenditures such as development, implementation and testing shall be included as part of the asset.

(8) Items Not To Be Included. The following items shall not be included as capitalized items:

- Contracted maintenance
- Spare parts
- Discarded equipment supplies and expenditures

SECTION 9. MISCELLANEOUS.

(1) The City Manager, or his designee, shall be empowered to establish procedures necessary to efficiently administer this policy.

(2) All local Statutes, ordinances, laws and resolutions in conflict with this resolution are hereby repealed or amended to the extent of such conflict.

BONITA SPRINGS CITY COUNCIL		GREEN SHEET:	20-09-284
AGENDA ITEM SUMMARY			
REQUESTED MOTION: Approval of an Interlocal Agreement between Lee County and the City of Bonita Springs under the CARES Act for funding for eligible expenditures relating to COVID-19.			
MEETING DATE: 9/16/2020			
AGENDA:		REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐	PRESENTATIONS	☐	Arleen M. Hunter City Manager
☒	CONSENT	☐	
☐	PUBLIC HEARING	☐	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☐	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS		
☐	CITY ATTORNEY ITEMS		
☐	CITY MANAGER ITEMS		
BACKGROUND:			
On March 27, 2020 President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law, which established the Coronavirus Relief Fund in the amount of \$150 Billion for payments to State, Tribal governments and units of local government based on population. Per this Interlocal Agreement, Lee County agrees to provide financial assistance in an amount not to exceed \$841,896. The attached Interlocal Agreement would provide funding for such things as facility safety modifications, rental expenses, remote working technology, cleaning/sanitizing, PPE, etc. Attachment: Interlocal Agreement			
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ YES ☒ NO IF YES, WHICH STRATEGIC OBJECTIVE?			
STAFF RECOMMENDATIONS: Approve Interlocal Agreement			
REVIEWED BY:			
City Manager:		<u>Arleen Hunter</u>	
City Attorney:		<u>Derek Rooney</u>	
City Clerk:		<u>Debra Filipek</u>	
Department Director:		_____	
COUNCIL ACTION:			
☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER			

INTERLOCAL AGREEMENT BY AND BETWEEN

LEE COUNTY, FLORIDA

And

CITY OF BONITA SPRINGS

THIS AGREEMENT is made and entered into, by and between Lee County, a political subdivision and Charter County of the State of Florida, hereinafter referred to as the "COUNTY" and City of Bonita Springs, hereinafter referred to as the "MUNICIPALITY".

RECITALS

WHEREAS, Section 163.01, Florida Statutes, authorizes local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act and President Trump signed the CARES Act into law on March 27, 2020; and

WHEREAS, the CARES Act, in part, amends the Social Security Act (42 U.S.C. 601) by establishing the Coronavirus Relief Fund in the amount of \$150 billion dollars for payments to States, Tribal governments and units of local government based on their populations, with no State receiving less than \$1.25 billion dollars; and

WHEREAS, the MUNICIPALITY requests and the COUNTY agrees, to provide funding to the MUNICIPALITY for eligible expenditures under the CARES Act relating to COVID-19, pursuant to the terms and conditions specified herein; and

WHEREAS, the United States Department of Treasury disbursed \$2,472,413,692 of CARES Act funds directly to counties with a population in excess of 500,000; and

WHEREAS, Lee County accepted CARES Act funding from the United States Department of the Treasury; and

WHEREAS, this Interlocal Agreement is consistent with CARES Act guidelines of providing fast and direct economic assistance for American workers, families, small business, and preserves jobs for American industries; and

WHEREAS, these funds serve important mutual interests of both the COUNTY and the MUNICIPALITY.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the COUNTY and the MUNICIPALITY agree as follows:

ARTICLE 1
CARES Act Funding

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, Section 601(d) of the Social Security Act, established the \$150 billion Coronavirus Relief Fund. The United States Department of Treasury made payments from the Fund to States and eligible units of local government. The CARES Act requires that payments from the Coronavirus Relief Fund only be used to cover expenses that: (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); (2) were not accounted for in the budget most recently approved as of March 27, 2020 for the State or government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

The COUNTY agrees to provide financial assistance to the MUNICIPALITY in an amount not to exceed \$841,896. The MUNICIPALITY must use this financial assistance for expenses eligible under 601(d) of the Social Security Act, specifically the Coronavirus Relief Fund to mitigate financial hardships incurred because of COVID-19 during the Term. The MUNICIPALITY shall review the United States Department of Treasury website for updates on CARES Act funding to ensure usage of the funds complies with the most updated Coronavirus Relief Fund guidance.

This Agreement is subject to the requirements of 2 C.F.R. §200.331.

ARTICLE 2
Term of Agreement

This Agreement is effective starting March 1, 2020, and ends on March 1, 2021, unless terminated earlier in accordance with this Agreement.

ARTICLE 3
Representations

This Agreement is entered into based on the following representations:

- A. The MUNICIPALITY represents that it is fully qualified and eligible to receive this funding for the purposes identified herein;
- B. The COUNTY has received these funds from the United States Department of Treasury and has the authority to distribute these funds to the MUNICIPALITY upon the terms and conditions set forth herein.

ARTICLE 4
Payment and Reporting Requirements

All payments made under this Agreement shall be on a reimbursement basis. These reimbursement monies are from CFDA 21.019. In order to obtain reimbursement for expenditures, the MUNICIPALITY must file with the COUNTY its request for reimbursement and any other information required to justify and support the payment request. The reimbursement requests are due on or before October 1, 2020 and again on January 2, 2020. Payment requests must include a certification, signed by an official who is authorized to legally bind the MUNICIPALITY, which reads as follows:

By signing this request, I certify to the best of my knowledge and belief that the request is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the reimbursement. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

These funds must be spent in accordance with the guidance on the United States Treasury's website <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>. MUNICIPALITY is required to review the website for updates to ensure compliance with the most updated CRF guidance.

The COUNTY shall verify all documentation received prior to expending funds under this Agreement and may request additional documentation, if needed. Reimbursements will only be made for expenditures that the COUNTY provisionally determines are eligible under the CARES Act. The COUNTY retains the right to deny any request for funds under this Agreement if in the COUNTY'S sole discretion the request is not for and documentation does not substantiate an eligible expenditure. However, the COUNTY'S provisional determination that an expenditure is eligible does not relieve the MUNICIPALITY of its duty to repay the COUNTY for any expenditures that are later determined by the COUNTY or the Federal government to be ineligible.

The COUNTY shall not honor requests for payment after January 2, 2021 and will not be liable for non-payment of a late request. All refunds and return of improper payments due to the COUNTY under this Agreement are payable to Lee County by electronic transfer. All funding under this Agreement is subject to availability and the amount of consideration may be reduced.

ARTICLE 5 Records and Audit

The MUNICIPALITY and any of its subcontractors providing any services required to be performed by the MUNICIPALITY under this Agreement, shall maintain adequate records and accounts, including but not limited to property, personnel and financial records, and supporting documentation to assure a proper accounting for all COUNTY funds received under this Agreement as outlined in the U.S. Department of Treasury Memorandum for Coronavirus Relief Fund Recipients dated July 2, 2020, or as maybe amended. MUNICIPALITY shall provide any documentation requested by COUNTY to supplement any required reporting. The COUNTY and its authorized agents shall have the right, and the MUNICIPALITY and its subcontractors, as applicable, will permit the COUNTY and its authorized agents, to examine all such records, accounts and documentation and to make copies thereof, and excerpts or transcriptions therefrom, and to audit all contracts, invoices, materials, accounts and records relating to all matters covered by this Agreement, including but not limited to personnel and employment records for the Audit Period. All such records, accounts and documentation shall be made available to the COUNTY and its authorized agents for audit, examination or copying purposes at any time during normal business hours and as often as the COUNTY may deem necessary during the Audit Period. The COUNTY'S right to examine, copy and audit shall pertain likewise to any audits made by any other agency, whether local, state or federal. The MUNICIPALITY shall ensure that any subcontractor providing any services under this Agreement shall recognize the COUNTY'S right to examine, inspect and audit its records, accounts and documentation in connection with its provision of services required to be provided by the MUNICIPALITY under this Agreement. If an audit is begun by the COUNTY or other agency whether local, state or federal, during the Audit Period, but is not completed by the end of the Audit Period, the Audit Period shall be extended until audit findings are issued.

If an audit shows that all or any portion of the funds disbursed were not spent in accordance with the conditions of and in strict compliance with the Agreement, the MUNICIPALITY will be held liable for reimbursement to the COUNTY of all funds not spent in accordance with these applicable regulations and Agreement within thirty (30) days after the COUNTY has notified the MUNICIPALITY of such non-compliance. This Article 5 shall survive the expiration or earlier termination of this Agreement.

ARTICLE 6

Default

- A. If any of the following events occur ("Events of Default"), the County may exercise any of its remedies set forth in Article 7. However, the COUNTY may make payments or partial payments after any Events of Default without waiving the right to exercise such remedies, and without becoming liable to make any further payment.
1. If any warranty or representation made by the MUNICIPALITY in this Agreement is or becomes false or misleading in any respect, or if the MUNICIPALITY fails to keep or perform any of the obligations, terms or covenants in this Agreement and has not cured them in timely fashion, or is unable or unwilling to meet its obligations under this Agreement;
 2. If any documents required by this Agreement have not been submitted to the COUNTY or been submitted with incorrect, incomplete or insufficient information;
 3. If the MUNICIPALITY has failed to perform and complete on time any of its obligations under this Agreement.

ARTICLE 7

Remedies

If an Event of Default occurs, then the COUNTY may, after thirty (30) days written notice to the MUNICIPALITY and upon the MUNICIPALITY'S failure to cure within those thirty (30) days, exercise one or more of the following remedies, either concurrently or consecutively:

- A. Terminate this Agreement, provided that the MUNICIPALITY is given at least thirty (30) days prior written notice of the termination. The notice shall be effective when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address listed below;
- B. Withhold or suspend payment of all or any part of a request for payment;
- C. Require that the MUNICIPALITY refund to the COUNTY any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.
- D. Exercise any other rights or remedies that may be available under law. If the COUNTY waives any right or remedy in this Agreement or fails to insist on strict performance by the MUNICIPALITY, it will not affect, extend or waive any other right or remedy of the COUNTY, or affect the later exercise of the same right or remedy by the COUNTY for any other default by the MUNICIPALITY.

ARTICLE 8 Indemnification

To the extent permitted by Fla. Stat. §768.28, the MUNICIPALITY shall indemnify, hold harmless, and defend the COUNTY and the Lee County Board of County Commissioners, and the respective agents and employees of the COUNTY and the Lee County Board of County Commissioners (all of the foregoing, collectively, the "Indemnified Parties") from and against any and all liabilities, losses, claims, damages, demands, expenses or actions, either at law or in equity, including court costs and attorneys' fees, that may hereafter at any time be made or brought by anyone on account of personal injury, property damage, loss of monies, or other loss, allegedly caused or incurred, in whole or in part, as a result of any negligent, wrongful, or intentional act or omission, or based on any act of fraud or defalcation by the MUNICIPALITY, its agents, subcontractors, assigns, heirs, and employees during performance under this Agreement. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity applies. Nothing herein will be construed as consent by the COUNTY to be sued by third parties in any matter arising out of this Agreement.

The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 Termination

The COUNTY may terminate this Agreement for cause after thirty (30) days written notice. Cause may include misuse of funds, fraud, lack of compliance with applicable rules, laws and regulations.

The COUNTY may terminate this Agreement for convenience or when it determines, in its sole discretion that continuing the Agreement would not produce beneficial results in line with the further expenditure of funds, by providing the MUNICIPALITY with thirty (30) days prior written notice.

The parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of this Agreement.

In the event this Agreement is terminated, the MUNICIPALITY will not incur new obligations for the terminated portion of this Agreement after they have received the notification of termination. Costs incurred after receipt of the termination notice will be disallowed. The MUNICIPALITY will not be relieved of liability to the COUNTY because of any breach of this Agreement by the MUNICIPALITY. The COUNTY may, to the extent authorized by law, withhold payments to the MUNICIPALITY for the purpose of set-off until the exact amount of damages due the COUNTY from the MUNICIPALITY is determined.

ARTICLE 10 Dispute Resolution

In the event of a dispute related to any performance or payment obligation arising under this Agreement, the Parties shall exhaust COUNTY administrative dispute resolution procedures prior to filing a lawsuit or otherwise pursuing legal remedies.

In the event that COUNTY administrative dispute resolution procedures are exhausted, either Party to this Agreement may notify the other Party in writing that it wishes to commence formal dispute resolution with respect to any unresolved problem under this Agreement. The Parties agree to submit the dispute to a Florida Certified Circuit Court Civil Mediator for mediation, within sixty (60) days following the date of this notice. In the event that any dispute cannot be resolved by mediation, the dispute may be filed as a civil action in the Circuit Court of the Twentieth Judicial Circuit of Florida, in and for Lee County, Florida, which is the sole venue for any such civil action.

ARTICLE 11 Public Records Law

Florida's Public Records Law provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf. Unless specifically exempted from disclosure by the Legislature, all materials made or received by a governmental agency (or a private entity acting on behalf of such an agency) in conjunction with official business which are used to perpetuate, communicate, or formalize knowledge qualify as public records subject to public inspection.

IF THE MUNICIPALITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (239) 533-2112, PRRCUSTODIAN@LEEGOV.COM OR LEE COUNTY CUSTODIAN OF PUBLIC RECORDS 2115 SECOND ST., FORT MYERS, FL 33901.

ARTICLE 12 Governing Laws

This Agreement shall be governed by the laws, rules, and regulations of the State of Florida, and venue shall be in Lee County, Florida.

ARTICLE 13 Compliance With Applicable Laws

The MUNICIPALITY shall comply with the requirements of all applicable statutes, rules and regulations pertaining to or regulating the provision of this Agreement.

ARTICLE 14 Assignment

This Agreement may not be assigned nor subcontracted in whole or in part without the prior written consent of the COUNTY.

ARTICLE 15 Headings

Article headings have been included in the Agreement solely for the purpose of convenience and shall not affect the interpretation of any of the terms of this Agreement.

ARTICLE 16
Severability

In the event any section, sentence, clause, or provision of this Agreement is held to be invalid, illegal or unenforceable by a court having jurisdiction over the matter, the remainder of the Agreement shall not be affected by such determination and shall remain in full force and effect.

ARTICLE 17
Survivability

Any term, condition, covenant or obligation which requires performance by either party subsequent to termination of this Agreement shall remain enforceable against such party subsequent to such termination.

ARTICLE 18
Third Party
Beneficiaries/Independent Contractor

This Agreement is for the benefit of the COUNTY and the MUNICIPALITY. No third party is an intended beneficiary so as to entitle that person to sue for an alleged breach of this Agreement. It is agreed that nothing contained in this Agreement is intended or should be construed in any manner as creating or establishing a relationship of co-partners between the Parties, or as constituting MUNICIPALITY, including its officers, employees, and agents, the agent, representative, as employees of COUNTY for any purpose or in any manner whatsoever. The Parties are to be and will remain independent contractors with respect to all matters pertinent to this Agreement.

ARTICLE 19
Modifications

This writing embodies the entire agreement and understanding between the parties hereto and there are no other agreements and/or understandings, oral or written, with respect to the subject matter hereof, that are not merged herein and superseded hereby. This Agreement may only be amended or extended by a written instrument executed by the COUNTY and the MUNICIPALITY expressly for that purpose.

ARTICLE 20
Notice

Any notices required or permitted to be given hereunder shall be sent by United States certified mail, return receipt requested, or by overnight delivery service or personal delivery with signature verification, to the attention of the following representatives of the parties:

COUNTY:
Roger Desjarlais, County Manager
P.O. Box 398
Fort Myers, FL 33902

Or to the following address for overnight delivery service or personal delivery:

Roger Desjarlais, County Manager
2115 Second St
Fort Myers, FL 33901

MUNICIPALITY:

IN WITNESS WHEREOF, the MUNICIPALITY and the COUNTY respectively, have caused this Agreement to be executed by their duly authorized representatives

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Brian Hamman, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

County Attorney's Office

CITY OF BONITA SPRINGS:

BY: _____

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-09-272
AGENDA ITEM SUMMARY		
REQUESTED MOTION: Approve the Parks and Recreation Agreement between the City of Bonita Springs and the Casa Mexico Adult Soccer league for the 2020-2021 soccer season.		
MEETING DATE: 9/16/2020		
AGENDA:	REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐ PRESENTATIONS	☐ STATUTE	Nicole Perino Parks and Recreation Director And Carly Sanseverino Staff Attorney
☒ CONSENT	☐ ORDINANCE	
☐ PUBLIC HEARING	☐ ADMIN. CODE	
☐ MAYOR AND COUNCIL MEMBER ITEMS	☒ OTHER	
☐ MAYOR AND COUNCIL MEMBER'S REPORTS		
☐ CITY ATTORNEY ITEMS		
☐ CITY MANAGER ITEMS		
BACKGROUND:		
City Council annually reviews the Parks and Recreation Agreement, which provides the responsibilities of the Casa Mexico Adult Soccer League to use the city's soccer facilities for each Soccer Season. The league would like to renew this agreement for another one-year term. The league has requested to move paying the team fees until February 1, 2021 giving the league time to register and collect fees from each team. The league has also requested to allow city staff work with the league as COVID-19 restrictions are lifted to bring back to council an amendment to this agreement. Based on City Council's direction at the September 2, 2020 Council meeting, a new use agreement was drafted for adult leagues to begin use of the city's facilities with the submission of an approved safety plan and an updated wavier to be completed by all participants before the start of league play. The Agreement also provides: - The extent of city maintenance responsibility. - When the individual leagues may use the facility, as well as clean up and parking requirements. - Term of one year. - Insurance requirements. Attachment: Draft Agreement		
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ YES ☒ NO IF YES, WHICH STRATEGIC OBJECTIVE?		
STAFF RECOMMENDATIONS: Approve the agreement with the City of Bonita Springs and the Casa Mexico Adult Soccer league including the requests made by the Casa Mexico Adult Soccer league.		
REVIEWED BY:		
City Manager:	<u>Arleen Hunter</u>	
City Attorney:	<u>Derek Rooney</u>	
City Clerk:	<u>Debra Filipek</u>	
Department Director:	<u>Nicole Perino</u>	
COUNCIL ACTION:		
☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER		

ADULT LEAGUE AGREEMENT CASA MEXICO SOCCER LEAGUE

THIS AGREEMENT is made and entered into this ____ day of September, 2020, by Casa Mexico Soccer League, hereinafter called "League" and the City of Bonita Springs, a municipal corporation of the State of Florida, hereinafter called the "City".

WITNESSETH:

WHEREAS, the League and the City recognize the need for public recreational facilities that contribute to a better quality of life for all facility patrons; and

WHEREAS, in the interests of providing the best possible sports program at the least cost to participants and users of City facilities, full cooperation between the League and the City is necessary; and

WHEREAS, it is in the best interests of the parties to outline the details of such cooperation.

NOW, THEREFORE, in consideration of these promises, the City does hereby agree to maintain certain improvements to City facilities, and the League agrees to participate in the maintenance of the entire facility used, pursuant to the schedule attached as Exhibit A, specifying dates, times and type of uses (e.g., practice, regular soccer season, all-star, tournaments).

A. CITY MAINTENANCE RESPONSIBILITY

1. City will mow and maintain the athletic fields and common areas.
2. City will coordinate the irrigation and lighting of the fields, so as to make the fields be available for use during the schedule.
3. City will coordinate the fertilization, herbicide treatment, pesticide treatment and fungicide treatment.
4. City will maintain the public restroom maintenance within the concession building.
5. City will maintain the exterior of the building and any infrastructure.
6. City will coordinate with the League volunteer staff to provide training for recommended maintenance procedures and safety precautions. Training of any new volunteers recruited during the scheduled items will become

the responsibility of the League. In addition, the City will provide necessary maintenance and operational procedures for League use.

7. City will remove trash from receptacles and place into dumpsters if fields are used by any group other than our 3 soccer leagues.
8. The City will provide the equipment required to chalk in and paint fields, but will not provide the paint or chalk. This is subject to League responsibility below.
9. City will provide trash bags, litter grabbers and receptacles.
10. City recognizes the length of the individual season as follows:

Adult Soccer: September 17, 2020 through June 3, 2021

All other tournaments and all-star games may be added with consent by City Parks and Recreation Director.

B. LEAGUE RESPONSIBILITIES

1. The League is responsible for all trash and litter pick-up from field areas that are used by the league, including the parking area.
2. The League is responsible for any replacement of chalk lining and paint material and equipment. League will paint the initial layout for the league, as well as being responsible for all other painting and chalking. League will be responsible for the maintenance and repair of equipment that is owned by the City of Bonita Springs during the League's season.
3. The League is responsible for maintaining interior portions of the concession building including meeting rooms i.e. cleaning, etc.
4. The League will stock and supply the concession stand and will keep all funds from the sale of items in the concession area at the City's Soccer Complex. The League agrees to design and maintain internal controls over its cash collection to ensure the safeguarding of funds, so that any profit resulting from the concession stand is used for the operation of the League.
5. The League is not permitted to sell items, including concession type operations at Marni fields unless the league obtains special permission from the City Parks and Recreation Director.

6. The City is not responsible for any lost, stolen or damaged items that are the property of the league. The League is responsible for their own property located within the Soccer Complex or Marni fields.
7. The League will be permitted access to the concession building (including the meeting room) one (1) hour before scheduled play begins and will have one (1) hour to clean up and exit the concession building after the League's games have concluded. The League will be responsible to communicate with the Parks and Recreation Director for additional concession building and meeting room requests.
8. The League is responsible for paying its fee of \$375 per team for each team, which must be paid by February 1, 2021. This fee will be used to pay their portion of the utility charges, storage rooms, meeting rooms and restrooms.
9. The League must provide the City with completed Parks and Recreation registration and waiver forms for each player before that player may participate in any activities on City facilities.
10. The League will be responsible for the cleaning and maintenance of the restrooms and common areas used by the League during the League's use of the fields.
11. The League will ensure that players, coaches, parents, league board members, and spectators follow a Code of Ethics.
12. The League will be responsible to follow and assist in the enforcement of the City of Bonita Springs Parks & Recreation Ordinance during league practices and play while on City property.
- 13. THE LEAGUE WILL BE PENALIZED FOR FAILURE OF THE LEAGUE TO MEET ANY OF ITS REQUIREMENTS ABOVE, ESPECIALLY (1) LEAVING TRASH ON THE PROPERTY, (2) PARKING IN UNAUTHORIZED LOCATIONS OR (3) ALLOWING UNAUTHORIZED VENDORS. PENALTIES ASSESSED BY THE CITY MAY INCLUDE A SUSPENSION FROM USE OF THE CITY PROPERTY, A FINE PER OCCURRENCE NOT TO EXCEED \$100.00, OR FOR REPEAT VIOLATIONS AFTER WARNING, TERMINATION OF THIS AGREEMENT AND CESSATION OF USE OF THE FACILITIES BY THE LEAGUE.**

C. GENERAL COOPERATION

1. City's contact person shall be the City Parks and Recreation Director. The league's contact person shall be the President, or designee of the League, as specified below:

Name: Juan Romero

Address: 9862 Connecticut St. Bonita Springs, FL 34135

Phone number: 239-322-9298

2. City will advise the League of any outside requests for field usage during permitted dates and times. The League shall have priority for use of the facility during primary League season, but the League agrees to cooperate with other groups wishing to use the facility. The League will allow other youth sports entities to use the fields for practice so long as such use does not conflict with the League's scheduled use. If there is an alternative League with at least twenty-five (25%) percent of players living within the corporate boundaries of the City of Bonita Springs, the League will accommodate practice times in such a manner so as not to interrupt that alternative League, or to have practice times that would affect school and parent schedules.
3. The City will supply to the League a schedule for use of the fields during regular season play.
4. The League will advise the City of Bonita Springs of changes in officers of the League within two (2) weeks of new term. The League will provide name and telephone numbers of new officer. The Parks and Recreation Director and the new president will acknowledge in writing this existing agreement, to be filed with the City Clerk.
5. All of the League coaches will participate in mandatory coaches' clinics provided by the City, County or particular League's District.

D. CAPITAL IMPROVEMENTS PROJECTS

1. Currently budgeted of future project requests will only be considered for approval upon successful performance of this agreement.
2. It is the policy of the City not to construct Capital Improvements which will negatively impact the limited resources of Parks and Recreation.

3. Facility additions, structures or construction of any kind will not be permitted on City property without a written request and approval by the Parks and Recreation Director.

E. TERM

1. Initial term of this agreement will be for one (1) year, commencing upon the date of execution, and will be reviewed annually and amended as needed in the same form as it was approved. The City may terminate agreement with (thirty) 30 days' notice.

F. INSURANCE

1. Insurance shall be provided per the attached insurance requirements for Sports Leagues. See Exhibit "B". City will be named as an additional insured.
2. League shall indemnify and hold the City harmless from any and all claims, liability, losses, and causes of action which may arise out of the willful, negligent, or unlawful acts or omissions of the league in its operations under this agreement and shall pay all claims and losses of any nature whatsoever in connection with, shall defend all suits, in the name of the City, when applicable, including appellate proceedings and shall pay all costs, judgments, and attorney's fees, which may issue thereon; provided, however, that nothing herein shall be construed to require the league to indemnify City against liability resulting from the willful, negligent, or unlawful acts or omissions of the City, not be liable for loss or damage incurred or occasioned by the league in the performance of operations under this agreement. This provision shall survive the termination of this agreement.

G. CONCESSION STAND OPERATIONS

1. League will be responsible for the concession stand revenue at the Soccer Complex. They will be responsible not only for the food and health criteria of serving the food, but also internal control of collection of cash. The league is responsible for paying the concession stand monthly fee of \$75.00 per month (if used during their soccer season).

H. COVID-19 ACKNOWLEDGEMENT

1. Both the City and the League acknowledge and understand the circumstances of the COVID-19 pandemic and will take all reasonable precautions, consistent with the applicable guidance issued by the Center for Disease Control (CDC) and the Florida Department of Health (FDOH)

in order to limit the spread of COVID-19 and promote the health and safety of the players, coaches, parents, and City staff.

2. The League has presented to the City a Safety Plan, attached hereto as Exhibit C, outlining the safety measures that will be implemented in response to COVID-19. The League is responsible for ensuring that players, coaches, and spectators adhere to the Safety Plan at all times while using the City facilities.
3. The City and the League acknowledge and understand the circumstances of the pandemic create a fluid situation and that the guidance provided by the CDC and FDOH may change during the term of this Agreement. Both parties shall monitor the situation closely and adjust the League's Safety Plan as may become necessary.
4. In the event that any Order is issued by the City, by Lee County, by the Florida Governor, or by the President of the United States that affects the terms of this Agreement, such Order shall supersede. The City shall have the sole discretion as to whether the Agreement may endure any such Order, including, but not limited to, the suspension or cancellation of adult leagues.

CASA MEXICO SOCCER LEAGUE

9-11-2020
Date

By: [Signature]
President/Designee

WITNESSES:

(1) [Signature]
Sign

9/11/2020
Print Name

(2) [Signature]
Sign

9-11-2020
Print Name

CITY OF BONITA SPRINGS

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney

DATE FILED WITH CITY CLERK: _____

EXHIBIT A
SCHEDULE OF USE

EXHIBIT "B"
INSURANCE REQUIREMENTS FOR SPORTS EVENTS
HELD AT CITY OF BONITA SPRINGS FACILITIES

Your certificate of insurance must meet the following requirements:

Requirement #1	The City of Bonita Springs shall be added as an additional insured on the comprehensive general liability policy.
Requirement #2	Certificate holder shall be listed as follows: City of Bonita Springs 9101 Bonita Beach Road Bonita Springs, Florida 34135
Requirement #3	Each policy shall provide a 30 day notification clause in the event of cancellation, non-renewal or adverse change.

A. COMMERCIAL GENERAL LIABILITY

Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability and broad form property damage exposure with minimum limits of \$1,000,000. per occurrence for bodily injury and property damage.

B. ACCIDENT MEDICAL

Coverage shall apply to all participants in the Sports event and provide minimum aggregate limits of \$100,000. with minimum medical limits of \$5,000. (per person) and minimum dental limits of \$2,500 (per person).
Said coverage is acceptable on an excess basis.

The organization will provide the City with evidence of the above referenced insurance by submission of a Certificate of Insurance to be on file with the City Clerk prior to onset of this agreement

You should provide your insurance agent with a copy of this sheet. If you or your insurance agent/producer has any questions about these requirements contact the City Clerk.

Please send or fax your certificates to:

Debra Filipek, City Clerk
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, Florida 34135
Phone: (239) 949-6262
Fax: (239) 949-6251

EXHIBIT “C”

ADULT SOCCER LEAGUE MINIMUM SAFETY GUIDELINES

During this time, our main goal is to remain cautious and limit the spread of Covid-19 in order to keep the community safe. Each league will follow any additional safety guidelines provided by the city and we will take extra precautions in order to keep everyone healthy. Below is a list of the minimum safety guidelines an adult league must follow in order to return to league play at Marni Fields and the Bonita Soccer Complex. It is the league's responsibility to make sure these safety guidelines are followed during league's use of the facilities.

General Safety Guidelines

1. Hand contact of any kind will be prohibited. (i.e. handshakes, high fives, etcetera.)
2. Soccer balls and equipment will be sanitized before and after use.
3. Each player will be responsible for bringing their own water and be told not to share food or water with other participants.
4. There will be no food or beverage vendors onsite nor any other type of vendor on site.
5. Players, coaches and spectators will be asked to social distance upon arriving and entering the facility
6. All coaches, volunteers, spectators or staff that show symptoms will not be allowed to enter the park facility.
7. Any player, coach, staff or spectator must not show any signs or symptoms of COVID-19 in the past 14 days. If a person has had a documented case of a COVID-19 infection, a doctor's release is needed to clear the person to return to the fields.
8. There will be no team pictures, award ceremonies, or large group gatherings.
9. There will be no more than 40 players per field for training separated in training groups of no more than 10 people.
10. The Spectators will stand 6 feet apart on the sidelines with face coverings when social distancing is not possible.
11. Portable restrooms will need to be sanitized before all games and practices.
12. Players need to sanitize their hands at the beginning and end of every practice and game.
13. These Safety guidelines will be given to all players, participants and spectators to ensure all those entering the facility are aware and following the safety guidelines in place.

14. The players will be directed to place their bags and water bottles 6 feet apart on the sidelines.
15. Marni fields has a maximum of 4 adult fields. If all 4 fields are in use, then the maximum number of players, coaches, staff and spectators is 50 people total per field for a total number of people permitted in the park of 200 people.
16. Bonita Soccer Complex has a maximum of 3 fields. If all 3 fields are in use, then a maximum number of players, coaches, staff and spectators is 50 people per field for a total number of people permitted in the park of 150 people.

Practice training guidelines

1. Only practices and try-outs can occur during the first two weeks.
2. No signs or symptoms of COVID-19 in the past 14 days. If a person has had a documented case of the COVID-19 infection, a doctor's release is needed to clear to the person to participate in training sessions
3. Players need to live in the community where the practice training is occurring and has not traveled for 14 days prior to the start of training.
4. Maintain normal temperature readings; temperature checks should be conducted by players prior to attending any training or practices.
5. Coaches & staff should ask each player if they are experiencing any signs or symptoms of COVID-19. If the player shows any signs or symptoms of infection, they should be sent home and contact a healthcare provider
6. Infection prevention supplies must be present & utilized (hand sanitizer, facial tissues, facial coverings, hand wash stations, etc.)
7. Small group training sessions should take place outside in an area where social distancing can be maintained with groups of 10 people or less with no more than 40 players per field.
8. All soccer activities (practices & training) should be staggered/spaced out to limit interactions between other players entering the facility and fields at one time. (Minimum 15 minutes)
9. Players and coaches must only use their own equipment and properly sanitize all equipment after every training or practice session.
10. Do not share or touch any other player's equipment
11. Coaching can occur on the field, but coaches must wear a face covering and maintain social distancing from all players at all practices and games.
12. No physical contact between players is permitted.
13. Spectators (non-players) are not permitted to be onsite for any training or practices

Game Day Guidelines

1. All players and coaches will continue to follow the above General Safety guidelines as well as the practice training guidelines.
2. All players, coaches and spectators will need to enter through entrances with temperature checks performed before entering facility.
3. Spectators (non-players) may be onsite for games, but must maintain social distancing guidelines of 6 feet apart with face coverings when social distancing is not possible
4. All soccer activities (practices, tryouts, games, etc.) should continue to stagger/space out events to limit interactions between players entering the fields or facility at one time. (Minimum 15 minutes)
5. After the game, players and spectators need to socially distance as they leave the park.

BONITA SPRINGS CITY COUNCIL		GREEN SHEET:	20-09-282
AGENDA ITEM SUMMARY			
REQUESTED MOTION: Introduction by Dr. Michael Parsons of the Bonita Springs Water Steward.			
MEETING DATE: 9/16/2020			
AGENDA:		REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐ PRESENTATIONS	☐ STATUTE	Mayor Peter Simmons	
☐ CONSENT	☐ ORDINANCE		
☐ PUBLIC HEARING	☐ ADMIN. CODE		
☒ MAYOR AND COUNCIL MEMBER ITEMS	☒ OTHER		
☐ MAYOR AND COUNCIL MEMBER'S REPORTS			
☐ CITY ATTORNEY ITEMS			
☐ CITY MANAGER ITEMS			
BACKGROUND: Dr. Mike Parsons with Florida Gulf Coast University will be present to introduce the newly appointed Bonita Springs Water Steward.			
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☒ YES ☐ NO IF YES, WHICH STRATEGIC OBJECTIVE? #4 Environmental Protection			
STAFF RECOMMENDATIONS: Receive introduction.			
REVIEWED BY: City Manager: City Attorney: City Clerk: Department Director: <u>Arleen Hunter</u> <u>Derek Rooney</u> <u>Debra Filipek</u> _____			
COUNCIL ACTION: ☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER			

BONITA SPRINGS CITY COUNCIL		GREEN SHEET:	20-09-279
AGENDA ITEM SUMMARY:			
REQUESTED MOTION: Second reading and public hearing of the following Ordinance: An Ordinance of the City of Bonita Springs, Florida, amending Division 37., Subdivision II, Temporary Uses and Subdivision III. Mobile Food Vendors of the Land Development Code relating to Mobile Food Vendors; providing for severability, conflicts, codification, scrivener's errors; and providing for an effective date.			
MEETING DATE: 9/16/2020			
AGENDA:		REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐ PRESENTATIONS	☐ STATUTE	John Dulmer, AICP Community Development Director	
☐ CONSENT	☒ ORDINANCE		
☒ PUBLIC HEARING	☐ ADMIN. CODE		
☐ MAYOR AND COUNCIL MEMBER ITEMS	☐ OTHER		
☐ MAYOR AND COUNCIL MEMBER'S REPORTS			
☐ CITY ATTORNEY ITEMS			
☐ CITY MANAGER ITEMS			
BACKGROUND: The current standards for mobile food vendors were adopted in 2015. These regulations allow for up to five mobile food vendors within the City. These standards also require vendors leave the site after vending and limits the time a vendor can locate at a particular location. In previous discussions, Council has directed staff to modify the ordinance to remove the maximum number of vendors and instead review and approve locations and not vendors. Vendors would be able to operate at a permitted site by providing necessary credentials from State inspections and approval. In 2019 City Council requested staff bring the mobile food vendor ordinance forward to discuss current regulations and determine if amendments are appropriate. This item was last discussed by City Council on March 4th. At that time, Council has requested this item be brought back to discuss several items: - Look to remove the limit of food trucks within the City and require only the location be permitted by City Council - Look for an approval process for food truck parks with appropriate locational and performance standards. - Provide mitigation strategies and provide for protections of existing residents. The draft was presented to the LPA will be 2, 20, 2020 and was unanimously considered consistent with the Bonita Springs Comprehensive Plan. The item has now returned to City Council for a second reading and possible adoption.			
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ YES ☒ NO IF YES, WHICH STRATEGIC OBJECTIVE?			
STAFF RECOMMENDATIONS: Adopt Ordinance.			
REVIEWED BY: City Manager: <u>Arleen Hunter</u> City Attorney: <u>Derek Rooney</u> City Clerk: <u>Debra Filipek</u> Department Director: _____			

COUNCIL ACTION:

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

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 20-__

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING DIVISION 37. SUBDIVISION II, TEMPORARY USES AND SUBDIVISION III. MOBILE FOOD VENDORS OF THE LAND DEVELOPMENT CODE RELATING TO MOBILE FOOD VENDORS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, Florida Statutes §166.021 authorizes the City of Bonita Springs to establish, coordinate and enforce laws that are necessary for the protection of the public; and

WHEREAS, on December 5, 2012 City Council passed Resolution 12-090 to declare a zoning in progress, directing that until these regulations are adopted and become effective or are determined not to be adopted by the City Council, or until 90 days from the effective date of Resolution 12-090, whichever first occurs, applications for mobile food vendors within the municipal boundaries the City of Bonita Springs were not processed or approved; and

WHEREAS, while drafting the regulations for mobile food vendors there were provisions in the Temporary Uses provisions of Land Development Code Chapter 4 that needed some minor revisions; and

WHEREAS, the City of Bonita Springs desires to have minimum regulations for mobile food vendors and food stands in place because their use can be disruptive to existing and future businesses, especially in the areas sensitive to redevelopment; and

WHEREAS, City Council recognizes the need for regulations intended to provide economic development and entrepreneurial opportunities for applicable businesses, while protecting public health, safety, and welfare, minimizing visual impacts to the public realm, and mitigating fiscal impacts to standard restaurants and related businesses; and

WHEREAS, City Council has provided guidance that food trucks should be permitted in portions of the City; and

WHEREAS, City Council has provided additional guidance that locational and development standards should be created to allow for food truck parks within the City; and

WHEREAS, this ordinance will still prevent food trucks and food truck parks from being located on Little Hickory Island and residentially zoned property.

Subdivision III. - Mobile Food Vendors

Sec. 4-2153. - Applicability, purpose and intent.

~~(a) This subdivision provides minimum regulations for mobile food vendors and food stands. The purpose and intent of this subdivision is to provide regulations for mobile food vendors and food stands, as their use is listed in [section 4-408](#)(c)(29) Group III and [section 4-408](#)(c)(43) Group I, food stands. The provisions below are intended to provide economic development and entrepreneurial opportunities for applicable businesses, while protecting public health, safety, and welfare, minimizing visual impacts to the public realm, and mitigating fiscal impacts to standard restaurants and related businesses. It is not the intent of these provisions to regulate mobile food vendors from operating that are in transit, i.e., making stops at locations within the city less than a half hour per location.~~

(a) Applicability – The City of Bonita Springs recognizes that this use is temporary and mobile in nature. These regulations are intended to define the locations and development standards for a site to be permitted for mobile food vendors. The standards established in these regulations are intended to allow mobile food vendors to operate while mitigating impacts to the site in which they operate and adjacent properties and right of ways. These regulations do not address mobile food carts, or mobile vendors that visit sites to temporarily vend for a period of minutes and not days or hours (i.e. ice cream trucks, construction or work site vendors). These vehicles are permitted by other agencies and cannot operate in the same manner as a mobile food vendor.

Permit Required – No mobile food vendor location is permitted without an approved permit. Such a permit only address the location. Food vendors are required to provide evidence of all applicable inspections and permits with the City and not permitted or registered through this ordinance.

(b) Property owners that have a fixed (stationery) mobile food vendor permitted before January 1, 2013, and have made substantial improvements to the property (obtained development orders and expended at least \$10,000.00 in site improvements) may continue to have a mobile food vendor on that site for eight years from adoption of the ordinance from which this subdivision is derived, subject to loss of nonconforming status per [section 4-2320](#) et seq. The community development director may grant a two year extension to the property owner. Property owner may replace the mobile food vendor, who may remain as originally permitted. Any new mobile food vendor located at the site must comply with [section 4-2156](#) except for the duration and physical movement of the vendor.

(Ord. No. 13-02, § 1(4-3061), 2-20-2013)

- **Sec. 4-2154. - Definitions.**

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commissary means an approved facility that provides support services for specific required functions of a mobile food vendor, including, but not limited to, mobile food vehicles and mobile food carts. Any food establishment permitted or licensed by a regulatory agency, such as a catering operation, restaurant, grocery store or similar establishment or any otherwise approved facility by FDACS in which food, containers, or supplies are kept, handled, prepared, packaged or stored can be considered for approval as a commissary. When not required at the mobile food establishment, commissaries may provide a three compartment sink for washing, rinsing and sanitization of equipment/utensils in addition to hand wash and rest room facilities. Services required of the commissary will be based on the food sold and the mobile food establishment type and capabilities. A private residence may not be used as a commissary (see F.S. ch. 500).

Food stand means a temporary, non-motorized food unit with limited infrastructure, which serves food and/or beverage intended for immediate consumption and does not provide indoor seating.

Mobile food cart means any non-motorized mobile food unit with limited infrastructure, which serves food and/or beverages intended for immediate consumption. Mobile food carts may not exceed six feet in length, three feet in width (exclusive of wheels), or four feet in height (exclusive of wheels and umbrellas).

Mobile food vehicle means a motorized mobile food unit, which may be self-sufficient in terms of potable water, sanitary sewer and electric utilities, and generally consists of an enclosed truck, trailer or similar vehicle, where food may be stored, prepared, cooked, and/or served. An open bed truck, van or converted automobile is not considered a mobile food vehicle and is not eligible for a mobile food vending permit pursuant to this division.

~~*Mobile food vending permit* means a permit granted by the city to a mobile food vendor to conduct food vending from a mobile food cart, vehicle, or food stand.~~

Mobile food vendor means any person or business selling foods other than fresh fruits or vegetables from a mobile food vehicle, mobile food cart or food stand.

~~*Mobile food vendor group site* means the temporary siting of two or more mobile food vendors on a single property during a special event, subject to an approved temporary use permit.~~

Mobile Food Vendor Park means a site approved through a Special Exception to allow for permanent location for three or more mobile food vehicles. Such sites must include required infrastructure and generally include public seating for all vehicles serving in the park.

(Ord. No. 13-02, § 1(4-3062), 2-20-2013)

Sec. 4-2155. - Permit required.

~~(a) No mobile food vendor shall be permitted to operate within the city unless a permit has been obtained from the department of community development.~~

~~(b) A mobile food vendor permit granted under this subdivision authorizes a vendor to sell food and/or beverages subject to all other applicable requirements in this chapter.~~

~~(c) Mobile food vendor permits shall be regulated as follows:~~

~~(1) No more than five mobile food vendor permits, as defined in this subdivision, shall be in effect at any time within the city, excluding temporary use permits issued pursuant to this subdivision.~~

~~(2) Permits shall be issued on a first come, first serve basis, and are non-transferable.~~

~~(3) A mobile food vendor may request approval to vend at a maximum of two locations per application, subject to the submittal requirements of this subdivision.~~

~~(4) Permits, unless sooner suspended or revoked, shall be valid for an initial period of six months from the date of issuance.~~

~~(5) Permit holders may apply to renew the permit for a period of 12 months no sooner than 30 days prior to permit expiration.~~

~~(6) Approved permits must be attached to the mobile food vendor unit where they are readily visible and shall include the name, mailing address, and valid phone number of the mobile food vendor unit owner and shall list the addresses and parcel identification numbers where the permit is valid.~~

~~(7) Routine inspections may be conducted by building or fire inspectors on each mobile food vendor at any time and at any frequency deemed appropriate by the city.~~

~~(8) Any mobile food vendor unit that has been issued a notice of health violation by the state, and on a subsequent inspection, a state inspector determines that the mobile food vendor has not corrected the violation, shall have its city issued mobile food vendor permit revoked and food service shall cease in the city.~~

~~(d) Submittal requirements. Applications for mobile food vendor permits must include the following information:~~

~~(1) The name, address, telephone number, and email address of the applicant.~~

~~(2) A description of the type of food and/or beverages to be sold.~~

~~(3) Color photograph of the mobile food vehicle, cart or food stand depicting the current condition of the unit.~~

~~(4) Address of proposed vending site, including the property address, property owner's name and telephone number, and the name of the principal business located on the property (where applicable).~~

~~(5) A site plan for each proposed vending site, drawn to scale, depicting the following information:~~

- ~~(a) Total square footage of the property;~~
 - ~~(b) Location and square footage of the existing principal and accessory uses, where applicable;~~
 - ~~(c) Location and number of existing parking spaces, including a calculation that demonstrates the number of parking spaces required for the principal uses, and the number of parking spaces available to service the mobile food vehicle, cart or food stand pursuant to [section 4-1732](#);~~
 - ~~(d) Proposed location for the mobile food vehicle, cart or food stand;~~
 - ~~(e) Location of ingress/egress to the site; and~~
 - ~~(f) Table demonstrating the minimum setbacks in compliance with the underlying zoning district and this subdivision.~~
- ~~(6) Address of proposed location to store the mobile food vehicle, cart or food stand when not in use.~~
- ~~(7) A copy of all permits and business licenses required by the state, the county and the city.~~
- ~~(8) A notarized commissary agreement confirming the mobile food vendor is operating in conjunction with a licensed commissary in accordance with state statutes, where applicable. All commissaries must be pre-approved by the city prior to issuance of a mobile food vendor permit.~~
- ~~(9) A notarized affidavit signed by each property owner indicating that the vendor has permission to vend on the site. The affidavit must also indicate that the property owner acknowledges the following requirements:~~

- ~~(a) The property owner shall comply with all ordinances regarding solid waste disposal and must provide the vendor access to solid waste collection on the subject property;~~
- ~~(b) The property owner shall require that the vendors meet all applicable federal, state and local statutes, regulations, laws, ordinances, rules and codes; including, but not limited to, permitting requirements regarding his or her specific business;~~
- ~~(c) The property owner shall acknowledge that he understands the regulations governing mobile food vendors and will be held responsible, along with the vendor, for any code violations; and~~
- ~~(d) The property owner shall ensure that the property will be continuously maintained in a neat, clean, and orderly manner.~~

~~(10) Proof of business insurance, issued by an insurance company that is licenses to do business in the state, protecting the applicant from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with mobile food vending. Such insurance shall name the city as an addition insured party and shall be in at least the amount of \$500,000.00 for occurrence for injury and \$200,000.00 per person.~~

~~(11) Letters of no objections from any school, church, restaurant Group II through IV or residence within 500 feet, or where applicable pursuant to [section 4-2157](#).~~

~~(12) Application fee as outlined in the city's adopted fee schedule.~~

~~(Ord. No. 13-02, § 1(4-3063), 2-20-2013)~~

~~Sec. 4-2156. -- General standards.~~

~~The following standards shall apply to all mobile food vendor permits:~~

~~(1) Mobile food vehicles, carts or food stands may be permitted on nonresidentially zoned properties as specified in the zoning district regulations, in compliance with this subdivision.~~

~~(2) Establishments and/or vendors governed by this subdivision shall be limited in operation on site from 7:00 a.m. to 9:00 p.m., Monday through Sunday, unless additional hours are permitted pursuant to this subdivision.~~

~~(3) The mobile food vehicle or cart must physically be moved at least daily and cannot remain in a permitted vending location outside the approved hours of operation.~~

~~(4) Maximum duration. Mobile food vehicles, carts and food stands may not vend at the same location for more than a three days per week (beginning and ending at 7:00 a.m. on Mondays). The mobile food vehicles, carts and food stands must be moved to a different location (permitted) when not in use at the permitted vending locations.~~

~~(5) Exterior colors. Neon and fluorescent colors are prohibited. The use of black paint is limited to trim.~~

~~(6) No products shall be sold from any mobile food vendor vehicle or cart which is stopped, standing, or parked in any public street/right of way, crosswalk, and/or driveway. The mobile food vehicle or cart shall not impede the flow of traffic or pedestrians on the sidewalk, or obstruct access to fire hydrants.~~

~~(7) The mobile food vendor shall not block/interfere with required parking spaces, building access, loading areas, stormwater drainage systems, or landscape buffers associated with the principal use.~~

~~(8) Mobile food vehicles, carts, food stands and associated displays must be located in accordance with the principal structure setbacks of the underlying property's zoning district. Mobile food carts must be located in accordance with the accessory structure setbacks of the underlying property's zoning district.~~

~~(9) Parking spaces shall be provided in accordance with [section 4-1732](#). Existing parking spaces for the principal use may count towards the required parking for the mobile food vendor use. However, at no time may the required number of parking spaces for the principal use be rendered nonconforming due to mobile food vendor use.~~

~~(10) The sale of alcohol beverages from a mobile food vehicle or cart is prohibited.~~

~~(11) Amplified music or other sounds from any mobile food vehicle or cart for the purposes of vending products is prohibited.~~

~~(12) Mobile food vendors are prohibited from discharging fat, oil, grease, and waste water into the sanitary sewer system. Waste shall be properly stored and disposed of at the commissary or other permitted recycling/disposal facility.~~

~~(13) Ice must be drained into a retention tank to be properly disposed of at the commissary or designated servicing area. No wastewater leakage will be allowed.~~

~~(Ord. No. 13-02, § 1(4-3064), 2-20-2013)~~

~~Sec. 4-2157. Prohibited locations.~~

~~(a) Mobile food vending is prohibited on all parcels zoned for residential uses.~~

~~(b) Mobile food vending is prohibited within the Old U.S. 41 Redevelopment Overlay District (see [section 4-866](#)), unless approved pursuant to a temporary use permit for a permitted special event.~~

~~(c) A maximum of one mobile food vendor may be permitted to vend per lot at the same time, unless the location has been permitted as a mobile food vendor group site pursuant to a temporary event/use permit.~~

~~(d) Setbacks.~~

~~(1) Unless there is a letter of no objection, mobile food vehicles, carts and food stands shall not be located closer than 500 feet from:~~

~~(a) Any school (noncommercial) or day care center (child).~~

~~(b) Church or place of worship.~~

~~(c) Restaurants, Groups II through IV.~~

~~(d) Any residentially used properties.~~

~~(2) A letter of no objection is not required when the applicant subject mobile food vehicle, cart or food stand is the school, day care center, church, or Groups II through IV restaurant.~~

~~(3) Mobile food vehicles, carts and food stands shall not be located closer than 200 feet from any other mobile food vehicle or cart, unless operating at an approved~~

~~special event. For the purposes of this subsection, the distance shall be measured in a straight line from the subject mobile food vehicle, cart or food stand to the nearest mobile food vehicle, cart or food stand, and/or from the subject mobile food vehicle, cart or food stand to the property line of the school, day care center, church, or Groups II through IV restaurant.~~

~~(Ord. No. 13-02, § 1(4-3065), 2-20-2013)~~

General Standards -

1. Locations must not interfere with vehicular, multi-modal, pedestrian access and access ways.
2. Cannot locate in a required parking space or driveway, unless it is specifically demonstrated the parking or driveway is not used during the time and/or days the mobile food vendor location is permitted.
3. A mobile food vendor cannot install or create features, signs, or other identification not utilized while driving, that extend more than 3' from the vending vehicle in any direction.
4. Must be located on property or within a development with completed infrastructure improvements.
5. The property cannot be zoned or used for residential use, unless the event is for a community and the controlling association requests a location at a clubhouse or other portion of the community separate from residences.
6. All mobile food vendors shall locate in areas and in a manner that they do not create an adverse view or vista. More specifically, the food truck or anything associated with its operation shall block the view of signs or vehicular or multi-modal access ways.
7. No more than two mobile food vendors can be requested on a single site. For purposes of this specific requirement, a site includes an entire commercial development even if that development consists of more than one parcel.
8. A mobile food vehicle cannot be permitted within 250 feet of another permitted location, mobile food vendor park, or existing restaurant. This separation requirement will not reduce or amend locational standards for particular overlay districts.
9. Due to the nature of distilleries and breweries, impacts upon neighboring businesses and restaurants is not the same as stand alone mobile food vehicles, such a facility may request that City Council waive separation requirements or development standards when a specific plan has been presented.
10. Permitted sites will have the mobile food vendor removed at the end of permitted operating hours.
11. A food truck site will not be permitted on Little Hickory Island or within the Downtown District on the Future Land Use Map.
12. Cannot be located on the site of an active, or abandoned gas station or convenience store.
13. Alcohol shall not be sold or consumed from a mobile food vendor.
14. Advertising signs may be permitted upon the mobile food vendor, but there will not be additional signage installed in any other location.
15. Notification will only be provided by courtesy mailing for property owners within 1,000' and be the responsibility of the applicant. The mailing list and copy of notification will be provided to the City. The request for approval will also be listed on the advertised City Council agenda.
16. Property Owner Responsibilities will include; and

- a) Provision of sanitary facilities consistent with the standards of the Florida Building Code while considering aesthetics of the site; and
- b) The responsibility to ensure vendors meet all applicable federal, state, and local statutes, regulations, laws, ordinances, rules and codes; and
- c) Acknowledgement that the regulations governing mobile food vendors hold the vendor and property owner responsible for violations of code.
- d) Ensure that the property (both the subject site, and other properties that may be directly impacted by mobile food vending) be kept in a continuously neat, clean, and orderly manner

Permit Submittal Requirements –

1. Completed application.
2. Signed authorization from the property owner or authorized representative.
3. Proof of business insurance, issued by an insurance company that is licensed to do business in the state, protecting the applicant from all claims for damages to property and bodily injury, including death, which may arise from operations under, or in connection with mobile food vending. Such insurance shall name the city as an addition insured party and shall be in at least the amount of \$500,000.00 for occurrence for injury and \$200,000.00 per person.
4. Site Plan based on a valid survey, approved development order, or Master Concept Plan with dimensions and infrastructure identified, including the proposed location of the mobile food vendors. For large or phased projects, the plan submitted must provide enough detail to determine pedestrian and vehicular access to a public right of way.
5. All sidewalks, driveways, rights of way, parking areas, outdoor seating areas, buildings with entry locations.
6. A statement declaring if biodegradable packaging will be utilized, and if not, why.
7. If required parking spaces are to be utilized, the times businesses use those spaces and the proposed time they would be used for mobile food vending.

Non-Compliance with Permit

1. If a permit holder is found to operating inconsistent with the standards of the permit, as documented by a violation notice or conviction from the Bonita Springs Hearing Examiner, the permit may be suspended or revoked by the City Council after hearing evidence of the violation in a public hearing. The burden to maintain the permit will be with the permit holder.

Mobile Food Vendor Park

Applicability – This applies to any location that intends to provide permanent locations for mobile food vendors either through dedicated parking within an existing facility, or the creation of parking for such purpose. It is the permanent nature and not the number of mobile food vendors that distinguishes a mobile food vendor Park from temporary mobile food vendor locations.

General Standards

1. Must provide stabilized surface for the parking of the intended number of mobile food vendors
2. Central water and sewer must be provided for all mobile food vendors and the general public.
3. A mobile food vendor park can only co-locate on a site with existing uses if the tenants of those legal uses sign a no objection form
4. Any accessory structures, seating areas, pedestrian access must be specifically approved as part of the submitted plan.
5. There shall be no more than one mobile food vending park within 250 feet of another permitted park or mobile food vending location. This separation requirement will not reduce or amend locational standards for particular overlay districts.
6. Parking will be provided at three spaces per mobile food vendor, plus 1 additional parking space per 15 seats.
7. Restroom facilities will be required based on the standards of the Florida Building Code.
8. Cannot be located on the site of an active, or abandoned gas station or convenience store.
9. A food truck site will not be permitted on Little Hickory Island or within the Downtown District on the Future Land Use Map.
10. Neighborhood meetings are required consistent with Bonita Springs LDC 4-28.
11. Public notice will include courtesy mailed notices for property owners within 2,000' for both Zoning Board and City Council hearings.
12. Mobile food vendors may have advertising on their vehicles, however, signage for a mobile food vending park must be consistent with the standards of Bonita Springs Land Development Code Chapter 6.

Permit Submittal Requirements

1. Mobile Food Vendor Parks may only be approved through a Special Exception permit
2. All required submittal requirements for a Special Exception, and
3. For open air central seating areas, an analysis for off-site impacts.
4. Analysis for off-site impacts of glare, dust, vibration, and odor on the adjacent and surrounding community.
5. For applications with outdoor entertainment, analysis for off-site impacts for noise.

Mobile Food Vendors

1. For Mobile Food vendors to locate at an approved location (both an approved site or approved mobile food vendor park), they must provide evidence that all required permits, inspections, licensure, or other approvals as needed by either county, state, or federal agencies prior to operating within the City.
2. Documentation will be submitted to the City through copies or accepted electronic forms.
3. Submittal of these documents will not produce a permit and other than maintain evidence of documents for public records, it will not produce a registry or registration.

Sec. 4-2158. - Temporary event/use permit.

(a) *Intent; applicability.* It is the intent of this section to require mobile food vendors to obtain a temporary use permit for vending at the specific location where an event is held. This section pertains to, but is not limited to the following events:

- (1) Grand openings or open houses at residential, commercial or industrial developments;
- (2) Special outdoor holiday or celebration events;
- (3) Political rallies or events;
- (4) Block parties; and
- (5) Carnivals.

(b) *Limitations.* If the event for which the temporary permit is sought continues for longer than three days, the applicant may petition the director for an extended permit. A temporary use permit may not be issued for more than ten days.

(c) *Procedure for approval.* The following is the procedure for requesting approval of mobile food vendor temporary use permit.

- (1) Any mobile food vendor seeking approval of a temporary use permit must submit a written request to the department of community development. The written request must include:

- (a) The name and address of the applicant;
- (b) A general description of the event and exact site where food and/or beverages are to be sold and consumed;
- (c) The type of food and beverages to be sold and consumed;
- (d) Proposed hours of operation; and
- (e) A fee in accordance with the adopted fee schedule.

- (2) The director will render a final decision within ten working days. The decision will be in the form of approval, approval with conditions or denial. The director may forward the request to other appropriate agencies for comment.

(Ord. No. 13-02, § 1(4-3066), 2-20-2013)

BONITA SPRINGS CITY COUNCIL		GREEN SHEET:	20-09-280
AGENDA ITEM SUMMARY			
REQUESTED MOTION: Approve Emergency Resolution suspending code enforcement fines under certain conditions for the duration of the State of Emergency due to COVID-19.			
MEETING DATE: 9/16/2020			
AGENDA:		REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐ PRESENTATIONS	☐ STATUTE	Carly Sanseverino Staff Attorney Tony Backhurst Neighborhood Services	
☐ CONSENT	☐ ORDINANCE		
☐ PUBLIC HEARING	☐ ADMIN. CODE		
☐ MAYOR AND COUNCIL MEMBER ITEMS	☒ OTHER		
☐ MAYOR AND COUNCIL MEMBER'S REPORTS			
☒ CITY ATTORNEY ITEMS			
☐ CITY MANAGER ITEMS			
BACKGROUND:			
The Bonita Springs Rental Ordinance provides the standards and enforcement procedures for residential rental properties throughout the City, and Section 12-108 requires that every property owner of a non-exempted rental property must obtain a rental permit through our Neighborhood Services department. A mandatory thorough inspection of each rental property is a prerequisite to obtaining the rental permit in the interest of protecting the health, safety, and welfare of the tenants. The internal inspection includes items of interest such as smoke alarms, mechanical equipment, interior surfaces, lighting and ventilation, plumbing, ingress/egress, electrical systems, extermination, and excessive occupancy. The enforcement component of the rental program can sometimes result in the accrual of daily fines due to noncompliance, and such fines normally continue to accrue until the property is brought into compliance. Abating a violation of Section 12-108 would require a Code Enforcement Officer to conduct an internal and external inspection of the residence. Since the City has been operating under the direction of No Contact Operations due to the outbreak of COVID-19, the City's Code Enforcement Officers have been unable to conduct the internal inspections necessary for applicants to obtain the rental permit and abate the violation. The attached resolution amends the enforcement procedure to suspend any fines that may be accruing from the date of otherwise full compliance until the date that an internal inspection can occur. Should the property not pass the inspection, the fines would recommence as of the date of the inspection.			
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ YES ☒ NO IF YES, WHICH STRATEGIC OBJECTIVE?			
STAFF RECOMMENDATIONS: Approve the Emergency Resolution suspending code enforcement fines under certain conditions for the duration of the State of Emergency.			
REVIEWED BY:			
City Manager:	<u>Arleen Hunter</u>		
City Attorney:	<u>Derek Rooney</u>		
City Clerk:	<u>Debra Filipek</u>		
Department Director:	<u>Tony Backhurst</u>		
COUNCIL ACTION:			
☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER			

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 20- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONITA SPRINGS, FLORIDA, DECLARING THAT THE CITY IS SUSPENDING PORTIONS OF THE BONITA SPRINGS RENTAL PERMIT ORDINANCE AND ADOPTING INTERIM REGULATIONS TO PROVIDE TEMPORARY RELIEF IN RESPONSE TO COVID-19; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, on March 17, 2020, the City Council issued Emergency Resolution 20-14 declaring a Local State of Emergency and began taking active steps to contain the spread of COVID-19 in accordance with state and federal guidance; and

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

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

WHEREAS, the Bonita Springs Rental Ordinance (the “Ordinance”) requires that every rental property that is not exempted by Section 12-107 of the Bonita Springs Code of Ordinances must pass an internal and external inspection prior to the issuance of the City’s required rental permit; and

WHEREAS, commencing March 20, 2020, the City has been operating under the direction of No Contact Operations, thereby prohibiting inspectors from entering homes for the purpose of conducting internal inspections; and

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

WHEREAS, the City desires to place on notice all affected parties impacted by COVID-19, that the City Council hereby adopts the following temporary order with respect to the Bonita Springs Rental Ordinance and the enforcement thereof.

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

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

SECTION TWO. The City Council of the City of Bonita Springs hereby adopts the following interim permitting regulations and enforcement procedures applicable to residential rental properties within the City limits in furtherance of Executive Order 20-52:

1. Every owner of a rental property in the City that is otherwise not exempt by Section 12-107 and rents a dwelling, regardless of the term of the lease, is required to submit an application for a rental permit from the City Manager, or designee, prior to leasing, subleasing, renting or allowing the occupancy of such unit to another natural person or persons, regardless of relationship to the owner.
2. For the purpose of abating a code violation of Section 12-108, when a rental permit is unable to be issued solely due to the pending internal inspection, any accruing daily fines shall be suspended upon the date that the applicant submits a true and complete rental permit application and the application fees have been paid, provided that no known code violation exists on the subject property. In the event that the property does not pass the mandatory inspection, the daily fines shall recommence on the date of the failed inspection and continue for each day thereafter until the rental permit is issued.
3. Rental permits shall be deemed issued on the date that the inspection is passed and shall be valid for a term of three (3) years.
4. Inspections may be conducted if the subject property is uninhabited at the time of inspection.
5. All other terms of the Bonita Springs Rental Ordinance shall remain unchanged.

SECTION THREE. This Resolution shall take effect immediately upon adoption and shall expire commensurate with the termination of Governor's Executive Order 20-52, as extended by subsequent orders, or commensurate with the City's Emergency Resolution 20-14, as extended by subsequent orders, whichever occurs sooner.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida this 16th day of September, 2020.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney

VOTE:

Carr
Forbes
Gibson
Quaremba

Simmons
Corrie
Purdon

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-09-271
AGENDA ITEM SUMMARY		
REQUESTED MOTION: Permission to advertise an ordinance to amend the Land Development Code (LDC) to create regulations to clarify the implementation of conventional single-family homes in Mobile Home (MH-1 and MH-2) districts and two-family attached dwelling units in the Two Family Conservation (TFC-2) Zoning District. If approved, the ordinance will be scheduled on October 7 for its First Reading and Public Hearing, October 8 Local Planning Agency (Public Hearing), and then October 21 for a Second Reading and Public Hearing		
MEETING DATE: 9/16/2020		
AGENDA:	REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:
☐ PRESENTATIONS	☐ STATUTE	John Dulmer, AICP, Community Development Director Jacqueline Genson, AICP Planning and Zoning Manager
☐ CONSENT	☒ ORDINANCE	
☐ PUBLIC HEARING	☐ ADMIN. CODE	
☐ MAYOR AND COUNCIL MEMBER ITEMS	☒ OTHER: PERMISSION TO ADVERTISE LDC AMENDMENTS	
☐ MAYOR AND COUNCIL MEMBER'S REPORTS		
☒ CITY ATTORNEY ITEMS		
☐ CITY MANAGER ITEMS		
BACKGROUND: In 2014 and 2016, the City Council adopted amendments to the LDC to allow conventional single-family homes in Mobile Home (MH-1 and MH-2) districts and two-family attached dwelling units in the Two-Family Conservation (TFC-2) Zoning District. Community Development Staff has found areas in the LDC that require clarifying language such as specific development standards to implement the intent of those amendments accordingly.		
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ YES ☒ NO IF YES, WHICH STRATEGIC OBJECTIVE?		
STAFF RECOMMENDATIONS: Approve permission to advertise and direct staff to proceed with amendments.		
REVIEWED BY: City Manager: <u>Arleen Hunter</u> City Attorney: <u>Derek Rooney</u> City Clerk: <u>Debra Filipek</u> Department Director: _____		
COUNCIL ACTION: ☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER		

Sec. 4-555. - Use regulations table.

Use regulations for mobile home districts are as follows:

TABLE 4-555. USE REGULATIONS FOR MOBILE HOME DISTRICTS

	Special Notes or Regulations	MH-1	MH-2
Accessory uses, buildings, and structures:	4-923 et seq., 4-2012 et seq.	P	P
Amateur radio antennas and satellite earth stations	4-927	Refer to 4-927 for regulations.	
Animals (equines)	4-1045 et seq.	-	-
Docks, seawalls	4-1588	P	P
Fences, walls	4-1841 et seq.	P	P
Gatehouses, entrance gates	4-1841 et seq.	P	P
Nonroofed accessory structures	4-1894(c)(3)	P	P
Signs in compliance with chapter 6		P	P
Administrative offices		P	P
Aircraft landing facilities, private:			
Lawfully existing:			
Expansion of aircraft landing strip or helistop landing pad	4-982 et seq.	SE	SE
New accessory buildings	4-982 et seq.	P	P
New:			
Aircraft landing strip and ancillary hangars, sheds and equipment	4-982 et seq.	-	-
Heliport	4-982 et seq.	-	-
Helistop	4-982 et seq.	SE	SE

Animals and reptiles:			
Keeping, raising or breeding of Class I animals (df)	4-1045	-	-
Keeping, raising or breeding of American alligators, venomous reptiles or Class II animals (df)	4-1045	SE	SE
Boat ramps	Note (6)	EO/SE	EO/SE
Clubs, private		SE	SE
Communications facility, wireless	4-1215 et seq.	Refer to 4-1215 et seq. for regulations.	
Community residential home		P	P
Community gardens	Sec. 4-1435	AA	AA
Consumption on premises	4-1020 et seq.	AA/SE	AA/SE
Day care center, adult or child:			
Adult		SE	SE
Child	Note (5)	SE	SE
Dwelling unit:			
Mobile home	4-1637 et seq. Note (7)	P/EO	P/EO
Single-family residence, conventional	Note (8)	P	P
Essential services	4-1362 et seq.	P	P
Essential service facilities (4-408(c)(13)):			
Group I	4-1362 et seq., 4-1841 et seq., 4-1841 et seq.	P	P
Group II	4-1362 et seq., 4-1841 et seq., 4-1841 et seq.	SE	SE

Excavation:			
Oil or gas	4-1380 (c)	SE	SE
Water retention	4-1380 (b)	P	P
Golf course	2-2037 et seq.	EO	EO
Heliport or helistop	4-982 et seq.	See Aircraft landing facilities, private.	
Home occupation:			
No outside help		P	P
With outside help	4-1496 (c)	AA	AA
Laundromat	4-2095	EO/SE	EO/SE
Models:			
Display center	4-1662 et seq.	SE	SE
Model home	4-1662 et seq.	AA/SE	AA/SE
Parks (4-408(c)(30)), Group I	Note (4)	P	P
Park trailer		-	P
Place of worship	4-1762 et seq.	EO/SE	EO/SE
Real estate sales office	Note (2), 4-1662 et seq., 4-2095	EO/SE	EO/SE
Recreational facilities:			
Personal		P	P
Private—on-site		EO/SE	EO/SE
Private—off-site		EO	EO
Religious facilities	Note (1), 4-1762 et seq.	SE	SE

Residential accessory uses (4-408(c)(39))	4-923 et seq.	P	P
Signs in compliance with chapter 6		P	P
Stable, private	4-1046	-	-
Subordinate commercial uses:	Note (3), 4-2095		
Food stores, Group I (4-408(c)(16))		EO/SE	EO/SE
Parts and supplies for mobile homes or RVs		EO/SE	EO/SE
Personal services (4-408(c)(31)):			
Group I		EO/SE	EO/SE
Group II		EO/SE	EO/SE
Specialty retail store (4-408(c)(44), Group I		EO/SE	EO/SE
Temporary uses	4-2124 et seq.	P	P

Notes:

- (1) Expansion of facility to ten or more acres requires PD zoning. See section 4-272 and Table 4-740.
- (2) Real estate sales are limited to sales of lots, homes or units within the development, except as may be permitted in section 4-1662 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding three years from the date the certificate of occupancy for the sales office is issued. The director may grant one two-year extension. Additional time will require a new special exception approval.
- (3) Subordinate uses permitted only in conformity with section 4-2095.
- (4) Recreational halls require a special exception approval.
- (5) Family day care home exemption. F.S. 166.0445 exempts family day care homes from needing the special exception. See section 4-195(e)(9).
- (6) Non-commercial only.
- (7) In the interstate interchange area, mobile homes are existing only and may not be replaced or relocated into the interchange areas.
- (8) Single-family development in the MH zoning districts is permitted by right for individual single-family development (**must conform to property development regulations in sec. 4-2399 for setbacks and minimum lot size requirements**). Any redevelopment of an existing mobile home park under unified control/ownership, into a single-family development, requires approval of planned development zoning.

(Ord. No. 03-15; Ord. No. 06-11; Ord. No. 11-02, § 3(4-735), 1-19-2011; Ord. No. 12-13, § 1(4-735), 8-15-2012; Ord. No. 14-14, § 1, 6-18-2014; Ord. No. 17-03, § 1, 2-1-2017)

Sec. 4-556. - Property development regulations table.

Property development regulations for mobile home districts are as follows:

**TABLE 4-556. PROPERTY DEVELOPMENT REGULATIONS FOR
MOBILE HOME RESIDENTIAL DISTRICTS**

	Special Notes or Regulations	MH-1 (2)	MH-2 (1), (2)
Nonresidential uses:			
Minimum lot area and dimensions:			
Lot area (square feet)		10,000	10,000
Lot width (feet)		100	100
Lot depth (feet)		100	100
Minimum setbacks:			
Side yard (feet)	Note (3), 4-1892 et seq.	15	15
Rear yard (feet)	Note (3), 4-1892 et seq.	20	20
Residential uses:			
Minimum lot area and dimensions:	4-1921, 4-1922, 4-1841		
Lot area (square feet)		7,500	5,000
Lot width (feet)		75	50
Lot depth (feet)		100	100
Minimum setbacks:			
Side yard (feet):	Note (3), 4-1892 et seq. <u>Note (7), 4-2399 et seq.</u>		
Internal park lot		7.5	7

Park perimeter		7.5	7
Rear yard (feet):	Note (3), 4-1892 et seq. <u>Note (7), 4-2399 et seq.</u>		
Internal park lot		20	15
Park perimeter		20	15
All uses:			
Street (feet):	Notes (3) 4-1892 et seq.	Variable according to the functional classification of the street or road. See section 4-1893.	
Internal park street (feet)			
Off-site street			
Water body (feet):	4-1892 et seq.		
Gulf of Mexico		50	50
Other		25	25
Maximum height (feet)	4-1871 et seq.	35	35
		Note: Special height limitations apply to all uses located within Bonita Beach and the Bonita Beach Corridor. See section 4-1874.	
Maximum lot coverage (percent of total lot area)		40%	40%
Special regulations:		Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.	
Animals, reptiles, marine life	4-1045 et seq.		
Consumption on premises	4-1020 et seq.		
Docks, seawalls, etc.	4-1588 et seq.		

Essential services	4-1362 et seq.
Essential service facilities (4-408(c)(13))	4-1362 et seq., 4-1841
Fences, walls, gatehouses, etc.	4-1841 et seq.
Non-roofed accessory structures	4-1894(c)(3)
Railroad right-of-way	4-1895

Notes:

- (1) Developments built between January 5, 1978, and July 31, 1986, see section 4-553 for minimum and maximum area requirements.
- (2) For developments built after August 1, 1986, see section 4-554 for emergency shelter requirements.
- (3) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted only by variance. See section 4-1892 et seq.
- (4) May be reduced to 3,750 square feet if on a central sewage system.
- (5) If adjacent to another mobile home or recreational vehicle park or to a commercial or industrial use, setback may be reduced to 15 feet.
- (6) Lot coverage includes parking spaces unless off-street parking is provided elsewhere.
- (7) Conventional single-family homes permitted by right must conform to property development regulations in sec. 4-2399 for setbacks and minimum lot size requirements.

(Ord. No. 11-02, § 3(4-736), 1-19-2011)

7

Property development regulations for one- and two-family residential districts are as follows:

TABLE 4-489. PROPERTY DEVELOPMENT REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

[illegible]

Single-family or duplex		6.5	7.5	10	12	15	15	6	7.5	7.5
Two-family <u>attached</u>		-	-	-	-	-	-	-	<u>0/7.5</u>	10 (2)
Rear yard (feet)	Note (1), 4-1892 et seq.	20	20	20	20	20	20	20	20	20
Water body (feet):	4-1892 et seq.									
Gulf of Mexico:		50	50	50	50	50	50	50	50	50
Other		25	25	25	25	25	25	25	25	25
Special regulations:		Refer to the section specified for exceptions or additions to the minimum setback requirements listed in this table.								
Animals, reptiles, marine life	4-1045 et seq.									
Consumption on premises	4-1020 et seq.									
Docks, seawalls, etc.	4-1588 et seq.									
Essential services	4-1362 et seq.									
Essential service facilities (4-408(c)(13))	4-1362 et seq.									
Fences, walls, gate-houses	4-1841 et seq.									
Nonroofed accessory structures	4-1894(c)(3)									
Railroad right-of-way	4-1895									
Maximum height (feet)	4-1871 et seq.	35	35	35	35	35	35	35	35	35
		Note: Special height limitations apply to all uses located within Bonita Beach and the Bonita Beach Road Corridor. See section 4-1874.								
Maximum lot coverage		45%	40%	40%	40%	40%	40%	45%	40%	45%

(percent of total lot area)										
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Notes:

- (1) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted by variance only. See section 4-1892 et seq.
- (2) Accessory buildings and uses can be located closer to the front of the property than the main building, but must comply with all other setback requirements for accessory building uses.
- (3) No side yard setback required from common side lot line for two-family attached.

(Ord. No. 03-15; Ord. No. 06-12; Ord. No. 07-18, § 1, 11-7-2007; Ord. No. 11-02, § 3(4-695), 1-19-2011)

BONITA SPRINGS CITY COUNCIL		GREEN SHEET:	20-09-281	
AGENDA ITEM SUMMARY				
REQUESTED MOTION: Approve Employment Agreement with City Manager, Arleen M. Hunter.				
MEETING DATE: 9/16/2020				
AGENDA:		REQUIREMENT/PURPOSE: (Specify)	REQUESTOR OF INFORMATION:	
☐	PRESENTATIONS	☐	STATUTE	Derek Rooney City Attorney
☐	CONSENT	☐	ORDINANCE	
☐		☐	ADMIN. CODE	
☐	MAYOR AND COUNCIL MEMBER ITEMS	☒	OTHER	
☐	MAYOR AND COUNCIL MEMBER'S REPORTS			
☒	CITY ATTORNEY ITEMS			
☐	CITY MANAGER ITEMS			
BACKGROUND: On September 9, 2020, City Council approved the newly negotiated terms of the City Manager's contract. The attached contract incorporates those terms and will take effect on October 1, 2020. The approved contract amendments are: 1. An annual salary of \$175,000 with the same benefits as other employees. 2. An annual contribution of \$10,000 to the City's Deferred Compensation Program (457). Attachment: Employment Agreement				
IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ YES ☒ NO IF YES, WHICH STRATEGIC OBJECTIVE?				
STAFF RECOMMENDATIONS: Council's pleasure.				
REVIEWED BY: City Manager: <u>Arleen Hunter</u> City Attorney: <u>Derek Rooney</u> City Clerk: <u>Debra Filipek</u> Department Director: _____				
COUNCIL ACTION: ☐ APPROVED ☐ DENIED ☐ DEFERRED ☐ OTHER				

CITY MANAGER
EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into this 16th day of September, 2020, by and between the City of Bonita Springs, hereinafter referred to as "City", and Arleen M. Hunter, hereinafter called "Employee" both of whom agree to the following:

WITNESSETH:

WHEREAS, the City desires to commence the employment of Employee as City Manager of the City of Bonita Springs by contract; and,

WHEREAS, it is the desire of the City to provide by contracts and certain benefits, establish certain conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of City Council to secure and retain the services of Employee and to provide inducement to remain in such employment, to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security; and

WHEREAS, Employee agrees to accept employment as the City Manager of Bonita Springs.

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

Section One: Duties

Employee is to assume the responsibilities for City Manager, perform those duties specified in the Bonita Springs City Charter, and perform any other legally permissible duties and functions as may be assigned by the City Council of the City of Bonita Springs.

Section Two: Term of Employment, Separation

- (a) Pursuant to City Charter Section 33, the City Council by a majority vote of its total membership has appointed Employee for an indefinite term. The term of this Agreement is for one (1) year, beginning October 1, 2020.
- (b) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City to terminate the employment of Employee pursuant to Charter Section 34. In the event termination City Council proceeds with removal in conformance with Charter Section 34, Employee may have the severance pay as set forth in Section Three, Paragraph (b) and (d), provided that Employee signs a Release of this Agreement consistent with Section Three (d).
- (c) If Employee voluntarily resigns, she hereby agrees to give the City written notice, sixty (60) days before the effective date of resignation, unless parties agree otherwise.

Section Three: Severance Pay

- (a) The City shall be under no obligation to pay severance if termination is the result of the Employee's conviction of an illegal act or just cause.
- (b) During the term of this Agreement, if the Employee leaves following a request by the City that she resign or City otherwise terminates agreement for reasons other than paragraph (a) above, then she shall be deemed "terminated" and paid severance pay in one lump sum cash payment of the gross aggregate salary (includes City payment of COBRA) but less retirement, in the amount of three (3) months.
- (c) The City is not required to pay Employee severance if the Employee separates from the City under Section Two (c).
- (d) Upon payment of severance pay, the Employee agrees to execute an Agreement to hold the City harmless and to release the City from all liability relative to termination of employment.

Section Four: Disability

If the Employee is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of four (4) successive weeks, beyond any accrued sick leave, the City may terminate this Agreement, subject to all severance pay requirements of Section Three above. Employee shall be compensated for all personal time off, holidays, compensatory time, and other accrued disability insurance benefits as any other Employee of the City.

Section Five: Compensation

- (a) The City shall pay Employee the annual base salary of \$175,000.00, payable in equal installments on a bi-weekly basis, for the entire term of the contract.
- (b) Employee will receive the same benefits as other employees pursuant to the City of Bonita Springs Personnel Manual.
- (c) The City agrees to provide benefits to the Employee as they now exist, or as may be amended from time-to-time as they are granted to other employees of the City. These benefits may include, but are not limited to, management performance, cost-of-living or across-the-board adjustments, sick leave accrual and State of Florida Retirement System.

Section Six: Residency

Bonita Springs City Charter Section 33 states, "at the time of appointment, the Manager does not need to be a resident of the City or State, but may not reside outside the City while in office without approval of the Council." Employee has lived adjacent to the City boundaries for a long period. Unless she moves from her current residence, Employee may reside in her current home.

Section Seven: Retirement

City participates in the Florida Retirement System. Employee will be classified and placed in the Senior Management Class, consistent with the terms of that program, effective from June 2018 (initial appointment as Interim City Manager). Additionally, the City will provide an annual contribution of \$10,000 to the Employee under the City's Deferred Compensation Program.

Section Eight: Goal Setting and Performance Evaluation

- (a) **Goal Setting:** Annually, the City and Employee shall define the goals and performance objectives necessary for the proper operation of the City Manager's Office, which shall be attainable within a reasonable period and based upon the operating and capital budgets and appropriations provided.
- (b) **Performance Evaluation:** The City, acting through its City Council, shall review and evaluate the performance of the Employee at least once annually. Review and evaluation, including any additional metrics, will be in accordance with the City Performance Review Criteria. Criteria may be added or deleted from time-to-time as the City and the Employee agree.
- (c) In effecting the provisions of the Section, the City and the Employee shall mutually agree to abide by the provisions of applicable law.

Section Nine: Outside Activities

The Employee agrees to devote all of her full working time to the performance of her responsibilities and duties under this Agreement, and agrees not to engage in other employment.

Section Ten: Indemnification

In accordance with Florida Statutes §§111.07 and 768.28, the City shall defend, hold harmless and indemnify Employee against any tort, professional liability claim, demand or other legal action, whether groundless or otherwise, arising from any act, either alleged or real, or omission which may occur within the scope of Employee's employment and performance of Employee's duties as City Manager. The City may compromise and settle any claims or suit and pay the amount of any settlement or judgment rendered thereon, together with attorney's fees associated therewith.

Section Eleven: Bonding

The City shall bear the full cost of any fidelity or otherwise bonds required of the Employee under any law or ordinance.

Section Twelve: Other Terms and Conditions of Employment

- (a) The City, in consultation with the Employee, shall fix any such other terms or conditions of employment, as it may determine from time-to-time relating to the performance of the Employee, provided such terms and conditions are not

inconsistent with or in conflict with the provisions of this Agreement or other applicable law, specifically, Florida States §215.425.

- (b) Except as expressly provided in this Agreement, all other provisions of laws, rules and regulations of the City, relating to PTO leave, retirement and pension system contributions, professional development, holidays and other fringe benefits and working conditions as they now exist or hereafter maybe amended, shall apply to the Employee as they would to other employees of the City.

Section Thirteen: General Provisions

- (a) The text herein shall constitute the entire Agreement between the parties, except as may be amended under Section Twelve (a) or (b).
- (b) If any provision or any portion of the Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement or portion thereof, shall be deemed severable, and the balance of this Agreement shall not be affected and shall remain in full force and effect.

IN WITNESS THEREOF, the City Council of Bonita Springs, has caused this Agreement to be signed and executed on its behalf of its Mayor and fully attested by its City Clerk and the Employee has signed and executed this Agreement, the day and year first above written.

ATTEST:

CITY OF BONITA SPRINGS

By: _____
City Clerk

By: _____
Mayor Peter D. Simmons

APPROVED AS TO LEGAL FORM:

City Attorney

EMPLOYEE:

ARLEEN M. HUNTER
CITY MANAGER

CITY COUNCIL
CITY OF BONITA SPRINGS
WEDNESDAY, JULY 15, 2020
9:00 A.M.
BONITA SPRINGS RECREATION CENTER
26740 PINE AVENUE
BONITA SPRINGS, FLORIDA 34135
MINUTES

I. Call to order

Deputy Mayor Mike Gibson called the meeting to order at 9:04 A.M.

II. Invocation:

Pastor Russ Winn furnished the invocation.

III. Pledge of Allegiance

IV. Roll call

Deputy Mayor Gibson and all Council Members were in attendance, except for Mayor Peter Simmons.

V. Public comment on Agenda items

Dwight Esmon addressed City Hall renovations and the associated costs.

Louise Kotwitch expressed her support for Item VII. C., relating to the DEP funding agreement.

Candice Dury a resident of Imperial River Road, and President of the Mango Creek HOA, addressed concerns she has with the Barefoot Beach Hotel project.

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

- A. A Zoning Ordinance of the City of Bonita Springs, Florida; approving application PD18-45808-BOS rezoning 4.75+/- acres from Community Commercial (CC) and Commercial (CS) to a Mixed Use Planned Development (MPD) to allow a 202 room hotel, 42 multifamily dwelling units and 11,130 square feet of commercial space; for a property located on the north side of Bonita Beach Road, west of Imperial River Road and east of Okeana Street; and providing for an effective date. (Greensheet No. 20-07-194)

City Attorney Derek Rooney read the title block of the Zoning Ordinance into the record.

Neale Montgomery, representing the Applicant, was in attendance.

PUBLIC COMMENT:

Candice Durry addressed concerns relating to the project relating to the exit on east side of Imperial River Road, and trucks entering and exiting onto Imperial River Road. There are a lot of people who walk that road early morning and late at night. She also addressed a concern with the proposed height, and construction taking place now, during the pandemic; and trucks and activities during construction.

Deputy Mayor Gibson motioned to move to second reading; Council Member Amy Quaremba seconded; and the motion passed 5-1 (Council Member Chris Corrie abstaining from the vote) After responding to a concern of Council Member Corrie, Council Member Corrie revised his vote to yes. Motion unanimous to move forward with a second reading.

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

City Attorney Rooney read the title block of the Zoning Ordinance into the record. 2 parts – being proposed by a contract purchase London Bay Home, and part of the Ordinance is to deal with the final determination of the court. He further explained.

No public comments were made.

Council Member Carr motioned to move to second reading; Council Member Quaremba seconded; and the motion carried unanimously.

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

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

ADDENDUM: Approve Budget Resolution to establish a budget for the Florida Department of Economic Opportunity's Disaster Recovery Infrastructure Repair Program to fund a storm water improvement project in the Imperial Bonita Estates/Quinn/Downs/Dean Street (West of Imperial Parkway) area. (Greensheet No. 20-07-195) **ADOPTED RESOLUTION NO. 20-53**

- A. Approve Resolution calling for and ordering an election on November 3, 2020 and designating qualified candidates. (Greensheet No. 20-07-189) **ADOPTED RESOLUTION NO. 20-54**

- B. Approve budget Resolution to amend the FY 2020 Budget for the Community Development Block Grant. (Greensheet No. 20-07-180) **ADOPTED RESOLUTION NO. 20-55**
- C. Approve Florida Department of Environmental Protection funding agreement and Budget Resolution for the Felts Avenue Bio-Reactor Phase II Project. (Greensheet No. 20-07-183) **ADOPTED RESOLUTION NO. 20-56**
- D. Approve the 2020-2021 Interlocal Agreement for Stray Animal Control Services between Lee County and the City of Bonita Springs. (Greensheet No. 20-07-186)
- E. Authorize staff to advertise RFP for Letters of Interest from Artists and other similar type vendors for use of Artist Cottage #5 at Riverside Park. (Greensheet No. 20-07-187)
- F. Authorize staff to submit a grant application to the Florida Department of Economic Opportunity (FDEO) Community Development Block Grant – Mitigation (CDBG-MIT) General Planning Support Grant. (Greensheet No. 20-07-188)
- G. Approve budget Resolution to establish a budget for the CDBG-DR Voluntary Buy-out Program. (Greensheet No. 20-07-179) **ADOPTED RESOLUTION NO. 20-57**

- Opportunity for City Council comments on Consent Agenda items

- VIII. Proclamations and presentations: No items.
- IX. Mayor and Council Member items: No items.
- X. City Attorney's items:

ADDENDUM 2: Authorize payment of agreed upon agreement on attorney's fees and costs to WCI/Lennar and authorize payments of amounts determined as well as Budget Transfer Resolution regarding same. (Greensheet No. 20-07-196) **ADOPTED RESOLUTION NO. 20-58**

City Attorney Rooney furnished the history, which involves two pending lawsuits, which he furnished an overview. This request is for authorization for budget transfer for funds and to execute lease from WCI.

Council Member Quaremba motioned to approve; Council Member Carr seconded; and the motion carried unanimously.

- A. A Resolution of the City Council of the City of Bonita Springs, Florida, extending Resolution 20-27 declaring that the City is suspending portions of its Land Development regulations and adopting interim regulations to provide temporary relief in response to COVID-19. (Greensheet No. 20-07-190) **ADOPTED RESOLUTION NO. 20-59**

City Attorney Rooney furnished an overview of both items A. and B., involving requests to extend both resolutions. A brief discussion was held.

Council Member Carr motioned to approve; Council Member Quaremba seconded; and the motion carried unanimously **ADOPTED RESOLUTION NO. 20-59**

- B. A Resolution of the City Council of the City of Bonita Springs, Florida, extending Resolution 20-32 providing for utilization of Communications Media Technology in land use proceedings and providing for public participation in response to COVID-19. (Greensheet No. 20-7-191)

Council Member Quaremba motioned to approve; Council Member Corrie seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 20-60**

ADDITIONAL ITEM:

City Attorney Rooney addressed RaceTrak Road and a request to send Lee County a letter to transfer RaceTrak Road.

Council Member Corrie motioned to approve; Council Member Quaremba seconded; and the motion carried unanimously.

XI. City Manager's items:

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

City Manager Hunter introduced this item and furnished an overview, and discussion followed with Council Member Purdon addressing. He supports moving forward with the a/c, the roof, and ADA compliance, at a minimum these need to be done. Council Member Forbes, Corrie also addressed. Discussion was also held on the bid process, the A/C, etc.

Council Member Carr motioned to approve; Council Member Purdon seconded.

Discussion was held. The motion carried 5-1 (Council Member Corrie opposed) **ADOPTED RESOLUTION 20-63**

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

City Manager Hunter furnished the history. Assistant City Manager Feeney stated that the project has some flood control components, habitat restoration, and water quality components has been designed and permitted as a joint venture with Lee County, and is located on 2020 property. He further addressed funding. He recommends moving forward with the 319 grant providing the additional funding which will allow them to go to construction this dry season.

Council Member Carr motioned to approve; Council Member Purdon seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 20-61**

ADDITIONAL ITEM:

Feb 2020 letter regarding Village of Estero regarding Coconut Road, and the Village manager has reached out to her and Assistant City Manager Feeney and interested in discussion regarding improvements to Coconut Road. They appointed Bill Ribble to have conversation with CC and Staff. The Mayor has indicated that he is in full support of Council Member Quaremba being appointed.

Council Member Purdon nominated Council Member Quaremba be point person for the City for discussion with Bill Ribble of Estero on discussion for Coconut Road; Council Forbes seconded; and the motion carried unanimously.

City Manager Hunter addressed the July 27, 2020 budget hearing which is scheduled for the entire day, and discussed moving it to August 3, 2020. Council consensus yes.

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

City Manager Hunter provided an update.

XII. Mayor and Council reports:

Council Member Quaremba wants to get with the outreach committee to start a 34135 project to address demographics, census coverage, and she further explained. She also addressed the vote taken on city hall, update on procedures when go out to bid for things like contract managers and how we use that criteria for local contractors. Council Member Purdon stated that, as liaison, he would like to work with Council Member Quaremba with the Outreach Committee.

Council Member Purdon addressed City Hall renovations for A/C, the roof, and ADA. He also would like some clarity on contract management process.

Council Member Carr thanked City Staff for all their work.

Council Member Forbes responded to comments of Council Member Quaremba regarding COVID-19. Council Member Forbes suggested a letter for the Mayor's signature to distribute to residents of the City urging people to use masks. To be addressed at following meeting.

Deputy Mayor Gibson thanked all for the smooth meeting.

ADDITIONAL ITEM:

City Attorney Rooney addressed the BG mine case and the funding for the 248-acre parcel purchase and move forward with RBC in looking at short term borrowing, and he is requesting Council approval to move forward. Council Member Quaremba suggested they also ask RBC to present a line of credit alternative.

Council Member Carr motioned to approve; Council Member Purdon seconded; and the motion carried unanimously.

XIII. Approval of Minutes: 07/01/20

Council Member Carr motioned approve the Minutes; Council Member Corrie seconded; and the motion carried unanimously.

XIV. Public comment: No comments.

XV. Adjournment.

There being no further items to discuss, the meeting adjourned at 10:32 A.M.

Respectfully submitted,

Debra Filipek, City Clerk

APPROVED:
CITY COUNCIL

Date: _____
AUTHENTICATED:

Peter Simmons, Mayor